

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

ALLIED PROGRESS,)	
1200 L Street NW, Suite 110/364)	
Washington, DC 20005)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 18-cv-1728
)	
OFFICE OF MANAGEMENT AND BUDGET,)	
725 17th Street NW)	
Washington, DC 20503)	
)	
and)	
)	
CONSUMER FINANCIAL PROTECTION)	
BUREAU,)	
1700 G Street NW)	
Washington, DC 20552)	
)	
<i>Defendants.</i>)	
)	

COMPLAINT

1. Plaintiff Allied Progress brings this action against the Office of Management and Budget and the Consumer Financial Protection Bureau under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1331, 2201, and 2202.

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

4. Because Defendants have failed to comply with the applicable time-limit provisions of the FOIA, Allied Progress is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to judicial action enjoining the agency from continuing to withhold agency records and ordering the production of agency records improperly withheld.

PARTIES

5. Plaintiff Allied Progress is a consumer watchdog organization that uses research, including FOIA requests, to hold federal government officials accountable for the undue influence of financial industry interests on government activities and decisions. Allied Progress is primarily engaged in disseminating information to the public and uses the information gathered from public records requests to educate the public through reports, press releases, and other media. Allied Progress makes information it gathers available on its public website. Allied Progress is located in Washington, D.C.

6. Defendant the Office of Management and Budget (OMB) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). OMB has possession, custody, and control of the records that Allied Progress seeks.

7. Defendant the Consumer Financial Protection Bureau (CFPB) is an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). CFPB has possession, custody, and control of the records that Allied Progress seeks.

STATEMENT OF FACTS

8. On Saturday June 16, 2018, the White House confirmed that OMB Associate Director Kathy Kraninger would be nominated to serve as director of CFPB. Shortly after this nomination was confirmed, Allied Progress sent three FOIA requests to OMB and one FOIA

request to CFPB, and each FOIA request sought expedited processing. The FOIA requests seek information that would shed light on Associate Director Kraninger's record during her service at OMB before the Senate decides whether to confirm Ms. Kraninger as Director of CFPB.

OMB Kraninger Background FOIA

9. On June 18, 2018, Allied Progress submitted a FOIA request to OMB seeking categories of records with the potential to shed light on OMB Associate Director Kathy Kraninger's background and her work at OMB. Specifically, the request sought:

- *All resumes, curricula vitae, and documents associated with Ms. Kraninger's hiring.*
- *All personnel records concerning Ms. Kraninger's employment with OMB, including performance reviews, disciplinary actions, warnings and/or reprimands, salary and benefits information, and any other information regarding Ms. Kraninger's job performance.*
- *All records documenting travel arrangements and expenses for Ms. Kraninger since she has been employed by OMB.*
 - *This should include all itineraries and receipts for travel expenses, including receipts for [] airfare, lodging, meals, rental vehicles, and per-diem expenses. This should also include all records of any payments made by OMB to Ms. Kraninger that fall outside the scope of her regular salary.*
- *All calendars or calendar entries between March 1, 2017, and the date this request is processed for Ms. Kraninger, including any calendars maintained on her behalf (e.g., by an administrative assistant.).*
 - *For calendar entries created in Outlook or similar programs, the document should be produced in "memo" form to include all invitees, notes, and attachments. However, please do not limit your search to Outlook calendars; we request the production of any calendar, whether it be paper o[r] electronic or on government-issued or personal devices, used to track or coordinate how Ms. Kraninger allocates her time on agency business.*

10. OMB acknowledged the OMB Kraninger Background FOIA on June 20, 2018 and assigned the request tracking number 2018-397. A copy of this request is attached hereto as Exhibit A and incorporated herein.

