

Exhibit 10

**Documents Related to September
28, 2018 FOIA Request**

Exhibit

10(a)

September 28, 2018

VIA FIRST CLASS MAIL

IRS FOIA Request
HQ FOIA
Stop 211
PO Box 621506
Atlanta, GA 30362-3006

RE: Freedom of Information Act Request

Dear Sir/Madame:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552 and the Privacy Act of 1974, 5 U.S.C. § 552 (a) for all records and documents, including electronic correspondence, related to storage, transfer and review of documents concerning Harry S. Stonehill and United States v. Stonehill, 65-cv-0127 (C.D. Cal.) ("Stonehill documents") located at the Internal Revenue Service (IRS) Chief Counsel's Office and the IRS storage facility in Suitland, Maryland during the time period January 1, 1998 thru January 1, 2003, including but not limited to:

- 1) All records and correspondence discussing or related to the discovery and review of the 8 boxes of Stonehill documents in the IRS Chief Counsel's office (safe or vault) in 2001 including but not limited to correspondence to or from, Richard Fultz, IRS Disclosure Officers Steven Flesner and Carole Field, Tax Division attorneys Charles Duffy, John McCarthy, Mae Lew, Seth Heald or any representative of the IRS, the Department of Justice Tax Division ("Tax Division"), the National Archives and Records Administration ("NARA"), the IRS Records Center or the IRS Office of Chief Counsel (International);
- 2) All records and correspondence discussing or related to the discovery, transfer and review of the 86 boxes of Stonehill documents in the Federal Records Center in Suitland, Maryland in 2000-2002 including but not limited to correspondence to or from Richard Fultz, Carole Field, Charles Duffy, John McCarthy, Mae Lew, Seth Heald or any representative of the IRS, the Tax Division, NARA, the IRS Records Center or the IRS Office of Chief Counsel (International);
- 3) All logs and/or records containing names of any representative of the IRS or the Tax Division who had access to or reviewed the 8 boxes of Stonehill documents in the IRS Chief Counsel's office, safe or vault in 2001 or the 86 boxes of IRS Stonehill documents discovered in 2000-2003 in the IRS storage facility in Suitland, Maryland;

- 4) All records or correspondence related to the original numbering and subsequent re-numbering and inspection of the 86 boxes of Stonehill documents stored at the Federal Records Center in Suitland Maryland during 2001 and 2002;
- 5) All records or correspondence relating to the discovery that Boxes 17 and 83 were missing from the Federal Records Center including but not limited to all records and/or correspondence to or from IRS Counsel Richard D. Fultz, IRS Attorney Mae Lew and IRS Disclosure Officer Carroll Field, Tax Division attorneys John McCarthy, Charles Duffy, Seth Heald, the IRS Records Office and the Office of Associate Chief Counsel (International);
- 6) All documents describing the numbering and the contents of the 8 boxes of Stonehill documents in the Chief Counsel's office (safe or vault) and the 86 boxes of Stonehill documents in the Federal Records Center in Suitland, Maryland; and
- 7) All records or correspondence related to the transfer of the 86 boxes of Stonehill documents stored at the Federal Records Center in Suitland Maryland to the Tax Division and/or the IRS.

This request is substantially duplicative of the FOIA request filed by Bethany McLean on July 10, 2014, #F14205-0003. Although this request does not seek copies of the documents in the boxes described above related to Harry Stonehill, who is deceased, (other than those documents related to the numbering of the boxes and the description of the contents of the boxes) and thus do not involve any privacy rights concerning Mr. Stonehill's tax returns or tax return information under 26 U.S.C.1603, to the extent that any privacy rights are asserted related to Mr. Stonehill, I am attaching a Certification of Identity, a Privacy Release, a Power of Attorney, Tax Information Authorization and a Notice Concerning Fiduciary Relationship from Pauline Stonehill, Mr. Stonehill's wife, beneficiary and Co-Executor and Co-Administrator of his estate.

If it is your position that records exist that are responsive to this request, but those records (or portions of those records) are exempt from disclosure, please identify the records that are being withheld and state the basis for the denial for each record being withheld. In addition, please provide the nonexempt portions of the records.

I request that all fees in connection with this FOIA request be waived in accordance with 5 U.S.C. § 552(a)(4)(A)(iii), because it does not seek the records for a commercial purpose and disclosure "is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government." Accordingly, I request that you waive all fees for locating and duplicating the records. If, however, a waiver is not granted, then please advise me of the amount of any proposed search, review, and reproduction charges before those activities are carried out.

I will expect a response within 20 working days as provided by law. If you have any questions regarding this request, please contact me at the address below.

Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'REH', written over the printed name.

Robert E. Heggstad
1747 Pennsylvania Ave., NW
Suite 1250
Washington, DC 20006
(202) 733-6726
robert@reheggstad.com

U.S. Department of Justice

Certification of Identity



Privacy Act Statement. In accordance with 38 CFR Section 10.110(i) personal data sufficient to identify the individual submitting requests by mail under the Privacy Act of 1974 (5 U.S.C. Section 552a) is required. The purpose of this attestation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552(a)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (105-0016), Washington, DC, 20503.

Full Name of Requester **Harry S. Stonerill, Deceased**

Citizenship Status ²

Social Security Number **322-18-5720**

Current Address **Deceased**

Date of Birth

Place of Birth

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person. Further, pursuant to 5 U.S.C. Section 552(a)(1), I authorize the U.S. Department of Justice to release any and all information relating to me to **Robert E. Heggstad, 1747 Pennsylvania Ave. NW, Suite 1250, Washington, DC 20006**

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that a falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a (3) by a fine of not more than \$5,000.

Signature: Pauline Dale Stonehill Date 10 August 2018
Pauline Dale Stonehill co-executor and of the estate of
co-administrator Harry S Stonehill

¹ Name of individual who is the subject of the record(s) sought
² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.
³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.
⁴ Signature of individual who is the subject of the record sought.

Privacy Act Release Form
Internal Revenue Service

Federal Agencies are prohibited from releasing information concerning an individual to a third party under the Privacy Act or 1974. Please complete and sign this form, which will allow information regarding Harry S. Stonehill, deceased SSN #322-19-5720 (as described in the attached FOIA/Privacy Act Request) to be released to:

Robert E. Heggstad
1747 Pennsylvania Ave. NW, Suite 1250
Washington, DC 29996
Telephone Number: 202733-6726

Pauline Dale Stonehill

Pauline Dale Stonehill

Co-Executor and Co-Administrator of the Estate of Harry S. Stonehill

Date: 10 August 2018

Mail to: Robert Heggstad

1747 Pennsylvania Ave. NW, Suite 1250

Washington, DC 29996

Additional Comments or information may be attached: Please see attached FOIA/Privacy Act Request

2848
Rev. January 2018
Department of the Treasury
Internal Revenue Service

**Power of Attorney
and Declaration of Representative**

Go to www.irs.gov/Form2848 for instructions and the latest information.

