IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

ABDELRAHMAN AYYAD & SARA BARAKAT 8660 Hill Spring Drive La Plata, MD 20646))))
Plaintiffs,)
V.) Civil Action No. 1:16-cv-3032
INTERNAL REVENUE SERVICE 1111 Constitution Avenue, NW Washington, D.C. 20224)))
Defendant.)))

COMPLAINT EXHIBITS

EXHIBIT	DESCRIPTION	DATE
A	Letter from Gerald W. Kelly, Jr., Kelly Dorsey, P.C. to	March 9, 2016
	Disclosure Manager, IRS FOIA request regarding Abdelrahman	·
	Ayyad.	
В	Letter from P. Sharisse Tompkins, Disclosure Manager, Internal	April 18, 2016
	Revenue Service, to Gerald Kelly, Jr., regarding a compact disk	
	in response to FOIA request.	
C C	Letter from Vadim Ronzhes, Kelly Dorsey, P.C., to Jennifer J.	May 24, 2016
	Perez, Disclosure Specialist, Internal Revenue Service, regarding	-
	Abdelrahman Ayyad, Case No. F16070-0103.	
D	Letter from Vadim Ronzhes, Kelly Dorsey, P.C., to IRS	June 14, 2016
	Appeals, appealing the IRS determination to withhold records	
	regarding the FOIA request of Abdelrahman Ayyad and Sara	
	Barakat.	
Е	Letter from Theresa Carrillo, Appeals Officer, Internal Revenue	June 20, 2016
	Service, to Vadim Ronzhes, Kelly Dorsey, P.C., confirming	
	receipt of the appeal of Abdelrahman Ayyad and Sara Barakat.	
F	Letter from P. Perez, Appeals Team Manager, Internal Revenue	June 22, 2016
	Service, to Vadim Ronzhes, Kelly Dorsey, P.C. in response to	
	the appeal of Abdelrahman Ayyad and Sara Barakat.	
G	Letter from Gerald W. Kelly, Jr., Kelly Dorsey, P.C. to	March 9, 2016
	Disclosure Manager, IRS FOIA request regarding Sara Barakat.	

EXHIBIT "A"



Daniel S. Heller*
Vadim Ronzhes
Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Pennsylvania Bar * Also member of New Jersey Bar

FACSIMILE TRANSMISSION

TO:

Disclosure Manager

IRS FOIA Request

FROM:

Gerald W. Kelly

DATE:

February 26, 2016

PAGES:

5 w/cover

SUBJECT:

Abdelrahman Ayyad

0156

FAX NO:

877-891-6035

MESSAGE:

Dear Disclosure Manager:

Attached please find a FOIA Request and Power of Attorney for Abdelrahman Ayyad.

I can be reached at 410-740-8750, if any additional information is needed.

Sincerely,

Gerald W. Kelly



Daniel S. Heller** Vadim Ronzhes Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

Also member of Pennsylvania Bar
Also member of New Jersey Bar

February 26, 2016

VIA FACSIMILE (877-891-6035)

IRS FOIA Request Stop 93A Post Office Box 621506 Atlanta GA 30362-3006

Re: Abdelrahman Ayyad, SSN:

0156

Dear Disclosure Manager:

This request is being made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702).

The above-referenced taxpayer is currently under examination by Revenue Agent Kenneth Feldman ("Mr. Feldman") of the Baltimore, Maryland IRS post of duty. I request a copy of the full administrative file developed by Mr. Feldman in relation to this on-going examination during the period from which Mr. Feldman was assigned to the case (in or about early 2013) through the date this request is filed. I am requesting all records associated with this examination. Moreover, I am also requesting any additional documents regarding the examination, assessment, and appeals with respect to the abovementioned taxpayer's income tax returns during the period Mr. Feldman was assigned to this case. Any written correspondence, electronic or otherwise, among Mr. Feldman, Bisamber Misir, Quinton J. Ferguson, Larry Timms, and any other IRS employee relating to the examination is requested as well.

Any records relating to any civil and/or criminal fraud investigations or assessments, including any correspondence from or to a fraud technical advisor or any Internal Revenue Service employee engaged in a similar role as a fraud technical advisor, or any other Internal Revenue Service employees or agents engaged in the investigation and/or assessment of fraud, are also requested. This request includes copies of any Form 11661, Fraud Development Status, Form 2797, Referral Report of Potential Criminal Fraud Cases, and/or other forms that might have been prepared and/or filed in furtherance of a civil and/or criminal fraud investigation or assessment, as well as any records relating to the preparation and filing of those forms.

Any records relating any accuracy-related penalty determinations or assessments are requested.

Disclosure Manager February 26, 2016 Page 2

The entire case history regarding all examinations for tax periods 2006 through 2013 is requested to the extent it has not been included in the aforementioned requested items. The administrative appeals file for tax years 2006 through 2009 is not being requested at this time.

A statutory notice of deficiency dated November 30, 2012 was issued by the Internal Revenue Service Richmond Office (Small Business / Self-Employed) for tax period 2009. Any records relating to the preparation and filing of that notice are requested.

Please also provide identification of the official(s) having control of any records being requested.

I am a Power of Attorney holder (copy of Form 2848 Power of Attorney is attached) and an "other requester" under paragraph f(3) of Treasury Regulation § 601.702. Please send the records to my attention at the address located on the Power of Attorney. I do not wish to inspect the documents first.

As proof of identity, my sworn statement is below.

I am willing to pay fees for this request up to a maximum of \$1,000.00. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request. Should you have any questions or comments please feel free to contact me at 410-740-8750.

Sincerely,

Garald W Kelly Esa

Enclosures as stated

Requester's Sworn Identity Statement

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2016. I am Gerald W. Kelly, and I am requesting the information and records contained in this FOIA request.

Gerald W. Kelly, Esq.

(Rev. Dec. 2015) Department of the Treasury

Power of Attorney and Declaration of Representative

OMB No. 1545-0150 For IRS Use Only Received by:

Internal	Revenue Service ► Information about Form 2848 and its	instructi	ons is at www.irs.go	v/form2848.		Name .		
Par	Power of Attorney					Telephon	e	
	Caution: A separate Form 2848 must be completed for e	-	ayer. Form 2848 will	not be hono	red	Function		
	for any purpose other than representation before the IRS					Date		<u>/</u>
1	Taxpayer information. Taxpayer must sign and date this form on	page 2, lîr						
Taxpa	yer name and address		Taxpayer identificati	on number(s)	<u>)</u>			
Abdel	rahman Ayyad				0156			
	Hill Spring Drive		Daytime telephone r	number	Plan n	umber (If ap	oplicable	e)
	ta, MD 20646		410-740-87	<u>L</u>				
hereby	appoints the following representative(s) as attorney(s)-in-fact:							
	Representative(s) must sign and date this form on page 2, Part II.							
Name	and address		CAF No.	2605-9	0320R			
Gerald	i W. Kelly, Esq.	1	PTIN					
	Little Patuxent Parkway, Suite 608		Telephone No.		-740-87	50		
	bia, MD 21044		Fax No.		2-0069			1
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(Note:	RS sends notices and communications to only two representatives.)	Check	if new: Address 🗌	Telephone	No. 🔲	Fax	No.	1
to repr	esent the taxpayer before the Internal Revenue Service and perform	the follow	ing acts:					
3	Acts authorized (you are required to complete this line 3). With the excep							
	inspect my confidential tax information and to perform acts that I can perform							e(s)
	shall have the authority to sign any agreements, consents, or similar docume	ents (see ins	tructions for line 5a for a	uthorizing a rep	presentati	ve to sign a	return).	
Pra	ption of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, cittioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility ayment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	(1040,	Tax Form Number 941, 720, etc.) (if appl			Period(s) (i se instructi		able)
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	Other acts authorized:			· · · · · · · · · · · · · · · · · · ·		···········	опиненториялине	

