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10 JIAJIE CHEN, MAGGIE X. LIANG and DNA MOTOR INC.

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 JIAJIE CHEN, an individual,
14 MAGGIE X. LIANG, an individua;
15 and DNA MOTOR INC., a
16 California corporation,

17 Plaintiffs,

18 vs.

19 INTERNAL REVENUE SERVICE,

20 Defendant.

21 **CASE NO.:**

22 **COMPLAINT FOR**
23 **DECLARATORY AND**
24 **INJUNCTIVE RELIEF**
25 **FOR VIOLATION OF THE FREEDOM**
26 **OF INFORMATION ACT,**
27 **5 U.S.C. § 552 et seq.**

28 Plaintiffs JIAJIE CHEN, MAGGIE X. LIANG and DNA MOTOR INC. (collectively, “Plaintiffs”), by their undersigned attorney, bring this action for injunctive relief and damages against the Internal Revenue Service (“Defendant” or “IRS”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

INTRODUCTION

1. On February 14, 2024, Plaintiffs submitted a FOIA request (“FOIA Request”) to the IRS requesting, among other things, information relating to the IRS’s administrative audit of Plaintiffs’ tax return for the tax years 2018 and 2019.

2. Nearly eight months after Plaintiffs made their FOIA Requests, no responsive documents have been produced from the Internal Revenue Service. The IRS has not claimed that the records do not exist, that the IRS does not have control

1 over them, or that Plaintiffs are not entitled to them. In doing so, the IRS has
2 violated the law.

3 3. Plaintiffs bring this action under the Freedom of Information Act, 5
4 U.S.C. § 552 et seq., as amended (“FOIA”), to challenge the implicit denial of the
5 FOIA Request sent starting in February 2024 and to enjoin the IRS from continuing
6 to improperly withhold responsive records to the FOIA Requests. This FOIA action
7 is needed, as the IRS continue to withhold responsive records since Plaintiffs made
8 the FOIA Requests nearly seven months ago.

9 **PARTIES**

10 4. Plaintiff DNA MOTOR INC. is, and at all times material hereto was,
11 a corporation duly organized and existing under the laws of the State of California,
12 with its principal place of business located in City of Industry, California, authorized
13 to do and doing business in the County of Los Angeles, California.

14 5. JIAJIE CHEN is, and all times mentioned herein was, an individual
15 residing in the State of California, County of Los Angeles. JIAJIE CHEN is the
16 sole shareholder, President, and registered agent for service of process of DNA
17 MOTOR INC.

18 6. MAGGIE X. LIANG is, and at all relevant times mentioned herein
19 was, a spouse of JIAJIE CHEN and an individual residing in the State of California,
20 County of Los Angeles.

21 7. The IRS is an agency of the Executive Branch of the United States
22 Government, and a division of the Treasury Department. The IRS is an “agency”
23 within the meaning of 5 U.S.C. § 552(f) and as defined in Treas. Reg. §
24 601.702(c)(13).

25 8. The IRS is responsible for the enforcement and administration of the
26 federal tax laws. Plaintiffs are informed and believe that IRS has possession and
27 control of the records sought by the FOIA Request.

1 **JURISDICTION**

2 9. This Court has subject-matter jurisdiction over this action and
3 personal jurisdiction over the parties under 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 701-
4 706, and 28 U.S.C. § 1331.

5 10. Defendant has failed to satisfy the statutory deadline set by FOIA. See
6 5 U.S.C. § 552(a)(6)(A)-(B). Therefore, Plaintiffs are deemed to have exhausted
7 their administrative remedies under FOIA. 5 U.S.C. § 552(a)(6)(C).

8 **VENUE**

9 11. Venue in the Central District of California is proper under 5 U.S.C. §
10 552(a)(4)(B) because Plaintiffs’ Requests to Defendant occurred in this District, the
11 agency records are situated in this District, and because a substantial part of the
12 events or omissions giving rise to this action occurred in this District. Further, the
13 individual Plaintiffs reside in Los Angeles while DNA MOTOR INC. has its
14 principal place of business in this District. For the same reason, venue is also proper
15 under 28 U.S.C. § 1391(e).