OMB No. 1545-0047
For IRS Use Only
Received by _____
Name _____
Telephone _____
E-mail _____
Date _____

Part I Power of Attorney

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address: **Harry S. Stonehill, Deceased**
Taxpayer identification number(s): **soc. sec. # 322-18-5726**
Daytime telephone number: _____ Pan number (if applicable): _____

I hereby appoint the following representative(s) as attorney(s) in fact:

2 Representative(s) must sign and date this form on page 2, Part

Name and address: **Robert E. Heggestad**
1747 Pennsylvania Ave NW, Suite 1250
Washington, DC 20006
CAF No. _____ PIN _____ Telephone No. **202-733-6726** Fax No. _____
Check if to be sent copies of notices and communications Check if new Address Telephone No. Fax No.

Name and address: _____ CAF No. _____ PIN _____ Telephone No. _____ Fax No. _____
Check if to be sent copies of notices and communications Check if new Address Telephone No. Fax No.

Name and address: _____ CAF No. _____ PIN _____ Telephone No. _____ Fax No. _____
Check if to be sent copies of notices and communications Check if new Address Telephone No. Fax No.

Note: IRS sends notices and communications to only two representatives. Check if new Address Telephone No. Fax No.
Name and address: _____ CAF No. _____ PIN _____ Telephone No. _____ Fax No. _____

Note: IRS sends notices and communications to only two representatives. Check if new Address Telephone No. Fax No.
to represent the taxpayer before the Internal Revenue Service and perform the following acts:

3 Acts authorized (you are required to complete this line 3): With the exception of the acts described in the box, authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below (for example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents; see instructions for the box) or authorizing a representative to sign a return.

Description of Matter (income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PUA, FOIA, etc.) (Partly, Sec. 501A Shared Responsibility Payment, Sec. 1989H Shared Responsibility Payment, etc.) (see instructions): _____
Tax Form Number: **1040-941, '20, etc. (if applicable)** Year(s) or Period(s) if applicable: **Periods 1958-1961**

4 Specific use not recorded on Centralized Authorization File (CAF): If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4 Specific Use Not Recorded on CAF**.

5a Additional acts authorized: In addition to the acts listed on line 3 above, authorize my representative(s) to perform the following acts (see instructions for the box for more information):
Access my IRS records via an Intermediate Service Provider _____
Authorize disclosure to third parties: _____ Substitute or add representative(s) _____ Sign a return _____

Other acts authorized: _____

- b. **Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise) into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated, issued by the government in respect of a federal tax liability, and any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 6a).
- 6. **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here.
YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.
- 7. **Signature of taxpayer.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matter's partner, partnership representative, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the legal authority to execute this form on behalf of the taxpayer.
▶ IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.

Pauline Dale Stonehill
Signature

Co-Executor and Co-Administrator of the Estate of
Harry S. Stonehill

Title (if applicable)

Pauline Dale Stonehill

Print Name

10 August 2018

Print Date

Part II Declaration of Representative

- Under penalties of perjury, by my signature below, I declare that:
- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
 - I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 101), as amended, governing practice before the Internal Revenue Service;
 - I am authorized to represent the taxpayer identified in Part I for the matters specified there; and
 - I am one of the following:
 - a. **Attorney** – a member in good standing of the bar of the highest court of the jurisdiction shown below;
 - b. **Certified Public Accountant** – a holder of an active license to practice as a certified public accountant in the jurisdiction shown below;
 - c. **Enrolled Agent** – enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230;
 - d. **Officer** – a tax affairs officer of the taxpayer organization;
 - e. **Full-time Employee** – a full-time employee of the taxpayer;
 - f. **Family Member** – a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step parent, step child, brother, or sister);
 - g. **Enrolled Actuary** – enrolled as an actuary by the Joint Board for the Examinations of Actuaries under 29 U.S.C. 1247 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230);
 - h. **Unenrolled Return Preparer** – a preparer who practices before the IRS as an unenrolled return preparer. An unenrolled return preparer may represent a taxpayer if (1) the preparer prepared the return, (2) the preparer is the only preparer who has no signature space on the form, (3) the preparer was the only preparer to sign the return, or (4) the preparer was the only preparer to sign the return on the preparer's behalf. See the instructions for Form 1041 (Estate Income Tax Return) and Form 1041-SS (Estate Income Tax Return - Simplified Filing Season Program Record of Completions). **See Special Rules and Requirements for Unenrolled Return Preparers in the instructions for additional information.**
 - k. **Qualifying Student** – receives permission to represent taxpayers before the IRS because of his/her status as a law, business, or accounting student working in an office of a CPA. See instructions for Part III for additional information and requirements.
 - r. **Retirement Plan Agent** – enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.

Note: For designations of "Attorney," "Officer," "Family Member," "Qualifying Student," or "Retirement Plan Agent," the position or relationship to the taxpayer in the licensing jurisdiction of the

Designation— insert above letter (a-r)	Licensing jurisdiction (State) or other licensing authority (if applicable)	Bar license, certification, registration, or enrollment number (if applicable)	Signature	Date
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Form **8821**
 (Rev. January 2018)
 Department of the Treasury
 Internal Revenue Service

Tax Information Authorization

▶ Go to www.irs.gov/Form8821 for instructions and the latest information.
 ▶ Don't sign this form unless all applicable lines have been completed.
 ▶ Don't use Form 8821 to request copies of your tax returns or to authorize someone to represent you.

OMB No. 1545-0047
 For IRS Use Only
 Reserved by
 Name
 Telephone
 Function

1 Taxpayer Information. Taxpayer must sign and date this form on line 7.
 Taxpayer name and address: Harry S. Stonehill, deceased
 Taxpayer identification number(s): 332 18 5720
 Daytime telephone number: _____ Plan number (if applicable): _____

2 Appointee. If you wish to name more than one appointee, attach a list to this form. Check here if a list of additional appointees is attached ▶
 Name and address: Robert E. Heggestad, 1747 Pennsylvania Ave. NW, Suite 1250, Washington, DC 20006
 CAF No: _____ PTIN: _____ Telephone No: 202-733-6726 Fax No: _____
 Check if new: Address Telephone No. Fax No

3 Tax Information. Appointee is authorized to inspect and/or receive confidential tax information for the type of tax, forms, periods, and specific matters you list below. See the line 3 instructions.
 By checking here, I authorize access to my IRS records via an Intermediate Service Provider.

