

Caldwell, Jacqui

From: Herschaft, Randy [RHerschaft@██████████]
Sent: Wednesday, June 20, 2012 3:10 PM
To: Caldwell, Jacqui
Subject: FOIA and Expedited Treatment Request - Office of the U.S. Trade Representative

Thank you, Jacqueline,
Here is the corrected version.
Randy

Jacqueline B. Caldwell

FOIA Officer

1724 F Street, NW

Washington, DC 20508

(202) 395-3419 (Telephone)

(202) 395-9458 (Fax)

June 20, 2012

Re: FOIA and Expedited Treatment Request

Dear Ms. Caldwell,

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request on behalf of The Associated Press the following information: copies dating from Jan. 1, 2005 to present of correspondence between the Office of the U.S. Trade Representative and Willard Mitt Romney, Willard M. Romney, W. Mitt Romney, Mitt Romney, Bain Capital, Absolute Return Capital (ARC), Bain Capital Private Equity, Bain Capital (Europe) Limited; Bain & Co., Bain Capital Ventures, Brookside Capital, Sankaty Advisors, Marriott International, Inc., Tyler Charitable Foundation, or Ann D. and W. Mitt Romney Charitable Foundation

I would like to receive the information in electronic format. Please release any information pursuant to this request as it is received and reviewed by your office, rather than waiting to send all the requested material at one time.

I am making this request as a reporter with The Associated Press and this request is made as part of newsgathering and not for commercial use. As a representative of the news media I am only required to pay for the direct cost of duplication after the first 100 pages.

I ask that you waive any and all applicable fees associated with this request. Through this request, I am gathering information on communications that a prospective presidential candidate has had with the agency and, therefore, pertains to the 2012 presidential race, a developing story that affects the public and is a matter of significant, compelling and timely public interest. Release of this information is in the public interest because it will contribute significantly to public understanding of government operations and activities. Specifically, the public has a right to know now, before the 2012 election, not months or years in the future, to what extent the subject of this request has sought agency action

and the result of that contact. If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$100.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all segregable portions of otherwise exempt material. I reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I ask that you expedite this request. The information AP seeks is public information and is certainly available to AP as a representative of the media. A review of the regulations demonstrates that AP's request for expedited handling is justified.

Under the Freedom of Information Act, the term "compelling need" means, among other things, "with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552 (a) (6) (E) (v) (II).

Clearly, the AP is a news organization "primarily engaged in disseminating information," meeting the first requirement for expedited processing. An "urgency to inform" exists, according to court rulings, when (1) the information relates to a currently unfolding story, (2) delaying release of the information harms the public interest, and (3) the request concerns federal government activity. *Al-Fayed v. CIA*, 245 F.3d 300 (D.C. Cir. 2001). In addition, "the credibility of a requestor" also is a relevant consideration." *Id.* These factors underscore that an "urgency to inform" undeniably exists for the information sought in AP's request, information that is not currently available to the public.

First, the information relates to a currently unfolding story; specifically, a prospective presidential candidate and communications with a federal agency. Delaying or refusing release of the information harms the public interest to know what, if any, interactions the subject of this request had with the agency.

Second, the request obviously concerns federal government activity. And finally, as the world's oldest and largest news organization, the AP certainly is a credible requestor.

Therefore, the criteria for expedited processing are met in this case. I certify that my statements concerning the need for expedited review are true and correct to the best of my knowledge and belief.

If you deny expedited processing, I expect to receive a response to the request within 20 business days, as the statute requires. Should the agency invoke the "unusual circumstances" provision to escape its obligation to provide a full response within that time frame, the statute allows only an additional ten working days.

As the information in this request is of timely value, I would appreciate your communicating with me by telephone ([REDACTED]) or e-mail ([rherschaft@\[REDACTED\]](mailto:rherschaft@[REDACTED])), rather than by standard mail, if you have questions regarding this request.

