

Exhibit 5

November 9, 2009

Patricia Keltner
Chief FOIA Officer
U.S. Citizenship & Immigration Services
U.S. Department of Homeland Security
P. O. Box 648010
Lee's Summit, MO 64064-8010

Dear Patricia Keltner:

Re: New Freedom of Information Act Request
Unclaimed Moneys Account (20X6133) Balance as of September 30, 2009

Please send me a complete listing(s), of rightful owners . . . name, address, amount outstanding, original date outstanding and account number, etc., of all outstanding funds in the "unclaimed monies account (20X6133)" - regarding non-individuals, deceased individuals and individuals - - concerning U.S. Department of Homeland Security.

As of September 30, 2009, per the Financial Management Service, Department of the Treasury - - U.S. Department of Homeland Security had unclaimed monies account balance of **\$101,898,510.23**. Copy of the FMS report as of September 30, 2009, is attached.

The Credit Accounting Branch, Financial Management Service, Department of the Treasury posts the balances of the "Unclaimed Moneys Account (20X6133)."

Credit Accounting Branch
Financial Management Service
Department of the Treasury
3700 East-West Highway, Room 6D37
Hyattsville, MD 20782
Telephone: 202-874-8740

I understand that, Courts have found a constructive denial when an agency has failed to provide a substantive response within the statutory time limit spelling out (1) the agency's determination of whether or not to comply with the FOIA request; (2) the reasons for its decision; and (3) notice of the right of the requester to appeal to the head of the agency if the initial agency decision is adverse. See Oglesby v U. S. Dep't of Army, 920 F.2d 57, 65 (D.C. Cir. 1990). A FOIA requester is permitted to sue in court when there has been a constructive denial. Otherwise, the agency would be permitted to flout its obligations and there would be no remedy.

Also, an agency cannot refuse to process records merely by advising the requester to seek them directly from an other agency. See, e.g., In re Wade, 969 F.2d 241, 247-48 (7th Cir. 1992) (**explaining that agency cannot avoid request or withhold documents merely by referring requester to an other agency where documents originated**).

"All records in an agency's possession, whether created by the agency itself or by other bodies covered by the [Freedom of Information] Act, constitute 'agency records.'"

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McGehee v. CIA, 697 F.2d 1095, 1109 (D.C.Cir.1983). The agency is obligated to produce documents pursuant to the Act. The agency cannot avoid the request or withhold the documents by referring them back to the agency where they originated. *Id.* at 1110.

See also, Ostrer v. United States Dep't of Justice, No. 85-506, slip op. at 7-8 (D.D.C. Feb. 7, 1986), amended, slip op. at 2-3 (D.D.C. Apr. 9, 1986); Peralta, 136 F.2d at 175 (**remanding for "improper withholding" of referred documents**); Williams v. FBI, No. 92-5176, slip op. at 2 (D.C. Cir. May 7, 1993); Oglesby v. United States Dep't of the Army, 920 F.2d 57, 69 & n.15 (D.C. Cir. 1990); Fitzgibbon v. CIA, 911 F.2d 755, 757 (D.C. Cir. 1990); Greenberg v. United States Dep't of Treasury, 10 F. Supp. 2d 3, 11, 18 (D.D.C. 1998); Jan-Xin Zang v. FBI, 756 F. Supp. 705, 706-07 & n.1 (W.D.N.Y. 1991). The U.S. Department of Homeland Security can't erect unnecessary bureaucratic hurdles.

Agencies are required by FOIA requesters to seek the delivery of records held by other entities in order to respond to FOIA requests. See Chicago Tribune Co. v. HHS, No. 95 C 3917, 1999 WL 299875, at *3 (N.D. Ill. May 4, 1999) (ordering nonparty government contractor to disclose audit data because "the government whole-handedly controls and blatantly influences [contractor's] action with respect to disclosure of the documents"), emergency stay denied, No. 99-2162 (7th Cir. June 9, 1999); Cal-Almond, Inc. v. USDA, No. 89-574, slip op. at 3-4 (E.D. Cal. Mar. 17, 1993) (ordering agency to reacquire records that mistakenly were returned to submitter upon closing of administrative appeal), appeal dismissed per stipulation, No. 93-16727 (9th Cir. Oct. 26, 1994).

The requested information are your documents. Consequently, your agency is charged with the legal responsibility to send me the requested information.

I am willing to pay the cost of searching, retrieving, reviewing and copying this information. If I can assist you in this matter, please call me at (718) 275-4476. Thank you for your help.

Sincerely yours,

Bernard Gelb
65-48 Alderton Street
Rego Park, NY 11374

(718) 275-4476
(718) 897-3060 Fax

Unclaimed Moneys Account (20X6133) Balance per Web site As of September 30, 2009

Agency	Total Balance As of June 30,, 2009	Total Activity 07/01/09 to 09/30/09	Total Balance As of September 30, 2009
Legislative Branch	0	0	0
Library of Congress	67,766.59	0	67,766.59
The Judiciary Branch	173,594,039.27	2,593,847.27	176,187,886.54
Interior Department	1,416,434.09	(227,286.78)	1,189,147.31
Department of Justice	4,752,982.52	417,855.03	5,170,837.55
Department of Homeland Security	100,619,191.58	1,279,318.65	101,898,510.23
Labor Department	778,779.04	0	778,779.04
Navy	3,338,958.87	14,192.79	3,353,151.66
Treasury Department	62,077,131.98	7,488,646.57	69,565,778.55
Army	631,052.07	0	631,052.07
Social Security Administration	4,194,032.61	36,986.76	4,231,019.37
Department of Veteran Affairs	15,859,953.87	(3,113.14)	15,856,840.73
Air Force	278,342.81	0	278,342.81
Transportation Department	(239,528.88)	0	(239,528.88)
Department of Housing & Urban Development	4,878,837.83	0	4,878,837.83
U.S. Department of Energy	2,052,732.03	0	2,052,732.03