(a) Type of Tax Information (Income, Employment, Payroll, Excess, Estate, Gift, Civil Penalty, Sec. 4960H Payments, etc.)	(b) Tax Form Number (1040, 941, 720, etc.)	(c) Year(s) or Period(s)	(d) Specific Tax Matters
		periods 1958-1961	

4 Specific use not recorded on Centralized Authorization File (CAF). If the tax information authorization is for a specific use not recorded on CAF, check this box. See the instructions. If you check this box, skip lines 5 and 6.

5 Disclosure of tax information (you must check a box on line 5a or 5b unless the box on line 4 is checked):
 a If you want copies of tax information, notices, and other written communications sent to the appointee on an ongoing basis, check this box
 Note: Appointees will no longer receive forms, publications, and other related materials with the notices.
 b If you don't want any copies of notices or communications sent to your appointee, check this box

6 Retention/revocation of prior tax information authorizations. If the line 4 box is checked, skip this line. If the line 4 box isn't checked, the IRS will automatically revoke all prior Tax Information Authorizations on file unless you check the line 6 box and attach a copy of the Tax Information Authorization(s) that you want to retain.

To revoke a prior tax information authorization(s) without submitting a new authorization, see the line 6 instructions.

7 Signature of taxpayer. If signed by a corporate officer, partner, guardian, partnership representative, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters and tax periods shown on line 3 above

▶ IF NOT COMPLETE, SIGNED, AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED.
 ▶ DON'T SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.

Signature: *Pauline Dale Stonehill* Date: 10 August 2018
 Print Name: Pauline Dale Stonehill Title (if applicable): Co-Executor and Co-Administrator of the Estate of Harry S. Stonehill

Form **56**
 (Rev. December 2011)
 Department of the Treasury
 Internal Revenue Service

Notice Concerning Fiduciary Relationship
 (Internal Revenue Code sections 6036 and 6903)

OMB No. 1545-0013

Part I Identification

Name of person for whom you are acting (as shown on the tax return) Harry S. Stonehill, deceased Identifying number _____ Decedent's social security no. 322 18 57 20
 Address of person for whom you are acting (number, street, and room or suite no.)
deceased
 City or town, state, and ZIP code (if a foreign address, see instructions.) _____

Fiduciary's name Pauline Dale Stonehill
 Address of fiduciary (number, street, and room or suite no.)
Calle Azor 1E, Buzon 70
 City or town, state, and ZIP code 29130 Alhaurin de la Torre Malaga Spain Telephone number (optional) _____

Section A. Authority

- 1 Authority for fiduciary relationship. Check applicable box:
 a Court appointment of testate estate (valid will exists)
 b Court appointment of intestate estate (no valid will exists)
 c Court appointment as guardian or conservator
 d Valid trust instrument and amendments
 e Bankruptcy or assignment for the benefit of creditors
 f Other. Describe ► Appointed by Harry Stonehill as Co Executor and Co Administrator in his Last Will and Testament June 26, 2001
 2a If box 1a or 1b is checked, enter the date of death ► _____
 2b If box 1c–1f is checked, enter the date of appointment, taking office, or assignment or transfer of assets ► _____

Section B. Nature of Liability and Tax Notices

- 3 Type of taxes (check all that apply): Income Gift Estate Generation-skipping transfer Employment
 Excise Other (describe) ► _____
 4 Federal tax form number (check all that apply): a 706 series b 709 c 940 d 941, 943, 944
 e 1040, 1040-A, or 1040-EZ f 1041 g 1120 h Other (list) ► _____
 5 If your authority as a fiduciary does not cover all years or tax periods, check here ►
 and list the specific years or periods ► _____
 6 If the fiduciary listed wants a copy of notices or other written communications (see the instructions) check this box ►
 and enter the year(s) or period(s) for the corresponding line 4 item checked. If more than 1 form entered on line 4h, enter the form number.

Complete only if the line 6 box is checked.

If this item is checked:	Enter year(s) or period(s)	If this item is checked:	Enter year(s) or period(s)
4a		4b	
4c		4d	
4e		4f	
4g		4h:	
4h:		4h:	

Part II Court and Administrative Proceedings

Name of court (if other than a court proceeding, identify the type of proceeding and name of agency)		Date proceeding initiated	
Address of court		Docket number of proceeding	
City or town, state, and ZIP code	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Place of other proceedings

Part III Signature

Vaughn Dale Stenseth

Please Sign Here	I certify that I have the authority to execute this notice concerning fiduciary relationship on behalf of the taxpayer		
	Taxpayer's Signature _____	Co-Executor and Co-Special Admin. Title, if applicable	Date 24 Aug 2018

Exhibit

10(b)



PRIVACY, GOVERNMENTAL
LIAISON AND DISCLOSURE

**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224**

October 19, 2018

Robert E. Heggstad
1747 Pennsylvania Ave NW
Suite 1250
Washington, DC 20006

Dear Mr. Heggstad:

This is our final response to your Freedom of Information Act (FOIA) request dated September 28, 2018, that we received on October 9, 2018.

You asked for all records and documents, including electronic correspondence, related to storage, transfer and review of documents concerning Harry S. Stonehill and United States v. Stonehill, 65-cv-0127 (C.D. Cal.) ("Stonehill documents") located at the Internal Revenue Service (IRS) Chief Counsel's Office and the IRS storage facility in Suitland, Maryland during the time period January 1, 1998 thru January 1, 2003.

Tax records are confidential and may not be disclosed unless specifically authorized by law. The information you provided does not provide adequate verification of your right to access the records of Mr. Stonehill. Unfortunately, there was no information provided to support the statements made on Form 56, Notice Concerning Fiduciary Relationship. Please note the executor/fiduciary relationship has a finite term. Once the estate/probate is closed, the authorities and relationship terminate. Since the authority to re-disclose as provided by Form 56 is not established, the authority to receive tax information as provided, by Form 8821, Tax Information Authorization, cannot be honored.

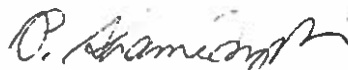
You may contact me, the FOIA Public Liaison, P. Sharisse Tompkins, to discuss your request at:

PO Box 2986 MS 7000 AUSC
Austin, TX 78768
737-800-5460

The FOIA Public Liaison responds to FOIA and Privacy Act requests for copies of documents maintained by the IRS. There is no provision in either Act to resolve tax, collection, or processing issues and our staff is not trained to answer questions regarding those issues. If you need assistance with tax related issues you may call the IRS toll free number at 1-800-829-1040.

If you have any questions, please call Tax Law Specialist A. Amparano, ID # 0220447, at (214) 413-5489, or write to: Internal Revenue Service, Disclosure Office 9, P.O. Box 621506, Stop 211, Atlanta, GA 30362-3006. Please refer to case number F19283-0060.

