

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

COZEN O'CONNOR
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103

Plaintiff,

v.

THE OFFICE OF FOREIGN ASSETS
CONTROL
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue N.W.
Washington, D.C. 20220

Defendant.

Civil Action No.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
TO COMPEL COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT**

Plaintiff, Cozen O'Connor ("Plaintiff"), files this Complaint against Defendant, The Office of Foreign Assets Control ("OFAC" or "Defendant"), to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1391(e).

THE PARTIES

3. Plaintiff is a professional corporation organized under the laws of the Commonwealth of Pennsylvania and has its principal place of business at One Liberty Place, 1650 Market Street, Suite 2800, Philadelphia, PA 19103.

4. OFAC is an agency of the United States Government and has its principal place of business at U.S. Department of the Treasury, Treasury Annex, 1500 Pennsylvania Avenue N.W., Washington, D.C. 20220.

STATEMENT OF FACTS

5. Plaintiff represents Milagros Del Pino Suarez and Rafael Del Pino Jr., the children of Rafael Del Pino Sr. Mr. Del Pino Sr. was a native of Cuba who became a United States citizen and Army veteran before being captured, tortured and ultimately killed by the Castro regime for his efforts to bring democracy and freedom to his native country.

6. In December 2005, Ms. Suarez and Mr. Del Pino Jr. filed a lawsuit in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida against Cuba and the Castro regime for wrongful death.

7. A jury found Cuba and the Castro regime liable for Rafael Del Pino Sr.'s unlawful treatment and wrongful death. On June 3, 2008, the Circuit Court entered an Amended Final Judgment in favor of Milagros Suarez and Rafael Del Pino Jr. in the amounts of \$126,252,008.68 and \$126,502,008.68, respectively.

8. To date, neither Cuba nor the Castro regime has paid any portion of the judgment because the Cuban government has systematically moved its monetary assets – which could be used to satisfy the judgment – throughout the global financial system such that they remain out of reach.

9. Rafael Del Pino Jr. has since passed away without ever seeing justice secured for his father.

10. Plaintiff has sought information regarding Cuban assets subject to execution in an effort to satisfy the judgment.

11. These efforts have become more urgent in the last two years since then-President Barack Obama announced in December 2014 that the United States and Cuba would seek a rapprochement, which could ultimately lead to Ms. Suarez's judgment being extinguished by Executive Order.

12. Plaintiff has requested information from a number of sources, including OFAC, which issues licenses to companies to conduct business in Cuba, and the Department of Justice.

13. On January 29, 2016, Plaintiff sent a FOIA request to OFAC seeking access to the following records:

All documents related to the Office of Foreign Asset Control's ("OFAC") procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E, including but not limited to

- a) Documents related to the creation of these procedures;
- b) Documents related to the process by which OFAC reviews applications from potential licensees; and
- c) Documents related to the criteria that OFAC uses to determine whether to grant such licenses.

A copy of Plaintiff's FOIA request to OFAC is attached as Exhibit A.

14. OFAC acknowledged receipt of Plaintiff's FOIA request on June 3, 2016. A copy of OFAC's June 3, 2016 acknowledgement letter is attached hereto as Exhibit B.

15. OFAC's June 3, 2016 acknowledgement letter did not state whether OFAC would comply with the request, whether responsive records existed, or whether the requested records were exempt from production under FOIA. Rather, it simply provided a tracking number for Plaintiff's FOIA request. *See* Ex. B.

16. Plaintiff made numerous follow-up inquiries with OFAC regarding Plaintiff's FOIA request, often receiving only boilerplate responses that the request was pending, if any response was received at all.

17. On December 2, 2016, Plaintiff sent a letter to John Smith, the Acting Director of OFAC, requesting that OFAC promptly produce the documents requested by Plaintiff. A copy of Plaintiff's December 2, 2016 letter is attached as Exhibit C.

18. On January 11, 2017, Plaintiff had a teleconference with representatives from OFAC regarding Plaintiff's FOIA request. OFAC's representatives informed Plaintiff that it had no responsive documents. OFAC represented that it had no formal procedures for accepting, reviewing, or adjudicating license requests and that there were no standard or criteria by which license requests are evaluated.

