

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

| | | |
|-----------------------------|---|-----------------------------------|
| JUDICIAL WATCH, INC., |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 13-CV-1363 (EGS) |
| |) | |
| v. |) | |
| |) | |
| UNITED STATES DEPARTMENT OF |) | |
| STATE, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

DEFENDANT’S STATUS REPORT

At the conclusion of the Court’s Order dated July 31, 2015, the Court directed defendant United States Department of State (Department) to inform the Court of the status of its compliance with the Order by August 7, 2015. Accordingly, the Department reports as follows.

1. In the initial, unnumbered part of the Court’s Order, the Court directed the Department to file the letters that it previously sent to former Secretary Clinton, Huma Abedin, and Cheryl Mills regarding federal records in their possession, as well as the responses that the Department received. The Department filed those letters and responses on August 6, 2015. See Notice of Filing (ECF No. 18). On the day the Department made this filing, it received another responsive letter from Ms. Mills’ counsel, a copy of which is attached hereto as Exhibit A.

2. The Department has also complied with subparts 2 and 3 of the Court’s Order. On August 5, 2015, the Department wrote to the former Secretary, Ms. Abedin, and Ms. Mills, requesting that these individuals provide it with the information that the Court ordered it to request regarding federal records in their possession. Copies of these letters are attached hereto as Exhibits B, C, and D. On August 6, 2015, counsel for Ms. Abedin responded to the

Department's requests for federal records in her possession. A copy of this letter is attached hereto as Exhibit E. On August 6, 2015, counsel for Ms. Mills responded to the Department's August 5 letter. A copy of that letter to is attached hereto as Exhibit F. The Department has not yet received a response to its letter from the former Secretary.

3. The Department is in the process of responding to subpart 1 of the Court's Order regarding servers, accounts, hard drives, or other devices that may contain information responsive to plaintiff's Freedom of Information Act request in this case. The Department anticipates submitting a response to this inquiry by August 14, 2015.

Dated: August 7, 2015

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director

/s/ Peter T. Wechsler
PETER T. WECHSLER (MA 550339)
Senior Counsel
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
Tel.: (202) 514-2705
Fax: (202) 616-8470
Email: peter.wechsler@usdoj.gov
Counsel for Defendant

EXHIBIT A

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
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TELEPHONE (202) 223-7300

WASHINGTON, DC 20006-1047

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WRITER'S DIRECT FACSIMILE

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WRITER'S DIRECT E-MAIL ADDRESS

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500 DELAWARE AVENUE, SUITE 200
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August 6, 2015

By Hand

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Under Secretary Kennedy:

I am writing in response to your letter dated July 31, 2015, and received on August 3, 2015, requesting that Ms. Mills return potential records in her possession to the Department of State as soon as possible.

As you know, Ms. Mills received a request from the Department of State on March 11, 2015 that she assist the Department by preserving any potential federal records in her custody. On June 25, 2015, Ms. Mills provided a subset of potential federal records in her possession to the Department of State for review. She has provided additional documents to counsel for review in response to the March 11, 2015 letter. The review process is nearing completion and I expect to produce additional documents for the Department's review in an electronic format on August 10, 2015.

Ms. Mills does not believe that she has paper copies of potential federal records in her possession. Following our production on August 10, 2015, we have instructed her to delete any and all electronic copies in her possession.

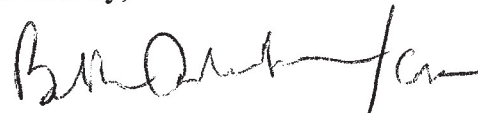
Given that the documents Ms. Mills produced and will produce to the State Department are the subject of inquiries, Paul, Weiss will maintain an electronic version of the Mills production at our office until we receive additional instructions from you regarding this material. In the event that you request, due to concerns over potential reclassification, that we delete the copy maintained by Paul, Weiss, we ask that you expeditiously inform us and arrange access to those documents for Ms. Mills and her counsel as you offered in your letter.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

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Finally, we request that the Department promptly return any document previously provided or that will be provided by Ms. Mills that has been or will be determined not to be a federal record.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth A. Wilkinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Beth A. Wilkinson

