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# TROUTMAN SANDERS

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May 27, 2015

## VIA CERTIFIED MAIL

Sean R. O'Neill  
Chief, Administrative Appeals Staff  
U.S. Department of Justice  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Christina D. Troiani  
Attorney-Advisor, Administrative Appeals Staff  
U.S. Department of Justice  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

**Re: Appeal No. AP-2015-01560 / Request No. FOIA-2014-02987**

Dear Mr. O'Neill and Ms. Troiani:

On behalf of our client, James L. Negley ("Mr. Negley"), this letter follows to both our correspondence to the Department of Justice, Office of Information Policy (the "Agency") of May 13, 2015, as well as the Agency's correspondence to Mr. Negley's former counsel, Mr. John F. Carroll, dated May 12, 2015.<sup>1</sup> The Agency's May 12 letter to Mr. Carroll enclosed a February 11, 2015 letter to Mr. Prashant Khetan, also former counsel for Mr. Negley, which indicated that there were no responsive documents to Mr. Negley's April 7, 2014 FOIA request. By way of this letter, Mr. Negley formally appeals the Agency's determination. In addition, this correspondence clarifies certain issues pertaining to Mr. Negley's request.

First, it appears that the Agency's purported search for the requested records was far more limited in scope than contemplated by Mr. Negley's initial FOIA request. As you know,

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<sup>1</sup> A copy of the Agency's May 12, 2015 and February 11, 2015 correspondence is attached as Exhibit 1. A copy of our May 13, 2015 letter is attached as Exhibit 2.

Sean R. O'Neill  
Christina D. Troiani  
May 27, 2015  
Page 2

Mr. Negley first formally requested that the Agency produce *all the contents of the file notated on a facsimile cover sheet sent by Daniel M. Castillo, Assistant U.S. Attorney, to the Chief Counsel Division Counsel of the Sacramento Division of the Federal Bureau of Investigation ("FBI") on January 22, 2002* in connection with the government's investigation into Mr. Negley. See April 7, 2014 Letter from Prashant Khetan and Thomas Hay to the Agency, attached as Exhibit 3. In the Agency's May 12, 2015 letter to Mr. Negley's prior counsel, John Carroll, the Agency notes that "[a] search for records located in the United States Attorney's Office for the Western District of Texas has revealed no responsive records for documents referenced by handwritten notes on the fax sheet by AUSA Daniel Castillo." See Exhibit 1.

This search is inadequate for at least two reasons. As an initial matter, the search limits the scope of the inquiry to the handwritten notes on the facsimile cover sheet, when Mr. Negley requested "all the contents of the file" referenced in this document. There is no Agency determination that such a file does not exist, or that the file is inaccessible. As set forth on the facsimile cover sheet, there is clearly, "a file." As such, this reply from the Agency is non-responsive. Additionally, the Agency limits its inquiry only to the Western District of Texas, when the totality of the "Unabomber" investigation (the context in which Mr. Negley was investigated) was, as you know, nationwide and beyond. Indeed, it is inconceivable that any file relating to Mr. Negley would be limited to one geographic region.

Accordingly, Mr. Negley hereby appeals the Agency's determination of his April 7, 2014 FOIA request and respectfully requests that the contents of the previously referenced file(s) be produced to him as soon as possible, given the passage of time and consistent with 5 U.S.C. § 552(a)(6)(A)(ii).

Second, Mr. Negley is clarifying his counsel of record. It appears that there has been some confusion at the Agency regarding Mr. Negley's counsel of record, as the enclosure to the February 11, 2015 letter was directed at Mr. Prashant Khetan, who is no longer at our firm and has not been Mr. Negley's counsel of record for nearly a year.

As noted in our letter to the Agency of May 13, 2015, Mr. Thomas Hay and Mr. Clarence Lee of Troutman Sanders LLP are now counsel of record. Please direct **all future correspondence in connection with the above-referenced FOIA Request and Appeal to our attention at:**

Thomas S. Hay  
Clarence Y. Lee  
Troutman Sanders LLP  
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Washington, D.C. 20004

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Sean R. O'Neill  
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May 27, 2015  
Page 3

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In order to be absolutely clear, please note that the following attorneys are not counsel of record for Mr. Negley and should not be receiving correspondence regarding this matter: Prashant Khetan, John Carroll, Paul Vitrano, John M. Pinckney, III and Solomon Wisenberg.

Attached are Certifications of Identity executed by Mr. Negley that permit the United States Department of Justice (the "Agency") to release information to us.

If you have any questions regarding this appeal, please contact us at 202-274-2916. We greatly appreciate your assistance with this matter.

Sincerely yours,

TROUTMAN SANDERS LLP

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Thomas S. Hay  
Clarence Y. Lee

cc: James Negley