19. On January 12, 2017, OFAC sent Plaintiff a letter, which formally notified Plaintiff that OFAC contends that there are no documents responsive to Plaintiff's FOIA request. A copy of OFAC's January 12, 2017 denial letter is attached hereto as Exhibit D.

20. On February 3, 2017, Plaintiff submitted an appeal under FOIA of OFAC's determination that it had no documents. A copy of Plaintiff's February 3, 2017 appeal letter is attached hereto as Exhibit E.

21. OFAC acknowledged receipt of Plaintiff's FOIA appeal on February 17, 2017 and stated that it was received that day. A copy of OFAC's February 17, 2017 acknowledgement letter is attached hereto as Exhibit F.

22. OFAC's February 17, 2017 acknowledgement letter did not state whether OFAC's claim of having no responsive documents was affirmed or overruled. *See* Ex. F.

23. On March 24, 2017, Plaintiff received a letter from OFAC dated March 20, 2017 that denied Plaintiff's appeal. A copy of Plaintiff's March 20, 2017 letter is attached hereto as Exhibit G.

24. In that letter, OFAC's Deputy Director, Andrea Gacki, stated, "I have determined that OFAC conducted a search for responsive records and properly issued a response to you indicating that it has no responsive records." *See* Ex. G.

25. The fact that OFAC could not locate any documents relating to its procedures for granting special licenses in the Republic of Cuba demonstrates that its search for responsive documents was wholly inadequate. For example, a quick visit to OFAC's official webpage reveals an entire "Frequently Asked Questions" section regarding the procedures for obtaining a license. *See* https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_general.aspx#licenses. A copy of that Frequently Asked Questions page is attached as Exhibit H.

COUNT I
(Violation of FOIA)

26. Plaintiff re-alleges paragraphs 1 through 25 as if fully stated herein.

27. OFAC has violated and continues to violate FOIA by:

- a. failing to make a good faith effort to conduct a search for the requested records using methods which could reasonably be expected to produce those records; and
- b. failing to provide Plaintiff with responsive records to Plaintiff's FOIA request within a reasonable amount of time.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to make a good faith effort to

conduct a search for the requested records; (3) order Defendant to produce by a date certain any and all non-exempt records responsive to Plaintiff's FOIA request and a Vaughn Index of responsive records subject to a claim of exemption; (4) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests; (5) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (6) grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 3, 2017

Respectfully submitted,

COZEN O'CONNOR

By: Thomas A. Leonard
Hayes A. Hunt, Esq. (Pa. ID 80802)
Brian Kint, Esq. (Pa. ID 311324)
Thomas A. Leonard, Esq. (Pa. ID 317121)
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103
(215) 665-2000
(215) 665-2013 (fax)
HHunt@cozen.com
BKint@cozen.com
TLeonard@cozen.com

Counsel for Plaintiff

Exhibit A



January 29, 2016

VIA U.S. MAIL

Thomas A. Leonard

Direct Phone 215-665-7244
Direct Fax 215-701-2048
tleondrd@cozen.com

FOIA Request
Department of the Treasury
Washington, D.C. 20220

Re: Office of Foreign Assets Control Freedom of Information Act Request

Dear Sir/Madam:

Pursuant to the Freedom of Information Act ("FOIA"), I write to request certain records from the Food and Drug Administration. Please contact me if you have any trouble identifying these documents.

Please produce all documents related to the Office of Foreign Asset Control's ("OFAC") procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E, including but not limited to:

- a) Documents related to the creation of these procedures;
- b) Documents related to the process by which OFAC reviews applications from potential licensees; and
- c) Documents related to the criteria that OFAC uses to determine whether to grant such licenses;

We request that your agency certify the records as being authentic so that they may be submitted to a court. We are willing to pay fees; however, we ask that you seek our authorization before incurring fees over \$250. You may send the records in an electronic format. Thank you for your anticipated assistance.

Sincerely,

COZEN O'CONNOR

A handwritten signature in cursive script that reads 'Thomas A. Leonard'.

By: Thomas A. Leonard

cc: Rene Palamino, Esquire (*via email*)
Jorge C. Borron, Esquire (*via email*)
Hayes Hunt, Esquire (*via email*)

Exhibit B



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 3, 2016

RE: 2016-06-030

Mr. Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Dear Mr. Leonard:

This letter acknowledges the receipt of your Freedom of Information Act (FOIA) request submitted to the U.S. Department of the Treasury, dated January 29, 2016. You have requested "all documents related to the Office of Foreign Asset Control's ("OFAC") produced for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E".

