

PARTIES

3. Judicial Watch, Inc. is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 500, Washington, DC 20024.

4. Defendant Department of Defense (“DOD”) is an agency of the United States government. DOD has its principal place of business in the District of Columbia. DOD is in possession, custody and control of records to which Judicial Watch, Inc. seeks access.

STATEMENT OF FACTS

5. On March 23, 2004, Judicial Watch, Inc. sent DOD, by facsimile and by certified U.S. mail, return receipt requested, a FOIA request seeking access to any and all records concerning or relating to the following subjects:

a. The Internet website entitled, “Empower Peace,” and/or <http://www.empowerpeace.com>;

b. Defense Department funding and/or sponsorship of media consultants and/or contractors involved in the development and/or launch and maintenance of the Empower Peace web site;

c. Iraqi National Congress (“INC”) funding and/or sponsorship of media consultants and/or contractors involved in the development and/or launch and maintenance of the Empower peace web site;

d. The Rendon Group (Timeframe: September 11, 2001 through March 23, 2004);

e. The names of all corporations (to include nonprofit public policy organizations, or “think tanks”) used, engaged and/or contracted by the Defense Department as media consultants from September 11, 2001 through March 2, 2004;

f. The names of all corporations (to include nonprofit public policy organizations, or “think tanks”) used engaged and/or contracted by the Defense Department for strategic influence, perception management, strategic information

warfare and/or strategic psychological operations from September 11, 2001 through March 23, 2004;

g. A paper entitled, "Information Operations Roadmap," reportedly discussed by Captain Gerald Mauer, the Assistant Deputy Director of Information Operations, Joint Staff, at a conference held in London, UK on July 3, 2003; and having been staffed through the Office of the Undersecretary of Defense for Policy Douglas Feith.

6. Judicial Watch, Inc.'s March 23, 2004 FOIA request also sought a waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), 5 U.S.C. § 552(a)(4)(A)(iii). The request also stated that Judicial Watch would be willing to pay up to \$350.00 in search and/or duplication fees in the event that its request for a waiver of fees was not granted. A copy of Judicial Watch, Inc.'s November 22, FOIA request is attached hereto as Exhibit 1 and is incorporated herein by reference.

7. On or about April 7, 2004, Judicial Watch, Inc. received a postcard from Defendant DOD acknowledging DOD's receipt of Judicial Watch, Inc.'s March 23, 2004 FOIA request. The postcard did not include any responsive documents or contain any definitive statement as to when Judicial Watch, Inc. could expect to receive responsive documents from DOD.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), DOD was required to determine whether to comply with Judicial Watch, Inc.'s March 23, 2004 FOIA request by April 21, 2004. At that time, DOD also was required to notify Judicial Watch, Inc. of its determination, provide Judicial Watch, Inc. with the reasons for its determination, and inform Judicial Watch, Inc. of its right to administratively appeal any adverse determination. 5 U.S.C. § 552(a)(6)(A)(i).

9. Because it had not received a single document or any other substantive response to its March 23, 2004 FOIA request, Judicial Watch, Inc. sent a letter to DOD on May 4, 2004, requesting an update as to the status of its March 23, 2004 FOIA request.

10. On or about May 12, 2004, Judicial Watch, Inc. received a letter dated May 6, 2004 from C.Y. Talbott, Chief of DOD's Office of Freedom of Information and Security Review ("OFISR"). In the May 6, 2004 letter, Mr. Talbott stated that Judicial Watch Inc.'s request had been classified as complex and that Defendant DOD had not completed its search, but that he expected the search to be complete by July 15, 2004.

11. As of July 19, 2004 however, Judicial Watch, Inc., still had not received a single document or any other substantive response to its March 23, 2004 FOIA request. Therefore on that date, Judicial Watch, Inc. sent a second letter to DOD, requesting an update as to the status of its March 23, 2004 FOIA request.

12. On or about August 5, 2004, Judicial Watch, Inc. received a letter dated August 3, 2004 from Mr. Talbott in OFISR. In the August 3, 2004 letter, Mr. Talbott stated that OFISR was in the process of reviewing documents responsive to Judicial Watch, Inc.'s March 23, 2004 FOIA request. The August 3, 2004 letter also stated that Mr. Talbott expected DOD's review of the responsive documents to be completed by September 15, 2004.

