

August 15, 2016

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, [REDACTED]
[REDACTED]

RE: FOIA Request to U.S. State Department and Relevant Components for Records Regarding Individuals Identified in Certain Emails Sent in April 2009 Between Huma Abedin, Nora Toiv, Cheryl Mills, and Doug Band

Dear Sir or Ma'am:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (ACLJ)¹ on behalf of itself and over 182,000 of its members. The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, the numbered requests contained herein seek any and all records pertaining in any way to any action taken or not taken in connection with, as a result of, or as alluded to or referenced in the content of two email chains obtained by Judicial Watch in response to a FOIA request to the U.S. Department of State (DOS). Copies of these two email chains are attached to this request.

Background

Pursuant to State Department FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses "the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request." 22 C.F.R. § 171.4(b).

¹ The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity with respect to international affairs, and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world.

[REDACTED]

As reported in *The Wall Street Journal*, Judicial Watch released “44 emails from [Mrs. Clinton’s] personal server that Mrs. Clinton failed to turn over in the batch she told the State Department included everything that was work-related. The emails paint a picture of top Clinton aides at State eager to do favors for Clinton Foundation donors.”²

A. Email chain of April 25, 2009

According to the Washington Post:

The emails, obtained by the conservative group Judicial Watch as part of a public-records lawsuit, included one in which a longtime aide to Bill Clinton sought a State Department meeting on behalf of a major foundation donor.

The aide, Doug Band, who played a role in expanding the foundation’s reach, wrote to Hillary Clinton’s State Department staff requesting a meeting for a wealthy Nigerian businessman of Lebanese descent who has given the Clinton Foundation \$1 million to \$5 million in donations, according to disclosure reports.³

According to Doug Band’s email to Huma Abedin and Cheryl Mills:

“We need Gilbert Chagoury to speak to the substance person re Lebanon.” Band wrote in the email addressed to Huma Abedin and Cheryl Mills, two of Clinton’s closest aides at State. “As you know he’s a key guy there and to us and is loved in Lebanon. Very imp.”

Abedin responded with the name of the recent U.S. ambassador to Lebanon, Jeffrey Feltman, who was serving as acting assistant secretary of state for near eastern affairs. She added: “I’ll talk to Jeff.”⁴

Just approximately 15 minutes later, Band responded to Huma Abedin:

Better if you call him
Now preferable
This is very important
[redacted]⁵

State Department employee/official Cheryl Mills was copied on this exchange.

² *Hillary’s Latest ‘Old News’*, WALL STREET JOURNAL (Aug. 10, 2016, 7:33 PM),

<http://www.wsj.com/articles/hillarys-latest-old-news-1470872003>.

³ Tom Hamburger, *Email Batch Provides Additional Evidence That Clinton Foundation Donors Got Access at State Department*, WASH. POST (Aug. 10, 2016, 9:42 PM), https://www.washingtonpost.com/politics/email-batch-provides-additional-evidence-that-clinton-foundation-donors-got-access-at-state-department/2016/08/10/de2c0066-5f1a-11e6-9d2f-b1a5564181a1_story.html?hpid_hp_hp-top-table-main_clintonemails944pm%3Ahomepage%2Fstory.

⁴ *Id.*

⁵ Band Email to Abedin, Apr. 25, 2009, Exhibit A, page 2.

To recount, the following individuals were party to the email chain:

Doug Band, Clinton Foundation

Huma Abedin, DOS employee/official

Cheryl Mills, DOS employee/official

The emails discussed:

Gilbert Chagoury, “donated at least \$1 million to the Clinton Foundation while pledging \$1 billion to the Clinton Global Initiative”⁶

Jeff Feltman, Assistant Secretary of State for Near Eastern Affairs and former U.S. ambassador to Lebanon

B Email chain of April 22, 2009

The Washington Post also reported on a second email chain:

The communications released this week by Judicial Watch include an April 22 email from Band to Abedin, Mills and another aide with the subject line: “A favor. . . .”

“Important to take care of [name redacted],” the email said.

Abedin, who had overlapping roles with the State Department, the foundation and a consulting firm led by Band, responded quickly: “We have all had him on our radar. Personnel has been sending him options.”⁷

More than just the person’s name was redacted from Doug Band’s email.⁸ The email from Band was addressed to Nora Toiv, and copied to Huma Abedin and Cheryl Mills.⁹ Less than 10 minutes later, Abedin responded.¹⁰ Media reports suggest the “favor” solicited by Band was to offer a job at the DOS to the person whose name was redacted.¹¹

According to a Clinton Foundation press release issued on March 9, 2009, just a little over a month before the email chain issue was initiated, “President Bill Clinton travelled to Haiti with United Nations Secretary-General Ban Ki-moon and a delegation of business and philanthropic

⁶ *Hillary’s Latest ‘Old News’*, *supra* note 2.

⁷ *Hamburger*, *supra* note 3.