EXHIBIT B

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

AUG - 5 2015

Mr. David E. Kendall, Esq
Williams & Connolly LLP
725 12th Street, NW
Washington, DC 20005

Dear Mr. Kendall:

As you know, the Department requested that your client, former Secretary of State Hillary Clinton, provide it with any federal records in her possession, such as an email sent or received on a personal email account while serving as Secretary of State, if there is reason to believe that it may not otherwise be preserved in the Department's recordkeeping system. Your client has produced approximately 55,000 pages of documents in response. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

On July 31, 2015, the United States District Court in the *Judicial Watch* case ordered the Department to make two requests of your client, related to the FOIA requests at issue in that case. Those FOIA requests seek the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order, a copy of which is attached, the Department requests that your client:

- Confirm, under penalty of perjury, that she has produced all responsive information that was or is in her possession as a result of her employment at the State Department. If all such information has not yet been produced, please produce the information forthwith, and
- Describe, under penalty of perjury, the extent to which Ms. Abedin and Ms. Mills used Mrs. Clinton's email server to conduct official government business.

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In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,



Patrick F. Kennedy

----- Original message -----

From: DCD_ECFNotice@dcd.uscourts.gov

Date: 07/31/2015 5:47 PM (GMT-05:00)

To: DCD_ECFNotice@dcd.uscourts.gov

Subject: Activity in Case 1:13-cv-01363-EGS JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

NOTE TO PUBLIC ACCESS USERS Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 7/31/2015 at 5:46 PM and filed on 7/31/2015

Case Name: JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE

Case Number: 1:13-cv-01363-EGS <<http://redirect.state.sbu/?url=https://ecf.dcd.uscourts.gov/cgi-bin/DktRpt.pl?161905>>

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER. As agreed by the parties at the July 31, 2015 status hearing, the Government shall produce a copy of the letters sent by the State Department to Mrs. Hillary Clinton, Ms. Huma Abedin and Ms. Cheryl Mills regarding the collection of government records in their possession. These communications shall be posted on the docket forthwith. The Government has also agreed to share with Plaintiff's counsel the responses sent by Mrs. Clinton, Ms. Abedin and Ms. Mills. These communications shall also be posted on the docket forthwith. In addition, as related to Judicial Watch's FOIA requests in this case, the Government is HEREBY ORDERED to: (1) identify any and all servers, accounts, hard drives, or other devices currently in the possession or control of the State Department or otherwise that may contain responsive information; (2) request that the above named individuals confirm, under penalty of perjury, that they have produced all responsive information that was or is in their possession as a result of their employment at the State Department. If all such information has not yet been produced, the Government shall request the above named individuals produce the information forthwith; and (3) request that the above named individuals describe, under penalty of perjury, the extent to which Ms. Abedin and Ms. Mills used Mrs. Clinton's email server to conduct official government business. The Government shall inform the Court of the status of its compliance with this Order no later than August 7, 2015, including any response received from Mrs. Clinton, Ms. Abedin and Ms. Mills. Signed by Judge Emmet G. Sullivan on July 31, 2015. (lcegs4)

1:13-cv-01363-EGS Notice has been electronically mailed to:

Paul J. Orfanedes porfanedes@judicialwatch.org, jwlegal@judicialwatch.org

Peter T. Wechsler peter.wechsler@usdoj.gov

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

1:13-cv-01363-EGS Notice will be delivered by other means to::

EXHIBIT C

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

AUG - 5 2015

Ms. Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

Mr. Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street NW
Washington, DC 20004

Dear Ms. Dunn and Mr. Rodriguez:

As you know, the Department requested that your client, Ms. Huma Abedin, provide it with any federal records in her possession, such as emails sent or received on a personal email account while serving in her official capacity at the Department, if there is any reason to believe that those records may not otherwise be preserved in the Department's recordkeeping system. Your client has produced documents in response and has indicated that additional documents responsive to the Department's request for potential federal records would be forthcoming. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

On July 31, 2015, the United States District Court in the *Judicial Watch* case ordered the Department to make two requests of your client, related to the FOIA requests at issue in that case. Those FOIA requests seek the following information:

- Any and all SF-50 (Notification of Personnel Action) forms for Huma Abedin;
- Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Abedin; and
- Any and all records regarding, concerning, or related to the authorization for Ms. Abedin to represent individual clients and/or otherwise engage in outside employment while employed by and/or engaged in a contractual arrangement with the Department of State.

