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2000 FEB 14 AM 11:08

Jon W. van Horne
(202) 331-3154
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February 7, 2000

Kathryn I. Dyer
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Re: Request for Records Under Freedom of Information Act

Reference No. F-1999-01980

Dear Ms. Dyer:

The subject request for records was submitted by letter of September 13, 1999, signed by Raymond B. Kim, then with the firm of Goldberg, Scott, Belfield, Steinberg & Cohen, and now with Greenberg Traurig. The request was made on behalf of Erwin Rautenberg. A copy of the original request (without attachments) is enclosed.

By letter of October 13, 1999, copy enclosed, you denied Mr. Kim's request for a fee waiver. By letter of October 29, 1999, copy enclosed, Mr. Kim requested an estimate of the fees. No response has been received to Mr. Kim's letter of October 29, 1999.

To facilitate the processing of the subject request, on behalf of Mr. Kim and Mr. Rautenberg, we are willing to pay all reasonable and standard processing fees authorized by 5 U.S.C. § 552(a)(4)(A) and applicable regulations. Please provide me with prior notice in the event that you determine that such fees will exceed \$1000.00.

Kathryn I. Dyer
February 7, 2000
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In so agreeing, we do not waive our right to appeal the denial of our waiver request or the amount of fees ultimately charged.

Sincerely yours,


Jon W. van Horne

Enclosure: Three items of correspondence

cc: Mr. Erwin Rautenberg
Raymond B. Kim



A Professional Law Corporation

September 13, 1999

BY CERTIFIED MAIL

Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Re: *Request For Records Under Freedom of Information Act*

Dear Sir or Madam:

This letter is written on behalf of Erwin Rautenberg to request the disclosure of copies of materials available from the Central Intelligence Agency under the Freedom of Information Act and the regulations of your agency, including, but not limited to, Code of Federal Regulation §1900, *et seq.* The documents requested are described in greater detail below in the "Addendum to Freedom of Information Act Request" attached to this letter.

Under present regulations and case law pertaining to the Freedom of Information Act, the below-described documents are available to Mr. Rautenberg and other members of the public. They are not exempt from required disclosure under present interpretations of the Act.

The Central Intelligence Agency is believed to have custody of the below-described documents. However, if the Central Intelligence Agency does not have custody of these documents, I hereby request that you provide me prompt notice of their present location so that a request for disclosure may be made to the agency holding these documents.

If any portion of this request is deemed denied, I request a detailed statement of reasons why the Central Intelligence Agency is withholding documents. I further request that the Central Intelligence Agency prepare an index or similar statement of the nature of the documents being withheld.

I hereby request that the Department of Justice furnish the requested records in complete and unredacted form. I further request, pursuant to the Act and 32 CFR §1900.13(b), that these records be furnished without charge or at a reduced rate because this request is in the public interest and is likely to contribute significantly to the public understanding of the operations or activities of the United States Government and is not primarily in the commercial interest of the requester.

GOLDBERG, SCOTT, BELFIELD, STEINBERG & COHEN
A PROFESSIONAL LAW CORPORATION

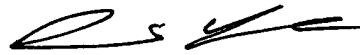
Information and Privacy Coordinator
Central Intelligence Agency
September 10, 1999
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If no fee waiver or reduction is granted, the requester agrees to pay the reasonable charges incurred under regulation for the search and copying of the requested documents, upon presentation of an invoice along with the finished documents. If search and copying fees exceed \$500, please telephone me in advance at (310) 557-9700 for agreement to such charges.

I look forward to hearing from you within twenty (20) working days with the documents requested.

Very truly yours,

**GOLDBERG, SCOTT, BELFIELD,
STEINBERG & COHEN**
A Professional Law Corporation



RAYMOND B. KIM

Attachments

GOLDBERG, SCOTT, BELFIELD, STEINBERG & COHEN
A PROFESSIONAL LAW CORPORATION

Information and Privacy Coordinator
Central Intelligence Agency
September 10, 1999
Page 3 of 2

bcc: Matthew S. Steinberg, Esq.
Erwin Rautenberg

Z 253 992 901

US Postal Service

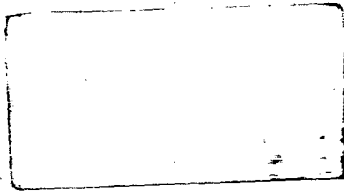
Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	
International Privacy Coordinator	
Street & Number	
Central Intelligence Agency	
Post Office, State, & ZIP Code	
Washington, D.C. 20505	
Postage	\$ 6.50
Certified Fee	2.65
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$ 9.15
Postmark or Date	