Form 2848 (Rev. 12	2-2015)				Page 2
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if they a administ	re appointing the same rator, or trustee on behi	representative(s). If signed by all of the taxpayer, I certify that I	a corporate officer, have the legal author	d, each spouse must file a separate partner, guardian, tax matters par fity to execute this form on behalf of THIS POWER OF ATTORNEY T	rtner, executor, receiver, f the taxpayer.
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***************************************	Signature		Date	Title (if applicat	ole)
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Abdelrahman A	Print Name		Print name of	of taxpayer from line 1 if other than	individual
Part II Do	eclaration of Repr	esentative			
	of perjury, by my signa	ture below I declare that:			
• I am not curren	tly suspended or disba	rred from practice, or ineligible for	or practice, before th	ne Internal Revenue Service:	
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				ive in the jurisdiction shown below.	•
		nt by the Internal Revenue Servi	ce per the requireme	ents of Circular 230.	
d Officer-ab	ona fide officer of the ti	axpayer organization.			
e Full-Time En	nployee—a full-time en	iployee of the taxpayer.			
f Family Memb	per—a member of the tax	cpayer's immediate family (spouse	, parent, child, grand	parent, grandchild, step-parent, step	-child, brother, or sister).
		ctuary by the Joint Board for the ted by section 10.3(d) of Circular		ries under 29 U.S.C. 1242 (the autr	nority to practice before
prepared an claim for refi	d signed the return or o und; (3) has a valid PTI	laim for refund (or prepared if th	ere is no signature s d Annual Filing Seas	ed return preparer may represent, p pace on the form); (2) was eligible on Program Record of Completion of Information.	to sign the return or
		permission to represent taxpayer. See instructions for Part II for		virtue of his/her status as a law, b	usiness, or accounting
r Enrolled Ret Internal Revi	irement Plan Agent—er enue Service is limited	prolled as a retirement plan agent by section 10.3(e)).	it under the requiren	nents of Circular 230 (the authority	to practice before the
POWER O	F ATTORNEY, REPI	RESENTATIVES MUST SIGI	IN THE ORDER	GNED, AND DATED, THE IRS LISTED IN PART I, LINE 2.	WILL RETURN THE
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E. 1) Hang up or line fail
E. 3) No answer
F. 5) Exceeded max. F-mail size

E. 2) Busy
E. 4) No facsimile connection

Genald W. Relly, Jr. Gengory A. Donsy Daniel S. Heller⁴ Vadim Rushes Jordan Cunst Belt: A. Leake, E.A.

KELLY DORSEY,

10320 Little Pakusant Pkwy, Buile 608 Columbia, Maryland 21044 Tel: (\$10) 740-8750 . Fax: (443) 542-0659 www.keliydoveylam.com

* Also member of Ferraginapie Res * Also member of New Justey Sta

FACSIMILE TRANSMISSION

TO:	Disclosuse Manager IRS FOIA Request	FROM:	Gerald W. Kelly	•
DATE:	February 26, 2016	PAGES:	5 w/cover	
SUBJECT:	Abdelrahman Ayyad SSN: 0156	FAX NO:	877-891-6035	

MESSAGE:

Dear Disclosure Manager

Attached please find a FOIA Request and Power of Attorney for Abdelrahman Ayyad.

I can be reached at 410-740-8750, if any additional information is needed.

Gerald W Kelly

EXHIBIT "B"



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, DC 20224

April 18, 2016

Gerald Kelly, Jr 10320 Little Patuxent Pkwy, Suite 608 Columbia, MD 21044

Dear Mr. Kelly:

I am responding to your Freedom of Information Act (FOIA) request dated February 26, 2016 that we received on March 10, 2016.

You asked for Audit files, pertaining to Abdelrahman Ayyad, for tax years 2006 through 2012. Of the 2885 pages located in response to your request, I am enclosing 2765 pages. I am withholding 21 pages in part and 120 pages in full for the following reasons:

- I deleted the Discriminant Information Function (DIF) score from the enclosed records. Release of the DIF score would seriously impair IRS assessment, collection, and enforcement proceedings. FOIA exemption (b)(3), supported by Internal Revenue Code section 6103 (b)(2) and (e)(7) exempts this information from release. Disclosure of this information would also reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).
- The withheld portions are the tax information of other taxpayers. FOIA exemption (b)(3) requires us to withhold information that is specifically exempted from disclosure by another law. The law supporting this exemption is Internal Revenue Code section 6103(a).
- FOIA exemption (b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings.
- FOIA exemption (b)(7)(C) exempts from disclosure personal information in law enforcement records that if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- FOIA exemption (b)(7)(E) exempts from disclosure records or information compiled for law enforcement purposes to the extent their production would reveal.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

I am providing your records in electronic format. The enclosed CD contains your records and is encrypted. The password to open the files is being mailed separately.

If you have any questions please call Disclosure Specialist Jennifer J Perez ID # 1000245686, at 512-460-4434 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F16070-0103.

Sincerely,

P. Sharisse Tompkins Disclosure Manager

O. Mamingt

Disclosure Office 9

Enclosure
Responsive Records
Notice 393

Information on an IRS Determination to Withhold Records Exempt From The Freedom of Information Act – 5 U.S.C. 552

Appeal Rights

You may file an appeal with the Internal Revenue Service (IRS) within 35 days after we (1) deny you access to a record in whole or in part; (2) have made an adverse determination as to your category as a requester; (3) deny your request for a fee waiver or reduction; or (4) have advised you that no records responsive to your request exist. You may file an appeal within 10 days when a request for expedited processing has been denied.

Your appeal must be in writing, must be signed by you, and must contain:

Your name and address,

Description of the requested records, Date of the request (and a copy, if possible),

Identity of the office and contact on the response letter, and Date of the letter denying the request (and a copy, if possible)

Mail your appeal to:

IRS Appeals

Attention: FOIA Appeals

M/Stop 55202 5045 E. Butler Ave.

Fresno, California 93727-5136

Judicial Review

If we deny your appeal, or do not address an issue raised in your appeal within 20 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal, you may file a complaint in United States District Court in the district in which (1) you reside; (2) your principal place of business is located; (3) the records are located; or (4) the District of Columbia. A complaint may be filed within 10 days (excluding Saturdays, Sundays, or legal public holidays) after the date we receive your appeal if your appeal is from an adverse determination of a request for expedited processing. If you choose to file suit before receipt of a final determination by the Appeals office, the administrative appeals process may cease.

The rule for effecting service of judicial process upon the Internal Revenue Service is set forth in Federal Rule of Civil Procedure 4(i). In addition to service upon the United States, as set forth in Rule 4(i)(1), service must be made upon the Internal Revenue Service by registered or certified mail as set forth in Rule 4(i)(2)(A).

The address of the Internal Revenue Service is: Internal Revenue Service, Attention CC:PA, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

Exemptions

The Freedom of Information Act, 5 U.S.C. 552, does not apply to matters that are:

- (b)(1) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified under such executive order,
- (b)(2) related solely to the internal personnel rules and practices of an agency,
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that the statute:
 - (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or
 - (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Note: Internal Revenue Code sections 6103 and 6105 are statutes which qualify for exemption 3 treatment. Section 6103 protects the confidentiality of tax returns and information pertaining to a taxpayer collected by the IRS. Section 6105 protects information obtained from a foreign country under a tax treaty.

- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential.
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency,
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:
 - (A) could reasonably be expected to interfere with enforcement proceedings,
 - (B) would deprive a person of a right to a fair trial or an impartial adjudication,
 - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
 - (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,
 - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or
 - (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

EXHIBIT "C"



Daniel S. Heller*† Vadim D. Ronzhes Syed Shaun A. Bokhari Cheri P. Wendt-Taczak

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

`Also member of Pennsylvania Bar

† Also member of New Jersey Bar

FACSIMILE TRANSMISSION

TO:

Jennifer J. Perez, Disclosure Specialist

FROM:

Vadim D. Ronzhes

DATE:

May 24, 2016

PAGES:

3 (incl. cover page)

SUBJECT:

Abdelrahman Ayyad

Case No.: F16070-0103

FAX NO.:

855-205-9332

MESSAGE:

See attached.



Daniel S. Heller*† Vadim D. Ronzhes Syed Shaun A. Bokhari Cheri P. Wendt-Taczak

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

' Also member of Pennsylvania Bar

[†] Also member of New Jersey Bar

May 24, 2016

VIA FACSIMILE (855-205-9332)

Ms. Jennifer J. Perez, Disclosure Specialist Internal Revenue Service Department of the Treasury Centralized Processing Unit – Stop 93A P.O. Box 621506 Atlanta, GA 30362

Re: Abdelrahman Ayyad; Case No.: F16070-0103

Dear Ms. Perez:

On Tuesday, May 17, 2016, we spoke on the telephone regarding the above-referenced Freedom of Information Act ("FOIA") request. This correspondence is intended to memorialize the contents of our conversation. If any of my recollections are not accurate, please contact me to discuss.

On February 26, 2016, a FOIA request was faxed to the Disclosure Manager requesting a copy of the full administrative file, correspondence, records relating to any civil and/or fraud investigations or assessments, entire case history, and other documents. The request explicitly stated that the administrative appeal file for tax years 2006 through 2009 was not being requested.

On May 16, 2016, the Taxpayer's representative received a FOIA response totaling two thousand eight hundred eighty-five pages. After reviewing the disclosed documents, I reached out to you to discuss the disclosure. During our telephone conversation, you stated that the Revenue Agent had indicated that all of the responsive documents have been provided. I advised you that the FOIA response did not include the following documents: case history, correspondence, records relating to any civil and/or fraud investigations, and other significant portions of the administrative file. Additionally, the FOIA response included a significant amount of documents from the administrative appeal file for tax years 2006 through 2009, which were expressly not requested.

In light of the following, you informed me that you will reach out to the Revenue Agent to discuss the status of the records that have not been provided to you or disclosed to us.

Case 8:16-cv-03032-PX Document 1-2 Filed 08/31/16 Page 17 of 51

Ms. Jennifer J. Perez, Disclosure Specialist May 24, 2016 Page 2

We thank in advance for your consideration and effort. We look forward to hearing from you regarding the additional FOIA disclosures. If you have any questions or need additional information, please contact me at 410-740-8750.

Sincerely,

Vadim D. Ronzhes

Case 8:16-cv-03032-PX Document 1-2 Filed 08/31/16 Page 18 of 51

* * * Communication Result Report (May. 24. 2016 4:14PM) * * *

Date/Time: May. 24. 2016 4:13PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
4196 Memory TX	18552059332	P. 3	OK	

Reason for error
E. 1) Hang up or line fail
E. 3) No answer
E. 5) Exceeded max. E-mail size

E. 2) Busy E. 4) No facsimile connection

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 - Fax: (443) 542-0069

www.kellydorseylaw.com

FACSIMILE TRANSMISSION

TO:	Jennifer I. Perez, Disclosure Specialist	FROM:	Vadim D. Ronzhes
DATE:	May 24, 2016	PAGES:	3 (incl. cover page)
SUBJECT:	Abdelrahman Ayyad Case No.: F16070-0103	FAX NO.:	855-205-9332
MESSAGE:			

EXHIBIT "D"



Daniel S. Heller*† Vadim D. Ronzhes Syed Shaun A. Bokhari Cheri P. Wendt-Taczak

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

`Also member of Pennsylvania Bar

1 Also member of New Jersey Bar

June 14, 2016

VIA FEDERAL EXPRESS

IRS Appeals

Attention: FOIA Appeals

M/Stop 55202

5045 E. Butler Ave

Fresno, CA 93727-5136

Re: Abdelrahman Ayyad & Sara Barakat

8660 Hill Spring Drive, La Plata, MD 20645

SSNs: 0156, 5612

APPEAL OF IRS DETERMINATION TO WITHHOLD RECORDS

Abdelrahman Ayyad and Sara Barakat ("Taxpayers") respectfully appeal Internal Revenue Service's denial of certain requested records, pursuant to the Freedom of Information Act ("FOIA").

PROCEDURAL HISTORY

- 1. That on February 26, 2016, Abdelrahman Ayyad ("Mr. Ayyad") made a request, pursuant to the FOIA, 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702), for a copy of the full administrative file pertaining to the on-going examination of Mr. Ayyad including, but not limited to, the following records: written correspondence, records relating to any civil and/or criminal fraud investigations or assessments; records relating to any accuracy-related penalty determination or assessments; entire case history; and records related to the preparation of notice of deficiency for tax year 2009. See attached Exhibit A.
- 2. That on February 26, 2016, Sara Barakat ("Ms. Barakat") made a request, pursuant to the FOIA, 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702), for a copy of the full administrative file pertaining to the on-going examination of Ms. Barakat including, but not limited to, the following records: written correspondence, records relating to any civil and/or criminal fraud investigations or assessments; records relating

IRS Appeals June 14, 2016 Page 2

to any accuracy-related penalty determination or assessments; entire case history; and records related to the preparation of notice of deficiency for tax year 2009. *See attached Exhibit B*.

- 3. That on April 12, 2016, Daniel S. Heller, Taxpayers' Representative, received a telephone call from Mr. Austin, Regional FOIA Manager, who stated that Mr. Ayyad's and Ms. Barakat's FOIA requests would be combined and assigned to Disclosure Specialist Jennifer J. Perez ("Disclosure Specialist"). The Disclosure Specialist's mailing address is Internal Revenue Service, Centralized Processing Unit Stop 93A, P.O. Box 621506, Atlanta, GA 30362. Additionally, Mr. Austin indicated that an extension letter was mailed on April 6, 2016. Taxpayers did not receive the letter.
- 4. That on approximately on May 11, 2016, the Taxpayers received correspondence from the Disclosure Specialist stating that a Compact Disk ("CD") with the requested information would be forwarded to the Taxpayers and provided instructions on how to access the CD. See attached Exhibit C.
- 5. That on May 16, 2016, the Taxpayers received the requested FOIA response from the Disclosure Specialist. *See attached Exhibit D.*
- 6. That the administrative file contained two thousand eight hundred eighty-five (2,885) pages, of which twenty-one (21) pages were withheld in part and one hundred twenty pages (120) were withheld in full.
- 7. That on May 17, 2016, Vadim D. Ronzhes, Taxpayers' representative spoke to the Disclosure Specialist indicating that a significant portion of the requested documents have not been provided including, but not limited to, the following: case history, correspondence, and records relating to any civil and/or fraud investigations. During the conversation, the Disclosure Specialist stated that she reviewed and forwarded all of the information that was provided. The Disclosure Specialist then indicated that she would reach out to the Revenue Agent regarding the missing information.
- 8. That on May 24, 2016, Taxpayers' representative sent a letter, via fax, to the Disclosure Specialist summarizing the contents of the May 17, 2016 telephone conversation. *See attached Exhibit E.*
- 9. That as of June 10, 2016, Taxpayers have not received any additional documents from the Disclosure Specialist, nor has the Disclosure Specialist contacted Taxpayers' representative with an update.

