

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

CENTER FOR PUBLIC INTEGRITY
910 17th Street, N.W., 7th Floor
Washington, DC 20006-2606,

Plaintiff,

v.

U.S. DEPARTMENT OF COMMERCE
1401 Constitution Ave., N.W.
Washington, DC 20230 and

U.S. OFFICE OF GOVERNMENT ETHICS
1201 New York Ave., N.W., Suite 500
Washington, DC 20005,

Defendants.

Civil Action No. 17-2426
ECF

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff, the Center for Public Integrity (“the Center”), brings this action for declaratory and injunctive relief, alleging as follows:

Nature of Action

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, to compel the production of certain agency records.

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), 28 U.S.C. § 1331, and 28 U.S.C. § 2201(a).

3. Venue lies in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

Parties

4. Plaintiff, Center for Public Integrity, is a District of Columbia corporation, a tax-exempt public charity and a nonprofit, nonpartisan, non-advocacy, independent journalism organization based in Washington, D.C. The Center's mission is "[t]o serve democracy by revealing abuses of power, corruption and betrayal of public trust by powerful public and private institutions, using the tools of investigative journalism." "About The Center for Public Integrity," <http://www.publicintegrity.org/about>. Plaintiff is the requester of the withheld records.

5. Defendant U.S. Department of Commerce ("Commerce") is an agency of the United States. Defendant Commerce has possession of and control over records that Plaintiff seeks.

6. Defendant U.S. Office of Government Ethics ("OGE") is an agency of the United States. Defendant OGE has possession of and control over records that Plaintiff seeks.

Plaintiff's Freedom of Information Request to Commerce

7. On February 21, 2017, Plaintiff requested from Commerce:

Any records, documents, emails, questionnaires, memoranda or other correspondence or communications between David Maggi, chief of the ethics law and program division, or any of his employees, and Commerce Secretary nominee Wilbur Ross or any of his representatives, regardless of format, medium or physical characteristics and including electronic records and information. The request includes both in-agency and external communications. The likely date range of the records is Nov. 29, 2016 through the present.

Commerce assigned tracking number DOC-IOI-2017-000654 to this request.

8. On June 23, 2017, Commerce made a determination on Plaintiff's request, releasing in full 11 pages of responsive records and withholding 433 documents.

9. On September 21, 2017, Plaintiff appealed Commerce's determination, asking that Commerce produce all segregable non-exempt information from the withheld documents. Commerce assigned tracking number DOC-OS-2017-001900 to this appeal.

10. Defendant Commerce has not produced further records responsive to Plaintiff's request nor made a determination on Plaintiff's appeal.

11. More than twenty working days have passed since Defendant Commerce received Plaintiff's appeal. Plaintiff has therefore exhausted all applicable administrative remedies.

12. Plaintiff has a statutory right to the requested information, and there is no legal basis for Defendant Commerce's failure to make them available to Plaintiff.

Plaintiff's First Freedom of Information Request to OGE

13. On March 10, 2017, Plaintiff requested from OGE:

Any records, documents, emails, questionnaires, memoranda or other correspondence or communications regarding Commerce Secretary Wilbur Ross regarding his financial and ethics disclosures and potential conflicts of interest, regardless of format, medium or physical characteristics and including electronic records and information.

OGE granted expedited processing and assigned tracking number OGE FOIA FY 17-240 to this request.

14. As of July 28, 2017, OGE estimated that the date of completion for processing this request would be September 30, 2017. OGE's online tracking system now lists the estimated date of completion as January 12, 2018.

15. Defendant OGE has not produced records responsive to Plaintiff's request nor made a determination on Plaintiff's request.

16. More than twenty working days have passed since Defendant OGE received Plaintiff's request. Plaintiff has therefore exhausted all applicable administrative remedies.

17. Plaintiff has a statutory right to the requested records, and there is no legal basis for Defendant OGE's failure to make them available to Plaintiff.

Plaintiff's Second Freedom of Information Request to OGE

18. On June 14, 2017, Plaintiff requested from OGE:

Any records, documents, emails, questionnaires, memoranda or other correspondence or communications between OGE employees regarding Todd Ricketts, or from OGE employees to Todd Ricketts or any of his representatives, regardless of format, medium or physical characteristics and including electronic records and information. The request includes both in-agency and external communications.

OGE granted expedited processing and assigned tracking number OGE FOIA FY 17-365 to this request.

19. OGE's online tracking system now lists the estimated date of completion as December 22, 2017.

20. Defendant OGE has not produced records responsive to Plaintiff's request nor made a determination on Plaintiff's request.

21. More than twenty working days have passed since Defendant OGE received Plaintiff's request. Plaintiff has therefore exhausted all applicable administrative remedies.

22. Plaintiff has a statutory right to the requested records, and there is no legal basis for Defendant OGE's failure to make them available to Plaintiff.

Demand for Relief

WHEREFORE, Plaintiff requests that this Court:

1. Declare that Defendants' failure to disclose the records requested by Plaintiff is unlawful;
2. Order Defendants to make the requested records available to Plaintiff;
3. Award Plaintiff its costs and reasonable attorneys' fees in this action; and

4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/S/

Peter Newbatt Smith
D.C. Bar #458244
Center for Public Integrity
910 17th Street, N.W., 7th Floor
Washington, DC 20006-2606
202-481-1239
psmith@publicintegrity.org

Attorney for Plaintiff

November 9, 2017