Sincerely,



P. Sharisse Tompkins
Disclosure Manager
Disclosure Office 9

Exhibit

10(c)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PAULINE DALE STONEHILL)
)
 Plaintiff,)
)
 v.) Civil Action No. 1:19-cv-03644-RDM
)
 INTERNAL REVENUE SERVICE,)
)
 Defendant.)
 _____)

SECOND DECLARATION OF HELENE R. NEWSOME

I, Helene R. Newsome, pursuant to the provisions of 28 U.S.C. § 1746, declare as follows:

1. I am an attorney in Branch 6 of the Office of the Associate Chief Counsel (Procedure and Administration) (“P&A”), of the Internal Revenue Service (“IRS” or “Service”) Office of Chief Counsel. I have been employed as an attorney in the Office of Chief Counsel since April 1997.

2. P&A Branch 6 provides subject matter experts for disclosure and privilege matters arising in the context of Freedom of Information Act (“FOIA”) (5 U.S.C. § 552) requests and litigation. The duties of Branch 6 include advising the IRS on legal matters involving FOIA and assisting the Department of Justice (“DOJ”) in defending the IRS in litigation under FOIA. These duties require knowledge of the types of records created and maintained by the various divisions and functions of the IRS and Chief Counsel, and an understanding of the provisions of FOIA which exempt certain types of records from disclosure in response to a FOIA request.

3. In September 2020, the above-captioned matter was transferred to me upon the departure of the Chief Counsel attorney originally assigned to this matter.

4. This declaration is based on my personal knowledge and information provided to me in my official capacity.

5. I have personally reviewed the request for records under FOIA that gave rise to this lawsuit.

6. I have personally reviewed and am familiar with all records at issue in this litigation.

7. As background, Harry S. Stonehill ("H. Stonehill") filed a FOIA request with the IRS in 1998 and an identical request in 2001 seeking, inter alia, records related to the federal investigation of his income taxes. The IRS located 80+ boxes of material which were potentially responsive to H. Stonehill's 1998 and 2001 FOIA requests. The IRS reviewed the material and produced non-exempt, responsive records to H. Stonehill.

8. In 2014, Bethany McLean, a representative of the news media, filed a FOIA request with the IRS allegedly on behalf of plaintiff, H. Stonehill's surviving widow, that is substantially similar to plaintiff's September 28, 2018 FOIA request at issue here. The 2014 request and plaintiff's 2018 FOIA request both seek records related to the discovery, storage, and transfer of the 80+ boxes of material that were located by the IRS in connection with the above-described 1998 and duplicate 2001 FOIA requests filed by H. Stonehill, and the review of such material.

9. The IRS did not provide plaintiff records responsive to the 2014 FOIA request because the IRS determined that plaintiff had not provided adequate verification of her right to access the records of H. Stonehill, her deceased husband.

10. Plaintiff's 2018 FOIA request at issue here seeks all records and documents, including electronic correspondence, related to the storage, transfer and review of documents

concerning H. Stonehill and United States v. Stonehill, 65-cv-0127 (C.D. Cal.) (“Stonehill documents”) located at the IRS Chief Counsel’s Office and the IRS storage facility in Suitland, Maryland during the time period January 1, 1998 through January 1, 2003, including but not limited to:

a. All records and correspondence discussing or related to the discovery and review of the 8 boxes of Stonehill documents in the IRS Chief Counsel’s office (safe or vault) in 2001 including but not limited to correspondence to or from, Richard Fultz, IRS Disclosure Officers Steven Flesner and Carroll Field, Tax Division attorneys Charles Duffy, John McCarthy, Mae Lew,¹ Seth Heald or any representative of the IRS, the DOJ Tax Division, the National Archives and Records Administration (“NARA”), the IRS Records Center or the IRS Office of Chief Counsel (International);

b. All records and correspondence discussing or related to the discovery, transfer and review of the 86 boxes of Stonehill documents in the Federal Records Center in Suitland, Maryland in 2000-2002 including but not limited to correspondence to or from Richard Fultz, Carroll Field, Charles Duffy, John McCarthy, Mae Lew, Seth Heald or any representative of the IRS, DOJ Tax Division, NARA, the IRS Records Center or the IRS Office of Chief Counsel (International);

c. All logs and/or records containing names of any representative of the IRS or the Tax Division who had access to or reviewed the 8 boxes of Stonehill documents in the IRS Chief Counsel’s office, safe or vault in 2001 or the 86 boxes of IRS Stonehill documents discovered in 2000-2003 in the IRS storage facility in Suitland, Maryland;

d. All records or correspondence related to the original numbering and

¹ For clarification purposes, Mae Lew is a current IRS Chief Counsel attorney and was not employed by the DOJ Tax Division during any time period relevant to this matter.

subsequent re-numbering and inspection of the 86 boxes of Stonehill documents stored at the Federal Records Center in Suitland, Maryland during 2001 and 2002;

e. All records or correspondence relating to the discovery that Boxes 17 and 83 were missing from the Federal Records Center including but not limited to all records and/or correspondence to or from IRS Counsel Richard D. Fultz, IRS Attorney Mae Lew, and IRS Disclosure Officer Carroll Field, Tax Division attorneys John McCarthy, Charles Duffy, Seth Heald, the IRS Records Office and the Office of Associate Chief Counsel (International);

f. All documents describing the numbering and the contents of the 8 boxes of Stonehill documents in the Chief Counsel's office (safe or vault) and the 86 boxes of Stonehill documents in the Federal Records Center in Suitland, Maryland; and

g. All records or correspondence related to the transfer of the 86 boxes of Stonehill documents stored at the Federal Records Center in Suitland, Maryland to the DOJ Tax Division and/or the IRS.

See Compl. Ex. 10(a).

11. Plaintiff states in her FOIA request that the request does not seek copies of the documents in the boxes described above related to H. Stonehill (other than those documents related to the numbering of the boxes and the description of the contents of the boxes).

12. The IRS received this request on October 9, 2018, and it was assigned case number F19283-0060.

13. By letter dated October 19, 2018, the IRS responded to plaintiff's FOIA request, explaining that tax records are confidential and may not be disclosed unless specifically authorized by law, and that the information provided by plaintiff did not provide adequate

verification of her right to access the records of H. Stonehill. See Compl. Ex. 10(b).

14. According to plaintiff's complaint, by letter dated December 12, 2018, plaintiff appealed the IRS's October 19, 2018 response, stating that she was entitled to the information sought in her September 28, 2018 FOIA request because her request for records was not a request for H. Stonehill's tax information, and thus did not require authorization to access the records. Plaintiff also stated that to the extent that any privacy rights are asserted related to H. Stonehill, she has the right to receive the documents requested as she is the co-executor and beneficiary of H. Stonehill's estate, which has never closed. See Compl. Ex. 10(c).

