

# Exhibit I

## Heins, Matthew

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**From:** Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>  
**Sent:** Wednesday, July 1, 2020 9:20 AM  
**To:** Heins, Matthew  
**Subject:** Re: FOIA request 012920207016

Hello Mr. Heinz:

I did have a conference call with the program office about these records. In short, they agreed and told me records would be forthcoming for my review. I will check today and let you if they've been electronically transmitted and update you accordingly.

Thanks for your patience.

Sent from my iPhone

> On Jun 30, 2020, at 5:29 PM, Heins, Matthew <MHeins@wc.com> wrote:

>

> Dear Hugh,

>

> Please see the attached correspondence.

>

> Sincerely,

> Matthew

>

> -----Original Message-----

> From: Heins, Matthew

> Sent: Tuesday, June 16, 2020 11:23 AM

> To: 'Gilmore, Hugh P. (CMS/OSORA)' <Hugh.Gilmore@cms.hhs.gov>

> Subject: RE: FOIA request 012920207016

>

> Hugh:

>

> Thank you for taking the time to speak with me this morning.

>

> When we spoke, I explained that your email correspondence does not clearly indicate whether counsel has fully rejected our request or whether the office intends to produce additional documents. You acknowledged that this is unclear, and offered to seek clarity on this question. Thank you for agreeing to do so.

>

> Thank you as well for agreeing to request additional information from HHS counsel concerning what exemption they are invoking as to each particular category of documents we have requested and why that exemption applies. As I stated on our call, we have explained on several occasions that non-deliberative documents and communications that were neither prepared in anticipation of litigation nor relayed to or by counsel (such as, in particular, documents and communications from 2013 and 2014 relating to CoOpportunity's participation in the solvency loan program) are not exempt from disclosure under Exemption 5, and there is no exemption that allows CMS to refuse disclosure simply because it is currently engaged in a semi-related lawsuit with someone else. Any clarity you can get from counsel that answers this point, especially as to the particular category of documents described above, would be much appreciated.

>

> As I said on our call, I would be happy to discuss this with HHS counsel directly if that would be easier for everyone. Please feel free to pass my name and contact information along, or to send me the name and contact information of someone I can speak with in counsel's office.

>

> I must again stress that this is time sensitive. This request was pending for several months before we received any response from CMS, and counsel's production of a small handful of documents from a public court docket, coupled with counsel's vague reference to an inapplicable exemption, has not moved the ball forward since our appeal was filed last month. I'm grateful for anything you can do to move things along expeditiously.

>

> I look forward to hearing from you.

>

> Sincerely,

> Matthew

>

>

> -----Original Message-----

> From: Heins, Matthew

> Sent: Tuesday, June 16, 2020 10:18 AM

> To: 'Gilmore, Hugh P. (CMS/OSORA)' <Hugh.Gilmore@cms.hhs.gov>

> Subject: RE: FOIA request 012920207016

>

> I am free now if you have time. I could also speak at 11. You may reach me at 210-861-9994.

>

> -----Original Message-----

> From: Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>

> Sent: Tuesday, June 16, 2020 10:17 AM

> To: Heins, Matthew <MHeins@wc.com>

> Subject: RE: FOIA request 012920207016

>

> What's a good time for you?

>

> -----Original Message-----

> From: Heins, Matthew [mailto:MHeins@wc.com]

> Sent: Tuesday, June 16, 2020 9:28 AM

> To: Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>

> Subject: RE: FOIA request 012920207016

>

> Thanks for your email. Do you have a minute today to speak by phone?

>

> From: "Gilmore, Hugh P. (CMS/OSORA)" <Hugh.Gilmore@cms.hhs.gov>

> Sent: Jun 16, 2020 9:02 AM

> To: "Heins, Matthew" <MHeins@wc.com>

> Subject: RE: FOIA request 012920207016

>

> Good morning Mr. Heins:

>

> I received an email from the program office about your request which was relayed from HHS counsel. The solvency and start up loans are an issue and refer to the Motion to Dismiss the Amended Complaint in Ommen.