Your request has been assigned to the Office of Foreign Assets Control (OFAC). OFAC will contact you directly concerning your request. Your request may require further submissions and/or justifications in order to be processed.

When inquiring about your request, please refer to identification number above and contact the OFAC FOIA Requester Service Center at 202-622-2500, option 3.

Sincerely,

Cawana Pearson

Cawana Pearson
FOIA Case Manager
U.S. Department of the Treasury

Exhibit C



December 2, 2016

VIA CERTIFIED MAIL

Thomas A. Leonard

Direct Phone 215-665-7244
Direct Fax 215-701-2048
tleonard@cozen.com

The Honorable John E. Smith
Acting Director
Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: OFAC FOIA Request # 2016-06-030

Dear Director Smith:

I write regarding the above-referenced Freedom of Information Act ("FOIA") request sent to the Office of Foreign Assets Control ("OFAC"). This request was originally submitted on January 29, 2016. Our office did not receive a response from the Department of the Treasury until June 3, 2016. To date, despite numerous requests for updates, OFAC has failed to produce any responsive documents. Moreover, OFAC has failed to provide any information related to the search beyond stating that OFAC was processing the request. Enclosed for your reference is our FOIA request and the response received from the Department of the Treasury.

I respectfully ask that OFAC promptly produce the documents responsive to this FOIA Request. We reserve all rights and remedies related to OFAC's failure to respond to this Request in a timely manner. Thank you for your anticipated cooperation.

Very truly yours,

COZEN O'CONNOR

A handwritten signature in cursive script that reads 'Thomas A. Leonard'.

By: Thomas A. Leonard

TAL
Enclosures

cc: Milagros Maria Suarez
Hayes A. Hunt, Esq.
Brian A. Kint, Esq.



January 29, 2016

VIA U.S. MAIL

Thomas A. Leonard

Direct Phone 215-665-7244
Direct Fax 215-701-2048
tleondrd@cozen.com

FOIA Request
Department of the Treasury
Washington, D.C. 20220

Re: Office of Foreign Assets Control Freedom of Information Act Request

Dear Sir/Madam:

Pursuant to the Freedom of Information Act ("FOIA"), I write to request certain records from the Food and Drug Administration. Please contact me if you have any trouble identifying these documents.

Please produce all documents related to the Office of Foreign Asset Control's ("OFAC") procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E, including but not limited to:

- a) Documents related to the creation of these procedures;
- b) Documents related to the process by which OFAC reviews applications from potential licensees; and
- c) Documents related to the criteria that OFAC uses to determine whether to grant such licenses;

We request that your agency certify the records as being authentic so that they may be submitted to a court. We are willing to pay fees; however, we ask that you seek our authorization before incurring fees over \$250. You may send the records in an electronic format. Thank you for your anticipated assistance.

Sincerely,

COZEN O'CONNOR

A handwritten signature in cursive script that reads 'Thomas A. Leonard'.

By: Thomas A. Leonard

cc: Rene Palamino, Esquire (*via email*)
Jorge C. Borron, Esquire (*via email*)
Hayes Hunt, Esquire (*via email*)



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

June 3, 2016

RE: 2016-06-030

Mr. Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Dear Mr. Leonard:

This letter acknowledges the receipt of your Freedom of Information Act (FOIA) request submitted to the U.S. Department of the Treasury, dated January 29, 2016. You have requested "all documents related to the Office of Foreign Asset Control's ("OFAC") produced for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E".

Your request has been assigned to the Office of Foreign Assets Control (OFAC). OFAC will contact you directly concerning your request. Your request may require further submissions and/or justifications in order to be processed.

When inquiring about your request, please refer to identification number above and contact the OFAC FOIA Requester Service Center at 202-622-2500, option 3.

Sincerely,

Cawana Pearson

Cawana Pearson
FOIA Case Manager
U.S. Department of the Treasury

Exhibit D



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

January 12, 2017

FOIA No. 2016-06-030
OASIS No. 897539

Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Via electronic mail: tleonard@cozen.com

Dear Mr. Leonard:

This is our final response to your January 29, 2016 FOIA request to the Department of the Treasury seeking all documents related to the Office of Foreign Assets Control (OFAC) procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E. Treasury referred to OFAC for processing on June 3, 2016.

