

**Exhibit J – Plaintiff’s administrative appeal of  
NARA’s constructive denial of Plaintiff’s FOIA  
request.**

# CLARK HILL

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February 22, 2016

## FREEDOM OF INFORMATION ACT APPEAL

USPS CERTIFIED MAIL

Deputy Archivist of the United States  
ATTN: FOIA Appeal Staff  
Room 4200  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, Maryland 20740-6001.

Re: **Freedom of Information Act Appeal – National Personal Records Center,  
Annex  
No Number Assigned**

Dear Sir or Madam:

On November 5, 2015 we filed a Freedom of Information Act (FOIA) request with the National Personal Records Center, Annex (NPRCA), for certain records pertaining to Robert T. Schofield.<sup>1</sup> *See* FOIA Request. We did not receive an acknowledgment letter from the NPRCA.

We mailed our FOIA request via USPS Priority Mail. The USPS Tracking Number associated with our FOIA request is 9405 5118 9922 3306 4318 85. *See* USPS Priority Mailing Envelope. The package bearing USPS Tracking Number 9405 5118 9922 3306 4318 85 was delivered to the NPRCA on November 9, 2015. *See* Printout, USPS webpage.

It has been over three months since you received our FOIA request. When a party submits a FOIA request, the agency has 20 business days to determine whether to produce records responsive to the request. 5 U.S.C. §552(a)(6)(A)(i). In unusual circumstances, this deadline may be extended for a maximum of ten additional business days. 5 U.S.C. §552(a)(6)(B)(i). When an agency fails to meet the response times required by FOIA, requesting parties may deem the agency's delay a denial of the FOIA request and appeal the denial. *See*,

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<sup>1</sup> Please note that on February 1, 2016, approximately three months after we filed the FOIA request at issue in this appeal, I began working for Clark Hill PLC. My current address appears in the letterhead. Please update your records accordingly.

Associate General Counsel

February 18, 2016

Page 2

*e.g., Ruotolo v. Dep't of Justice*, 53 F.3d 4, 8 (2d Cir. 1995) (“[A]dministrative remedies are ‘deemed exhausted’ if the agency fails to comply with the ‘applicable time limit’ provisions of the FOIA.”); *Voinche v. Fed. Bureau of Investigation*, 999 F.2d 962, 963 (5th Cir. 1993) (“If an agency has not complied within the statutory time limits of a FOIA request, the requestor shall be deemed to have exhausted his administrative remedies and [may] bring suit.”).

You have failed to respond to our FOIA request with the twenty days provided under the FOIA statute. Accordingly, please consider this letter an appeal of your constructive denial of our FOIA request.

Sincerely,

CLARK HILL PLC



Patrick Taurel

Enclosures

cc: Thomas K. Ragland, Clark Hill PLC  
Thomas A. Elliot, Lichtman & Elliot, PC  
Richard W. Chang, Wasserman, Mancini & Chang, PC  
Parastoo G. Zahedi, Law Office of Zahedi PLLC

FOIA REQUEST

# BENACH RAGLAND LLP

November 5, 2015

National Records Center, FOIA/PA Office  
FOIA Officer/Public Liaison: Jill Eggleston  
P. O. Box 648010  
Lee's Summit, Mo. 64064-8010

FOIA Public Liaison  
DHS-OIG Counsel  
STOP 0305  
245 Murray Lane, SW  
Washington, D.C. 20528-0305

National Personnel Records Center, Annex  
1411 Boulder Boulevard  
Valmeyer, IL 62295

Federal Bureau of Investigation  
Attn: FOI/PA Request  
Record/Information Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4843

**RE: Freedom of Information Act Request**

Dear Sir or Madam:

Benach Ragland LLP, Lichtman & Elliot, PC, Wasserman, Mancini & Chang, PC, and Law Office Of Zahedi PLLC, ("requestors") respectfully submit this letter as a request for records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, *et. seq.*

## **RECORDS SOUGHT**

Requestors seek any and all records<sup>1</sup> which have been prepared, received, transmitted, collected and/or maintained by U.S. Citizenship and Immigration Services ("USCIS"), legacy Immigration and Naturalization Service ("INS"), the Department of Homeland Security Office of the Inspector General ("DHS OIG"), the Federal Bureau of Investigation ("FBI"), and the National Personnel Records Center ("NPRC") which relate or refer in any way to any to:

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<sup>1</sup> The term "records" as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, evaluations, analyses, instructions, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies.