⁸ Band Email to Toiv, Apr. 25, 2009, Exhibit A, page 1.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Julian Hattem, *In Email, State Asked to ‘Take Care of’ Clinton Foundation Associate*, THE HILL (Aug. 9, 2016, 12:56 PM), <http://thehill.com/policy/national-security/290864-in-email-state-dept-asked-to-take-care-of-clinton-foundation>.

leaders.”¹² And according to the Clinton Foundation’s website, “The Clinton Foundation has been actively engaged in Haiti since 2009, focusing on economic diversification, private sector investment, and job creation in order to create long-term, sustainable economic development.”¹³

To recount, the following individuals were party to the email chain:

Doug Band, Clinton Foundation

Huma Abedin, DOS employee/official

Cheryl Mills, DOS employee/official

Nora Toiv, DOS employee/official

Unknown individual whose name was redacted from copy of email chain produced by DOS; individual had emailed Band expressing gratitude for being included in a trip to Haiti.

The emails discussed:

Performing “a favor” for an individual whose name was redacted;

That it was “important to take care of” that person; and,

That “options” were being sent to that person by “personnel.”

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)¹⁴ (rejecting agency argument that emails on private email account were not

¹² Press Release: President Clinton Visits CGI Commitment Sites in Haiti (Mar. 9, 2009),

<https://www.clintonfoundation.org/main/news-and-media/press-releases-and-statements/press-release-president-clinton-visits-cgi-commitment-sites-in-haiti.html>.

¹³ *Our Work: Clinton Foundation in Haiti*, CLINTONFOUNDATION.ORG, <https://www.clintonfoundation.org/our-work/clinton-foundation-haiti> (last visited Aug. 12, 2016).

¹⁴ *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016), [https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/\\$file/15-5128-1622973.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/$file/15-5128-1622973.pdf).

under agency control, and holding, "If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.").

For purposes of this Request, the term "briefing" includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

For purposes of this Request, the term "DOS official" includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the DOS, any Mission of the United States, or any Delegation of the United States; or (4) any such person's staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, the timeframe of records requested herein is January 20, 2009, to the date this Request is processed.

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that the DOS respond to the following numbered requests and produce all responsive records within twenty (20) business days:

I. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by Jeffrey David Feltman referencing or regarding in any way:

- a) Gilbert Chagoury;
- b) Chagoury Group;
- c) Grands Moulins du Bénin;
- d) Port Harcourt Flour Mills;
- e) Ideal Flour Mills;
- f) Nigerian Eagle Flour Mills;
- g) Niger Delta Flour Mills;
- h) Tin Can Island;
- i) Ragolis Waters;
- j) Glassforce;
- k) Pirotech;
- l) Silhouette Furniture;
- m) Ideal Eagle Hospital;
- n) C & C Construction;
- o) ITB Construction;
- p) Hitech Construction;

- q) Fleetwood Transportation;
- r) Eko Atlantic;
- s) Ocean Parade;
- t) Eko Hotel;
- u) Hotel Presidential;
- v) Courdeau Catering;
- w) The Clinton Foundation (a.k.a. the William J. Clinton Foundation, the Bill, Hillary & Chelsea Clinton Foundation);
- x) The Clinton Global Initiative (CGI);
- y) The Clinton Health Access Initiative (CHAI);
- z) The Clinton Climate Initiative (CCI);
- aa) Alliance for a Healthier Generation;
- bb) The Clinton Economic Opportunity Initiative (CEOI);
- cc) The Clinton Development Initiative (CDI); or,
- dd) Doug Band.

including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official located at, working within, at, under or otherwise assigned to the Bureau of Near Eastern Affairs (BNEA), including but not limited to, Assistant Secretary Anne W. Patterson, her predecessor Assistant Secretary Jeffrey David Feltman, any other Secretary (assistant, deputy, or acting assistant or deputy), and/or any other DOS official, staff, agent, or employee working within, under or located at the BNEA, referencing or regarding in any way:

- a) Gilbert Chagoury;
- b) Chagoury Group;
- c) Grands Moulins du Bénin;
- d) Port Harcourt Flour Mills;
- e) Ideal Flour Mills;
- f) Nigerian Eagle Flour Mills;
- g) Niger Delta Flour Mills;
- h) Tin Can Island;
- i) Ragolis Waters;
- j) Glassforce;
- k) Pirotech;
- l) Silhouette Furniture;
- m) Ideal Eagle Hospital;

- n) C & C Construction;
- o) ITB Construction;
- p) Hitech Construction;
- q) Fleetwood Transportation;
- r) Eko Atlantic;
- s) Ocean Parade;
- t) Eko Hotel;
- u) Hotel Presidential;
- v) Courdeau Catering;
- w) The Clinton Foundation (a.k.a. the William J. Clinton Foundation, the Bill, Hillary & Chelsea Clinton Foundation);
- x) The Clinton Global Initiative (CGI);
- y) The Clinton Health Access Initiative (CHAI);
- z) The Clinton Climate Initiative (CCI);
- aa) Alliance for a Healthier Generation;
- bb) The Clinton Economic Opportunity Initiative (CEOI);
- cc) The Clinton Development Initiative (CDI); or,
- dd) Doug Band,

including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received by any DOS official located at, working within, at, under or otherwise assigned to the Bureau of Near Eastern Affairs (BNEA), including but not limited to, Assistant Secretary Anne W. Patterson, her predecessor Assistant Secretary Jeffrey David Feltman, any other Secretary (assistant, deputy, or acting assistant or deputy), and/or any other DOS official, staff, agent, or employee working within, under or located at the BNEA, referencing or regarding in any way any grant, loan or contract applications, proposals, negotiations, or agreements from, with, or regarding:

