



May 6, 2014

**VIA FACSIMILE**

Mr. Barry Walters  
Chief FOIA/PA Officer  
Securities and Exchange Commission  
Office of FOIA Services  
100 F Street, N.E.  
Washington, D.C. 20549-2736  
Phone: 202-551-8300  
Facsimile: 202-772-9337

Dear Mr. Walters:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, Cause of Action hereby requests records reflecting communications between (1) The Office of White House Counsel and the Securities and Exchange Commission (SEC) FOIA Public Service Center, and (2) The Office of White House Counsel and the SEC Office of General Counsel, concerning the Office of White House Counsel's review of agency records.<sup>1</sup> The time period for this request is January 1, 2010 to January 1, 2013.

Please note that Cause of Action does not seek access to the actual records that were forwarded to the Office of White House Counsel for review, but only to records that reflect that such consultations occurred (for example, cover emails).

**Request for public interest fee waiver**

Cause of Action requests a waiver of any and all applicable fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). This provision provides that requested records shall be furnished without or at reduced charge if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."<sup>2</sup> The requested records would unquestionably shed light on the "operations or activities of the government,"<sup>3</sup> namely SEC's policies and procedures with respect to records involving White House equities. Moreover, disclosure would "contribute significantly" to the public's understanding of SEC operations.<sup>4</sup> To

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<sup>1</sup> Memorandum from Gregory Craig, Counsel to the President, to All Executive Department and Agency General Counsels (Apr. 15, 2009), available at <http://causeofaction.org/assets/uploads/2013/06/White-House-memo-equities.pdf?92f52c>.

<sup>2</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

date, SEC has not disclosed to the public—either through its regulations or policy memoranda—how it processes agency records that are deemed to contain White House equities. Cause of Action has both the intent and ability to make the results of this request available to a reasonably broad public audience through various media. Cause of Action's staff members have a wealth of experience and expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through Cause of Action's regularly published online newsletter, memoranda, reports, or press releases.<sup>5</sup>

Further, Cause of Action, a non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, does not have a commercial interest in making this request. The requested information will be used solely to educate the general public regarding SEC's heretofore undisclosed FOIA policy and procedures for processing records with White House equities.

### **Request for news media status**

For fee purposes, Cause of Action also qualifies as a "representative of the news media" as defined by the statute. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Specifically, Cause of Action gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. *See id.*

Cause of Action gathers news that it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. Cause of Action does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, and newsletters.<sup>6</sup> These distinct works are distributed to the through various media, including Cause of Action's website, which has been viewed just under 120,000 times in the past year alone.<sup>7</sup> Cause of Action also disseminates news to the public via Twitter and Facebook, and it provides news updates to subscribers via email.

The statutory definition of a "representative of the news media" unequivocally commands that organizations such as Cause of Action that electronically disseminate information and publications via "alternative media shall be considered to be news-media entities." 5 U.S.C. § 552(a)(4)(A)(ii)(II). In light of the foregoing, federal agencies have

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<sup>5</sup> *See* <http://www.causeofaction.org>.

<sup>6</sup> *See, e.g.*, CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS (Mar. 18, 2014), *available at* <http://causeofaction.org/grading-government-white-house-targets-document-requesters/>; *see also* CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), *available at* <http://causeofaction.org/2013/09/23/greentech-automotive-a-venture-capitalized-by-cronyism-2/>; *see also* CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I (Aug. 2, 2013), *available at* <http://causeofaction.org/2013/08/02/political-profiteering-how-forest-city-enterprises-makes-private-profits-at-the-expense-of-americas-taxpayers/>.

<sup>7</sup> *Google Analytics* for <http://www.causeofaction.org> (on file with Cause of Action).

appropriately recognized Cause of Action's news media status in connection with its FOIA requests.<sup>8</sup>

**Record production and contact information**

In an effort to facilitate record production, please provide the responsive records in electronic format (*e.g.*, email, .pdf). If a certain set of responsive records can be produced more readily, Cause of Action respectfully requests that those records be produced first and that the remaining records be produced on a rolling basis as circumstances permit.

If you have any questions about this request, please contact me by email at [Allan.Blutstein@causeofaction.org](mailto:Allan.Blutstein@causeofaction.org), or by telephone at (202) 499-4232. Thank you for your attention to this matter.



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ALLAN BLUTSTEIN  
MANAGING COUNSEL

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<sup>8</sup> See, *e.g.*, FOIA Request DOC-OS-2014-000304, Dep't of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request CFPB-2014-010-F, Consumer Fin. Prot. Bureau (Oct. 7, 2013); FOIA Request 2013-01234-F, Dep't of Energy (July 1, 2013, Dep't of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep't of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep't of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep't of Educ. (Jan. 20, 2012).