



February 2, 2001

Ms. Barbara Schwarz
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Re: Appeal – FOIA Request 2000-31

Dear Ms. Schwarz:

This responds to your letter of January 5, 2001, appealing LSC's response to your FOIA requests of November 19 and 20, 2000. Upon review of the record, I must deny your appeal.

Background

On November 19 and 20, 2000, you filed with LSC FOIA requests¹ for LSC records, as follows:

- 1) inquiries or subpoenas received by anyone named Rathbun or De Rothschild and/or the attorneys for such a person, any "special counsel", "independent counsel" or any members of Congress requesting any documents or records relating to you, from the time period of September 17, 1999, through the present;
- 2) any records pertaining to certain specified civil cases you have filed in the U.S. District Court for the District of Columbia.
- 3) any records relating to the German government and government agencies, individual German citizens, German businesses or other organizations and their involvement with plans relating to any sort of hostilities with or towards the United States or weapons of mass destruction, or communism or communist countries;
- 4) any records pertaining to the faking of the death of Adolph Hitler;
- 5) any records pertaining to terrorists from specified countries working for German interests;
- 6) any records pertaining to former President Eisenhower; and
- 7) any records pertaining to L. Ron Hubbard.

You also requested that you be provided with a "search declaration" describing how and by whom the search(es) for the documents requested was conducted.

¹ These requests were consolidated into one request and assigned on reference number, 2000-31, pursuant to LSC's FOIA regulations at 45 CFR §1602.13(k).

LSC provided a response to your request on December 23, 2000. This response informed you that there are no agency records responsive to your requests related to any of the items described in items (3) through (7), above. The response also noted that as your requests relating to documents pertaining to you (items number (1) and (2), above), were duplicative of previous FOIA requests and appeals to which the agency has responded, your recourse would be to seek judicial review of those decisions.²

You filed an appeal of the LSC December 23, 2000, response on January 5, 2001 claiming that LSC is unlawfully withholding records responsive to your request. Your appeal refers both to the records relating to your FOIA requests and to the “search declaration” you requested.

Analysis

You base your appeal as to items (1) and (2), above on a claim that Ms. Adaway mischaracterized your current requests. However, these requests, while more specific than your previous requests for documents related to you, are, in fact, wholly subsets of those previous requests. Specifically, your FOIA request #00-03 requested any records referencing your name. Of necessity, any records responsive to items (1) and (2) above would have been responsive to that request. As such, your current request has effectively already been processed and definitively and finally resolved. LSC will not continue to process what is essentially the same request over and over.³

You similarly base your appeal relating to items (3) through (7), above, on the theory that Ms. Adaway ignored or otherwise mischaracterized your requests. While her response described your collective requests in a shorthand manner, this does not mean that LSC did not consider the full range of documents which you requested. The simple fact of the matter is that LSC is not in possession of any agency records related to former President Eisenhower, L. Ron Hubbard, Adolph Hitler, or Osama Bin Laden (or any other known or suspected terrorists). Likewise, LSC is not in possession of any agency records pertaining to the German government and/or government agencies, individual German citizens, German businesses or other organizations and their putative involvement with plans relating to any sort of hostilities with or towards the United States, or weapons of mass destruction, or communism or communist countries.

Regarding your request for a what you term a “search declaration,” I must reiterate the information provided to you in previous letters from LSC⁴ in response to your FOIA requests and appeals: What you consider to be a “search declaration” would require LSC to create new records documenting and describing its search efforts. However, contrary to your apparent

² See letters of September 29, 1999, November 17, 1999, March 7, 2000 and July 25, 2000.

³ You also claim that LSC must have records relating to your U.S. District Court cases (98-2406-HHK, 99-3234-HHK, 00-1610-HHK, and 00-369-HHK) because we are “co-defendants.” LSC has no record of having been served in any of these actions, nor any record of active litigation in any of these actions. As such, LSC has no records relating to any of these matters.

⁴ See letters of March 7, 2000 and July 25, 2000.

Ms. Barbara Schwarz – FOIA Appeal

February 2, 2001

Page 3

belief, there is no requirement under FOIA that an agency create for a requester any agency records which do not already exist. As the U.S. District Court for the District of Columbia noted in one of your own cases, “Plaintiff is advised that there is no requirement that an agency provide a “search certificate” or a “Vaughn” index on an initial request for documents. The requirement for detailed declarations and Vaughn indices is imposed in connection with a motion for summary judgment filed by a defendant in a civil action pending in court.” *Schwarz v. U.S. Department of Treasury, et al.*, 2000 WL 1922277, *2 (D.D.C.).

In light of the above, I have no basis upon which to determine that you were unlawfully denied any records responsive to your requests or any document which you characterize as a “search declaration.”

Finally, I must say that the abusive tone of your letter, particularly in regard to Ms. Adaway, is both uncalled for and inappropriate. Ms. Adaway has handled each of your FOIA requests in a timely and professional manner. The fact that you choose to believe that LSC has records which we have repeatedly informed you we do not possess, or that you are entitled to information which you also have been repeatedly informed need not be provided, does not justify your personal attack on LSC personnel.

If you believe that this determination is in error, you may seek judicial review of this decision in the district court of the United States as provided in 5 U.S.C. §552(a)(4).

Sincerely,



John McKay
President