In a conference call yesterday, January 11, 2017, OFAC's Assistant Director, Licensing Division, informed you that the Licensing Division has no standard procedures for granting licenses to persons and companies to conduct business in Cuba or elsewhere; rather, Licensing makes its decisions to grant or deny licenses on a case-by-case basis. We at times receive guidance from the U. S. Department of State related to national security policy concerns. For additional information, we referred you to OFAC regulations at 31 C.F.R. § 501.801, where the procedures for requesting an OFAC license are set forth. Copies of Treasury and FOIA regulations are available at www.treasury.gov/foia.

In the course of our conversation, we established that you are seeking the information about OFAC's licensing procedures to better address a certified claim and suggested that the State Department might be better able to assist you with your inquiry.

Because OFAC has no standard procedures for granting licenses, OFAC has no records responsive to your request.

You may appeal this decision in writing within 90 days after the date of this letter to the Freedom of Information Act Appeal, Disclosure Services (DO), Department of the Treasury, Washington, DC 20220. The deciding official for OFAC appeals is the Director of OFAC. Please include with your letter of appeal a copy of this response letter. Please reference FOIA number 2016-06-030 in all future correspondence.

Mr. Leonard
Page 2

You may also seek dispute resolution services from our Treasury FOIA Public Liaison by contacting Ryan Law, Director, FOIA and Transparency at 202-622-8098 or treasfoia@treasury.gov.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448. Enclosed are information sheets pertaining to the FOIA exemptions and your right to administrative appeal.

If you have any questions regarding this matter, you may send an email to our office at OFACFOIAOffice@treasury.gov or call our FOIA Requester Service Center at (202) 622-2500, option 3. Please reference FOIA No. 2013-11-066 in any future correspondence.

Sincerely,

**Marshall
Fields**

Digitally signed by Marshall Fields
DN: c=US, o=U.S. Government,
ou=Department of the Treasury,
ou=Departmental Offices,
ou=People, serialNumber=510986,
cn=Marshall Fields
Date: 2017.01.12 11:17:17 -05'00'

Marshall H. Fields, Jr.
Assistant Director
Information Disclosure and Records Management
Office of Resource Management
Office of Foreign Assets Control

Enclosure:
Administrative Appeal and Dispute Resolution

ADMINISTRATIVE APPEAL AND DISPUTE RESOLUTION SHEET

ADMINISTRATIVE APPEAL RIGHTS

You may file an appeal with the Department of the Treasury when:

- Access to records has been denied in part or in whole;
- There has been an adverse determination of your requester category;
- Your request for fee waiver or reduction has been denied;
- It has been determined that no responsive records exist; or
- Your request for expedited processing has been denied.

Your appeal, other than an appeal of a denial for expedited processing, must be submitted within 90 days after (1) the date of the initial determination, or (2) the date of the letter transmitting the last records released, whichever is later, except in the case of a denial of expedited processing. An appeal of a denial for expedited processing must be made within 10 days of the date of the initial determination to deny expedited processing. The appeal must be in writing, signed by you or your representative, and contain the following information:

- Your name and address;
- Date of your initial request;
- Date of the letter denying your request;
- Description of why you believe the initial determination was in error; and
- The FOIA/PA number assigned to your request.

Please mail your appeal to: Freedom of Information Act Appeal
Disclosure Services, DO
Department of the Treasury
Washington, D.C. 20220

The deciding official for OFAC appeals is the Director, Office of Foreign Assets Control.

DISPUTE RESOLUTION SERVICES

Available through:

1. The Treasury, Department Offices' FOIA Public Liaison, by contacting Ryan Law, Director, FOIA and Transparency at 202-622-8098 or treasfoia@treasury.gov.
2. The Office of Government Information Services (OGIS) by emailing them at ogis@nara.gov or calling them at 1-877-684-6448.

Exhibit E



February 3, 2017

VIA FIRST CLASS MAIL

Thomas A. Leonard

Direct Phone 215-665-7244
Direct Fax 215-701-2048
tleonard@cozen.com

Freedom of Information Act Appeal
Disclosure Services (DO)
U.S. Department of the Treasury
Washington, D.C. 20220

Re: FOIA No. 2016-06-030

Dear Sir/Madam:

This is an appeal under the Freedom of Information Act ("FOIA") for the above-referenced FOIA request pursuant to 5 U.S.C. § 552(a)(6).