13. As of November 15, 2004, Judicial Watch, Inc. still had not received a single document or any other substantive response to its March 23, 2004 FOIA request. Therefore on that date, Judicial Watch, Inc. sent a third letter to DOD, requesting an update as to the status of its March 23, 2004 FOIA request.

14. On or about December 3, 2004, Judicial Watch, Inc.'s Director of Investigations, Chris Farrell called Mr. Doug McComb of OFISR seeking an update as to the status of Judicial Watch, Inc.'s March 23, 2004 FOIA request. Mr. McComb told Mr. Farrell that he would provide Judicial

Watch Inc. with a telephonic update as to the status of its March 23, 2004 FOIA request by the end of that day.

15. As of December 9, 2004 however, Judicial Watch, Inc., had not heard back from Mr. McComb, and it still had not received a single document or any other substantive response to its March 23, 2004 FOIA request. Therefore on that date, Judicial Watch, Inc. sent a fourth letter to DOD, requesting an update as to the status of its March 23, 2004 FOIA request.

16. On December 10, 2004, Mr. Farrell received a telephone call from Mr. McComb who stated that the document responsive to part seven of Judicial Watch Inc.'s March 23, 2004 FOIA request was being processed and would shortly be released to Judicial Watch, Inc.

17. As of January 26, 2005, Judicial Watch, Inc. still had not received the document responsive to part seven of its March 23, 2004 FOIA request as promised by Mr. McComb. Nor had Judicial Watch, Inc. received any other documents in response to its March 23, 2004 FOIA request. Therefore on that date, Judicial Watch, Inc. sent another letter to DOD, requesting an update as to the status of its March 23, 2004 FOIA request.

18. Finally, on January 28, 2005, Judicial Watch, Inc. received a handful of documents responsive to parts four and five of its March 23, 2004 FOIA request. This small production did not include the document responsive to part seven of Judicial Watch's March 23, 2004 FOIA request as promised by Mr. McComb. Nor did DOD produce any documents in response to the other parts of Judicial Watch's request.

19. As of February 23, 2005, DOD failed to fully respond to Judicial Watch, Inc.'s March 23, 2004 FOIA request. It failed to produce records responsive to Judicial Watch, Inc.'s, March 23, 2004 FOIA request or claim that such records are exempt from production under 5 U.S.C.

§ 552(b). It failed to notify Judicial Watch, Inc. of any determination whether to comply with Judicial Watch, Inc.'s request and the reasons for any such determination. It also failed to inform Judicial Watch, Inc. of its right to take an administrative appeal from any adverse determinations.

20. In addition, as of February 23, 2005, DOD failed to invoke the provisions set forth in 5 U.S.C. § 552(a)(6)(B) for extending the time limits to respond to Judicial Watch, Inc.'s March 23, 2004 FOIA request.

21. Because DOD failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A) or extend those time limit provisions pursuant to 5 U.S.C. § 552(a)(6)(B), Judicial Watch, Inc. is deemed to have exhausted any and all administrative remedies with respect to its March 23, 2004 FOIA request. 5 U.S.C. § 552(a)(6)(C).

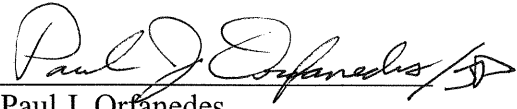
COUNT 1
(Violation of FOIA)

22. Plaintiff realleges paragraphs 1 through 21 as if fully stated herein.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) enjoin Defendant from continuing to withhold records responsive to Plaintiff's March 23, 2004 FOIA request and order Defendant to produce all responsive records improperly withheld from Plaintiff without further delay; (4) award Plaintiff attorneys fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant such other relief as the Court deems just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.



Paul J. Orfanedes
D.C. Bar No. 429716



James F. Peterson
DC Bar No. 450171
Suite 500
501 School Street, S.W.
Washington, DC 20024
(202) 646-5172

Attorneys for Plaintiff