15. The IRS Appeals Office has no record of receiving plaintiff's December 12, 2018 administrative appeal.

16. On December 6, 2019, plaintiff filed the instant suit, claiming that the defendant was in violation of the FOIA in that the defendant failed to respond to plaintiff's request within the statutorily prescribed time and was unlawfully withholding records responsive to plaintiff's request.

17. On August 21, 2020, the defendant filed a motion to dismiss this suit on the basis that plaintiff's claims are barred by res judicata.

18. On March 22, 2021, the court denied defendant's motion to dismiss.

19. In March 2021, after the court's order denying the defendant's motion to dismiss this case, I immediately began the search for responsive records.

20. Searches for potentially responsive records were conducted in the Office of Privacy, Governmental Liaison and Disclosure ("PGLD"); the Office of Associate Chief Counsel (International) ("ACCI"); P&A; and the Washington National Records Center ("WNRC") in Suitland, Maryland.

21. These were the appropriate locations to search for potentially responsive records because these were the offices that were involved in the search, discovery, storage, transfer, and/or review of the 80+ boxes of material that were located in connection with H. Stonehill's 1998 and identical 2001 FOIA requests.

22. The descriptions of searches, as set forth below, are based on my direct communications with IRS, Chief Counsel, and WNRC employees regarding the searches they conducted as well as my review of PGLD's administrative FOIA processing files with respect to plaintiff's 2018 FOIA request and the substantially similar 2014 FOIA request.

23. This declaration primarily refers to "records," because that is the term that the FOIA uses in delineating the information that an agency must release. See generally, 5 U.S.C. § 552. However, the term "records," as used in this declaration is meant to encompass documents, other written and electronic material, and other forms of information maintained within the IRS.

Search for Potentially Responsive Records

- **PGLD**
 - *The Disclosure Office*

24. The Disclosure Office within PGLD is the function responsible for processing administrative FOIA requests. Caseworkers processing administrative FOIA requests maintain an administrative FOIA processing file for every FOIA request in which they are assigned which contains a record of all activities undertaken in the course of responding to the request, including FOIA case history notes² and copies of the records collected and disclosed in response to the

² FOIA case history notes are associated with the case file maintained by the Disclosure Office for a particular FOIA request. The case history notes contemporaneously record the actions taken by various Disclosure employees in response to a FOIA request.

request. To the extent that the Disclosure Office possesses any records responsive to plaintiff's 2018 FOIA request, such records would be maintained in the administrative FOIA processing files associated with H. Stonehill's 1998 and 2001 FOIA requests, and the 2014 and 2018 FOIA requests.

25. In March 2021, I contacted Denise Higley, a Government Information Specialist in PGLD who has access to the electronic database housing the administrative FOIA processing files, and asked that she provide me with the administrative files relating to the 1998, 2001, 2014, and 2018 FOIA requests described above.

26. Ms. Higley informed me that only the administrative FOIA processing files relating to the 2014 and 2018 FOIA requests were housed on the electronic database. She explained that the electronic storage of administrative FOIA processing files did not begin until January 2010. Prior to January 2010, Ms. Higley indicated that administrative FOIA processing files were maintained in hard copy.

27. In April 2021, Ms. Higley searched the electronic database housing the administrative FOIA processing files, retrieved the ones relating to the 2014 and 2018 FOIA requests, and provided them to me.

28. In April 2021, Ms. Higley contacted Thomas Burger, Associate Director of Data Services in PGLD, and asked for his assistance in searching for the hard copy administrative FOIA processing files with respect to H. Stonehill's 1998 and 2001 FOIA requests.

29. Mr. Burger explained that hard copy administrative FOIA processing files were sometimes maintained in the office in which they were processed, but noted that 1998 and 2001 hard copy administrative FOIA processing files would have been destroyed consistent with the applicable records control schedule, which was three years after final adjudication by the court of

the litigation filed by the requester relating to his FOIA requests. H. Stonehill filed a FOIA lawsuit pertaining to his 1998 and 2001 FOIA requests and it was resolved in 2008.

Accordingly, the 1998 and 2001 hard copy administrative FOIA processing files would have been destroyed in 2011. See General Records Schedule (“GRS”) 14, Item 12a, Transmittal No. 8 (December 1998).³

30. Based on my review of the responsive records in this case, I learned that the 1998 and 2001 FOIA requests were processed in the National Office. Because Mr. Burger noted that hard copies of administrative FOIA processing files were sometimes maintained in the office in which they were processed, for purposes of thoroughness, in August 2021, I contacted Clare Calaby, Project Manager in PGLD who works in the National Office and has been with the Office of Governmental Liaison and Disclosure (“GLD”)⁴ for 20 years, to inquire if she was aware of any location where hard copies of 1998 and 2001 administrative FOIA processing files that were handled in the National Office might be stored.

31. Consistent with the information provided by Mr. Burger, Ms. Calaby explained that 1998 and 2001 hard copy administrative FOIA processing files would have been destroyed pursuant to records control schedules. She noted, however, that there is a storage room in the National Office that might contain some boxes of old PGLD records that predate January 2010.

32. In September 2021, Melissa Avrutine, P&A Special Counsel and my reviewer with respect to this case, went to the storage room referenced above by Ms. Calaby to assess the amount of material which was housed in the room that would need to be searched.

33. In September 2021, Ms. Avrutine informed me that the storage room contained over 200 boxes of records.

³ Note that historic GRS information can be found online at www.archives.gov/records-mgmt/grs.

⁴ GLD is the office within PGLD that has jurisdiction over the Disclosure Office.

34. Due to the large amount of material to be searched in the storage room, in October 2021, I arranged to have two attorneys in my office assist me with the search.

35. In November 2021, I, along with two other attorneys in my office, conducted a manual search of all the boxes located in the storage room. The room contained 237 boxes of material. Our search did not locate hard copies of H. Stonehill's 1998 and 2001 administrative FOIA processing files.

o *IRS Records Management Office*

36. The IRS Records Management Office is an office within PGLD under the Office of Identity & Records Protection. The IRS Records Management Office is responsible for oversight of IRS records management policy and serves as liaison for the IRS with NARA⁵ on all records and information management matters that impact the IRS.

37. Anthony Palumbo is the manager of the IRS Records Management Office and the IRS NARA Liaison.

38. In July 2021, I contacted Mr. Palumbo and asked that he search the IRS Records Management Office for responsive records to plaintiff's 2018 FOIA request.

39. In July 2021, Mr. Palumbo provided me the following information with respect to the items of information plaintiff seeks in her 2018 FOIA request.

40. As to plaintiff's request for (i) records describing the contents of the 80+ boxes of material pertaining to H. Stonehill's 1998 and 2001 FOIA requests; (ii) a log or record containing the names of IRS or DOJ Tax Division employees who had access to the 80+ boxes; and (iii) records related to the review of the 80+ boxes, Mr. Palumbo indicated that his office does not maintain, and has not ever maintained, these types of records.