Finally, I note that President Obama's January 21, 2009 "Presidential Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act" specifically stated that "[i]n responding to requests under the FOIA, executive branch agencies should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public." Moreover, it held that "[a]ll agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA."

In the spirit of such cooperation and the presumption of disclosure, I look forward to your prompt response.

Thank you for your assistance.

Sincerely,

Randy



Randy Herschaft
Newsperson

450 W. 33rd St.
New York, NY 10001
Phone: [REDACTED]
Fax: [REDACTED]

[rherschaft@\[REDACTED\]](mailto:rherschaft@[REDACTED])
twitter.com/HerschaftAP
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c.c. Karen Kaiser Associated Press Assistant General Counsel

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

September 27, 2012

Mr. Randy Herschaft
The Associated Press
450 W. 33rd St.
New York, NY 10001

Dear Mr. Herschaft:

This letter is the Office of the United States Trade Representative's (USTR) final response to your request under the Freedom of Information Act (FOIA), 5 U.S.C. §552, dated June 21, 2012, for copies of all FOIA requests, your agency response letters and responsive materials provided to the requester from January 1, 2005 to present by the Office of the U.S. Trade Representative in which Willard Mitt Romney, Willard M. Romney, W. Mitt Romney, Mitt Romney, Bain Capital, Absolute Return Capital (ARC), Bain Capital Private Equity, Bain Capital (Europe) Limited; Bain & Co., Bain Capital Ventures, Brookside Capital, Sankaty Advisors, Marriott International, Inc., Tyler Charitable Foundation, or Ann D. and W. Mitt Romney Charitable Foundation are the subject of the FOIA requests, or part of the subject of the FOIA requests.

Please be advised that, after a search of our files, USTR is releasing four (4) pages of documents which relate to a 2007 FOIA request from your agency. As you can see, USTR's 2007 response did not produce any documents regarding W. Mitt Romney.

This constitutes a final response to your request., Under 15 C.F.R §2004.6(d), if you are not satisfied with this decision, then within sixty (60) days you may appeal it in writing to:

FOIA Appeals Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, D.C. 20508

Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal" and should include a reference to the FOIA Case File number listed below. Heightened security measures in force may delay mail delivery; therefore, we suggest that you also fax any such appeal to (202) 395-9458. In the event you are dissatisfied with the results of any such

Mr. Randy Herschaft

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appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you requested.

Should you have any questions, please feel free to contact the FOIA office at (202) 395-3419.

Sincerely,

A handwritten signature in black ink that reads "Melissa Keppel". The signature is written in a cursive style with a large, stylized "K" and "P".

Melissa Keppel
Associate General Counsel
USTR FOIA Office

FOIA Case File # 12062031

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

September 17, 2008

Ms. Sharon Theimer
The Associated Press
2021 K Street, N.W., Suite 600
Washington, D.C. 20006

Dear Ms. Theimer:

This letter is USTR's response to your request for **"a list, or index, of correspondence from the following individuals to the Office of the U.S. Trade Representative between January 2002 and the present, as well as any USTR replies: Sen. John McCain", Sen. Hillary Rodham Clinton, Sen. Barack Obama, Sen. Christopher Dodd, Former Sen. John Edwards, Former Iowa Gov. Tom Vilsack, Former Florida Gov. Jeb Bush, Sen. Joseph Biden, New Mexico Gov. Bill Richardson, Sen Sam Brownback, Former New York City Mayor Rudolph Giuliani, Former Massachusetts Gov. Mitt Romney, Sen. Chuck Hagel, U.S. Rep Tom Tancredo, Former Virginia Gov. Mark Warner, Former Wisconsin Gov and former HHS Secretary Tommy Thompson**, under the Freedom of Information Act.

After a search of our files, we have located and are releasing two hundred and ninety-five (295) pages of documents within the scope of your request. Please be advised that, our search did not produce documents for Former Mayor Rudolph Giuliani, Former Governor Mitt Romney, Former Governor Tommy Thompson, and Governor Bill Richardson.

Inasmuch as this constitutes a complete response to your request, I am closing your file in this office.

