

Exhibit 12

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October 8, 2019

VIA FEDERAL EXPRESS

Director
Office of Information Policy
United States Department of Justice
Suite 11050
1425 New York Avenue, NW
Washington, D.C. 20530-0001

**Re: Freedom of Information Act Appeal –
FOIPA Nos. 1443229-000 and 1443233-000**

To Whom It May Concern:

On behalf of client, Tim Blixseth, this letter serves as an appeal of the adverse determination by the United States Department of Justice, Federal Bureau of Investigation (“FBI”) in the above-referenced FOIA cases.

The attached Freedom of Information Act (“FOIA”) Request (hereinafter “Request”) was submitted to the FBI on July 23, 2019 via facsimile and Federal Express. Exhibit A. The Request seeks the following records:

1. All records from the period of January 1, 2013 through the present, referencing:
 - a. Tim Blixseth
 - b. Timothy Blixseth
 - c. Blixseth
 - d. Blixseth Group, Inc.
 - e. BGI

Exhibit A. The Request referred to an attached Exhibit 1 for a discussion of some of the records. *Id.*

On July 31, 2019, the FBI acknowledged receipt of the Request and assigned it Freedom of Information/Privacy Acts (“FOIPA”) Nos. 1443229-000 (Timothy Blixseth) and 1443233-000 (Blixseth Group, Inc.). Exhibit B.

On August 15, 2019, the FBI issued its final and only substantive response to the Request. Exhibit C (two separate letters for Timothy Blixseth and Blixseth Group, Inc. with the

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same response). In its response, the FBI stated that it had conducted a search and was unable to locate any responsive records. *Id.*

The FBI's search for responsive records was completely inadequate. In June 2016, Mr. Blixseth sent to the then-Director of the FBI, James Comey, the letter attached to the Request. Exhibit A. The letter was sent via certified mail on June 25, 2016 and delivered on June 28, 2016. Exhibit D. As such, there is no question that responsive records exist.

Accordingly, the agency's search was inadequate in failing to locate a single record. *See In Def. of Animals v. NIH*, 543 F. Supp. 2d 83, 93 (D.D.C. Apr. 14, 2008) (finding that, "[a]t a minimum, a good faith search effort uses methods that can be reasonably expected to produce the information requested"); *see also Oglesby v. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990) ("[T]he agency cannot limit its search to only one record system if there are others that are likely to turn up the information requested").

Please respond to this appeal as soon as possible to ensure that my client is able to properly pursue all available remedies as promptly as possible.

Best regards,



Lisa N. Himes

Attachments