⁵ NARA is an independent federal agency which safeguards and preserves federal agency records.

41. As to plaintiff's request for records describing the numbering of the 80+ boxes, Mr. Palumbo explained that his office has no responsive records because his office is not involved in the numbering of boxes. Mr. Palumbo stated that boxes are numbered by the particular IRS function providing the boxes to his office for transfer to a Federal Records Center ("FRC")⁶ for storage.

42. Regarding plaintiff's request for records related to the discovery of the 80+ boxes in 2001, Mr. Palumbo indicated that to the extent that his office possessed any responsive records concerning boxes discovered in 2001 (over 20 years ago), such records would have been destroyed when they became six years old consistent with the applicable records control schedule. See GRS 16, Item 7, Transmittal No. 8 (December 1998).

43. In connection with plaintiff's request for records related to the discovery that Boxes 17 and 83 were missing from the FRC, I provided to Mr. Palumbo, as background, a copy of the Disclosure Office's letter to Mr. Robert Heggstad⁷ dated November 14, 2002, as provided in plaintiff's complaint, which states that "[t]he IRS Records Office has notified the Office of Associate Chief Counsel (International) that Boxes 17 and 83 are missing from the Federal Records Center." See Compl. Ex. 8(a). Mr. Palumbo explained that to the extent that his office possessed any responsive records concerning whether Boxes 17 and 83 were missing or not in or around 2002 (20 years ago), such records would have been destroyed when they became six years old consistent with the applicable records control schedule. See GRS 16, Item 7, Transmittal No. 8 (December 1998).

44. Finally, with respect to plaintiff's request for records related to the transfer of the

⁶ FRCs are facilities under the jurisdiction of NARA which store federal agency records.

⁷ Mr. Heggstad, the attorney representing plaintiff in this litigation, was also H. Stonehill's attorney in connection with his 1998 and 2001 FOIA requests.

80+ boxes, and who (in the IRS and DOJ Tax Division) had access to the boxes, Mr. Palumbo explained that the only records that his office possessed which would be responsive to these requests are a Standard Form 135 (“SF-135”), which is completed by a federal agency and provided to an FRC when initially sending boxes to the FRC for storage, and Optional Forms 11 (“OF-11s”), which are completed by a federal agency and provided to an FRC when requesting records from the FRC. Mr. Palumbo stated, however, that the SF-135 for the boxes of material at issue here, which was generated in 1982, would have been destroyed when it became six years old consistent with the applicable records control schedule. See GRS 16, Item 11 (October 1982). Mr. Palumbo further stated that OF-11s generated in connection with the boxes of material at issue here would also have been destroyed when they became six years old consistent with the applicable records control schedule.⁸

45. Nonetheless, Mr. Palumbo indicated that the WNRC, the FRC storing the 80+ boxes of material related to H. Stonehill’s 1998 and 2001 FOIA requests, might have responsive records to plaintiff’s request for records related to the transfer of the boxes and who had access to the boxes as well as other items of plaintiff’s request. Thus, Mr. Palumbo recommended that we contact the WNRC and ask that it conduct a search for responsive records to plaintiff’s 2018 FOIA request.⁹

- ACCI

46. In reviewing PGLD’s administrative FOIA processing file relating to the 2014

⁸ Between March 1978 and October 1982, OF-11s were covered by GRS 16, Item 11 with the retention “[d]estroy when 6 years old.” Between October 1982 and December 1998, OF-11s were covered by GRS 16, Item 7 with the retention “[d]estroy when 6 years old. Earlier disposal is authorized if records are superseded, obsolete, or no longer needed for reference.” Between December 1998 and September 2012, OF-11s were covered by GRS 16, Item 7 with the retention “[d]estroy when 6 years old.” Mr. Palumbo stated that he has no reason to believe that any OF-11s were created between 2012 and September 28, 2018, the date of plaintiff’s FOIA request at issue here.

⁹ During the spring and majority of the summer of 2021, the WNRC was closed due to COVID-19 and only handling emergency requests.

FOIA request, I learned that Mae Lew, Deputy Associate Chief Counsel in ACCI, and Sarah Tate, Senior Counsel in P&A, were involved in the search for records responsive to the 2014 request.

47. In April 2021, I contacted Ms. Lew and asked that she conduct a search for responsive records to plaintiff's 2018 FOIA request, a copy of which I provided to her. Upon completion of her search, I asked that Ms. Lew provide me all potentially responsive records resulting from her search. Ms. Lew informed me that she had potentially responsive records to plaintiff's 2018 FOIA request. She further informed me that in addition to being involved in the search for records responsive to the 2014 FOIA request, she was involved in the search for and review of records in connection with H. Stonehill's 1998 and 2001 FOIA requests.

48. Ms. Lew explained that the only places where she maintained potentially responsive records were in her email inbox and/or sent folder, and/or her archived email inbox and/or sent folder.

49. In April and May 2021, Ms. Lew conducted a search of all items in her email inbox and sent folder, and her archived email inbox and sent folder, using the key term "Stonehill" and retrieved potentially responsive records.

50. In May 2021, Ms. Lew provided all potentially responsive records to me.

51. In May 2021, Ms. Lew explained that Richard Fultz, an ACCI Special Counsel who retired in April 2012, was also involved in the search for and review of records in connection with H. Stonehill's 1998 and 2001 FOIA requests. Ms. Lew, however, informed me that Mr. Fultz's electronic records are no longer maintained by the IRS as they were deleted consistent with IRS policies and practices regarding electronic records of departing employees.

52. In May 2021, Ms. Lew also informed me that ACCI's hard copy files pertaining

to H. Stonehill's 1998 and 2001 FOIA requests and the 2014 FOIA request were provided to Ms. Tate, in July 2017, who was organizing Counsel's (ACCI and P&A's) files relating to these FOIA requests for storage.

53. In May 2021, Ms. Lew told me that she knows of no other locations where responsive records would be located other than the locations described in this declaration.

- **Procedure & Administration (P&A)**

54. In April 2021, I contacted Deanna Poole, Chief of the Disclosure Support ("DS") branch in P&A of the Office of Chief Counsel, and asked that she provide me the DS case files, if any, relating to H. Stonehill's 1998 and 2001 FOIA requests and the 2014 and 2018 FOIA requests. DS is the function within the Office of Chief Counsel that is responsible for coordinating and processing FOIA requests for National Office Chief Counsel records. See Chief Counsel Directives Manual, 30.11.1.1. When a FOIA request seeks National Office records, the Disclosure Office within PGLD sends a search memorandum to DS requesting that it conduct a search of the appropriate offices within the National Office for responsive records. These search requests are assigned to DS paralegals who maintain a hard copy case file for every request in which they are assigned which contains a record of all activities undertaken in the course of responding to the request.