- a) Gilbert Chagoury;
- b) Chagoury Group;
- c) Grands Moulins du Bénin;
- d) Port Harcourt Flour Mills;
- e) Ideal Flour Mills;
- f) Nigerian Eagle Flour Mills;
- g) Niger Delta Flour Mills;
- h) Tin Can Island;
- i) Ragolis Waters;

- j) Glassforce;
- k) Pirotech;
- l) Silhouette Furniture;
- m) Ideal Eagle Hospital;
- n) C & C Construction;
- o) ITB Construction;
- p) Hitech Construction;
- q) Fleetwood Transportation;
- r) Eko Atlantic;
- s) Ocean Parade;
- t) Eko Hotel;
- u) Hotel Presidential;
- v) Courdeau Catering;

including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

4. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any DOS official, employee, staff, or agent, referencing or regarding in any way the person whose name was redacted from an email sent by that person to Doug Band on April 22, 2009, at 13:01:21, under the subject line "a favor...." which Doug Band then forwarded to DOS officials/employees Nora Toiv, Huma Abedin, and Cheryl Mills by email on April 22, 2009, at 13:12:22, under the same subject line [see email chain attached as Exhibit A, page 2], including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

5. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any State Department official, employee, staff or agent, including but not limited to Huma Abedin, Nora Toiv, and Cheryl Mills, referencing or regarding in any way:

- a) Options of any kind;
- b) Proposals of any kinds;
- c) Grant information, offers, proposals or suggestions;

- d) Loan information, offers, proposals or suggestions;
- e) Contract information, offers, proposals or suggestions;
- f) Job or employment position offers, proposals or suggestions; or.
- g) Any other such opportunities.

sent, offered or otherwise conveyed to the person whose name was redacted in the aforementioned email [see Exhibit A, page 2], or any organization, corporation, or other entity, as to which that person has any interest or association, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

6. All records, communication or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any State Department official, employee, staff or agent, including but not limited to Huma Abedin, Nora Toiv, and Cheryl Mills, referencing or regarding in any way:

- a) The person whose name was redacted in the aforementioned email [see Exhibit A, page 2], or any organization, corporation, or other entity, as to which that person has any interest or association; and.
- b) Money, bank accounts, transfers, funds, U.S. dollars, USD, Haitian Gourde, HTG, or any other currency.

including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

As you are undoubtedly aware, President Obama's Freedom of Information Act Memorandum of January 21, 2009, declares:

A democracy requires accountability, and accountability requires transparency. As Justice Louis Brandeis wrote, "sunlight is said to be the best of disinfectants." In our democracy, the Freedom of Information Act (FOIA), which encourages accountability through transparency, is the most prominent expression of a profound national commitment to ensuring an open Government. At the heart of

that commitment is the idea that accountability is in the interest of the Government and the citizenry alike.

The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears. Nondisclosure should never be based on an effort to protect the personal interests of Government officials at the expense of those they are supposed to serve. In responding to requests under the FOIA, executive branch agencies (agencies) should act promptly and in a spirit of cooperation, recognizing that such agencies are servants of the public.

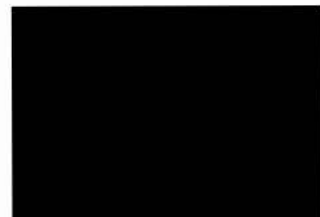

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.¹⁵

As such, if this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

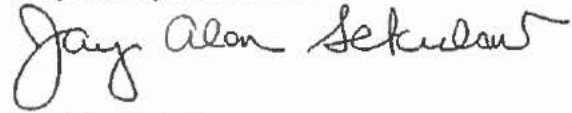
Jay Alan Sekulow, Chief Counsel
Colby M. May, Senior Counsel
Craig L. Parshall, Special Counsel
Benjamin P. Sisney, Senior Litigation Counsel
American Center for Law and Justice



¹⁵ PRESIDENT BARACK OBAMA, MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES RE: FREEDOM OF INFORMATION ACT (Jan. 21, 2009), *available at* <https://www.whitehouse.gov/the-press-office/FreedomofInformationAct>.

I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

A handwritten signature in black ink, reading "Jay Alan Sekulow". The signature is fluid and cursive, with the first name "Jay" being particularly prominent.

Jay Alan Sekulow
Chief Counsel

A handwritten signature in black ink, reading "Colby M. May". The signature is cursive and somewhat stylized, with the first name "Colby" being the most legible part.

Colby M. May
Senior Counsel

A handwritten signature in black ink, reading "Benjamin P. Sisney". The signature is cursive and somewhat stylized, with the first name "Benjamin" being the most legible part.

Benjamin P. Sisney
Senior Litigation Counsel