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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....X

RICHARD BEHAR,

Plaintiff,

17 Civ. 8153 (LAK)

v.

**ANSWER**

U.S. DEPARTMENT OF HOMELAND  
SECURITY,

Defendant.

.....X

Defendant the U.S. Department of Homeland Security (“DHS”), by its attorneys, answers the complaint upon information and belief as follows:

1. The allegations in paragraph 1 constitute a characterization of this action, to which no response is required. To the extent a response is required, DHS denies the allegations in paragraph 1, except admits that this action is putatively brought under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

2. Paragraph 2 sets forth legal conclusions as to jurisdiction, to which no response is required.

3. Paragraph 3 sets forth legal conclusions as to venue, to which no response is required.
4. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 4.
5. The first sentence of paragraph 5 sets forth legal conclusions to which no response is required. Admits the second sentence of paragraph 5. Denies the third sentence of paragraph 5.
6. Admits the allegations in paragraph 6.
7. Admits the first sentence of paragraph 7. Denies the second sentence of paragraph 7, except admits that certain members of the President's family received Secret Service protection beginning in 2016.
8. Admits the allegations in paragraph 8.
9. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 9, which concern unidentified individuals who allegedly had contacts with unidentified persons associated with the Trump campaign.
10. The allegations in paragraph 10 consist of characterizations of a media report cited in footnote 2, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

11. The allegations in paragraph 11 consist of characterizations of a media report cited in footnote 3, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

12. The allegations in paragraph 12 consist of characterizations of a media report cited in footnote 4, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

13. The allegations in paragraph 13 consist of characterizations of a media report cited in footnote 5, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

14. The allegations in paragraph 14 consist of characterizations of a media report cited in footnote 6, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

15. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 15 concerning what prompted unspecified Congressional and Department of Justice investigations.

16. The allegations in paragraph 16 consist of characterizations of a media report cited in footnote 7, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

17. The allegations in paragraph 17 consist of characterizations of a media report cited in footnote 8, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

18. Denies knowledge or information sufficient to form a belief as to the truth or falsity

of the allegations in paragraph 18, which concern unidentified individuals who allegedly met with candidate Trump and unidentified persons associated with the Trump campaign.

19. The allegations in paragraph 19 consist of characterizations of a media report cited in footnote 9, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

20. The allegations in paragraph 20 consist of characterizations of a media report cited in footnote 10, to which no response is required. The Court is respectfully referred to the cited media report for a true and complete statement of its contents.

21. Admits the existence of Plaintiff's September 22, 2017 FOIA request (the "FOIA request"), and respectfully refers the Court to the FOIA request for a true and complete statement of its contents.

22. The allegations in paragraph 22 consist of a characterization of the FOIA request, to which no response is required. The Court is respectfully referred to the FOIA request for a true and complete statement of its contents.

23. The allegations in paragraph 23 consist of a characterization of the FOIA request and certain statutes and regulations, to which no response is required. The Court is respectfully referred to the FOIA request and the cited statutes and regulations for a true and complete statement of their contents.

24. The allegations in paragraph 24 consist of a characterization of emails between Plaintiff and the DHS Privacy Office, to which no response is required. The Court is respectfully referred to the cited emails for a true and complete statement of their contents. The allegations in footnote 11 (appended to paragraph 24) consist of a characterization of a

regulation, to which no response is required. The Court is respectfully referred to the cited regulation for a true and complete statement of its contents.

25. The allegations in paragraph 25 consist of a characterization of emails between Plaintiff and the Secret Service FOIA Office, to which no response is required. The Court is respectfully referred to the cited emails for a true and complete statement of their contents.

26. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 26, but admits that DHS received the FOIA request by mail on October 3, 2017.

27. The allegations in paragraph 27 consist of a characterization of an email between Plaintiff and the DHS Privacy Office, to which no response is required. The Court is respectfully referred to the cited email for a true and complete statement of its contents.

28. Denies the allegations in paragraph 28, except admits that the Secret Service has not produced records in response to the FOIA request or responded to Plaintiff's request for expedited processing.

1. In response to the allegations in paragraph 1 under the heading "FIRST CAUSE OF ACTION," DHS repeats and reasserts its answers to the foregoing paragraphs.

2. Denies the allegations in paragraph 2 under the heading "FIRST CAUSE OF ACTION."

3. In response to the allegations in paragraph 3 under the heading "SECOND CAUSE OF ACTION," DHS repeats and reasserts its answers to the foregoing paragraphs.

4. Denies the allegations in paragraph 4 under the heading "SECOND CAUSE OF ACTION."

The remainder of the complaint contains a request for relief, to which no response is required. To the extent a response is required, DHS denies the allegations contained in the remainder of the complaint and states that Plaintiff is not entitled to the requested relief or any relief whatsoever.

DHS denies all allegations in Plaintiff's complaint not expressly admitted or denied.

#### DEFENSES

##### FIRST DEFENSE

Some or all of the requested records are not agency records subject to FOIA. *See* 5 U.S.C. § 552(a)(4)(B).

##### SECOND DEFENSE

Some or all of the requested records are exempt from disclosure under FOIA. *See* 5 U.S.C. § 552(b).

##### THIRD DEFENSE

The FOIA request does not reasonably describe all records sought, and therefore does not comply with FOIA and/or trigger a search or production obligation.

##### FOURTH DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

##### FIFTH DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff's request for relief that exceeds the relief authorized under FOIA, 5 U.S.C. § 552.

##### SIXTH DEFENSE

Plaintiff is not entitled to expedited processing of the FOIA request.

DHS may have additional defenses which are presently unknown but may be ascertained at a later time. DHS reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Federal Rules of Civil Procedure 8 and 12.

WHEREFORE, Defendant DHS is entitled to judgment dismissing Plaintiff's complaint with prejudice and granting such further relief as the Court deems just, including costs and disbursements.

Dated: November 24, 2017

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