

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 REPLY TO PLAINTIFF’S RESPONSE TO STATUS REPORT**

In the Declaration of John F. Hackett dated August 14, 2015 (ECF No. 26-1), the U.S. Department of State responded to the Court’s order directing the Department, as related to Judicial Watch’s FOIA requests in this case, to “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.*” July 31, 2015 Minute Order, ¶ 1 (emphasis added).

Although plaintiff asserts that the Department failed to address several issues with respect to devices, see Plaintiff’s Response to Defendant’s August 14, 2015 Status Report (Pl. Resp.) (ECF No. 27), plaintiff overlooks the highlighted phrase quoted above from the July 31 Order, thereby criticizing the Department for failing to discuss devices that *no longer exist* or that the State Department reasonably determined *do not contain responsive information.*

For example, Plaintiff errs in contending (Pl. Resp. ¶ 3) that the Department “made no effort whatsoever” to gather information regarding any electronic devices used by former Secretary Clinton, Huma Abedin, and Cheryl Mills. After the Department conducted an inquiry,

for purposes of responding to the Court’s directive, into any personal computing devices that it issued to these employees, the Department did not locate any such devices that may contain records responsive to plaintiff’s FOIA requests. Accordingly, Mr. Hackett stated that the Department “is not currently aware of any personal computing devices issued by the Department to former Secretary Clinton, Ms. Abedin, or Ms. Mills *that may contain records responsive to plaintiff’s FOIA request.*” Hackett Decl. ¶ 8 (emphasis added).

For these reasons, plaintiff’s contentions miss the mark. Nevertheless, the Declaration of Joseph E. Macmanus, filed herewith, further states the Department’s inquiries to the Office of Information Resource Management within the Office of the Executive Secretariat (“S/ES-IRM”), which is the office responsible for issuing Department electronic devices to Principal officials. See Macmanus Decl. ¶ 4. The Department’s electronic records systems and accounts, such as state.gov email accounts, are generally housed on Department servers. Id. ¶ 3.

Finally, plaintiff makes assertions regarding two additional former Department employees. See Pl. Res. at ¶ 6. Using search terms agreed upon by the parties, the Department is conducting a revised search of the offices and agency records systems that were initially searched. See Defendant’s July 30 Status Report. The Department identified five of its offices and record systems that were reasonably likely to contain responsive records. See Hackett Decl. ¶ 5. Within S/ES, the Department identified the state.gov accounts of Ms. Abedin, Ms. Mills, and two other former officials. Id. at ¶ 7. Former Secretary Clinton did not use a state.gov account.<sup>1</sup> Macmanus Decl. ¶ 5. In the process of conducting a revised search of S/ES, the

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<sup>1</sup> The Department conveyed this information to plaintiff in a declaration filed in another case. See Declaration of John F. Hackett Regarding Exemptions, n.6, filed July 7, 2015 in Judicial Watch v. Dep’t of State (D.D.C. No. 14-cv-01242) (Exh. 1).

Department retrieved potentially responsive emails sent to or from Ms. Abedin and the state.gov accounts of an Administrative Officer for S/ES and a Senior Advisor in the Office of the Under Secretary for Management's White House Liaison Office. Id. As a result, in addition to searching the state.gov email accounts of Ms. Abedin and Ms. Mills, the Department initiated searches of those other two individuals' state.gov accounts. Id.

DATED: August 19, 2015

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

MARCIA BERMAN  
Assistant Director

/s/ Peter T. Wechsler

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JUDICIAL WATCH, INC.,	)	
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Plaintiff,	)	
	)	
v.	)	No. 13-cv-1363-EGS
	)	
U.S. DEPARTMENT OF STATE,	)	
	)	
Defendant.	)	

**DECLARATION OF JOSEPH E. MACMANUS**

Pursuant to 28 U.S.C. § 1746, I, Ambassador Joseph E. Macmanus, declare and state as follows:

1. I am the Executive Secretary of the Department of State. In this capacity, I am the Department official responsible for the activities of the Office of the Executive Secretariat (“S/ES”), which serves as the liaison between the Department’s bureaus and the offices of the Secretary, Deputy Secretary, and Under Secretaries. I make the following statements based upon my personal knowledge, which in turn is based upon information furnished to me in the course of my official duties.

2. I have been informed that Plaintiff submitted a FOIA request to the Department for:

Any and all SF-50 (Notification of Personnel Action) forms for Ms. Huma Abedin.

Any and all contracts (including, but not limited to, personal service contracts) between the Department of State and Ms. Huma Abedin.

Any and all records regarding, concerning, or related to the authorization for Ms. Huma 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.

3. The Department determined that five of its offices and agency records systems were reasonably likely to contain responsive records. See August 14 Declaration of John Hackett at ¶ 5. The Department's electronic records systems and accounts, such as state.gov email accounts, are generally housed on Department servers.

4. The Department is not aware of any personal computing devices issued by the Department to former Secretary Clinton, Ms. Abedin, or Ms. Mills that may contain records responsive to plaintiff's FOIA request. The Office of Information Resource Management within the Office of the Executive Secretariat ("S/ES-IRM") is the office responsible for issuing Department electronic devices to officials within the Office of the Secretary. S/ES-IRM does not believe that any personal computing device was issued by the Department to former Secretary of State Hillary Clinton, and has not located any such device at the Department. S/ES-IRM believes that Ms. Mills and Ms. Abedin were each issued BlackBerry devices. S/ES-IRM has not located any such device at the Department. S/ES-IRM's standard procedure upon return of such devices is to perform a factory reset (which removes any user settings or configurations) and then to re-issue the device to another employee, to destroy it, or to excess it. Because the devices issued to Ms. Mills and Ms. Abedin would have been outdated models, in accordance with standard operating procedures those devices would have been destroyed or excessed. As stated above, the state.gov email accounts themselves are generally housed on the Department's servers.

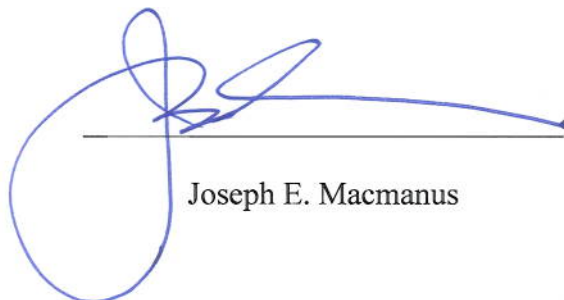
5. Within S/ES, the Department identified the state.gov accounts of Huma Abedin, Cheryl Mills, and two other former officials. *Id.* at ¶ 7. In the process of conducting a revised search of S/ES, the Department retrieved potentially responsive emails sent to or from Ms. Abedin and the state.gov accounts of an Administrative Officer for S/ES and a Senior Advisor in

the Office of the Under Secretary for Management's White House Liaison Office. As a result, in addition to searching the state.gov email accounts of Ms. Abedin and Ms. Mills, the Department initiated searches of those other two individuals' state.gov accounts. Former Secretary of State Hillary Clinton did not use a state.gov account.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 19 day of August 2015, Washington, D.C.



Joseph E. Macmanus