January 27, 2014 — Sent via email

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Re: Case No.: 201400125
MN: NG: CM

Dear ▮▮▮▮▮▮:

This responds to your November 24, 2013 request for assistance from the Office of Government Information Services (OGIS). You requested assistance with your Freedom of Information Act (FOIA) request, No. ▮▮▮▮▮▮, to the U.S. Department of the Treasury.

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and its jurisdiction is limited to assisting with the FOIA process.

I understand that you made a request to Treasury for "abandoned or uncashed checks, accounts, and any other inventory that has a value of over $4000.00." In that request, you specified that you wish to receive names and/or addresses found within the records. Treasury responded to your request by releasing 758 pages to you with names, addresses, and other personally identifiable information withheld pursuant to FOIA Exemption 6. You appealed that response, arguing that because Treasury did not release names and addresses to you, you should receive a refund of fees. Further, you dispute the agency's use of Exemption 6, pointing out that records of this type are freely available at the state level. Treasury responded to your appeal by upholding its original decision, though the agency did agree to refund your fees as a courtesy to you.

In looking into your request, OGIS Facilitator Carrie McGuire spoke to representatives of Treasury's FOIA office. The agency provided copies of its responses to you, and we reviewed them carefully. I understand that you also spoke to Ms. McGuire and elaborated upon your position that the records you seek should be released.

Exemption 6, 5 U.S.C. § 552(b)(6), protects information from release that would be a "clearly unwarranted invasion of personal privacy." Courts have found that individuals have privacy interests in their names, addresses, date of birth, place of birth and employment history, among other information, and that those privacy interests outweigh public interest in release. *See Dep't of State v. Washington Post Co.*, 456 U.S. 595, 600 (1982) (holding that individuals' date and place of birth as well as employment history are protected from release); *Associated Press v. DOJ*, 549 F. 3d 62, 65 (2d. Cir. 2008) (holding that individuals' names and addresses are protected under Exemption 6).

In considering withholding records under Exemption 6, an agency must weigh the interest in public disclosure against an individual's right to privacy. Courts have consistently held that the central purpose of FOIA is to allow people to learn about the conduct of agencies,

not to discover information about other individuals. The U.S. Supreme Court held that "the statutory purpose [of FOIA] is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency's own conduct." *U.S. Dep't of Justice v. Reporters Committee for Freedom of the Press,* 489 U.S. 749, 773 (1989).

Some of the protections provided under Exemptions 6 no longer apply after a person's death. Some FOIA requesters are familiar enough with the subject they are researching that they have a fairly good idea of what the protected names might be, and they are able to provide the agency with the proof of death for those individuals. We understand that this is not the case for you. This situation is not unusual, and the agency's actions in response to your request appear to be proper.
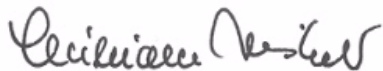
You also provided email chains related to two other requests that you made for similar information from the Armed Forces Retirement Home (AFRH) and the Federal Deposit Insurance Corporation (FDIC). We have reviewed this communication, and we understand that the FDIC responded by informing you that it does not have the type of records you seek. I understand that AFRH did make a release to you; an email from AFRH FOIA officer Pebbles Young dated August 9, 2013 includes information about a deceased individual. It may be that AFRH's records include information about the life status of the individuals the agency serves, so it is able to release third party information without violating the privacy rights of those individuals.

In your communication with OGIS, you state that because states have escheat laws which allow the release of the type of personally-identifiable information you seek, you believe that Treasury cannot withhold names and addresses. Please know that state and local laws do not change the requirements of the Federal FOIA.

You copied OGIS Facilitator Carrie McGuire on an email you sent to Cynthia Sydnor at Treasury on January 22, 2014 asserting that the agency did not refund "the complete amount." If Ms. Sydnor has been your contact at Treasury for this matter, you should work with her to resolve your questions about your refund.

I hope you find this information useful in understanding why Treasury withheld the material it did in response to your request. After reviewing the agency's actions, it appears that your request was processed in accordance with FOIA law and policy. At this time, there is no further assistance OGIS can offer. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

Miriam Nisbet, Director
Office of Government Information Services (OGIS)

cc: Cynthia Sydnor, Treasury

We appreciate your feedback. Please visit https://www.surveymonkey.com/s/OGIS to take a brief anonymous survey on the service you received from OGIS.