IRS Appeals June 14, 2016 Page 3

ARGUMENT

- 10. The Internal Revenue Service ("IRS") has denied the Taxpayers access to the requested documents by failing to provide the information to the Disclosure Specialist as part of its FOIA response.
- 11. The IRS withheld requested pages by claiming exemptions provided by FOIA, 5 U.S.C. § 552(b) without providing the document titles and listing the general description of the excluded information.
- 12. 5 U.S.C. § 552(b)(3) provides that information may not be disclosed that is exempted from disclosure by statute provided that the statute (a) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue or (b) establishes particular criteria for withholding or refers to particular types of matters to be withheld. Returns and return information may be disclosed to persons designated in writing by the taxpayer. 26 U.S.C. § 6103(c). Kelly Dorsey, P.C. represents both of the Taxpayers, Regency Furniture of Laurel, Inc., and other related entities in connection with the instant request. The production of the documents withheld by the government is explicitly permitted by I.R.C. § 6103(c). Therefore, we ask that the missing documents that were suppressed from the response, under 5 U.S.C. § 552(b)(3), be produced.
- 13. 5 U.S.C. § 552(b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings. The Revenue Agent has unambiguously stated that the Taxpayers are not the subject of any law enforcement investigation. The documents produced would not interfere with any current enforcement proceeding, as the records requested are from the civil administrative file.
- 14. 5 U.S.C. § 552(b)(7)(C) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could reasonably be expected to constitute an unwarranted invasion of personal privacy. The Revenue Agent has unambiguously stated that the Taxpayers are not the subject of any law enforcement investigation. The documents produced would not interfere with any current enforcement proceeding, as the records requested are from the civil administrative file.
- 15. 5 U.S.C. § 552(b)(7)(E) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. The Revenue Agent has unambiguously stated that the Taxpayers are not the subject of any law enforcement investigation. The documents produced would not interfere with any current enforcement proceeding, as the records requested are from the civil administrative file.

IRS Appeals June 14, 2016 Page 4

CONCLUSION

For the reasons stated above, we request that all of the requested documents be produced. If the government redacts portions of the file, we request a log that describes the document and the reason the document was not produced in sufficient detail to determine if a FOIA exception has been properly invoked.

If you have any questions, please contact us at (410) 740-8750. Thank you for your assistance with this matter.

Sincerely,

Vadim D. Ronzhes, Esq.



Daniel S. Heller*

Vadim Ronzhes

Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

Also member of Pennsylvania Bar Also member of New Jersey Bar

FACSIMILE TRANSMISSION

TO:

Disclosure Manager

FROM:

Gerald W. Kelly

.

IRS FOIA Request February 26, 2016

PAGES:

5 w/cover

DATE: SUBJECT:

Abdelrahman Ayyad

FAX NO:

877-891-6035

SSN:

0156

MESSAGE:

Dear Disclosure Manager:

Attached please find a FOIA Request and Power of Attorney for Abdelrahman Ayyad.

I can be reached at 410-740-8750, if any additional information is needed.

Sincerely,

Gerald W. Kelly



Gerald W. Kelly, Jr. Gregory A. Dorsey Daniel S. Heller*† Vadim Ronzhes

Beth A. Leake, E.A.

Jordan Curet

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Pennsylvania Bar * Also member of New Jersey Bar

February 26, 2016

VIA FACSIMILE (877-891-6035)

IRS FOIA Request Stop 93A Post Office Box 621506 Atlanta GA 30362-3006

Re: Abdelrahman Ayyad, SSN:

0156

Dear Disclosure Manager:

This request is being made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702).

The above-referenced taxpayer is currently under examination by Revenue Agent Kenneth Feldman ("Mr. Feldman") of the Baltimore, Maryland IRS post of duty. I request a copy of the full administrative file developed by Mr. Feldman in relation to this on-going examination during the period from which Mr. Feldman was assigned to the case (in or about early 2013) through the date this request is filed. I am requesting all records associated with this examination. Moreover, I am also requesting any additional documents regarding the examination, assessment, and appeals with respect to the abovementioned taxpayer's income tax returns during the period Mr. Feldman was assigned to this case. Any written correspondence, electronic or otherwise, among Mr. Feldman, Bisamber Misir, Quinton J. Ferguson, Larry Timms, and any other IRS employee relating to the examination is requested as well.

Any records relating to any civil and/or criminal fraud investigations or assessments, including any correspondence from or to a fraud technical advisor or any Internal Revenue Service employee engaged in a similar role as a fraud technical advisor, or any other Internal Revenue Service employees or agents engaged in the investigation and/or assessment of fraud, are also requested. This request includes copies of any Form 11661, Fraud Development Status, Form 2797, Referral Report of Potential Criminal Fraud Cases, and/or other forms that might have been prepared and/or filed in furtherance of a civil and/or criminal fraud investigation or assessment, as well as any records relating to the preparation and filing of those forms.

Any records relating any accuracy-related penalty determinations or assessments are requested.

Disclosure Manager February 26, 2016 Page 2

The entire case history regarding all examinations for tax periods 2006 through 2013 is requested to the extent it has not been included in the aforementioned requested items. The administrative appeals file for tax years 2006 through 2009 is not being requested at this time.

A statutory notice of deficiency dated November 30, 2012 was issued by the Internal Revenue Service Richmond Office (Small Business / Self-Employed) for tax period 2009. Any records relating to the preparation and filing of that notice are requested.

Please also provide identification of the official(s) having control of any records being requested.

I am a Power of Attorney holder (copy of Form 2848 Power of Attorney is attached) and an "other requester" under paragraph f(3) of Treasury Regulation § 601.702. Please send the records to my attention at the address located on the Power of Attorney. I do not wish to inspect the documents first.

As proof of identity, my sworn statement is below.

I am willing to pay fees for this request up to a maximum of \$1,000.00. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request. Should you have any questions or comments please feel free to contact me at 410-740-8750.

Sincerely.

Gerald W. Kelly, Esq.

Enclosures as stated

Requester's Sworn Identity Statement

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2016. I am Gerald W. Kelly, and I am requesting the information and records contained in this FOIA request.

Gerald W. Kelly, Esq.

Power of Attorney and Declaration of Representative

OMB No. 1545-0150
For IRS Use Only
Received by:
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Form 2848 (F	lev. 12-2015)				Page 2
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d Officer	-a bona fide officer of the ta	expayer organization.			
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P. 1

Gerald W. Kelly, Jr. Gargory A. Dursey Daniel S. Heller⁴ Victim Rangbey Joshan Canat KELLY DORSEY.

A ltorneys at Law 10320 Little Paturant Fkwy, Suite 603 Columbia, Maryland 2004 Tel: (610) 740-8750. Fee: (483) 542-0659

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PACSIMILE TRANSMISSION

TO:	Disclosure Manager IRS FOIA Request		FROM:	Gerald W. Kelly			
DATE:	February 26, 2016	2	PAGES:	5 w/cover	•		
SUBJECT:	Abdelrahman Ayyad SSN: D156		FAX NO:	877-891-6035			

MESSAGE

Dear Disclosure Manager

Attached please find a FOIA Request and Power of Attorney for Abdehahman Ayyad.

I can be reached at 410-740-8750, if any additional information is needed.