16 **STATUTORY FRAMEWORK**

17 12. Except for records that an agency is required to make available for
18 public inspection, the FOIA generally requires federal agencies to “promptly make
19 available” agency records in response to any request that reasonably describes the
20 records and is made in accordance with the agency’s published rules stating the
21 procedures to be followed. 5 U.S.C. §552(a)(3)(A).

22 13. Records are “agency records” governed by the FOIA if the agency
23 created or obtained them and had possession or control of them when the FOIA
24 request was made. *U.S. Department of Justice v. Tax Analysts*, 492 U.S. 136, 144-
25 145 (1989).

26 14. The FOIA requires an agency to determine within 20 business days
27 after receiving a FOIA request whether to comply with the request. The agency must
28 then immediately notify the requestor of its determination and the reasons for the

1 determination. In the case of an adverse determination, the agency must also notify
2 the requestor of the right to appeal or seek dispute resolution services. 5 U.S.C.
3 §552(a)(6)(A)(i). If the agency fails to respond, this Court has jurisdiction upon
4 receipt of a complaint to review, *de novo*, the agency’s failure to respond and to
5 order the production of any agency records improperly withheld from the requester.
6 5 U.S.C. § 552(a)(4)(B).

7 15. In “unusual circumstances” as specified in 5 U.S.C.
8 §552(a)(6)(B)(iii), the agency may extend the time to respond to a FOIA request for
9 no more than 10 business days, by notifying the requestor in writing, and providing
10 the information listed in 5 U.S.C. §552(a)(6)(B)(i).

11 16. Upon receiving a FOIA request, the IRS has twenty working days to
12 respond. 5 U.S.C. § 552(a)(6)(A)(i). A requestor exhausts his administrative
13 remedies, and may seek immediate judicial review of the matter, if the IRS fails to
14 comply with its legal obligations within the time limits. *Id.* § 552(a)(6)(C)(i). A
15 District Court “has jurisdiction to enjoin the [IRS] from withholding agency records
16 and to order the production of any agency records improperly withheld from the
17 complainant.” *Id.* § 552(a)(4)(B).

18 17. A requestor is deemed to have exhausted his administrative remedies
19 under the FOIA if the agency fails to provide a complete response within the
20 applicable time limits – i.e., 20 business days, extended by no more than 10 business
21 days. 5 U.S.C. §552(a)(6)(C)(i).

22 **FACTS**

23 18. Defendant, a bureau of the Department of the Treasury, is responsible
24 for the administration and enforcement of the federal tax laws.

25 19. In September 2021, the IRS completed an examination of Plaintiffs’
26 tax return for the tax year 2017.

27 20. On February 14, 2024, Plaintiffs submitted, through their authorized
28 representative, the following nine FOIA requests to the IRS:

1 a) For the period from January 1, 2017 to the present, all documents
2 contained in the Examination Division Administrative File for the
3 audit and papers and dividers included therein for 2018 and 2019
4 Tax Years (hereinafter “IRS Audits”) relating to the Taxpayers.
5 This information should include any worksheets, schedules,
6 reports of interviews, memoranda of interviews, information
7 received from third parties, telephone call slips, workpapers, notes,
8 work logs, activity logs, supervisor comments, review notes,
9 investigative histories, fraud referral form, emails, computations
10 and all other similar type of materials prepared or accumulated
11 relative to this examination by employees of the IRS, any other
12 governmental agency, or otherwise, including internal documents,
13 memoranda, memoranda of all interviews of persons regarding the
14 tax liabilities of the identified Taxpayers, copies of all statements
15 (including bank records obtained by IRS, letters, affidavits of
16 witnesses interviewed, sworn or otherwise) given by individuals
17 and/or entities in connection with the investigation of the tax
18 liabilities of the Taxpayers, Case Activity record, fraud referral,
19 written reports and manager recommendations concerning the
20 proposed assessment of additional tax and penalties and any other
21 information, as it applies, that is related to the determinations by
22 the IRS as set forth in the Revenue Agents Report (30 Day Letter),
23 whether maintained in electronic or hardcopy format.

24 b) For the period from January 1, 2017 to the present, more
25 specifically, the IRS’s entire file that may or does not relate to the
26 audits of Taxpayers for 2018 and 2019 Tax Years, including,
27 without limitation: all intra-IRS correspondence and referrals; all
28 inter-agency correspondence and referrals; all inter-governmental

1 entity (e.g., state governmental entity) correspondence and
2 referrals; and all whistleblower filings or public complaints
3 howsoever documented and regardless of whether on Form 211,
4 Form 13909, or otherwise), whether maintained in electronic or
5 hardcopy format.

