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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Robert Edward Haycox)
8A Condominio Bosque Dorado)
Piedades de Santa Ana)
San Jose, Costa Rica)
10091)

Plaintiff,)

v.)

U.S. Department of the Treasury)
Financial Crimes Enforcement Network)
2070 Chain Bridge Road)
Vienna, VA 22182)

Defendant.)

Civil No. 1:23-cv-203



COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff Robert Edward Haycox, by and through undersigned counsel, hereby alleges as follows:

1. This Complaint seeks injunctive and other appropriate relief under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Specifically, Plaintiff seeks to compel the Financial Crimes Enforcement Network (“FinCEN”) to comply with its obligations under FOIA to release bureau records relating to Mr. Haycox that he initially requested nearly six months ago, and that Defendant has since improperly withheld.

PARTIES

2. Plaintiff Robert Edward Haycox is a citizen and national of the United Kingdom and currently resides in Costa Rica.

3. Defendant FinCEN is a bureau of the U.S. Department of the Treasury, established to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence. Defendant is an “agency” for purposes of 5 U.S.C. § 552(f)(1) and, on information and belief, has possession, custody, and/or control of records that Plaintiff seeks.

JURISDICTION AND VENUE

4. The Court has both subject matter jurisdiction and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). Subject matter jurisdiction further lies under 28 U.S.C. § 1331 because this Matter presents a question of federal law.

5. Venue properly lies in this judicial district under 5 U.S.C. § 552(a)(4)(B) (“[T]he district court of the United States in... the District of Columbia[] has jurisdiction to enjoin the agency

from withholding agency records and to order the production of any agency records improperly withheld from the complainant.”).

PLAINTIFF’S FOIA REQUEST AND DEFENDANTS’ FAILURE TO RESPOND

6. On or about July 26, 2022, Plaintiff, through counsel, filed a FOIA request with Defendant FinCEN seeking all records relating to him in the bureau’s possession, custody, or control.

7. Defendant assigned “FOIAXpress” case number 2022-FINP-00029 to Plaintiff’s document and information request.

8. By letter dated September 21, 2022, Defendant declined to provide a response, and instead stated that Plaintiff must “...provide sufficient detail when describing the records, you want to help us identify and locate them.”

9. Through an amended request submitted on or about September 26, 2022, Plaintiff noted that he was not aware of any specific information or documents held by FinCEN, but submitted the FOIA request to determine whether a FinCEN-related matter may be associated with recent visa denials abroad.

10. Having heard nothing prior to Defendant’s statutory deadline to respond, counsel to Plaintiff sent a follow-up request to Defendant FinCEN on October 27, 2022, regarding the status of the pending FOIA request.

11. Defendant has not responded to Plaintiff’s request, and has not provided any rationale for its ongoing delay.

12. On information and belief, Defendants lack any reason to delay Plaintiff’s request, as he simply requests records that Defendant FinCEN may possess or maintain that, on information and belief, are having an adverse effect on his eligibility for a visa and admissibility to the United States.

13. On information and belief, the records responsive to Plaintiff's request are not voluminous.
14. On information and belief, Plaintiff's request does not encompass any classified materials.

DEFENDANTS' FAILURE TO COMPLY WITH FOIA

15. To date, Defendants have not provided the records requested by Plaintiff in his FOIA request, notwithstanding FOIA's requirement that an agency respond within 20 working days. *See* 5 U.S.C. § 552(a)(6)(A)(i).

16. Defendant has not provided Plaintiff with any information as to why his FOIA request is delayed, when Plaintiff can expect the records he requested, or what justifies the ongoing delay.

17. Defendant has not contacted Plaintiff to inform him of any delay in processing his request or of any unusual circumstances that FinCEN may have encountered in processing his request.

18. If Defendant believes it requires further information from Plaintiff to guide the bureau's record search, Department regulation requires it to inform Plaintiff prior to the statutory deadline, not ignore his request entirely. 31 C.F.R. § 1.2(b) ("If the requester fails to reasonably describe the records sought, the component shall inform the requester what additional information is needed or why the request is deficient.").

19. As of the date of this Complaint, nearly six months have passed since Defendant received Plaintiff's initial FOIA request, and nearly four months have passed since Plaintiff's amended request. Defendant long ago exceeded its statutory 20-business-day response deadline, which passed on October 11, 2022. Defendant FinCEN has nevertheless not provided any substantive response or produced any documents responsive to Plaintiff's FOIA request.

20. Defendant FinCEN has wrongfully withheld the requested records from Plaintiff.

CLAIMS FOR RELIEF

**FIRST CAUSE OF ACTION – VIOLATION OF FOIA FOR FAILURE TO COMPLY
WITH STATUTORY DEADLINES**

21. The allegations contained in the preceding paragraphs are repeated and incorporated as though fully set forth herein.
22. Defendant is an agency subject to FOIA. *See* 5 U.S.C. §§ 551(1), 552(f)(1).
23. Plaintiff has sought records that, on information and belief, are within Defendant's possession, custody, and/or control for purposes of FOIA.
24. Defendant failed to make a timely determination regarding Plaintiff's initial request within the statutory timeframe. *See* 5 U.S.C. § 552(a)(6)(A).
25. Plaintiff is deemed to have exhausted applicable administrative remedies with respect to his request under the terms of the FOIA statute because Defendant has "fail[ed] to comply with the applicable time limit provisions." *See* 5 U.S.C. § 552(a)(6)(C)(i).

**SECOND CAUSE OF ACTION – IMPROPER WITHHOLDING OF AGENCY
RECORDS UNDER FOIA**

26. The allegations contained in the above-entitled paragraphs are repeated and incorporated as though fully set forth herein.
27. Plaintiff seeks records that, on information and belief, are within Defendant's possession, custody, and/or control for purposes of FOIA.
28. Defendants have failed to provide proper access to or copies of records responsive to Plaintiff's request in violation of FOIA. *See* 5 U.S.C. § 552(a)(3).

PRAYER FOR RELIEF

Plaintiffs hereby pray for relief as follows:

1. That the Court order Defendant to disclose all records or portions thereof to which Plaintiff is entitled under FOIA;
2. That the Court issue a declaration stating that Plaintiff is entitled to disclosure of the requested records;
3. That the Court award Plaintiff's reasonable attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
4. That the Court provide further relief as it deems appropriate, just, and equitable.

DATED January 25, 2023

Respectfully submitted,

/s/ Carl W. Hampe_____

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