On January 29, 2016, we requested documents related to the Office of Foreign Asset Control's ("OFAC") procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E, including but not limited to:

- a) Documents related to the creation of these procedures;
- b) Documents related to the process by which OFAC reviews applications from potential licensees; and
- c) Documents related to the criteria that OFAC uses to determine whether to grant such licenses.

On January 12, 2017, we received a denial of our request. A copy of our FOIA request and the OFAC determination letter that is the subject of this appeal is also attached herein. In general, OFAC's denial of records was based on the assertion that "OFAC has no standard procedures for granting licenses[.]"

We appeal the decision because the alleged lack of procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba is baffling and incredulous. The United States has maintained a trade embargo on Cuba for decades, which is still the law of the land despite the recent attempts at a rapprochement between the two countries. It is hard to believe that OFAC does not have any procedures to determine who is eligible for these licenses and to ensure that individual licenses do not run afoul of the embargo.

Freedom of Information Act Appeal
February 3, 2017
Page 2

Thank you for your consideration of this appeal. Please contact me if you have any questions or wish to discuss any aspect of this appeal.

Very truly yours,

COZEN O'CONNOR

A handwritten signature in cursive script that reads "Thomas A. Leonard".

By: Thomas A. Leonard

TAL
Enclosures

cc: Hayes A. Hunt, Esquire
Brian Kint, Esquire
Milagros Del Pino Suarez



January 29, 2016

VIA U.S. MAIL

Thomas A. Leonard

Direct Phone 215-665-7244

Direct Fax 215-701-2048

tleonard@cozen.com

FOIA Request
Department of the Treasury
Washington, D.C. 20220

Re: Office of Foreign Assets Control Freedom of Information Act Request

Dear Sir/Madam:

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We request that your agency certify the records as being authentic so that they may be submitted to a court. We are willing to pay fees; however, we ask that you seek our authorization before incurring fees over \$250. You may send the records in an electronic format. Thank you for your anticipated assistance.

Sincerely,

COZEN O'CONNOR

A handwritten signature in cursive script that reads "Thomas A. Leonard".

By: Thomas A. Leonard

cc: Rene Palamino, Esquire (*via email*)
Jorge C. Borron, Esquire (*via email*)
Hayes Hunt, Esquire (*via email*)



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

January 12, 2017

FOIA No. 2016-06-030
OASIS No. 897539

Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street
Philadelphia, PA 19103

Via electronic mail: tleonard@cozen.com

Dear Mr. Leonard:

This is our final response to your January 29, 2016 FOIA request to the Department of the Treasury seeking all documents related to the Office of Foreign Assets Control (OFAC) procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E. Treasury referred to OFAC for processing on June 3, 2016.

In a conference call yesterday, January 11, 2017, OFAC's Assistant Director, Licensing Division, informed you that the Licensing Division has no standard procedures for granting licenses to persons and companies to conduct business in Cuba or elsewhere; rather, Licensing makes its decisions to grant or deny licenses on a case-by-case basis. We at times receive guidance from the U. S. Department of State related to national security policy concerns. For additional information, we referred you to OFAC regulations at 31 C.F.R. § 501.801, where the procedures for requesting an OFAC license are set forth. Copies of Treasury and FOIA regulations are available at www.treasury.gov/foia.

In the course of our conversation, we established that you are seeking the information about OFAC's licensing procedures to better address a certified claim and suggested that the State Department might be better able to assist you with your inquiry.

Because OFAC has no standard procedures for granting licenses, OFAC has no records responsive to your request.

You may appeal this decision in writing within 90 days after the date of this letter to the Freedom of Information Act Appeal, Disclosure Services (DO), Department of the Treasury, Washington, DC 20220. The deciding official for OFAC appeals is the Director of OFAC. Please include with your letter of appeal a copy of this response letter. Please reference FOIA number 2016-06-030 in all future correspondence.