- 6 c) For the period from January 1, 2017 to the present, a list of any
7 information and documents maintained electronically that are
8 responsive to this FOIA request identifying each document by
9 subject matter and format (i.e., tape, disk, etc.), whether
10 maintained in electronic or hardcopy format.
- 11 d) For the period from January 1, 2017 to the present, any and all
12 files relative to the audits of the Taxpayers for 2018 and 2019 Tax
13 Years that include information and documents obtained pursuant
14 to summonses issued to third parties which are not otherwise
15 included in the Administrative File pertaining to the Taxpayers,
16 whether maintained in electronic or hardcopy format.
- 17 e) For the period from January 1, 2017 to the present, any and all
18 files relative to the audits of Taxpayers for 2018 and 2019 Tax
19 Years that may have been prepared by independent consultants,
20 international examiners, economists, engineers, and any other
21 specialists assigned to this case which are not otherwise included
22 in the Administrative File pertaining to the Taxpayers, whether
23 maintained in electronic or hardcopy format.
- 24 f) For the period from January 1, 2017 to the present, the entire file
25 relating to the tax returns filed by Taxpayers for 2018 and 2019
26 Tax Years including, but not limited to, all returns, including
27 amended returns, documents, notices, reports, work papers,
28 transcripts, notes, schedules, information received from third

1 parties, and all similar type papers prepared or accumulated,
2 whether maintained in electronic or hardcopy format.

- 3 g) For the period from January 1, 2017 to the present, all
4 communications with anyone, **including emails**, involving
5 employees of the IRS, or contractors, regarding, referring, or
6 relating to the Taxpayers for 2018 and 2019 Tax Years, whether
7 maintained in electronic or hardcopy format.
- 8 h) For the period from January 1, 2017 to the present, all documents
9 constituting any Tax Litigation Division Legal File, Tax Litigation
10 Advice File, Miscellaneous Law File, Chief Counsel Office Files,
11 or Regional Counsel Office Files regarding, referring, or relating
12 to the Taxpayers for 2018 and 2019 Tax Years, whether
13 maintained in electronic or hardcopy format.
- 14 i) For the period from January 1, 2017 to the present, all documents
15 contained in the administrative files of the IRS National Office and
16 Area Counsel relating to any request for field service advice,
17 technical assistance, or other advice in connection with the
18 Taxpayers for 2018 and 2019 Tax Years, whether maintained in
19 electronic or hardcopy format.
- 20 j) For the period from January 1, 2017 to the present, all documents,
21 **including email**, evidencing communication between the IRS and
22 the IRS Office of Chief Counsel and/or the IRS and other offices
23 with the Treasury Department regarding, referring, or relating to
24 the Taxpayers for 2018 and 2019 Tax Years, whether maintained
25 in electronic or hardcopy format.
- 26 k) For the period from January 1, 2017 to the present, any and all
27 files, notes, correspondence, memoranda, or e-mails reflecting
28 discussions or comments by any Internal Revenue Service

1 employee or representative [including, but not limited to the agents
2 immediate supervisor(s)] with and from the agent assigned to audit
3 the taxpayer for Tax Years 2018 and 2019 relating to the taxpayer
4 or the taxpayer’s representative(s)), whether maintained in
5 electronic or hardcopy format.

6 l) For the period from January 1, 2017 to the present, a list or record
7 of “persons contacted” as required by Internal Revenue Code §
8 7602(c)(2)), whether maintained in electronic or hardcopy format.

9 m) For the period from January 1, 2017 to the present, all
10 communication, **including emails**, related to or referencing the
11 audit of the Taxpayers for 2018 and 2019 Tax Years, including,
12 but not limited to any communications involving: Mariana Bernal
13 and Cornette A. Hamilton.

14 21. Plaintiffs also requested a Vaughn index of each record or portion
15 thereof not disclosed, along with a statement describing the statutory basis for not
16 disclosing each record or portion thereof. *See Vaughn v. Rosen*, 484 F.2d 820 (D.C.
17 1973).