Gerald W. Kelly



Daniel S. Heller*† Vadim Ronzhes Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Pennsylvania Bar * Also member of New Jersey Bar

FACSIMILE TRANSMISSION

TO:

Disclosure Manager IRS FOIA Request

FROM:

Gerald W. Kelly

DATE:

February 26, 2016

PAGES:

5 w/cover

SUBJECT:

Sara Barakat

SSN:

FAX NO:

877-891-6035

MESSAGE:

Dear Disclosure Manager:

Attached please find a FOIA Request and Power of Attorney for Sara Barakat.

I can be reached at 410-740-8750, if any additional information is needed.

Sincerely,)

Gerald W. Kelly



Daniel S. Heller** Vadim Ronzhes Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Perusylvania Bar * Also member of New Jersey Bar

February 26, 2016

VIA FACSIMILE (877-891-6035)

IRS FOIA Request Stop 93A Post Office Box 621506 Atlanta GA 30362-3006

Re: Sara Barakat, SSN:

5612

Dear Disclosure Manager:

This request is being made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702).

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Any records relating any accuracy-related penalty determinations or assessments are requested.

Disclosure Manager November 2, 2015 Page 2

The entire case history regarding all examinations for tax periods 2006 through 2013 is requested to the extent it has not been included in the aforementioned requested items. The administrative appeals file for tax years 2006 through 2009 is not being requested at this time.

A statutory notice of deficiency dated November 30, 2012 was issued by the Internal Revenue Service Richmond Office (Small Business / Self-Employed) for tax period 2009. Any records relating to the preparation and filing of that notice are requested.

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I am willing to pay fees for this request up to a maximum of \$1,000.00. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request. Should you have any questions or comments please feel free to contact me at 410-740-8750.

Sincerely,

Gerald W. Kelly, Esq.

Enclosures as stated

Requester's Sworn Identity Statement

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2016. I am Gerald W. Kelly, and I am requesting the information and records contained in this FOIA request.

Gerald W. Kelly, Esq.

OMB No. 1545-0150 **Power of Attorney** For IRS Use Only and Declaration of Representative Received by: (Rev. Dec. 2015) Department of the Treasury Internal Revenue Service ▶ Information about Form 2848 and its instructions is at www.irs.gov/form2848. Telephone 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. Date Taxpayer information. Taxpayer must sign and date this form on page 2, line 7. Taxpayer identification number(s) Taxpayer name and address Sara Barakat Plan number (if applicable) Daytime telephone number 8660 Hill Spring Drive La Plata, MD 20646 hereby appoints the following representative(s) as attomey(s)-in-fact: 410-740-8750 Representative(s) must sign and date this form on page 2, Part II. 2605-90320R Name and address CAF No. PTIN Gerald W. Kelly, Esq. 410-740-8750 Telephone No. 10320 Little Patuxent Parkway, Suite 608 443-542-0069 Columbia, MD 21044 Fax No. Fax No. Check if to be sent copies of notices and communications Check if new: Address Telephone No. 0309-10027R CAF No. Name and address PTIN Daniel S. Heller, Esq. 10320 Little Patuxent Parkway, Suite 608 410-740-8750 Telephone No. 443-542-0069 Fax No. Columbia, MD 21044 Telephone No. 🗌 Check if to be sent copies of notices and communications Fax No. Check if new: Address 0309-28666R CAF No. Name and address PTIN Vadim D. Ronzhes, Esc. 410-740-8750 Telephone No. 10320 Little Patuxent Parkway, Suite 608 443-542-0069 Fax No. Columbia, MD 21044 Fax No. Check if new: Address Telephone No. (Note: IRS sends notices and communications to only two representatives.) CAF No. Name and address Telephone No. Fax No. Check if new: Address Telephone No. Fax No. (Note: IRS sends notices and communications to only two representatives.) to represent the taxpayer before the Internal Revenue Service and perform the following acts: Acts authorized (you are required to complete this line 3). With the exception of the acts described in line 5b, I 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 line Sa for authorizing a representative to sign a return). Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Tax Form Number Year(s) or Period(s) (if applicable) Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility (1040, 941, 720, etc.) (if applicable) (see instructions) Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions) 2000 - 2016 (All Periods) Freedom of Information Act (FOIA) 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. Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information): Authorize disclosure to third parties: ☑ Substitute or add representative(s); ☐ Sign a return;

Other acts authorized:

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			red from practice, or inel	liaible fo	r practice, be	fore the Internal Revenu	e Service;	
• I am su	hiert in re	indations contained in	Circular 230 (31 CFR, Su	ibilile A.	Part 10), as a	mended, governing brac	tice before the Internal	Revenue Service;
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a Atto	mey-a n	ember in good standi	ng of the bar of the high	est cour	t of the jurisdi	ction shown below.		v
b Cert	lified Publ	ic Accountant-license	ed to practice as a certif	ied publi	ic accountant	is active in the jurisdict	ion shown below.	÷ ,
c Enro	olled Agen	t-enrolled as an ager	it by the Internal Revenu	ie Servic	e per the req	uirements of Circular 23	0	•
		na fide officer of the ta						
			ployee of the taxpayer.					
			payer's immediate family	lenauca	narent child	grandparent, grandchild	. step-parent, step-child	brother, or sister).
g Enro	olled Actu Internal Ri	ary-enrolled as an ac evenue Service is limit	tuary by the Joint Board ad by section 10.3(d) of	for the I Circular	Enrollment of 230).	Actuaries under 29 U.S	.C. 1242 (the authority	to practice before
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k Stud	lent Attorr lent worki	ney or CPA-receives ng in an LITC or STCP	permission to represent . See instructions for Pa	taxpaye rt.il for a	rs before the idditional info	IRS by virtue of his/her rmation and requiremen	ils.	
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Form 2848 (Rev. 12-2015)

Case 8:16-cv-03032-PX Document 1-2 Filed 08/31/16 Page 35 of 51

* * * Communication Result Report (Mar. 9. 2016 6:20PM) * * * *

Date/Time: Mar. 9. 2016 6:17PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
3524 Memory TX	 8778916035	P. 5	OK	

Reason for error
E. 1) Hang up or line fail
E. 3) No answer
E. 5) Exceeded max. E-mail size

E. 2) Busy E. 4) No facsimile connection P. 1

Gendd W. Keity, Jr. Gregory A. Dessay Daniel S. Helker's Vading Royaless Jordan Cunst Both A. Leube, E.A. KELLY DORSEY, 1
Attorneys at Law
1000 Litle Patroent Pleys, Salie 608
Columbits, Manyland 21064
Tel (\$10) 740-9797 . Fame (\$45) 543-0009
1000 mills highly hard plancom

Alexandre of Persylvate for Alexandre of New Jersey Ro

FACSIMILE TRANSMISSION

TO:	Disclosure Manager IRS FOIA Request	FROM:	Gerald W. Kelly
DATE:	February 26, 2016	PAGES:	5 w/cover
SUBJECT:	Sam Barakat SSN: 5512	FAX NO:	877-891-6035

MESSAGE:

Dear Disclusure Manager

Attached please find a FOIA Request and Power of Attorney for Sara Barakat.

I can be reached at 410-740-8750, if any additional information is needed.

Sincerely

Gerald W. Kelly



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, DC 20224

May 5, 2016

Gerald Kelly, Jr 10320 Little Patuxent Pkwy, Suite 608 Columbia, MD 21044

Dear Mr. Kelly:

I am responding to your Freedom of Information Act (FOIA) request dated February 26, 2016 that we received on March 10, 2016.

You asked for examination file, pertaining to Abdelraham Ayyad.

I am sending you a CD with the requested information in a separate letter.