55. In April 2021, Ms. Poole informed me that case files relating to H. Stonehill's 1998 and 2001 FOIA requests would have been destroyed consistent with the applicable records control schedule, which was three years after final adjudication by the court of the litigation filed by the requester relating to his FOIA requests. As explained above in paragraph 29, H. Stonehill filed a FOIA lawsuit pertaining to his 1998 and 2001 FOIA requests and it was resolved in 2008. Accordingly, the 1998 and 2001 DS FOIA case files would have been destroyed in 2011. See

General Records Schedule (“GRS”) 14, Item 12a, Transmittal No. 8 (December 1998).

56. In April 2021, Ms. Poole further informed me that the case file relating to the 2014 FOIA request was physically located in the DS office and that she had asked another DS employee, Jessica Parrish, who went into the office once per week,¹⁰ to retrieve the file, scan it, and send it to me electronically.

57. In May 2021, Ms. Parrish electronically provided me the DS case file relating to the 2014 FOIA request.

58. As to a DS case file relating to plaintiff’s 2018 FOIA request, Ms. Poole informed me that, in April 2021, she searched her office’s electronic database where incoming search memoranda from PGLD are recorded and found no record of receiving a search memorandum with respect to this request. For the sake of thoroughness, in April 2021, Ms. Poole physically searched the DS office and the closed file room, the only locations where DS case files would be maintained, and did not find a DS case file relating to plaintiff’s 2018 FOIA request.¹¹

59. Because I was aware that Ms. Lew had provided Ms. Tate with ACCI’s hard copy files pertaining to H. Stonehill’s 1998 and 2001 FOIA requests and the 2014 FOIA request, and that Ms. Tate was involved in the search for responsive records to the 2014 request, in April 2021, I contacted Ms. Tate and asked that she conduct a search for responsive records to plaintiff’s 2018 FOIA request, a copy of which I provided to her.

60. Ms. Tate explained that the only places where she maintained potentially responsive records were in an email folder entitled “Stonehill,” and in ACCI and P&A hard copy

¹⁰ According to Ms. Poole, most DS employees are working from home during the pandemic. However, a few employees, like Ms. Parrish, go into the office periodically to handle matters that cannot be addressed remotely.

¹¹ If a search memorandum was sent to DS from the Disclosure Office with respect to plaintiff’s 2018 FOIA request, there would be a record in the Disclosure Office’s administrative FOIA processing file reflecting that such a memorandum was sent. I have reviewed the Disclosure Office’s administrative FOIA processing file with respect to plaintiff’s 2018 FOIA request in its entirety and found no record of a search memorandum being sent to DS.

files pertaining to H. Stonehill's 1998 and 2001 FOIA requests and the 2014 FOIA request.¹²

61. In April 2021, Ms. Tate manually searched all items in her "Stonehill" email folder, retrieved potentially responsive records, and provided them to me.

62. In May 2021, Ms. Tate, Ms. Avrutine, and I reviewed all the ACCI and P&A hard copy files and retrieved potentially responsive records. In June 2021, I scanned all the potentially responsive records so that I could electronically review and process the documents.

63. In June 2021, Ms. Tate told me that she knows of no other locations where responsive records would be located other than the locations described in this declaration.

- WNRC

64. In August 2021, Mr. Palumbo contacted Christopher Pinkney, WNRC Acting Director, and asked that a search be conducted for responsive records to plaintiff's 2018 FOIA request.

65. In September 2021, Mr. Pinkney provided me the following information with respect to the items of information plaintiff seeks in her 2018 FOIA request.

66. As to plaintiff's request for a log containing the names of IRS or DOJ Tax Division employees who had access to the 80+ boxes, Mr. Pinkney explained that the WNRC does not maintain such a log. Mr. Pinkney stated that even though the WNRC does not maintain a log with this information, the WNRC possesses some records which would indicate who had access to certain information in this records set. Mr. Pinkney stated that the WNRC records that

¹² Ms. Tate was in possession of ACCI and P&A hard copy files pertaining to H. Stonehill's 1998 and 2001 FOIA requests and the 2014 FOIA request because she was provided, obtained, or generated these files, as explained below, and was organizing these records for purposes of storage. As previously indicated, Ms. Lew, in July 2017, provided Ms. Tate ACCI's hard copy files pertaining to H. Stonehill's 1998 and 2001 FOIA requests and the 2014 FOIA request. Ms. Tate obtained P&A's hard copy files pertaining to H. Stonehill's 1998 and 2001 FOIA requests in order to assist DS in its search for responsive records to the 2014 FOIA request, a matter to which she had been assigned. Ms. Tate generated P&A's hard copy file pertaining to the 2014 FOIA request in connection with assisting DS with that request.

would contain information responsive to plaintiff's request regarding who had access to information in this records set are the SF-135, OF-11s, and refiles. As explained above in paragraph 44 of this declaration, an SF-135 is completed by a federal agency and provided to an FRC when initially sending boxes to the FRC for storage, and OF-11s are completed by a federal agency and provided to an FRC when requesting records from the FRC. Refiles occur when a federal agency that has obtained records from an FRC returns those records back to the FRC. Mr. Pinkney explained that these WNRC records – the SF-135, OF-11s, and refiles – would also contain responsive information to plaintiff's request for records regarding the transfer of the 80+ boxes in this records set.

67. Mr. Pinkney explained that SF-135s and OF-11s are maintained by the WNRC in hard copy and/or electronically. Refiles are only maintained by the WNRC electronically.

68. Mr. Pinkney further explained that, in 2009, NARA launched a web-based system called Archives & Records Centers Information System ("ARCIS"), which is used by NARA FRC's to electronically manage information pertaining to records stored at the FRCs. Prior to 2009, information pertaining to records stored at the FRCs were in hard copy.

69. The search for the responsive SF-135 is described below.

a. Mr. Pinkney indicated that the SF-135 that is provided to the WNRC when boxes are initially sent to the WNRC is usually placed in Box 1 of every records set.

b. In August 2021, Mr. Pinkney directed that a manual search be conducted of Box 1 of the records set at issue here for the SF-135. Mr. Pinkney explained that this search for the SF-135 as well as all other searches for responsive records to plaintiff's 2018 FOIA request were conducted by appropriate members of his staff pursuant to his direction. This search for the SF-135 did not locate the record.

c. For the sake of thoroughness, in August 2021, Mr. Pinkney directed that a manual search be conducted of all the boxes in the records set for the SF-135. This search did not locate the SF-135.

d. Finally, Mr. Pinkney noted that the SF-135 that was provided to the WNRC when the boxes were originally sent to the WNRC is not maintained on ARCIS. Thus, the WNRC does not have an electronic copy of this record.