- allegations, investigations, or findings of misconduct involving former USCIS supervisory district adjudication officer Robert T. Schofield (“Schofield”);
- allegations, investigations, or findings of conduct unbecoming a government employee involving Schofield;
- allegations, investigations, or findings of fraud involving Schofield;
- allegations, investigations, or findings of bribery involving Schofield;
- allegations, investigations, or findings of misuse of public office involving Schofield;
- allegations, investigations, or findings regarding an inappropriate relationship Schofield had with a woman connected to an INS or USCIS investigation;
- performance evaluations for Schofield;
- disciplinary or remedial action<sup>2</sup> taken against Schofield and the date(s) any such action was taken; and
- favorable employment action<sup>3</sup> taken with respect to Schofield and the date(s) any such action was taken.

Requestors request that records existing in electronic form be provided in electronic format or on compact disc.

#### **NATURE & PURPOSE OF REQUEST**

On June 29, 2006, the FBI arrested Robert T. Schofield, a former supervisory district adjudication officer at the Washington Field Office of USCIS, after a joint investigation with the DHS OIG, for falsifying naturalization certificates in exchange for bribes. Schofield was ultimately convicted in U.S. District Court for the Eastern District of Virginia of bribery of a public official, in violation of 18 U.S.C. § 201(b)(2)(C), as well as aiding and abetting the unlawful procurement of citizenship or naturalization, in violation of 18 U.S.C. § 1425. *United States v. Schofield*, No. 1:06-cr-00427 (E.D. Va. Apr. 20, 2007) (Judgment). Schofield was sentenced to serve 180 months in the custody of the Bureau of Prisons. *Id.*

Schofield’s fraudulent scheme harmed hundreds of immigrants – many of whom were innocent victims. *See, e.g., United States v. Chu*, No. 1:07-CR-117 (E.D. Va. 2007), Trial Tr. vol 1, 13, June 6, 2007 (Schofield recognizes two “types of clients” – those interested in buying benefits and those interested in applying for them legally); *United States v. Schofield*, No. 1:06-cr-00427 (E.D. Va. Sept. 21, 2012) (Def’s Brief In Support of Gov’t’s Rule 35 Motion) (“[T]he vast majority of the illegally granted benefits – approximately 175 individuals – were granted to aliens who were already lawfully in the country as legal permanent residents, and had passed background checks.”). Requestors represent several such innocent victims, some of whom the Department of Homeland Security is attempting to remove from the United States.

Misconduct allegations against Schofield pre-date and go well beyond the bribery scheme for which he was ultimately convicted. At the time Schofield pled guilty, he was a 30-year veteran of INS

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<sup>2</sup> The term “disciplinary or remedial action” as used herein includes, but is not limited to, termination, demotions, reductions in compensation, and other workplace sanctions.

<sup>3</sup> The term “favorable employment action” as used herein includes, but is not limited to, any reinstatements, promotions, bonuses, awards, and increases in compensation.

and USCIS, having first been hired by INS in 1976. *United States v. Chu*, No. 1:07-CR-117 (E.D.Va. 2007), Trial Tr. vol 1, 4, June 6, 2007 (testimony of Robert T. Schofield). Documents filed by the prosecution in *United States v. Schofield* reflect that in the decade preceding his arrest, Schofield had been accused of a wide array of misconduct including accepting bribes, unauthorized use of government credit cards, and falsifying immigration documents. Jerry Markon, *Immigration Official Pleads Guilty to Falsifying Documents*, Wash. Post, Dec. 1, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/11/30/AR2006113000603.html>.<sup>4</sup> According to the *Washington Post*,

Court documents indicate that accusations against the 30-year federal employee were not new. **Over the past decade**, federal officials investigated numerous bribery allegations involving Schofield and Asian immigration applicants when he worked at the former Immigration and Naturalization Service, according to court documents unsealed when Schofield was charged in June.

**Schofield was demoted at one point for "conduct unbecoming a government employee," the documents say, and had an "inappropriate relationship" with a woman connected to an INS criminal probe.** When confronted about that relationship by INS officials, Schofield fled to East Asia, where he made \$36,000 worth of **unauthorized purchases on his government-issued credit card**, according to court documents.

**It remains unclear when Schofield returned to the United States, how the previous investigations ended and how Schofield became a supervisor when the Department of Homeland Security took over INS's functions in 2003.**

*Id.* (Emphasis added). Schofield's prosecution and misconduct are widely known and in the public domain; they were even discussed in the halls of Congress. *Whether Attempted Implementation of the Senate Immigration Bill Will Result in an Administrative and National Security Nightmare: Hearing before the Subcommittee on Immigration, Border Security and Claims, 109th Cong. 5* (2006) (statement of Michael J. Maxwell); see also Jerry Markon, *Fairfax Man Accused of Illegally Helping Immigrants*, Wash. Post, June 30, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/29/AR2006062901907.html>; Sean Alfano, *Fraud Charges Inside Homeland Security*, CBS News, June 29, 2006, available at <http://www.cbsnews.com/news/fraud-charges-inside-homeland-security/>.