Your passphrase for F16070-0103 is F@ia4yya. To access the information on the CD, please follow the steps below:

- 1. Double click the .exe file to retrieve the documents.
- 2. Choose your destination on your system to extract the file.
- 3. Select Ok.
- 4. Enter the passphrase F@ia4yya to decrypt your responsive documents.
- 5. Select Ok.

If you have any questions please call me ID # 1000245686, at 512-460-4434 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F16070-0103.

Sincerely,

Jennifer J Perez Disclosure Specialist

Disclosure Office 9



DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE WASHINGTON, DC 20224

April 18, 2016

Gerald Kelly, Jr 10320 Little Patuxent Pkwy, Suite 608 Columbia, MD 21044

Dear Mr. Kelly:

I am responding to your Freedom of Information Act (FOIA) request dated February 26, 2016 that we received on March 10, 2016.

You asked for Audit files, pertaining to Abdelrahman Ayyad, for tax years 2006 through 2012. Of the 2885 pages located in response to your request, I am enclosing 2765 pages. I am withholding 21 pages in part and 120 pages in full for the following reasons:

- I deleted the Discriminant Information Function (DIF) score from the enclosed records. Release of the DIF score would seriously impair IRS assessment, collection, and enforcement proceedings. FOIA exemption (b)(3), supported by Internal Revenue Code section 6103 (b)(2) and (e)(7) exempts this information from release. Disclosure of this information would also reveal law enforcement techniques, procedures and guidelines protected by FOIA exemption (b)(7)(E).
- The withheld portions are the tax information of other taxpayers. FOIA exemption (b)(3) requires us to withhold information that is specifically exempted from disclosure by another law. The law supporting this exemption is Internal Revenue Code section 6103(a).
- FOIA exemption (b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that production of such records could interfere with enforcement proceedings.
- FOIA exemption (b)(7)(C) exempts from disclosure personal information in law enforcement records that if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- FOIA exemption (b)(7)(E) exempts from disclosure records or information compiled for law enforcement purposes to the extent their production would reveal.

The redacted portions of each page are marked by the applicable FOIA exemptions. This constitutes a partial denial of your request. I have enclosed Notice 393 explaining your appeal rights.

I am providing your records in electronic format. The enclosed CD contains your records and is encrypted. The password to open the files is being mailed separately.

If you have any questions please call Disclosure Specialist Jennifer J Perez ID # 1000245686, at 512-460-4434 or write to: Internal Revenue Service, Centralized Processing Unit – Stop 93A, PO Box 621506, Atlanta, GA 30362. Please refer to case number F16070-0103.

Sincerely,

P. Sharisse Tompkins Disclosure Manager Disclosure Office 9

O. Shamedy P

Enclosure
Responsive Records
Notice 393

EXHIBIT "E"



Department of the Treasury Internal Revenue Service **Appeals Office** P.O. Box 24018 Fresno, CA 93779-4018

VADIM D RONZHES ESQ KELLY DORSEY ATTORNEYS AT LAW 10320 LITTLE PATUXENT PKWY STE 608 COLUMBIA, MD 21044

Date:

June 20, 2016

Person to contact: Name: Theresa Carrillo

Employee number: 1000157528 Telephone: (559) 454-6337

Fax: (855) 223-7117 Tax periods ended:

12/2016

Re:

AP:CO:FRC:TC FOIA number:

F16070-0103 For taxpaver:

ABDELRAHMAN AYYAD & SARA

BARAKAT

Dear Mr. Vadim D Ronzhes Esq:

We received your Freedom of Information Act (FOIA) administrative appeal, dated June 14, 2016 on June 15, 2016. We are required to complete our consideration of your appeal within 20 business days after the date we receive your appeal. If we can't complete your case in that time frame, you can seek judicial review by filing suit in the United States District Court where you live or work, where your records are located, or in the District of Columbia. The rules for filing suit are available in Federal Rule of Civil Procedure 4(i). For more information, visit www.irs.gov and search keyword "FOIA guidelines."

It can take several weeks to retrieve the required documents from the Disclosure Office. We'll complete our review and notify you in writing of our decision and any judicial remedies available to you. We apologize for any delay in responding to your request.

If you decide to file suit with the court while we are considering your case, please advise this office in writing of your action. Once notified, we'll terminate our consideration of your FOIA appeal.

If you have questions concerning the status of your appeal, you can contact the Appeals officer whose name and telephone number are shown above.

Sincerely,

Theresa Carrillo
Appeals Com Appeals Officer

EXHIBIT "F"

Internal Revenue Services - PX Document 1-2 Prevention theo Treasury

Appeals Office P.O. Box 24018

Fresno, CA 93779-4018

Date:

JUN 2 2 2016

VADIM D RONZHES ESQ KELLY DORSEY ATTORNEYS AT LAW 10320 LITTLE PATUXENT PKWY STE 608 COLUMBIA MD 21044

Person to Contact:

Theresa Carrillo

Employee ID Number: 1000157528

Tel: (559) 454-6337 Fax: (855) 223-7117

Refer Reply to: AP:CO:FRC:TC

In Re:

Freedom of Information Act: ABDELRAHMAN AYYAD & SARA

BARAKAT

FOIA Case Number: F16070-0103

Dear Mr. Vadim D. Ronzhes Esq:

This letter is in response to your June 14, 2016 Freedom of Information Act (FOIA) appeal of the April 18, 2016 response of the Disclosure Specialist to your February 26, 2016 FOIA request.

You requested the full administrative file pertaining to your clients on their going examination currently with RA out of Baltimore Maryland, including any civil, criminal fraud investigation, assessments, appeal case for tax year 2009 and all case histories for tax years 2006 through 2013.

The Disclosure Specialist stated that they found 2885 pages of responsive documents. The Disclosure Specialist stated that they provided 2765 pages of responsive documents. The Disclosure Specialist stated that they withheld 21 pages in part and 120 pages in full citing FOIA exemptions (b)(3) in conjunction with IRC §6103(b)(2) and (e)(7), (b)(7)(E), (b)(3) in conjunction with $\S6103(a)$, (b)(7)(A), (b)(7)(C).

You submitted an appeal and stated that you are appealing the denial of records. You stated that you contacted the Disclosure Specialist on May 17, 2016 requesting all of the documentation and to date, he has not received a response from the Disclosure Specialist. You also stated that the Disclosure Specialist did not include, what is known as a Vaughn index, (a document list providing documents titles with general description of the excluded information) if the documents are continued to be withheld.

The appeal states that the FOIA exemptions (b)(3) do not apply to your clients case since the information requested are the taxpayer documents and you have proper authorization to receive those documents. The appeal also stated that the FOIA exemption (b)(7)(A), (C) & (E) do not apply to your clients case since the taxpayer's are not currently in an law enforcement proceeding only civil proceedings and since the documents requested are from civil administrative proceeding, the records should be released. You are requesting all documents be released in full.

Appeals responsibility concerning the appeal of FOIA cases is limited to a de novo review to ensure the documents withheld or redacted for the specific requester and documents requested fall within the FOIA exemption(s) cited. We also ensure an adequate search for documents were performed.

Case 8:16-cv-03032-PX Document 1-2 Filed 08/31/16 Page 43 of 51

We have reviewed the response of the Disclosure Specialist and have determined that it is appropriate under the circumstances. We concur with the Disclosure Specialist determination and response. The FOIA allows access to records and documents in your accounts. The Disclosure office reviews the account and pulls the necessary files, copies and provides the documents.