>

> -----Original Message-----

> From: Heins, Matthew [mailto:MHeins@wc.com]

> Sent: Friday, June 12, 2020 12:11 PM

> To: Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>

> Subject: RE: FOIA request 012920207016

>

> Hello Hugh,

>

> Thanks very much for speaking with me this morning. I'm confirming in writing that we discussed the letter you sent our way, and that at this time, it is not CMS's position that this response is the full and complete response as to all information we have requested.

>

> Per our discussion, I am attaching the appeal letter we submitted to CMS after receiving our denial letter. In our appeal, we explained what you and I discussed on our call this morning: we are asking for documents and communications concerning CoOpportunity's solvency fund awards, CoOpportunity's requests to draw down solvency funds, and CMS's monitoring of CoOpportunity's solvency and liquidity in 2013 and 2014. These issues are entirely separate and distinct from the subjects at issue in the ongoing litigation between CMS and the liquidators of CoOpportunity Health, which is focused on whether CoOpportunity is entitled to funds under the 3Rs program.

>

> You mentioned that the office may again intend to invoke Exemption 5 because of that ongoing litigation. As we set forth in our appeal letter, it is our firm position that Exemption 5 does not apply to the information we are requesting. We do not seek attorney-client privileged information, and we do not seek deliberative process information. We expressly do not wish to see communications with counsel concerning that litigation (or any other), nor do we wish to see documents prepared in anticipation of that litigation (or any other). No privilege applies to the material we are requesting, so Exemption 5 plainly does not apply.

>

> I appreciate your time and effort, and I'm happy to discuss this further after you've had a chance to touch base with the office. If it would be helpful to schedule a call for sometime next week, please let me know and we can get something on the calendar.

>

> Sincerely,

> Matthew

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> -----Original Message-----

> From: Heins, Matthew

> Sent: Friday, June 12, 2020 10:00 AM

> To: 'Gilmore, Hugh P. (CMS/OSORA)' <Hugh.Gilmore@cms.hhs.gov>

> Subject: RE: FOIA request 012920207016

>

> Thanks for your response. I am available on my cell at 210-861-9994, anytime before 1:30pm.

>

> -Matthew

>

> -----Original Message-----

> From: Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>

> Sent: Friday, June 12, 2020 9:41 AM

> To: Heins, Matthew <MHeins@wc.com>

> Subject: RE: FOIA request 012920207016

>

> Hello Mr. Heins,

>

> I have a conference call at 11 a.m. what's a good time and number to reach you?

>

> -----Original Message-----

> From: Heins, Matthew [mailto:MHeins@wc.com]  
> Sent: Friday, June 12, 2020 9:32 AM  
> To: Gilmore, Hugh P. (CMS/OSORA) <Hugh.Gilmore@cms.hhs.gov>  
> Subject: RE: FOIA request 012920207016

>  
> Mr. Gilmore,  
>  
> I have a couple questions about this. Do you have a moment to speak by phone today?

>  
> Thanks,  
> Matthew

> \_\_\_\_\_  
> From: "Gilmore, Hugh P. (CMS/OSORA)" <Hugh.Gilmore@cms.hhs.gov>  
> Sent: Jun 12, 2020 9:22 AM  
> To: "Heins, Matthew" <MHeins@wc.com>  
> Subject: FOIA request 012920207016

>  
> Dear Mr. Heins:  
>  
> Attached is a response to your request for records in your request 012920207016.  
>  
> Thank you for your attention to this matter.

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> \_\_\_\_\_  
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> This message and any attachments are intended only for the addressee and may contain information that is privileged and confidential. If you have received this message in error, please do not read, use, copy, distribute, or disclose the contents of the message and any attachments. Instead, please delete the message and any attachments and notify the sender immediately. Thank you.

>  
> <2020.06.30 Letter from M. Heins to H. Gilmore.pdf>