

Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes the responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of State is an agency of the United States Government and is headquartered at 2201 C Street NW, Washington, D.C. 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On or about May 13, 2015, Defendant posted on its website emails recently returned by former Secretary Hillary Clinton. Two of the emails are attached as Exhibit A.

6. On July 6, 2015, Plaintiff submitted a FOIA request to Defendant seeking access to the attached emails in their native format. Specifically, with respect to the first email (STATE-SCB0045090 – 92), Plaintiff requested the email as it was sent by Ms. Huma Abedin from her AbedinH@state.gov email address. With respect to the second email (STATE-SCB0045193 – 94), Plaintiff requested the email as it was received by Mr. Jacob Sullivan at his sullivanjj@state.gov email address. To the extent Defendant could not produce the emails in their native format, Plaintiff requested that Defendant produce any records identifying the information contained in the email headers of the two emails.

7. By letter dated July 9, 2015, Defendant acknowledged receipt of the FOIA request and assigned the request Case Control Number 2015-11661.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to determine whether to comply with the FOIA request within twenty (20) working days of receipt of the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination.

9. Defendant's determination regarding Plaintiff's FOIA request was due by August 6, 2015 at the latest.

10. As of the date of this complaint, Defendant has failed to: (i) determine whether to comply with the FOIA request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

11. Because Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

14. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of records responsive to Plaintiff's FOIA request, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records to Plaintiff's FOIA request and a *Vaughn* index of any responsive records

withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: August 31, 2015

Respectfully submitted,

/s/ Michael Bekesha
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