We concur with the withholding of the documents under FOIA subsection (b)(3) states that the disclosure provisions of the FOIA do not apply to matters specifically exempted by statute from disclosure, provided that such statute:

(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

I.R.C. Section 6103 has been held to be a subsection (b)(3) statute under the FOIA. Church of Scientology v. IRS, 484 U.S. 9 (1987); Chamberlain v. Kurtz, 589 F.2d 827 (5th Cir. 1979), cert. denied, 444 U.S. 842 (1979). When disclosure of return information will seriously impair Federal tax administration, it may be withheld. Chermack v. IRS, 81-1 USTC Paragraph 9337 (N.D. Tex. 1981). It has been determined that the disclosure of some of the information withheld would impair Federal tax administration by interfering with the pending administrative proceedings; and, therefore, this information is exempt from disclosure pursuant to exemption (b)(3) in conjunction with I.R.C. Section 6103(e)(7).

We concur with the withholding of the documents under IRC §6103(a) in conjunction with exemption (b)(7)(E). FOIA exemption (b)(7)(EC affords protection to all law enforcement information that "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

We concur with the withholding of documents under FOIA subsection (b)(7)(A) exempts from disclosure records or information compiled for law enforcement purposes if the production of such law enforcement records could reasonably be expected to interfere with pending or prospective law enforcement proceedings. The term "law enforcement" refers to enforcement through civil, criminal, or regulatory proceedings. Subsection (7)(A) applies "whenever the government's case in court would be harmed by the premature release of the evidence or information," NLRB v. Robbins Tire & Rubber Co., 473 U.S. 214, 232 (1978), or where the disclosure would impede any necessary investigation prior to the proceeding, National Public Radio v. Bell, 431 F. Supp. 509, 514-15 (D. D.C. 1977). In the instant case, disclosure would interfere with the pending administrative proceedings.

Exemption 7 allows for the withholding of "information compiled for law enforcement purposes." 5 U.S.C. Section 552(b)(7). The exemption was designed to ensure that sensitive law enforcement information is protected regardless of the particular format or record in which the information is maintained. The agency must demonstrate that the information was compiled in the course of enforcing a statute or regulation within its authority. See Lewis v. IRS, 823 F.2d 375 (9th Cir. 1987). Your clients on-going examination is considered a law enforcement proceeding.

Exemption 7(A) protects from disclosure information compiled for law enforcement purposes the release of which "could reasonably be expected to interfere with enforcement proceedings." 5 U.S.C. Section 552(b)(7)(A). Determining the applicability of exemption 7(A) requires a two-step analysis: 1) whether law enforcement proceeding is pending or prospective, and 2) whether release of information could reasonably be

expect@atse@atsecse036932tiPXabDenhamenSe2 NEREIv08730/Li6s Piage 44 utilizer Co., 437 U.S. 214, 239-40 (1978) (government must show how release of records "would interfere with a pending enforcement proceeding") and Manna v. U.S. Dept. of Justice, 51 F.3d 1158, 1164 (3d Cir. 1995).

Subsection (b)(7)(C) exempts from disclosure records or information compiled for law enforcement purposes to the extent that disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. See <u>United States Dep't of Justice v. Reporters Committee</u>, 459 U.S. 749 (1989). Exemption (b)(7)(C) requires a balancing of the public interest in the disclosure of third party identities with the privacy interests of those individuals.

To summarize, we believe that the Disclosure Specialist has met its burden in regard to the adequacy of the search and applied the exemptions appropriately when they withheld the documents in full and in part. We believe that the Disclosure Specialist responded to your request appropriately.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and the Office of Disclosure as a non-exclusive alternative to litigation. The Office of Appeals is not a part of this mediation process. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you disagree with the Appeals determination and wish to pursue mediation, you may contact OGIS in any of the following ways:

Office of Government Information Services National Archives and Records Administration 8601 Adelphi Road - OGIS College Park, MD 20740 E-mail: ogis@nara.gov Web: https://ogis.archives.gov

Telephone: 202-741-5770 Facsimile: 202-741-5769 Toll-free: 1-877-684-6448

The FOIA requires us to advise you of the judicial remedies granted in the Act. You may file a complaint in the United States District Court for the District in which you reside, or have your principal place of business, or in which the agency records are located, or in the District of Columbia.

Sincerely,

P. Perez

Appeals Team Manager

EXHIBIT "G"



Gerald W. Kelly, Jr. Gregory A. Dorsey

Daniel S. Heller*† Vadim Ronzhes Jordan Curet

Beth A. Leake, E.A.

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Pennsylvania Bar * Also member of New Jersey Bar

FACSIMILE TRANSMISSION

TO:

Disclosure Manager

IRS FOIA Request

FROM:

Gerald W. Kelly

: Gerald

DATE:

February 26, 2016

PAGES:

5 w/cover

SUBJECT:

Sara Barakat

FAX NO:

877-891-6035

SSN: 5612

MESSAGE:

Dear Disclosure Manager:

Attached please find a FOIA Request and Power of Attorney for Sara Barakat.

I can be reached at 410-740-8750, if any additional information is needed.

Sincerely,

Gerald W. Kelly



Gerald W. Kelly, Jr. Gregory A. Dorsey Daniel S. Heller*† Vadim Ronzhes

Beth A. Leake, E.A.

Tordan Curet

Attorneys at Law

10320 Little Patuxent Pkwy, Suite 608 Columbia, Maryland 21044 Tel: (410) 740-8750 • Fax: (443) 542-0069

www.kellydorseylaw.com

* Also member of Pennsylvania Bar * Also member of New Jersey Bar

February 26, 2016

VIA FACSIMILE (877-891-6035)

IRS FOIA Request Stop 93A Post Office Box 621506 Atlanta GA 30362-3006

Re: Sara Barakat, SSN:

5612

Dear Disclosure Manager:

This request is being made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Treasury Regulation § 601.702 (26 C.F.R. § 601.702).

The above-referenced taxpayer is currently under examination by Revenue Agent Kenneth Feldman ("Mr. Feldman") of the Baltimore, Maryland IRS post of duty. I request a copy of the full administrative file developed by Mr. Feldman in relation to this on-going examination during the period from which Mr. Feldman was assigned to the case (in or about early 2013) through the date this request is filed. I am requesting all records associated with this examination. Moreover, I am also requesting any additional documents regarding the examination, assessment, and appeals with respect to the abovementioned taxpayer's income tax returns during the period Mr. Feldman was assigned to this case. Any written correspondence, electronic or otherwise, among Mr. Feldman, Bisamber Misir, Quinton J. Ferguson, Larry Timms, and any other IRS employee relating to the examination is requested as well.

Any records relating to any civil and/or criminal fraud investigations or assessments, including any correspondence from or to a fraud technical advisor or any Internal Revenue Service employee engaged in a similar role as a fraud technical advisor, or any other Internal Revenue Service employees or agents engaged in the investigation and/or assessment of fraud, are also requested. This request includes copies of any Form 11661, Fraud Development Status, Form 2797, Referral Report of Potential Criminal Fraud Cases, and/or other forms that might have been prepared and/or filed in furtherance of a civil and/or criminal fraud investigation or assessment, as well as any records relating to the preparation and filing of those forms.

Any records relating any accuracy-related penalty determinations or assessments are requested.

Disclosure Manager November 2, 2015 Page 2

The entire case history regarding all examinations for tax periods 2006 through 2013 is requested to the extent it has not been included in the aforementioned requested items. The administrative appeals file for tax years 2006 through 2009 is not being requested at this time.

A statutory notice of deficiency dated November 30, 2012 was issued by the Internal Revenue Service Richmond Office (Small Business / Self-Employed) for tax period 2009. Any records relating to the preparation and filing of that notice are requested.