What is less well-known — and what this FOIA request seeks to discern — is the circumstances under which Schofield was permitted to hold a position of authority<sup>5</sup> — which Schofield abused to the detriment of requestors' clients — after he previously had been found to have engaged in serious misconduct. This FOIA request seeks information and documentation relating to these violations of the public trust. Full compliance with this request is therefore consistent with the central purpose of the

<sup>4</sup> The court documents referenced in the *Washington Post* article are not available on PACER.

<sup>5</sup> According to the United States, at the time of his arrest, "Schofield was a **trusted senior official** ... with almost 30 years of federal service[.]" *United States v. Schofield*, No. 1:06-cr-00427 (E.D. Va. July 17, 2012) (Government's Rule 35 Motion) (emphasis added).

FOIA. *U.S. Dept. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 772 (1989). If the request is denied in whole or in part, we request explicit justification for all deletions by reference to specific FOIA exemptions. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information.

Please inform us if the charges for this FOIA production will exceed \$250.00. Please furnish all applicable records to:

Patrick Taurel, Esq.  
Benach Ragland LLP  
1333 H Street, NW  
Suite 900 West  
Washington, D.C. 20005

Thank you in advance for your response to this request within twenty working days, as FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(i).

If you have any questions, please feel free to contact me at (202) 644-8600 or [ptaurel@benachragland.com](mailto:ptaurel@benachragland.com).

Sincerely,



Patrick Taurel, Esq.

Enclosures: None.  
cc: Thomas K. Ragland, Benach Ragland LLP  
Thomas A. Elliot, Lichtman & Elliot, PC  
Richard W. Chang, Wasserman, Mancini & Chang, PC  
Parastoo G. Zahedi, Law Office Of Zahedi PLLC



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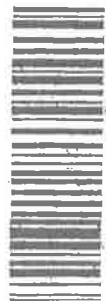
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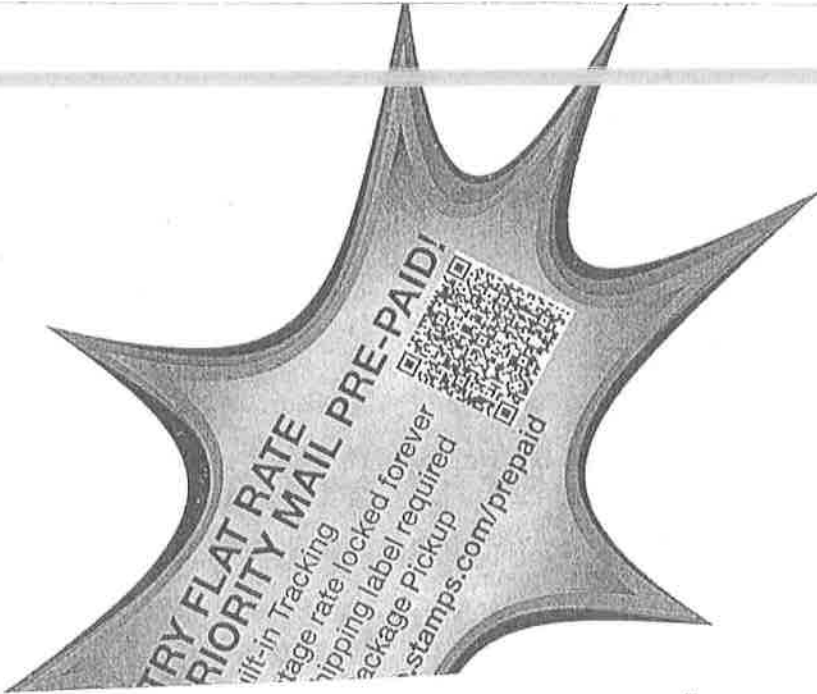
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November 7, 2015 , 9:07 am	Available for Pickup	VALMEYER, IL 62295
November 7, 2015 , 8:41 am	Out for Delivery	VALMEYER, IL 62295
November 7, 2015 , 8:31 am	Sorting Complete	VALMEYER, IL 62295
November 7, 2015 , 8:10 am	Arrived at Post Office	VALMEYER, IL 62295
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