Mr. Leonard
Page 2

You may also seek dispute resolution services from our Treasury FOIA Public Liaison by contacting Ryan Law, Director, FOIA and Transparency at 202-622-8098 or treasfoia@treasury.gov.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448. Enclosed are information sheets pertaining to the FOIA exemptions and your right to administrative appeal.

If you have any questions regarding this matter, you may send an email to our office at OFACFOIAOffice@treasury.gov or call our FOIA Requester Service Center at (202) 622-2500, option 3. Please reference FOIA No. 2013-11-066 in any future correspondence.

Sincerely,

**Marshall
Fields**

Digitally signed by Marshall Fields
DN: c=US, o=U.S. Government,
ou=Department of the Treasury,
ou=Departmental Offices,
ou=People, serialNumber=510986,
cn=Marshall Fields
Date: 2017.01.12 11:17:17 -05'00'

Marshall H. Fields, Jr.
Assistant Director
Information Disclosure and Records Management
Office of Resource Management
Office of Foreign Assets Control

Enclosure:
Administrative Appeal and Dispute Resolution

Exhibit F



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

February 17, 2017

RE: 2016-06-030A

Mr. Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street, Suite 2800
Philadelphia, PA 19103

Dear Mr. Leonard:

This concerns your Freedom of Information Act (FOIA) appeal, dated February 3, 2017, which was received in this office on February 17, 2017. You are appealing the no records response by the Office of Foreign Assets Control.

Your appeal has been directed to the Director of Foreign Assets Control (OFAC). Every effort will be made to provide you with a timely response.

Further inquiries concerning your appeal should make reference to the identification number at the top of this letter and should be either faxed to 202/622-3895 or mailed to:

Freedom of Information Appeal
FOIA and Transparency
Privacy, Transparency, and Records
Department of the Treasury
Washington, DC 20220

Sincerely,

Cawana Pearson

Digitally signed by CAWANA PEARSON
DN: cn=CAWANA PEARSON, o=FOIA,
ou=Privacy Transparency and Records,
email=Cawana.pearson@treasury.gov, c=US
Date: 2017.02.17 14:32:15 -0500

Cawana Pearson
FOIA Case Manager, FOIA and Transparency

Exhibit G



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

MAR 20 2017

Mr. Thomas A. Leonard
Cozen O'Connor
One Liberty Place
1650 Market Street
Suite 2800
Philadelphia, PA 19103

RE: FOIA Appeal 2016-06-30A

Dear Mr. Leonard:

This responds to your Freedom of Information Act ("FOIA") appeal dated February 3, 2017, which the Department of the Treasury received on February 17, 2017, seeking reconsideration of the determination by the Office of Foreign Assets Control ("OFAC") that it possesses no records responsive to your January 29, 2016 FOIA request.

Your January 29, 2016 FOIA request sought all documents related to OFAC's procedures for granting licenses to persons and companies to conduct business in the Republic of Cuba pursuant to 31 C.F.R. Part 515, Subpart E. I have determined that OFAC conducted a search for responsive records and properly issued a response to you indicating that it has no responsive records. Accordingly, I deny your appeal.

Judicial review of my decision is available in the district court of the United States in the district in which you reside or have a principal place of business, in which the agency records are situated, or in the District of Columbia, in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Andrea Gacki
Deputy Director
Office of Foreign Assets Control

Exhibit H

This is a PRINT PREVIEW window.

Chrome users please right click to print. Other browser users may use the top menu functions to print this content.

OFAC Licenses

[Print this topic](#)

General Questions Regarding OFAC Licenses and Licensing Procedures ([Print](#))

74. What is a license?

A license is an authorization from OFAC to engage in a transaction that otherwise would be prohibited. There are two types of licenses: general licenses and specific licenses.

A general license authorizes a particular type of transaction for a class of persons without the need to apply for a license.

A specific license is a written document issued by OFAC to a particular person or entity, authorizing a particular transaction in response to a written license application.

Persons engaging in transactions pursuant to general or specific licenses must make sure that all conditions of the licenses are strictly observed.