Pursuant to the Court's order, a copy of which is attached, the Department requests that your client:

- Confirm, under penalty of perjury, that she has produced all responsive information that was or is in her possession as a result of her employment at the State Department. If all such information has not yet been produced, please produce the information forthwith, and

- Describe, under penalty of perjury, the extent to which she used Mrs. Clinton's email server to conduct official government business.

In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,


Patrick F. Kennedy

----- Original message -----

From: DCD_ECFNotice@dcd.uscourts.gov

Date: 07/31/2015 5:47 PM (GMT-05:00)

To: DCD_ECFNotice@dcd.uscourts.gov

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District of Columbia

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Filer:

Document Number: No document attached

Docket Text:

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Paul J. Orfanedes porfanedes@judicialwatch.org, jwlegal@judicialwatch.org

Peter T. Wechsler peter.wechsler@usdoj.gov

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

1:13-cv-01363-EGS Notice will be delivered by other means to::

EXHIBIT D

**UNDER SECRETARY OF STATE
FOR MANAGEMENT
WASHINGTON**

AUG - 5 2015

Ms. Beth A. Wilkinson
Paul, Weiss, Rifkind, Wharton & Garrett
2001 K Street NW
Washington, DC 20006-1047

Dear Ms. Wilkinson:

As you know, the Department requested that your client, Ms. Cheryl Mills, provide it with any federal records in her possession, such as emails sent or received on a personal email account while serving in her official capacity at the Department, if there is any reason to believe that those records may not otherwise be preserved in the Department's recordkeeping system. In response, your client has produced documents that may potentially be federal records and has indicated that additional documents may be forthcoming. I am writing to you now regarding additional requests the Department has been ordered to make of your client in a Freedom of Information Act ("FOIA") case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

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- Describe, under penalty of perjury, the extent to which she used Mrs. Clinton's email server to conduct official government business.

In the event you have any questions regarding the transfer of the records to the Department, please contact the Agency Records Officer, William Fischer, at (202) 261-8369. In the meantime, I would appreciate it if you would confirm receipt of this letter and respond to the above requests for information in writing as soon as possible.

Enclosure

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick F. Kennedy", with a long, sweeping horizontal stroke extending to the right.

Patrick F. Kennedy

----- Original message -----

From: DCD_ECFNotice@dcd.uscourts.gov

Date: 07/31/2015 5:47 PM (GMT-05:00)

To: DCD_ECFNotice@dcd.uscourts.gov

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Peter T. Wechsler peter.wechsler@usdoj.gov

Michael Bekesha mbekesha@judicialwatch.org, jwlegal@judicialwatch.org

1:13-cv-01363-EGS Notice will be delivered by other means to:

EXHIBIT E

August 6, 2015

By Email

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, NW
Washington, DC 20520

Dear Under Secretary Kennedy:

We write to ensure that there is clarity about Ms. Abedin's considerable efforts and diligence in complying with your request dated March 11, 2015, which seeks Ms. Abedin's assistance in meeting the requirements of a subpoena to Secretary John Kerry from the House Select Committee on Benghazi ("Committee"), and in properly preserving any potential federal records in Ms. Abedin's possession. Because we believe it is important to accurately represent the status of Ms. Abedin's productions to the Department, we request that the Department share this correspondence, or the details contained herein, with parties asking about her cooperation.