PS Form 3800, April 1995



Central Intelligence Agency



Washington, D.C. 20505

OCT 13 1999

Mr. Raymond B. Kim
Goldberg, Scott, Belfield, Steinberg & Cohen
1925 Century Park East
Suite 2200
Los Angeles, California 90067

Reference: F-1999-01980

Dear Mr. Kim:

This acknowledges receipt of your 13 September 1999 Freedom of Information Act (FOIA) request on behalf of your client, Erwin Rautenberg, for a list of **193 specific records pertaining to the "Air-Sea Forwarders Case."** Among the 193 line items are 39 entries for which you have provided redacted copies of documents and requested "unredacted" copies. Your request has been assigned the reference number above for identification purposes. Please refer to this number in future correspondence about this request.

We have determined that we can search for the records you have requested on behalf of your client. With regard to your request for a fee waiver, we have determined that disclosure of the requested documents will not contribute significantly to the public understanding of U.S. Government operations or activities. Therefore, your request for a fee waiver is denied.

With regard to the determination of a fee category, the determination can turn on the use to which the requested information would be put, rather than on the identity of the requester. As it is not clear from your letter to what purpose any disclosed records would be put, we ask that you provide us such information so that we can make a fee category determination. We have enclosed a copy of our fee schedule for your guidance.

We will be unable to begin processing your request until you have provided the clarification requested above. Meanwhile, will hold your request in abeyance for 45 days from the date of this letter pending your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathryn I. Dyer', written in a cursive style.

Kathryn I. Dyer
Information and Privacy Coordinator

Enclosure

CENTRAL INTELLIGENCE AGENCY**32 CFR Parts 1900, 1901, 1907, 1908, and 1909****Freedom of Information Act; Privacy Act; and Executive Order 12958; Implementation****Agency: Central Intelligence Agency.****ACTION: Interim rule.****§1900.02 Definitions**

For purposes of this part, the following terms have the meanings indicated:

(a) Agency or CIA means the United States Central Intelligence Agency acting through the CIA Information and Privacy Coordinator;

(b) Days means calendar days when the Agency is operating and specifically excludes Saturdays, Sundays, and legal public holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail;

(c) Control means ownership or the authority of the CIA pursuant to federal statute or privilege to regulate official or public access to records,

(d) Coordinator means the CIA Information and Privacy Coordinator who serves as the Agency manager of the information review and release program instituted under the Freedom of Information Act;

(e) Direct costs means those expenditures which an agency actually incurs in the processing of a FOIA request; it does not include overhead factors such as space, it does include:

(1) Pages means paper copies of standard office size or the dollar-value equivalent in other media;

(2) Reproduction means generation of a copy of a requested record in a form appropriate for release;

(3) Review means all time expended in examining a record to determine whether any portion must be withheld pursuant to law and in effecting any required deletions, but excludes personnel hours expended in resolving general legal or policy issues; it also means personnel hours of professional time;

(4) Search means all time expended in looking for and retrieving material that may be responsive to a request utilizing available paper and electronic indices and finding aids; it also means personnel hours of professional time or the dollar-value equivalent in computer searches;

(f) Expression of interest means a written communication submitted by a member of the public requesting information on or concerning

the FOIA program and/or the availability of documents from the CIA;

(g) Federal agency means any executive department, military department, or other establishment or entity included in the definition of agency in 5 U.S.C 552(f);

(h) Fees means those direct costs which may be assessed a requester considering the categories established by the FOIA; requesters should submit information to assist the Agency in determining the proper fee category and the Agency may draw reasonable inferences from the identity and activities of the requester in making such determinations; the fee categories include:

(1) Commercial means a request in which the disclosure sought is primarily in the commercial interest of the requester and which furthers such commercial, trade, income, or profit interests;

(2) Non-commercial educational or scientific institution means a request from an accredited United States educational institution at any academic level or institution engaged in research concerning the social, biological, or physical sciences or an instructor or researcher or member of such institutions; it also means that the information will be used in a specific scholarly or analytical work, will contribute to the advancement of public knowledge, and will be disseminated to the general public;

(3) Representative of the news media means a request from an individual actively gathering news for an entity that is organized and operated to publish and broadcast news to the American public and pursuant to their news dissemination function and not their commercial interests; the term news means information which concerns current events, would be of current interest to the general public, would enhance the public understanding of the operations or activities of the U.S. Government, and is in fact disseminated to a significant element of the public at minimal cost; freelance journalists are included in this definition if they can demonstrate a solid basis for expecting publication through such an organization, even though not actually employed by it; a publication contract or prior publication record is relevant to such status;

