

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

FRANK AGRAMA
7655 Sunset Boulevard
Los Angeles, CA 90046,

Plaintiff,

v.

INTERNAL REVENUE SERVICE
1111 Constitution Avenue, N.W.
Washington, D.C. 20224,

Defendant.

No. 1:16-cv-00716

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), as amended, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff, Frank Agrama (“Plaintiff”), by Defendant, the Internal Revenue Service (“IRS”).

Jurisdiction and Venue

2. This Court has subject matter and personal jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331, because this is an action to enforce the FOIA. Venue lies in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

Parties

3. Plaintiff, Frank Agrama, the requester of the agency records that have been improperly withheld, is an American citizen and resident of Los Angeles County, state of California with a business address at 7655 Sunset Boulevard, Los Angeles, California 90046.

4. Defendant, the IRS, is a component entity of the Department of Treasury, which is a Department of the Executive Branch of the United States Government. The IRS has its headquarters in Washington, D.C., within this judicial district. The IRS is an “agency” within the meaning of 5 U.S.C. § 552(f). The IRS has possession and control of the records requested by Plaintiff.

Plaintiff’s FOIA Request

5. On January 20, 2016, the IRS issued nineteen (19) letters to Plaintiff entitled “Failure to File Form 5471.” These letters claim Plaintiff had an obligation to file Forms 5471 regarding certain foreign corporations for years as early as 1982 and in some cases up through 2014. Moreover, these letters propose continuation delinquency penalties under 26 U.S.C. § 6038(b)(2) beginning April 21, 2016, if the subject returns are not filed. A true and correct copy of one of the nineteen letters is attached to this Complaint as **Exhibit A**.

6. Pursuant to the above-referenced letters, the penalties will accrue against Plaintiff, depending on the year, at a rate of \$1,000 per month up to a maximum of \$24,000 or \$10,000 per month up to a maximum of \$50,000 for every month after April 21, 2016, the returns are not filed for each entity. These penalties have the potential of accruing to an amount well in excess of \$2 million.

7. Plaintiff has never had an ownership interest in any of the subject foreign corporations that would obligate him to file Forms 5471. The IRS has not provided Plaintiff any corporate documents, stock certificates, or any other similar documents that would show he has an ownership interest in these foreign corporations.

8. On February 12, 2016, Plaintiff filed a request for information pursuant to 5 U.S.C. § 552 *et seq.* A true and correct copy of Plaintiff’s FOIA request (redacted in

accordance with LCvR 5.4(f)) is attached to this Complaint as **Exhibit B**. Plaintiff's FOIA request made clear that Plaintiff would not consent to any extensions of time to comply with the request.

9. On March 15, 2016, Celeste Neal, Disclosure Manager at the IRS, sent a letter, a true and correct copy of which is attached as **Exhibit C**, to Plaintiff's counsel stating:

I am responding to your Freedom of Information Act (FOIA) request dated February 12, 2016, that we received on February 18, 2016.

I am unable to send the information you requested by March 17, 2016, which is the 20 business-day period allowed by law. I apologize for any inconvenience this delay may cause.

STATUTORY EXTENSION OF TIME FOR RESPONSE

The FOIA allows an additional ten-day statutory extension in certain circumstances. To complete your request I need additional time to search for, collect, and review responsive records from other locations. We have extended the statutory response date to March 31, 2016, after which you can file suit. An administrative appeal is limited to a denial of records, so it does not apply in this situation.

The letter goes on to state:

REQUEST FOR ADDITIONAL EXTENSION OF TIME

Unfortunately, we will still be unable to consider release of the requested records by March 31, 2016. We have extended the response date to April 28, 2016, when we believe we can provide a final response.

10. To date, Defendant has not provided the records requested by Plaintiff in the FOIA request, notwithstanding FOIA's requirement of an agency response within twenty (20) working days, plus the additional ten-day statutory extension.

11. Pursuant to 5 U.S.C. § 552(a)(6)(C), Plaintiff is deemed to have exhausted the applicable administrative remedies with respect to its FOIA request to Defendant.

12. Defendant has wrongfully withheld the requested records from Plaintiff.

Prayer for Relief

WHEREFORE, Plaintiff prays that this Court:

- (1) Order Defendant to disclose the requested records in their entireties and make copies available to Plaintiff;
- (2) Provide for expeditious proceedings in this action;
- (3) Award Plaintiff its costs and reasonable attorney's fees incurred in this action; and
- (4) Grant such other relief as the Court may deem just and proper.

Dated: April 15, 2016

Respectfully submitted,

/s/ Christopher S. Rizek
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