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Whitaker, Sonja (USAEO)

From: McGuirk, Michael W. (OIP) <Michael.W.McGuirk@usdoj.gov>
Sent: Friday, February 15, 2019 3:25 PM
To: Whitaker, Sonja (USAEO)
Subject: OIP Final Responses
Attachments: Olson Esq., William EOUSA 19-000706 appeal response (1-30-19) failure.no.adverse.determination.pdf; Viola, Anthony, AP-2019-000757, EOUSA - Affirm search No Records.pdf; Hong, Victor, AP-2019-000175, EOUSA, Appeal response letter.pdf; Hong, Victor, AP-2019-000175, EOUSA, remand memo.pdf

Hello:

Please see the attached OIP responses.

Thanks,

Michael W. McGuirk
"Mick"

Contractor
U.S. Department of Justice
Office of Information Policy (OIP)
Washington, D.C. 20005
Phone: 202-307-1271



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

February 15, 2019

ADMINISTRATIVE APPEAL REMAND MEMORANDUM

TO: Kevin Krebs
Assistant Director
Freedom of Information/Privacy Act Unit
Executive Office for United States Attorneys

FROM: Melanie Ann Pustay
Director

Sean R. O'Neill
Chief, Administrative Appeals Staff

SUBJECT: Instructions for Processing Administrative Appeal Following Remand

Request No. EOUSA-2018-005473	Requester's Name: Victor Hong
Appeal No. DOJ-AP-2019-000175	Subject of Request: Request for "whether or not the Securities and Exchange Commission eventually has received, or will receive, any part of that settlement amount."

The administrative appeal referenced above has been remanded by this Office to EOUSA for further processing. At this time, please reopen this file and perform the following action, subject to any applicable fees:

Please conduct a search for responsive records. As discussed in prior emails, EOUSA should conduct a search for records concerning any settlement payments received and, if so, whether received payments went to SEC. Concerning subpart two of the request, EOUSA should search to determine if any records exist that show an agreement that SEC would receive settlement funds. Please send all releasable records directly to the requester.

The OIP attorney reviewing this administrative appeal coordinated this action through Vinay Jolly. If you have any further questions concerning this action, please do not hesitate to contact Jessica Dangle at 202-305-0705.



U.S. Department of Justice
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Mr. Victor Hong
Apartment 1804
222 East 34th Street
New York, NY 10016
Vhong_1959@yahoo.com

Re: Appeal No. DOJ-AP-2019-000175
Request No. EOUSA-2018-005473
MWH:JKD

VIA: FOIAonline

Dear Mr. Hong:

You appealed from the action of the Executive Office for United States Attorneys (EOUSA) on your Freedom of Information Act request for "whether or not the Securities and Exchange Commission eventually has received, or will receive," any part of a settlement concerning the Royal Bank of Scotland. I note that your appeal concerns EOUSA's denial of your request.¹ Please note that this Office was closed due to a lapse in funding appropriations between December 22, 2018, and January 25, 2019, which resulted in a delay in responding to your appeal.

After carefully considering your appeal, and as a result of discussions between EOUSA personnel and this Office, I am remanding your request to EOUSA for a search for responsive records. If EOUSA locates releasable records, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by EOUSA. If you would like to inquire about the status of this remanded request or to receive an estimated date of completion, please contact EOUSA directly at 202-252-6020.

I note that on appeal you seek various additional records that you did not originally request. You may not on appeal expand the scope of your initial request, which was limited to the records described above. Accordingly, to the extent that you now seek "any SEC collections from the \$4.9 billion RBS-DOJ settlement, relevant to substantial Whistleblower assistance to the SEC and DOJ in its RMBS fraud investigations," you may wish to submit a new FOIA request to EOUSA.

¹ EOUSA's response letter contained several inaccuracies. EOUSA informed this Office that its only basis for denying your request was Number 5 of the response, which indicates that the FOIA only applies to records already in existence and does not require an agency to conduct research, create new records, or answer questions presented as FOIA requests.

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If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

2/15/2019

X 

Matthew Hurd, Associate Chief, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: MATTHEW HURD