

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,	)	
501 School Street, S.W., Suite 700	)	
Washington, DC 20024,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
v.	)	
	)	
U.S. DEPARTMENT OF TREASURY	)	
1500 Pennsylvania Avenue, N.W.	)	
Washington, DC 20220,	)	
	)	
Defendant.	)	
<hr style="width:45%; margin-left:0;"/>		

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff, Judicial Watch, Inc., brings this action against Defendant United States Department of Treasury (“DOT”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff 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 700, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff

regularly serves FOIA requests on federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States government and is headquartered at 1500 Pennsylvania Ave., Washington, DC 20220. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

5. On January 23, 2009, Plaintiff sent a FOIA request to Defendant, seeking access to the following records:

- a. Any and all records concerning evaluation procedures for federal banking agencies and the Treasury Department to distribute/award TARP Funds (Tranche Report to Congress for the Period Through November 14, 2008 states on page 2 “Treasury has worked with the Federal banking agencies to establish streamlined evaluation procedures;” disclosure should include a copy of evaluation procedures produced to federal banking agencies, any correspondence between the Treasury and any federal banking agencies concerning such procedures, memos, briefing materials, etc).
- b. Correspondence with Congressman Barney Frank or any representative of his Office concerning TARP Funds and/or any bank in Massachusetts.
- c. Any and all records concerning OneUnited Bank in Boston, Massachusetts (including correspondence from any lobbyist, correspondence from any other government agency, correspondence with any elected government official, correspondence directly with the Bank, the Bank’s application for TARP funds, etc).

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to respond to Plaintiff’s January 23, 2009 FOIA request within twenty (20) working days or by February 23, 2009.

7. Defendant acknowledged receipt of Plaintiff’s FOIA request by letter dated February 11, 2009 and assigned the request number 2009-02-018. Defendant also stated in its February 11,

2009 letter that it was granting itself a ten (10) day extension of time to respond to the request pursuant to 5 U.S.C. § 552(a)(6)(B)(i).

8. By reason of the ten (10) day extension of time, Defendant's response to Plaintiff's January 23, 2009 FOIA request was due on or before March 9, 2009.

9. When Plaintiff did not receive a substantive response to its January 23, 2009 FOIA request by the March 9, 2009 due date, Plaintiff sent a letter to Defendant on March 31, 2009 inquiring about the status of the request. Defendant acknowledged receipt of Plaintiff's March 31, 2009 letter on April 7, 2009. However, Defendant's April 7, 2009 letter did not include any responsive documents or state with specificity when Plaintiff could expect to receive a substantive response.

10. As of August 11, 2009, Plaintiff has not received a substantive response of any kind from Defendant to its January 23, 2009 FOIA request.

11. Because Defendant failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A) and 5 U.S.C. § 552(a)(6)(B), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its January 23, 2009 FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT 1**  
**(Violation of FOIA)**

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

13. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's January 23, 2009 request within the time limits required by 5 U.S.C. § 552(a)(6)(A) and 5 U.S.C. § 552(a)(6)(B).

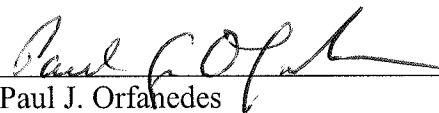
14. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

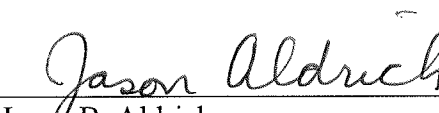
WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's January 23, 2009 request and a *Vaughn* index of allegedly exempt records responsive to the request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorney's 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 11, 2009

Respectfully submitted,

JUDICIAL WATCH, INC.

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

  
Jason B. Aldrich  
D.C. Bar No. 495488  
Suite 700  
501 School Street, S.W.  
Washington, DC 20024  
(202) 646-5172

*Attorneys for Plaintiff*