70. The search for responsive OF-11s is described below.

a. Mr. Pinkney explained that one copy of an OF-11 is placed in the box requested by the federal agency, and one copy is kept on the shelf at the FRC, as a placeholder, in the assigned location for the box that was requested.¹³

b. In August 2021, Mr. Pinkney directed that a manual search be conducted of all the boxes in the records set and all the shelves where the boxes were maintained for OF-11s. This search located four OF-11s.

c. In August 2021, Mr. Pinkney directed that a query be conducted in ARCIS for all OF-11s relating to this records set. This search did not locate any additional OF-11s.

d. In August 2021, the four OF-11s were provided to me.

71. The search for responsive refiles is described below.

a. Mr. Pinkney explained that all information pertaining to refiles is maintained in ARCIS. The WNRC does not maintain any hard copy records relating to refiles.

¹³ Before 2009, OF-11s were submitted in hard copy. Since 2009, OF-11s have been submitted electronically through ARCIS. The procedure for handling electronic OF-11s is the same as the procedure for handling hard copy OF-11s. That is, an electronic OF-11 is printed and placed in the box requested by a federal agency, and a copy is kept on the shelf at the FRC as a placeholder for a box that has been checked out by an agency.

b. In August 2021, Mr. Pinkney directed that a query be conducted in ARCIS for all refiles with respect to this records set. The search was conducted, and the results were exported to an Excel spreadsheet.

c. In August 2021, the Excel spreadsheet was provided to me.

72. As to plaintiff's request for records describing the contents of the 80+ boxes of material pertaining to H. Stonehill's 1998 and 2001 FOIA requests, Mr. Pinkney explained that to the extent that the WNRC would have any responsive records to this item of plaintiff's request, such records would have been provided by the IRS in 1982 when the WNRC received this records set from the IRS¹⁴ and then those records would be maintained in one of the boxes of the records set. Mr. Pinkney stated that, in August 2021, when he directed that a manual search be conducted of all the boxes of this records set for the SF-135 and OF-11s, he also directed that a manual search be conducted of all the boxes for any records describing the contents of the boxes. The search did not locate any responsive records to this item of plaintiff's request.

73. As to plaintiff's request for records related to the review of the 80+ boxes, Mr. Pinkney indicated that the only responsive document in which this information would have been maintained is a security visitor log. Mr. Pinkney explained, though, that the security visitor logs for this records set have been destroyed pursuant to records control schedules applicable to NARA.

74. As to plaintiff's request for records describing the numbering of the 80+ boxes, Mr. Pinkney explained that the WNRC has no responsive records to this request because the federal agency submitting the boxes to the WNRC, and not the WNRC, numbers the boxes.

¹⁴ In August 2021, Mr. Pinkney conducted a query in ARCIS to determine when the IRS initially submitted this records set to the IRS. The results of this query was that the IRS initially submitted the 80+ boxes of records in 1982.

75. Regarding plaintiff's request for records related to the discovery of the 80+ boxes in 2001, Mr. Pinkney indicated that the boxes were not "discovered" by the WNRC in 2001 or any other year, but rather they were properly submitted to the WNRC by the IRS in 1982.

76. With respect to plaintiff's request for records related to the discovery that Boxes 17 and 83 were missing from the FRC, Mr. Pinkney explained that in August 2021, he directed that a manual check be conducted of each numbered box in this records set to determine whether all the boxes in the records set were present and accounted for. The results of this manual check of each numbered box was that Boxes 17 and 83, as well as every other box in this records set, were stored in their appropriate locations at the WNRC. Mr. Pinkney further noted that the WNRC has no hard copy record, or record in ARCIS, indicating that Boxes 17 and 83 were ever missing from the WNRC.

77. In October 2021, for the sake of thoroughness, I asked Mr. Pinkney whether he knew where any additional potentially responsive records may be located. He replied that he did not. He stated that the WNRC has provided me with all responsive records in its possession.

78. Based on the information provided by all of the aforementioned IRS, Chief Counsel, and WNRC employees, my knowledge of plaintiff's request, my review of the case history notes provided by the Disclosure Office, and my familiarity with IRS and Chief Counsel record-keeping and file maintenance policies and practices, I have determined that there are no other custodians or locations likely to maintain records responsive to plaintiff's FOIA request.

Review of Records and Production of Non-Exempt Material

79. In April 2021, I began my review of the potentially responsive records for responsiveness and any applicable FOIA exemptions.

80. On June 30, 2021, I provided non-exempt, responsive ACCI records to the DOJ

attorney assigned to this litigation for release to plaintiff. This production was bates stamped 1-283.¹⁵ I was copied on a July 1, 2021 letter from the DOJ attorney to plaintiff's counsel releasing these records.

81. On July 27, 2021, I provided non-exempt, responsive PGLD and P&A records to the DOJ attorney assigned to this litigation for release to plaintiff. This production was bates stamped 284-505. I was copied on a July 29, 2021 letter from the DOJ attorney to plaintiff's counsel releasing these records.

82. On August 11, 2021, I provided non-exempt, responsive ACCI and P&A records to the DOJ attorney assigned to this litigation for release to plaintiff. This production was bates stamped 506-944. I was copied on an August 31, 2021 letter from the DOJ attorney to plaintiff's counsel releasing these records.

83. On September 28, 2021, I provided non-exempt, responsive ACCI and P&A records to the DOJ attorney assigned to this litigation for release to plaintiff. This production was bates stamped 945-1016. I was copied on a September 29, 2021 letter from the DOJ attorney to plaintiff's counsel releasing these records.

84. On October 22, 2021, I provided non-exempt, responsive ACCI, P&A, and WNRC records to the DOJ attorney assigned to this litigation for release to plaintiff. This production was bates stamped 1017-1093. I was copied on an October 29, 2021 letter from the DOJ attorney to plaintiff's counsel releasing these records.

85. Of the 1,093 total pages responsive to plaintiff's 2018 FOIA request, 119 pages were released in full, 65 pages were withheld in part, and 909 pages were withheld in full.

86. On February 18, 2022, I provided to the DOJ attorney assigned to this litigation,

¹⁵ For ease of reference, in referring to bates numbered pages throughout this document, I have excluded the prefix "STON" and the introductory zeroes. For example, bates numbered page STON00001 is referred to as page 1.

for release to plaintiff, my declaration (executed and dated on that same date) which describes the material withheld from the responsive records in this case and the basis for withholding such material pursuant to applicable FOIA exemption(s).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 31st day of March, 2022.

Helene R.
Newsome

Digitally signed by Helene R.
Newsome
Date: 2022.03.31 13:27:11 -04'00'

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