11. Allied Progress has received no further communication regarding this FOIA request.

Kraninger OMB Government Emails FOIA

12. Also on June 18, 2018, Allied Progress submitted a FOIA request to OMB seeking Associate Director Kraninger's email communications with a list of OMB and CFPB officials or containing specific search terms. Specifically, the request sought:

[A]ll emails sent by, sent to, or carbon copying ("CC") Ms. Kraninger during this time period that were sent by, sent to, or CC'ed any of the following employees of the Office of Management and Budget (OMB) and Consumer Financial Protection Bureau (CFPB):

- *Mick Mulvaney*
- *Eric Blankenstein*
- *Ann Conant*
- *John Czwartacki*
- *James Reilly Dolan*
- *Emma Doyle*
- *James Galkowski*
- *Sheila Greenwood*
- *Brian Johnson*
- *Halle Morgan*
- *Kirsten Sutton Mork*
- *Jonathan Slemrod*
- *Anthony Welcher*

Additionally, we request all emails sent by, sent to, or CC'ing Ms. Kraninger during this time period that include any of the following keywords or phrases:

- *Consumer Financial Protection Bureau*
- *CFPB*
- *Mulvaney*
- *Cordray*
- *Leandra English*

The request sought all records from March 1, 2017, to the date the request was processed. A copy of this request is attached hereto as Exhibit B and incorporated herein.

13. OMB acknowledged the Kraninger OMB Government Emails FOIA on June 20, 2018 and assigned the request tracking number 2018-398.

14. Allied Progress has received no further communication regarding this FOIA request.

Kraninger Industry Emails FOIA

15. Also on June 18, 2018, Allied Progress submitted a FOIA request to OMB seeking Associate Director Kraninger's email communications with a list of firms in the financial industry or containing specific search terms. Specifically, the request sought:

[A]ll emails sent by, sent to, or carbon copying ("CC") Ms. Kraninger during this time period that were sent by, sent to, or CC'ed representatives of any of the following organizations, as evidenced by their e-mail addresses or the inclusion of one of these entity names in their e-mail signatures:

- *Community Financial Services Association of America (CFSA) (@cfsaa.com)*
- *Online Lenders Alliance (OLA) (@onlinelendersalliance.org)*
- *American Financial Services Association (AFSA) (@afsaonline.org)*
- *Financial Service Centers of America (FiSCA) (@fisca.org)*
- *Consumer Credit Research Foundation (@creditresearch.org)*
- *US Consumer Coalition (@usconsumers.org)*
- *Protect America's Consumers (@protectconsumers.com)*
- *Advance America (@advanceamerica.net)*
- *Speedy Cash (@speedycash.com)*
- *QC Holdings, Inc./QuickCash (@qcholdings.com or @myquickcashloan.net)*
- *Moneytree, Inc. (@moneytreeinc.com)*
- *USA Cash Services (@usacashservices.com)*
- *Axcess Financial (@axcess-financial.com)*
- *Check 'n Go, Inc. (@checkngo.com)*
- *Check Into Cash, Inc. (@checkintocash.com)*
- *Jones Management Company (@jonesmanagement.com)*
- *Amscot Financial, Inc. (@amscot.com)*
- *Dollar Financial Group, Inc. (@dollarcashtree.com or @dfcglobalcorp.com)*

Additionally, we request all emails sent by, sent to, or CC'ing Ms. Kraninger during this time period that include any of the following keywords or phrases:

- *Payday*
- *Cash advance*
- *Short-term loan*
- *PHH Corp*
- *World Acceptance*

The request sought all records from March 1, 2017, to the date the request was processed. A copy of this request is attached hereto as Exhibit C and incorporated herein.

16. OMB acknowledged the Kraninger Industry Emails FOIA on June 20, 2018 and assigned the request tracking number 2018-399.

17. Allied Progress has received no further communication regarding this FOIA request.

Kraninger CFPB Emails FOIA

18. On June 19, 2018, Allied Progress submitted a FOIA request to CFPB seeking email correspondence from specified CFPB officials with OMB Associate Director Kraninger. Specifically, the request sought:

[A]ll emails sent by, sent to, or carbon copying ("CC") any of the listed individuals that were sent by, sent to, or CC'ed Office of Management and Budget (OMB) Associate Director Kathy Kraninger between and including March 1, 2017, and the date this request is processed. This should include all emails sent to or from any email address associated with Ms. Kraninger and should not be limited to her primary OMB email address.

The list of individuals was the following:

- *Mick Mulvaney*
- *Eric Blankenstein*
- *Ann Conant*
- *John Czwartacki*
- *James Reilly Dolan*
- *Emma Doyle*
- *James Galkowski*
- *Sheila Greenwood*
- *Brian Johnson*
- *Halle Morgan*
- *Kirsten Sutton Mork*
- *Jonathan Slemrod*
- *Anthony Welcher*

A copy of this request is attached hereto as Exhibit D and incorporated herein.