(4) All other means a request from an individual not within paragraph (h)(1), (2), or (3) of this section;

(i) Freedom of Information Act or "FOIA" means the statutes as codified at 5 U.S.C 552;

(j) Interested party means any official in the executive, military, congressional, or judicial branches of government, United States or foreign, or U.S. Government contractor who, in the sole discretion of the CIA, has a subject matter or physical interest in the documents or information at issue;

(k) Originator means the U.S. Government official who originated the document at issue

or successor in office, or such official who has been delegated release or declassification authority pursuant to law;

(l) Potential requester means a person, organization, or other entity who submits an expression of interest;

(m) Reasonably described records means a description of a document (record) by unique identification number or descriptive terms which permit an Agency employee to locate documents with reasonable effort given existing indices and finding aids;

(n) Records or agency records means all documents, irrespective of physical or electronic form, made or received by the CIA in pursuance of federal law or in connection with the transaction of public business and appropriate for preservation by the CIA as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the CIA or because of the informational value of the data contained therein; it does not include:

(1) Books, newspapers, magazines, journals, magnetic or printed transcripts of electronic broadcasts, or similar public sector materials acquired generally and/or maintained for library or reference purposes; to the extent that such materials are incorporated into any form of analysis or otherwise distributed or published by the Agency, they are fully subject to the disclosure provisions of the FOIA;

(2) Index, filing, or museum documents made or acquired and preserved solely for reference, indexing, filing, or exhibition purposes; and

(3) Routing and transmittal sheets and notes and filing or destruction notes which do not also include information, comment, or statements of substance;

(o) Responsive records means those documents (i.e., records) which the Agency has determined to be within the scope of a FOIA request.

§1900.13 Fees for Record Services

(a) In general. Search, review, and reproduction fees will be charged in accordance with the provisions below relating to schedule, limitations, and category of requester. Applicable fees will be due even if our search locates no responsive records or if some or all of the responsive records must be denied under one or more of the exemptions of the Freedom of Information Act.

(b) Fee waiver requests. Records will be furnished without charge or at a reduced rate whenever the Agency determines:

(1) That, as a matter of administrative discretion, the interest of the United States Government would be served, or

(2) That it is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the United States Government and

is not primarily in the commercial interest of the requester; the Agency shall consider the following factors when making this determination:

- (i) Whether the subject of the request concerns the operations or activities of the United States Government; and, if so,
- (ii) Whether the disclosure of the requested documents is likely to contribute to an understanding of United States Government operations or activities; and, if so,
- (iii) Whether the disclosure of the requested documents will contribute to public understanding of United States Government operations or activities; and, if so,
- (iv) Whether the disclosure of the requested documents is likely to contribute significantly to public understanding of United States Government operations and activities; and

(v) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so,

(vi) Whether the disclosure is primarily in the commercial interest of the requester.

(c) *Fee waiver appeals.* Denials of requests for fee waivers or reductions may be appealed to the Chair of the Agency Release Panel via the Coordinator. A requester is encouraged to provide any explanation or argument as to how his or her request satisfies the statutory requirement set forth above.

(d) *Time for fee waiver requests and appeals.* It is suggested that such requests and appeals be made and resolved prior to the initiation of processing and the incurring of costs. However, fee waiver requests will be accepted at any time prior to the release of documents or the completion of a case, and fee waiver appeals within forty-five (45) days of our initial decision subject to the following condition: If processing has been initiated, then the requester must agree to be responsible for costs in the event of an adverse administrative or judicial decision.

(e) *Agreement to pay fees.* In order to protect requesters from large and/or unanticipated charges, the Agency will request specific commitment when it estimates that fees will exceed \$100.00. The Agency will hold in abeyance for forty-five (45) days requests requiring such agreement and will thereafter deem the request closed. This action, of course, would not prevent an individual from refile his or her FOIA request with a fee commitment at a subsequent date.

(f) *Deposits.* The Agency may require an advance deposit of up to 100 percent of the estimated fees when fees may exceed \$250.00 and the requester has no history of payment, or when, for fees of any amount, there is evidence

that the requester may not pay the fees which would be accrued by processing the request. The Agency will hold in abeyance for forty-five (45) days those requests where deposits have been requested.