OFAC's regulations may contain statements of OFAC's specific licensing policy with respect to particular types of transactions. [06-16-06]

75. Do I have to fill out a particular form to get a license to engage in a transaction?

Most license applications do not have to be submitted on a particular form. However, it is essential to include in the request all necessary information as required in the application guidelines or the regulations pertaining to the particular embargo program. When applying for a license, provide a detailed description of the proposed transaction, including the names and addresses of any individuals/companies involved. The mailing address for license applications is:

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attn: Licensing Division

In order to apply for a specific license to release blocked funds, you are encouraged to file an electronic

application to have blocked funds released by visiting the following link:
<http://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx>

You may also submit an [application for the release of blocked funds](#) which is available on OFAC's website under "Forms." You should print this form, complete the required information, attach payment instructions, and mail it to the address listed above.

Depending upon the transaction, there may be specific guidance available on OFAC's website under relevant "Guidance on Licensing policy" on OFAC's various [sanctions program web pages](#). [10-08-13]

76. Can I appeal a denial of my license application?

A denial by OFAC of a license application constitutes final agency action. The regulations do not provide for a formal process of appeal. However, OFAC will reconsider its determinations for good cause, for example, where the applicant can demonstrate changed circumstances or submit additional relevant information not previously made available to OFAC. [09-10-02]

77. How can I find out the status of my pending license application?

OFAC will notify applicants in writing as soon as a determination has been made on their application. The length of time for determinations to be reached will vary depending on the complexity of the transactions under consideration, the scope and detail of interagency coordination, and the volume of similar applications awaiting consideration. Applicants are encouraged to wait at least two weeks before telephonically contacting the Licensing Division at (202) 622-2480 to inquire about the status of their application. Callers can use OFAC's automated license application status hotline (accessible through the 202-622-2480 number) to check on the status of their application. [10-08-13]

78. What agencies other than Treasury review OFAC license applications and what are the roles of these other agencies?

Many of OFAC's licensing determinations are guided by U.S. foreign policy and national security concerns. Numerous issues often must be coordinated with the U.S. Department of State and other government agencies, such as the U.S. Department of Commerce. Please note that the need to comply with other provisions of 31 C.F.R. chapter V, and with other applicable provisions of law, including any aviation, financial, or trade requirements of agencies other than the Department of Treasury's Office of Foreign Assets Control. Such requirements include the Export Administration Regulations, 15 C.F.R. Parts 730 et seq., administered by the Department of Commerce, and the International Traffic in Arms Regulations, 22 C.F.R. Parts 120-130, administered by the Department of State. [06-16-06]

51. How do I apply for a license to get my money unblocked?

With respect to blocked funds transfers, you are encouraged to file an electronic application to have blocked funds released by visiting the following link: <http://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx>

You may also submit an application for the release of blocked funds which is available on OFAC's website under "Forms." You should print this form, complete the required information, attach payment instructions, and mail it to:

Office of Foreign Assets Control
U.S. Department of the Treasury
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attn: Licensing Division

It is extremely important that the underlying transaction be described in detail and copies of supporting documentation be included in the package. [10-08-13]

58. What are the chances that my application will be approved?

Each application is reviewed on a case-by-case basis and often requires interagency consultation. Although we cannot predict how long this review might take, following existing application guidelines will help to expedite your determination. [09-10-02]

59. Do I need a registration number or license to donate goods?

Most OFAC sanctions programs provide exemptions to their prohibitions for certain donated goods, such as articles to relieve human suffering. This is not the case for all programs, however. You should refer to the legal section of OFAC's website for the regulations applicable to the specific target or target country of your donation. [09-10-02]

Questions Regarding Licenses Authorizing Exports of Agricultural Commodities, Medicine, and Medical Devices to Iran and Sudan Pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) ([Print](#))

97. What format options are permitted for submitting license applications pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA)?

OFAC permits two format options for submitting TSRA license applications: online or hard-copy. Applications submitted via mail must be accompanied by a cover letter that includes some essential information: the purpose of the application and the applicant's full contact information. If either the cover letter or the pertinent information is missing, the application is considered incomplete and risks delay or rejection. Effective January 17, 2017, a specific license is not required to export or reexport agricultural commodities, medicines, or medical devices to Sudan, as such transactions are generally

licensed pursuant to 31 C.F.R. § 538.540. [01-13-2017]

98. How should I present my TSRA license application?

Applicants should clearly enumerate in a table format all pertinent information related to their proposed transactions, including: a) Full names and addresses of all parties involved in the transactions and their roles, including financial institutions and any Iranian broker (identify company principals), purchasing agent (identify company principals), end-user(s) (full contact name), or other participants involved in the purchase of the proposed export items; and b) If applicable, the commodity classification numbers that are associated with the proposed export items. Effective January 17, 2017, a specific license is not required to export or reexport agricultural commodities, medicines, or medical devices to Sudan, as such transactions are generally licensed pursuant to 31 C.F.R. § 538.540. [01-13-2017]

100. If I am submitting multiple TSRA license applications at the same time, should I send them under a single cover letter?