Please also provide identification of the official(s) having control of any records being requested.

I am a Power of Attorney holder (copy of Form 2848 Power of Attorney is attached) and an "other requester" under paragraph f(3) of Treasury Regulation § 601.702. Please send the records to my attention at the address located on the Power of Attorney. I do not wish to inspect the documents first.

As proof of identity, my sworn statement is below.

I am willing to pay fees for this request up to a maximum of \$1,000.00. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request. Should you have any questions or comments please feel free to contact me at 410-740-8750.

Sincerely,

Gerald W. Kelly, Esq.

Enclosures as stated

Requester's Sworn Identity Statement

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct. Executed on February 26, 2016. I am Gerald W. Kelly, and I am requesting the information and records contained in this FOIA request.

Gerald W. Kelly, Esq.

Power of Attorney and Declaration of Representative

Department of the Treasury	of Representative	Received by:
Internal Revenue Service Information about Form 2848 and its Part I Power of Attorney	s instructions is at www.irs.gov/form2848.	Name
Caution: A separate Form 2848 must be completed for a	nach taypayar Form 2949 will not be handred	Telephone
for any purpose other than representation before the IRS		Date / /
1 Taxpayer information. Taxpayer must sign and date this form on		T bate / /
Taxpayer name and address	Taxpayer identification number(s)	
•	5612	<u>)</u>
Sara Barakat 8660 Hill Spring Drive		number (if applicable)
La Piata, MD 20646	410-740-8750	
hereby appoints the following representative(s) as attorney(s)-in-fact:		
2 Representative(s) must sign and date this form on page 2, Part II.	•	
Name and address	CAF No. 2605-90320	R
Gerald W. Kelly, Esq.	PTIN	444444444
10320 Little Patuxent Parkway, Suite 608	Telephone No. 410-740-	-8750
Columbia, MD 21044	Fax No. 443-542-006	**********
Check if to be sent copies of notices and communications	Check if new: Address Telephone No.	Fax No.
Name and address	CAF No. 0309-10027	R
Daniel S. Heller, Esq.	PTIN	\$66457496580011107
10320 Little Patuxent Parkway, Suite 608	Telephone No. 410-740-	
Columbia, MD 21044	Fax No. 443-542-006	
Check if to be sent copies of notices and communications	Check if new: Address Telephone No.	
Name and address	CAF No. 0309-28666	
Vadim D. Ronzhes, Esq.	PTIN	.0750
10320 Little Patuxent Parkway, Suite 608 Columbia, MD 21044	Telephone No. 410-740-	10/30 10/30
(Note: IRS sends notices and communications to only two representatives.)	Fax No. 443-542-006 Check if new: Address ☐ Telephone No. [Fax No.
Name and address	CAF No.	
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	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		
inspect my confidential tax information and to perform acts that I can perform		
shall have the authority to sign any agreements, consents, or similar docume	ints (see instructions for line 5a for authorizing a represent	tative to sign a return).
Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower,	Tax Form Number Year(s)	or Period(s) (if applicable)
Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see Instructions)	1 , , , , , , , , , , , , , , , , , , ,	(see instructions)
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Freedom of Information Act (FOIA)	2000	0 - 2016 (All Periods)
4 Specific use not recorded on Centralized Authorization File (C	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 I	Recorded on CAF	▶ 🗸
5a Additional acts authorized. In addition to the acts listed on line 3 instructions for line 5a for more information):	above, I authorize my representative(s) to perform	the following acts (see
Authorize disclosure to third parties;	epresentative(s); Sign a return;	
Other acts authorized:	·	
Other acts authorized:		

OMB No. 1545-0150

For IRS Use Only

orm 2848 (Rev. 12-	-2016)				Page 2
b Specific a	acts not authorized. No payment by any mean	My representative(s) is (are) not a ns, electronic or otherwise, into a stive(s) is (are) associated) issued	an account owned or cor	otherwise negotiate any check (including the controlled by the representative(s) or any aspect of a federal tax liability.	ling directing or y firm or other
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if they are administra	appointing the same ator, or trustee on beha	representative(s). If signed by a large of the texpayer, I certify that I have	a corporate officer, part nave the legal authority to	ach spouse must file a separate power ner, guardian, tax matters partner, e o execute this form on behalf of the	executor, receiver, expayer.
▶ IF NO	COMPLETED, SIG	SNED, AND DATED, THE IRS	WILL RETURN THIS	POWER OF ATTORNEY TO TH	E IAAPATEN.
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Part III De	claration of Repr	esentative		3	
Under penalties o	of perjury, by my signal	ture below I declare that:			
		rred from practice, or ineligible fo			
I am subject to n	egulations contained in	Gircular 230 (31 CFR, Subtitle A,	, Part 10), as amended, g	overning practice before the internal i	Revenue Service;
I am authorized	to represent the taxpa	yer identified in Part I for the mat	tter(s) specified there; an	d	
I am one of the I					
		ing of the bar of the highest cour	. •		
		sed to practice as a certified publ			
	· · · · · · · · · · · · · · · · · · ·	nt by the Internal Revenue Service	ce par the requirements	of Circular 230.	
	ona fide officer of the to				,
		ployee of the taxpayer.			a'
f Family Memb	er—a member of the tax	xpayer's immediate family (spouse	, parent, child, grandpare	nt, grandchild, step-parent, step-child,	brother, or sister).
the Internal F	levenue Service is limit	ted by section 10.3(d) of Circular	230).	under 29 U.S.C. 1242 (the authority to	
prepared and claim for refu	I signed the return or ond; (3) has a valid PTII	laim for refund (or prepared if the	ere is no signature space I Annual Filing Season P	eturn preparer may represent, provide a on the form); (2) was eligible to sign regram Record of Completion(s). Sec formation.	the return or
k Student Attor	ney or CPA-receives		rs before the IRS by virt	ue of his/her status as a law, busines	s, or accounting
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▶ IF THIS I	DECLARATION OF	**		ED, AND DATED, THE IRS WILL	L RETURN THE
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	Licensing jurisdiction	Bar, license, certification,		<u></u>	
Designation—	(State) or other	registration, or enrollment		Ó2	l
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Form 2848 (Rev. 12-2015)

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P. 1

* * * Communication Result Report (Mar. 9. 2016 6:20PM) * * *

1)

Date/Time: Mar. 9. 2016 6:17PM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
3524 Memory TX	8778916035	P. 5	OK	

Reason for error

E. 1) Hang up or line fail
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F. 5) Exceeded max. F-mail size

E. 2) Busy
E. 4) No facsimile connection

Gerald W. Kelly, Jr. Gregory A. Derney Daniel S. Heller^a Vadins Rombass Jordan Curel Beth A. Leales, E.A.

KELLY DORSEY &

10320 Little Patusent Pkwy, Suhe 608 Columbia, Masyland 21084 Tel: (410) 749-8750 - Fax: (443) 542-0069 sussa kalijuhrseplana.com

*Alan erember of Pennsylvania Bas *Alah erember of New Jessey Kur

FACSIMILE TRANSMISSION

TO:	Disclosure Manager IRS FOIA Request	FROM:	Gerald W. Kelly
DATE:	February 26, 2016	PAGES:	5 w/cover
SUBJECT:	Sara Barakat SSN: 5512	FAX NO:	877-891-6035

MESSAGE:

Dear Disclosure Manager:

Attached please find a FOIA Request and Power of Attorney for Sara Barakat.

I can be reached at 410-740-8750, if any additional information is needed

Sincerely

Gerald W. Kelly