19. CFPB acknowledged the Kraninger CFPB Emails FOIA on June 19, 2018 and assigned the request tracking number #BCFP-2018-616-FOIA.

20. Allied Progress has received no further communication regarding this FOIA request.

Exhaustion of Administrative Remedies

21. Through Defendants' failure to make decisions regarding Allied Progress's requests for expedited processing of all the above FOIA requests within the time period required by law, Allied Progress has constructively exhausted its administrative remedies as to that issue and seeks immediate judicial review.

22. As of the date of this complaint, Defendants have failed to (a) notify Allied Progress of any determination regarding its FOIA requests, including the scope of any responsive records Defendants intend to produce or withhold and the reasons for any withholdings; or (b) produce the requested records or demonstrate that the requested records are lawfully exempt from production.

23. Through Defendants' failure to respond to Allied Progress's FOIA requests within the time period required by law, Allied Progress has constructively exhausted its administrative remedies and seeks immediate judicial review.

COUNT I
Violation of FOIA, 5 U.S.C. § 552
Failure to Grant Expedited Processing

24. Allied Progress repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

25. Allied Progress properly requested records within the possession, custody, and control of Defendants on an expedited basis.

26. Defendants are agencies subject to FOIA and must process FOIA requests on an expedited basis pursuant to the requirements of 5 U.S.C. § 552(a)(6)(E) and their own implementing regulations, 5 C.F.R. § 1303.10(d) and 12 C.F.R. § 1070.17.

27. The records sought by Allied Progress in all the requests submitted to Defendants concern matters about which there is an urgency to inform the public about actual or alleged Federal government activities, and Allied Progress is primarily engaged in disseminating information to the public.

28. Defendants failed to make a determination as to whether expedited processing was appropriate and notify Allied Progress of any such determination within ten days after the date of the request.

29. Defendants' failure to grant expedited processing of all of the above FOIA requests violates FOIA and Defendants' regulations.

30. Plaintiff Allied Progress is therefore entitled to injunctive and declaratory relief requiring Defendants to grant expedited processing of all four of the above FOIA requests.

COUNT II

Violation of FOIA, 5 U.S.C. § 552

Failure to Conduct Adequate Search for Responsive Records

31. Allied Progress repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

32. Allied Progress properly requested records within the possession, custody, and control of Defendants.

33. Defendants are agencies subject to FOIA and must therefore make reasonable efforts to search for requested records.

34. Defendants have failed to promptly review agency records for the purpose of locating those records that are responsive to Allied Progress's FOIA requests.

35. Allied Progress's failure to conduct an adequate search for responsive records violates FOIA.

36. Plaintiff Allied Progress is therefore entitled to injunctive and declaratory relief requiring Defendant to promptly make reasonable efforts to search for records responsive to Allied Progress's FOIA requests.

COUNT III
Violation of FOIA, 5 U.S.C. § 552
Wrongful Withholding of Non-Exempt Responsive Records

37. Allied Progress repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

38. Allied Progress properly requested records within the possession, custody, and control of Defendants.

39. Defendants are agencies subject to FOIA and must therefore release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials.

40. Defendants are wrongfully withholding non-exempt agency records requested by Allied Progress by failing to produce non-exempt records responsive to its FOIA requests.

41. Defendants are wrongfully withholding non-exempt agency records requested by Allied Progress by failing to segregate exempt information in otherwise non-exempt records responsive to Allied Progress's FOIA requests.

42. Defendants' failure to provide all non-exempt responsive records violates FOIA.

43. Plaintiff Allied Progress is therefore entitled to declaratory and injunctive relief requiring Defendants to promptly produce all non-exempt records responsive to its FOIA requests and provide indexes justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

WHEREFORE, Allied Progress respectfully requests the Court to:

- (1) Order Defendants to conduct a search or searches reasonably calculated to uncover all records responsive to Allied Progress's FOIA requests;
- (2) Order Defendants to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to Allied Progress's FOIA requests and indexes justifying the withholding of any responsive records withheld under claim of exemption;
- (3) Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Allied Progress's FOIA requests;
- (4) Award Allied Progress the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
- (5) Grant Allied Progress such other relief as the Court deems just and proper.

Dated: July 25, 2018

Respectfully submitted,

/s/ Daniel A. McGrath
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