As we explained in our June 29, 2015 letter to you, Ms. Abedin's initial ability to respond was impeded by the Department's failure to ensure that the request timely reached Ms. Abedin. Your March 11, 2015 letter was sent by mail to an incorrect address and returned undelivered to the Department on April 17, 2015. Over one month later, on May 19, 2015 we received your letter via mail, along with the returned envelope (indicating the April 17, 2015 date) and a cover note dated May 12, 2015 explaining that the letter had been returned undelivered. Similarly, we understand that your office attempted to send an email copy of the March 11, 2015 letter to Ms. Abedin, but that the email was sent to two email addresses that had not been active for years, an old United States Senate email address (@clinton.senate.gov) and an old email address associated with Former Secretary Clinton's 2008 Presidential campaign (@hillaryclinton.com).

As a consequence of the Department's three failed delivery attempts, Ms. Abedin received the Department's request for documents more than two months after it was intended to reach her. Immediately upon receiving the Department's request, Ms. Abedin began taking steps to respond and since that time has been working expeditiously to provide documents to the Department. It should go without saying that there is nothing she could have done prior to May 19, 2015, given that no one at the Department reached out to Ms. Abedin or her counsel regarding your March 11, 2015 letter request.

Notwithstanding this, Ms. Abedin has already made an initial production of potential federal records to the Department. We prioritized the request of the Department for assistance in complying with the Committee's subpoena to Secretary Kerry for Ms. Abedin's documents and emails broadly relating to Libya, in part because we understand the Department has been working to provide such documents to the Committee since the Committee first requested them of the Department in 2014. On July 9, Ms. Abedin produced to the Department 338 pages of

Patrick F. Kennedy

Page 2 of 2

August 6, 2015

potential federal records in her possession that are potentially responsive to the Committee's subpoena to the Department.

We have been working expeditiously to gather the remaining materials in Ms. Abedin's possession that are responsive or potentially responsive to your request. Despite the Department's delay in delivering that request, because of Ms. Abedin's diligence and expeditious review, we expect to be able to make a production on August 7 and a final production on or before August 28.

Please let us know if you have any questions. We look forward to our continued cooperation with the Department.

Sincerely,

/s/ Karen L. Dunn

Karen L. Dunn
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, DC 20015

/s/ Miguel E. Rodriguez

Miguel E. Rodriguez
Bryan Cave LLP
1155 F Street, NW
Washington, DC 20004

cc: Richard Visek
Office of the Legal Adviser

EXHIBIT F

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
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WASHINGTON, DC 20006-1047

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TELEPHONE (212) 373-3000

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CHAO YANG DISTRICT
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PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
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TELEPHONE (44 20) 7367 1600

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2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
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TORONTO-DOMINION CENTRE
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TELEPHONE (416) 504-0520

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POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

August 6, 2015

WRITER'S DIRECT DIAL NUMBER

202-223-7340

WRITER'S DIRECT FACSIMILE

202-204-7395

WRITER'S DIRECT E-MAIL ADDRESS

bwilkinson@paulweiss.com

By Hand

Patrick F. Kennedy
Under Secretary for Management
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Under Secretary Kennedy:

I am in receipt of your letter dated August 5, 2015 regarding requests the Department of State has been ordered to make of my client Cheryl Mills in a Freedom of Information Act case, *Judicial Watch v. Department of State* (D.D.C. No. 13-cv-1363).

As a preliminary matter, I want to ensure the Department knows that Ms. Mills is not presently a government employee or a party to this lawsuit. I do want to take this opportunity, however, to clarify two things on her behalf in hopes that the Department can accurately describe Ms. Mills's tenure and circumstances at the State Department.

First, Ms. Mills did not have an account on Secretary Clinton's email server. Second, Ms. Mills has not been asked previously for any records responsive to this FOIA matter. She is not in a position to know what records are responsive and she therefore assumes that the Department has provided any records that reside in Department of State files. As you know, Ms. Mills received a request from the Department of State on March 11, 2015 that she assist the Department by preserving any potential federal records in her custody. On June 25, 2015, Ms. Mills provided a subset of potential federal records in

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

2

her possession to the Department of State for review. She has provided additional documents to counsel for review in response to the March 11, 2015 letter. The review process is nearing completion and I expect to produce additional documents for the Department's review on August 10, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth A. Wilkinson". The signature is written in a cursive, flowing style.

Beth A. Wilkinson