

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

RICHARD D. LIEBERMAN)
 McCarthy, Sweeney, & Harkaway, PC)
 2175 K Street, N.W.)
 Suite 600)
 Washington, DC 20037)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES DEPARTMENT OF)
 VETERANS AFFAIRS)
 810 Vermont Ave., N.W.)
 Washington, D.C. 20420)
)
 Defendant.)

Civil Action No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, to order the production of agency records relating to: a) invoices and orders placed with M-PAK, Inc. from November 1, 2006 to June 30, 2007 for the Dallas, Texas Consolidated Mail Outpatient Pharmacy (“CMOP”); and b) all invoices and orders from all other vendors other than M-PAK, Inc. for boxes, cushioned shipping bags, insulated coolers, and gel packs from November 1, 2006 to June 30, 2007 for prescription mailing at the Dallas, Texas CMOP. The Freedom of Information Act Request is identified by our reference number MSH-2007-9.
2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff, Richard D. Lieberman is a partner of the firm McCarthy, Sweeney and Harkaway, PC. Mr. Lieberman is the requester of the agency records that have been improperly withheld.
4. Defendant, The Department of Veterans Affairs (“VA”) is an agency of the United States, and has possession of and control over the records that plaintiff seeks.
5. By letter sent by facsimile and certified mail on July 3, 2007 to Mr. Clay Johnson, the Freedom of Information Officer of the VA, Plaintiff requested copies of: a) invoices and orders placed with M-PAK, Inc. from November 1, 2006 to June 30, 2007 for the Dallas, Texas Consolidated Mail Outpatient Pharmacy (“CMOP”); and b) all invoices and orders from all other vendors other than M-PAK, Inc. for boxes, cushioned shipping bags, insulated coolers, and gel packs from November 1, 2006 to June 30, 2007 for prescription mailing at the Dallas, Texas CMOP.
6. Neither a decision, nor the documents have been received in response.
7. On August 8, 2007, pursuant to 5 U.S.C. § 552, Plaintiff appealed the deemed denial of his FOIA request to the General Counsel of the VA to make a determination by either producing the requested documents or issuing a denial. 5 U.S.C. § 552(a)(6)(A)(ii) states that an agency is required to make a determination on a FOIA Appeal within 20 days, excepting weekends and public holidays. The VA failed to respond, providing neither a decision, nor the documents within the statutory 20 days. The VA merely advised Plaintiff in a August 15, 2007 letter that “[o]nce we receive the necessary information and/or documents from the VA facility in question, we will advise you as to when we expect to issue our final decision to you.”
8. Plaintiff has a statutory right to the records that he seeks.

WHEREFORE, Plaintiff prays that this Court:

- (1) Declare that Defendant's refusal to disclose the records requested by Plaintiff is unlawful;
- (2) Order Defendant to make the requested records available to Plaintiff;
- (3) Award Plaintiff his costs and reasonable attorneys fees in this action; and
- (4) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

By _____
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Attorney for Plaintiff

Dated: September 10, 2007