18 22. Attached as **Exhibit A** is a true and correct copy of the FOIA
19 Request.

20 23. Plaintiffs are informed and believe that on March 4, 2024, Defendant
21 acknowledged receipt of the FOIA Request and assigned FOIA NO. 2024-09877.

22 24. On June 18, 2024, Defendant sent a letter to Plaintiffs seeking
23 extension to December 26, 2024 to complete the review of the records. A true and
24 correct copy of that letter is attached hereto as **Exhibit B**.

25 25. There has been no further written response from the IRS.

26 26. Plaintiffs did not agree to any of Defendant’s requests to extend the
27 FOIA’s statutory deadline.

28

1 27. As of the date of this Complaint, the IRS has failed to produce any
2 requested records in response to the FOIA Request or otherwise demonstrate that the
3 requested records are exempt from production. Therefore, the IRS cannot possibly
4 demonstrate due diligence in respond to Plaintiffs' FOIA Request.

5 28. Because the IRS failed to meet FOIA's statutory deadlines, the
6 plaintiffs are deemed to have exhausted their administrative remedies as to all nine
7 of the FOIA requests at issue here. 5 U.S.C. §552(a)(6)(C)(i); Treas. Reg. §
8 601.702(c)(10) and Treas. Reg. § 601.702(c)(10).

9 29. Plaintiffs have a right to prompt access to the requested records under
10 5 U.S.C. § 552(a)(3)(A), and the IRS has wrongfully withheld the sought-after
11 documents.

12 30. Plaintiffs are entitled to recover their reasonable attorney fees and
13 costs incurred to maintain this action. 5 U.S.C. §552(a)(4)(E).

14 **FIRST CAUSE OF ACTION**

15 **(Violation of FOIA)**

16 31. Plaintiffs reallege and incorporates the allegations contained in the
17 preceding paragraphs as if fully set forth herein.

18 32. Defendant is subject to the FOIA.

19 33. Plaintiffs' FOIA Request properly seeks records within Defendant's
20 possession and control. Plaintiffs are entitled under FOIA to access the requested
21 records.

22 34. Defendant has failed to produce any responsive records to Plaintiffs'
23 FOIA Request by the statutory deadline imposed by the FOIA. Plaintiffs have a
24 legal right under FOIA to obtain the records they requested in their FOIA request,
25 and there exists no legal basis for Defendant's failure to timely respond to Plaintiffs'
26 FOIA Request and to make responsive records available.

1 35. Defendant's failure to make promptly available the records sought by
2 Plaintiffs' FOIA Request violates FOIA, 5 U.S.C. § 552 (a)(3)(A) and (a)(6)(A)(ii),
3 and applicable regulations promulgated thereunder.

4 36. Plaintiffs are entitled to declaratory relief finding that the IRS has
5 violated FOIA and that Plaintiffs are immediately entitled to receive all records
6 responsive to their request.

7 37. Plaintiffs are entitled to declaratory relief finding that the IRS has
8 violated FOIA and that Plaintiffs are immediately entitled to receive all records
9 responsive to its request.

10 38. Plaintiffs are further entitled to injunctive relief, ordering the IRS to
11 immediately produce copies of all records responsive to Plaintiffs' FOIA Request
12 without further delay.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs request the Court award them the following relief:

15 A. Declare that Defendant violated in its responsive to Plaintiffs' FOIA
16 Request;

17 B. Order Defendant to immediately disclose the requested records to
18 Plaintiffs and enter an injunction prohibiting the IRS from continuing to withhold
19 the requested records;

20 C. Order Defendant to immediately disclose any responsive records in its
21 possession or control to Plaintiffs;

22 D. Award Plaintiffs their reasonable attorney's fees and costs, pursuant
23 to 5 U.S.C. § 552(a)(4)(E); and

24 E. Grant such further relief as the Court may deem just and proper.

25 Respectfully submitted,

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1 Dated: 8/25/2024

2 **CONTINENTAL LAW FIRM,**
3 **A PROFESSIONAL LAW CORP.**

4
5 By: /s/ Grant Chien
6 Grant Y. Chien, Esq.

7 Attorney for Plaintiffs
8 JIAJIE CHEN,
9 MAGGIE X. LIANG and
10 DNA MOTOR INC.

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