

June 17, 2010

Russell Carollo, Journalist
(b)(6)

Re: FOIA Appeal dated June 2, 2010

Dear Mr. Carollo:

In a letter dated January 23, 2010, you made a Freedom of Information Act (FOIA) request for copies of all records related in any way to travel by the NCUA Chairman and Executive Director since January 1, 2009. You also requested documentation of any similar requests. By letter dated May 21, 2010, Linda Dent, staff attorney in NCUA's Office of General Counsel, granted your request in part, enclosing approximately 325 pages, some of which were partially redacted. The redacted information was withheld pursuant to exemptions 2 and 6 of the FOIA. 5 U.S.C. §552(b)(2) and (6). You submitted an appeal in a letter dated June 2, 2010 (received June 7th) for the exemption 6 information consisting of types of items purchased at businesses. Your appeal is denied as explained below.

The information withheld, that is "types of items purchased at businesses" consists of a few words describing food items purchased on each of approximately 13 receipts. The dollar amount of all items purchased was released; most of the receipts containing withheld information were for less than \$20. Exemption 6 protects information about an individual in "personnel and medical files and similar files" where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(6). The courts have held that all information that applies to a particular individual meets the threshold requirement for privacy protection. United States Department of State v. Washington Post Co., 456 U.S. 595 (1982). Courts have held that federal civilian employees have a protectable privacy interest in purely personal details that do not shed light on an agency functions. See, e.g. DOD v. FLRA, 510 U.S. 487 (1994). Clearly, specific food items purchased by an individual constitute personal information that meets the requirement for privacy protection. Once a privacy interest is established, application of exemption 6 requires a balancing of the public's right to disclosure against the individual's right to privacy. The Supreme Court has held that the standard of public interest to consider is one specifically limited to the FOIA's core purpose of shedding light on an agency's performance of its statutory duties. Department of Justice v. Reporters Committee for Freedom of the Press, 4889 U.S. 749 (1989). There is no public interest in disclosure of individual food items ordered as the disclosure would shed no light on the agency's performance of its statutory duties. If no public interest is found, then withholding the information is proper, even if the privacy interest is only modest. National Association of Retired Federal Employees v. Horner, 879 F.2d 873 (D.C. Cir. 1989). There may be a public interest in the cost of items on a travel voucher. In this case, the cost of each item as well as total cost has already been

disclosed. The personal information, namely the food items ordered, continues to be withheld pursuant to exemption 6.

Pursuant to 5 U.S.C. 552(a)(4)(B) of the FOIA, you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court where you reside, where your principal place of business is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

/S/

Robert M. Fenner
General Counsel

GC/HMU:bhs
10-0628
10-FOI-00050