In the event that you are dissatisfied with USTR's determination, you may appeal such a denial, within thirty (30) days, in writing or via fax to:

FOIA Appeals Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, DC 20508
(202) 395-9458

Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal". In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you seek. Should you have any questions, please feel free to contact me or my assistant Jacqueline Caldwell at (202) 395-3419.

Ms. Sharon Theimer

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Should you have any questions, please feel free to contact me or my assistant Jacqueline Caldwell at (202) 395-3419.

Sincerely,

A handwritten signature in black ink that reads "Carmen Suro-Bredie". The signature is written in a cursive style with a horizontal line under the last name.

Carmen Suro-Bredie
Chief FOIA Officer

Case File #07012401

Caldwell, Jacqui

From: Harrison, Sybia
Sent: Thursday, January 25, 2007 10:22 AM
To: Caldwell, Jacqui; Apol, David; Suro-Bredie, Carmen
Subject: FW: Associated Press FOIA request

The correspondence unit and Congressional for sure

-----Original Message-----

From: Theimer, Sharon [mailto:STheimer@ap.org]
Sent: Wednesday, January 24, 2007 4:42 PM
To: Harrison, Sybia
Subject: Associated Press FOIA request

January 24, 2007

Sybia Harrison
FOIA Officer, Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508
telephone number: (202) 395-3419
fax number: (202) 395-9458
e-mail address: sharrison@ustr.gov

Dear Ms. Harrison:

This is a request under the federal Freedom of Information Act, as amended, 5 USC 552.

I am seeking a list, or index, of correspondence from the following individuals to the Office of the U.S. Trade Representative between January 2002 and the present, as well as any USTR replies:

- _ Sen. John McCain, R-Ariz. ✓
- _ Sen. Hillary Rodham Clinton, D-NY ✓
- _ Sen. Barack Obama, D-Ill. ✓
- _ Sen. Christopher Dodd, D-Conn. ✓
- _ Former Sen. John Edwards, D-NC ✓
- _ Former Iowa Gov. Tom Vilsack ✓
- _ Former Florida Gov. Jeb Bush ✓
- _ Sen. Joseph Biden, D-Del. ✓
- _ New Mexico Gov. Bill Richardson
- _ Sen. Sam Brownback, R-Kan. ✓

1/29/2007

- _ Former New York City Mayor Rudolph Giuliani ✓
- _ Former Massachusetts Gov. Mitt Romney ✓
- _ Sen. Chuck Hagel, R-Neb. ✓
- _ U.S. Rep. Tom Tancredo, R-Colo. ✓
- _ Former Virginia Gov. Mark Warner ✓
- _ Former Wisconsin Gov. and former HHS Secretary Tommy Thompson ✓

I am requesting this information for the purpose of possible public dissemination in a news article and therefore request that you waive charges pursuant to 5 USC 552 (a) (4) (A), Fed. Reg. 7296, Section 1900.25. I am a full-time journalist employed by The Associated Press.

If you deny this request for a waiver, please advise me in advance of the estimated charges so that I may decide whether to pay the fees or appeal your denial of my request for a waiver of charges.

As I am making this request in the capacity of a journalist for The Associated Press and this information involves presidential candidates and is therefore of timely value, I also ask that you expedite this request as provided under the Clinton administration FOIA guidelines. If you have already received similar FOIA requests, I ask that you handle mine concurrent with those and make the material available to AP at the same time it is made available to others.

I would appreciate your communicating with me by telephone, e-mail or fax rather than by mail if you have any questions regarding this request. My phone number is 202-776-9466. My e-mail address is stheimer@ap.org, and my fax number is 202-263-8837.

Thank you for your assistance, and I will look forward to receiving your reply as soon as possible.

Sincerely,

Sharon Theimer, reporter

The Associated Press

2021 K Street, N.W., Suite 600

Washington, DC 20006

263-8800

The information contained in this communication is intended for the use of the design [IP_US_DISC]