OFAC requires applicants to submit each individual application separately; regardless of if you are completing the online application or sending in a hard copy application through the mail. If an applicant is submitting a hard copy, each application should be in a separate envelope, accompanied by a separate cover letter. Applicants should not submit multiple applications in a single envelope with a single cover letter. If you submit applications in that manner, you may encounter some delay in the processing of your applications. Therefore, in order to prevent such delay, submit one application with one cover letter per envelope. [03-16-2015]

101. Should I send a sample of the proposed export product as an attachment to my TSRA license application?

No. OFAC does not require samples of proposed export products to be sent as attachments to any application. OFAC does not need to examine samples of the actual product in making its final determination. Therefore, please do not include any samples with your application. [06-14-2007]

Specific to Iran

117. I hold a specific license to sell agricultural goods, medicine, or medical devices to Iran. The general license at section 560.532(a)(4) of the Iranian Transactions and Sanctions Regulations (ITSR) authorizes me to accept a letter of credit issued by an Iranian financial institution whose property and interests in property are blocked solely pursuant to the ITSR (i.e., an Iranian financial institution that is not listed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List)). The general license, however, also states that a U.S. financial institution may not advise, confirm, or otherwise deal in that credit. How am I supposed to know if/when a letter of credit has been issued for my sale and how do I get paid? My bank accounts are

all at U.S. financial institutions.

This language is in the general license at section 560.532(a)(4) of the ITSR because it is contrary to U.S. foreign policy to allow U.S. financial institutions to maintain active correspondent relationships with Iranian banks. The language, however, does not preclude a U.S. financial institution or an entity owned or controlled by a United States Person and established or maintained outside the United States (“U.S.-owned or -controlled foreign entity”) from being a second advising bank (i.e. receiving and passing forward advice from a third-country bank that the credit has been issued), nor does it preclude the U.S. financial institution or a U.S.-owned or -controlled foreign entity from receiving funds in payment for the licensed export from a third-country bank. You should also note that the Iranian Transactions and Sanctions Regulations authorize U.S. financial institutions and U.S.-owned or -controlled foreign entities to directly advise or confirm letters of credit issued by third-country banks for authorized shipments. The third-country bank may not be an overseas branch of a U.S. financial institution, a U.S.-owned or -controlled foreign entity, an Iranian financial institution, or the Government of Iran, unless otherwise authorized by OFAC. In none of these circumstances, however, may there be any direct or indirect involvement of entities the property and interests in property of which have been blocked under any of the programs administered by OFAC, except for persons whose property and interests in property are blocked solely pursuant to Executive Order 13599 and the Iranian Transactions and Sanctions Regulations. [01-13-2017]

Specific to Sudan

500. I am an exporter of agricultural commodities, medicine, or medical devices to Sudan and have previously obtained specific licenses from OFAC for such exports. Do I still need to apply for a specific license from OFAC for exports or reexports of such items to Sudan or renew my existing specific licenses?

No. The general license authorizing transactions involving Sudan, 31 C.F.R. § 538.540 (the “2017 Sudan Rule”), authorizes all transactions prohibited by the Sudanese Sanctions Regulations, 31 C.F.R. part 538, and, therefore, effective January 17, 2017, U.S. persons are not required to renew or obtain a new specific license from OFAC to export or reexport agricultural commodities, medicine, or medical devices to Sudan. Further, pursuant to 31 C.F.R. § 501.801, it is the policy of OFAC not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable.

However, pursuant to the 2017 Sudan Rule, which implements certain requirements of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. §§ 7201 – 7211), as amended, any exports or reexports of agricultural commodities, medicine, or medical devices to the Government of Sudan, to any individual or entity in Sudan, or to any person in a third country purchasing specifically for resale to any of the foregoing, must be shipped within 12 months of the date of the signing of the contract for the relevant export or reexport of such items to Sudan. [01-13-2017]