(g) *Schedule of fees - 1) In general.* The schedule of fees for services performed in responding to requests for records is established as follows:

Personnel Search and Review

Clerical/Technical	Quarter hour	\$5.00
Professional /Supervisory	Quarter hour	10.00
Manager/Senior Professional	Quarter hour	18.00

Computer Search and Production

Search (on-line)	Flat rate	10.00
Search (off-line)	Flat rate	30.00
Other activity	Per minute	10.00
Tapes (mainframe cassette)	Each	9.00
Tapes (mainframe cartridge)	Each	9.00
Tapes (mainframe reel)	Each	20.00
Tapes (PC 9mm)	Each	25.00
Diskette (3.5")	Each	4.00
CD (bulk recorded)	Each	10.00
CD (recordable)	Each	20.00
Telecommunications	Per minute	.50
Paper (mainframe printer)	Per page	.10
Paper (PC b/w laser printer)	Per Page	.10
Paper PC color printer	Per page	1.00

Paper Production

Photocopy (standard or legal)	Per page	.10
Microfiche	Per frame	.20
Pre-printed (if available)	Per 100 pages	5.00
Published (if available)	Per item	NTIS

(2) *Application of schedule.* Personnel search time includes time expended in either manual paper records searches, indices searches, review of computer search results for relevance, personal computer system searches, and various reproduction services. In any event where the actual cost to the Agency of a particular item is less than the above schedule (e.g., a large production or run of a document resulted in a cost of less than \$5.00 per hundred pages), then the actual lesser cost will be charged. Items published and available at the National Technical Information Service (NTIS) are also available from CIA pursuant

to this part at the NTIS price as authorized by statute.

(3) *Other services.* For all other types of output, production, or reproduction (e.g., photographs, maps, or published reports), actual cost or amounts authorized by statute. Determinations of actual cost shall include the commercial cost of the media, the personnel time expended in making the item to be released, and an allocated cost of the equipment used in making the item, or, if the production is effected by a commercial service, then that charge shall be deemed the actual cost for purposes of this part.

(h) *Limitations on collection of fees.* --
 (1) *In general.* No fees will be charged if the cost of collecting the fee is equal to or greater than the fee itself. That cost includes the administrative costs to the Agency of billing, receiving, recording, and processing the fee for deposit to the Treasury Department and, as of the date of these regulations, is deemed to be \$10.00.

(2) *Requests for personal information.* No fees will be charged for requesters seeking records about themselves under the FOIA; such requests are processed in accordance with both the FOIA and the Privacy Act in order to ensure the maximum disclosure without charge.

(i) *Fee categories.* There are four categories of FOIA requesters for fee purposes: "Commercial use" requesters, "educational and non-commercial scientific institution" requesters, "representatives of the news media" requesters, and "all other" requesters. The categories are defined in §1900.02, and applicable fees, which are the same in two of the categories, will be assessed as follows:

(1) "Commercial use" requesters: Charges which recover the full direct costs of searching for, reviewing, and duplicating responsive records (if any);

(2) "Educational and non-commercial scientific institution" requesters as well as "representatives of the news media" requesters: Only charges for reproduction beyond the first 100 pages;

(3) "All other" requesters: Charges which recover the full direct cost of searching for and reproducing responsive records (if any) beyond the first 100 pages of reproduction and the first two (2) hours of search time, which will be furnished without charge.

(j) *Associated requests.* A requester or associated requesters may not file a series of multiple requests, which are merely discrete subdivisions of the information actually sought for the purpose of avoiding or reducing applicable fees. In such instances, the Agency may aggregate the requests and charge the applicable fees.



A Professional Law Corporation

October 29, 1999

VIA FIRST CLASS MAIL

Kathryn I. Dyer
Information and Privacy Coordinator
Central Intelligence Agency
Washington, D.C. 20505

Re: *Request For Records Under Freedom of Information Act*
Reference No. F-1999-01980

Dear Ms. Dyer:

I am in receipt of your letter dated October 13, 1999 regarding the above-referenced Freedom of Information Act ("FOIA") request.

In your letter, you state that the Central Intelligence Agency ("CIA") has denied Mr. Rautenberg's request for a fee waiver based on its determination that "disclosure of the requested documents will not contribute significantly to the public understanding of U.S. Government operations or activities." Based on this determination, you request that I provide clarification as to the purpose the requested records will be put in order to determine the appropriate fee category for the request.

Please be advised that I dispute the CIA's determination that this request will not contribute significantly to the public understanding of U.S. Government operations or activities. Mr. Rautenberg seeks these records to assist him in his plans to write a book about his experiences relating to the subject matter of the requests. This topic is of significant interest to the public and reveals important information relating to the U.S. Government's Cold War operations. As such, this request clearly falls within the scope of those requests for which a fee waiver is justified. Thus, I strongly suggest that the CIA reconsider its prior determination without the necessity of a fee waiver appeal.

However, notwithstanding the above, and in an effort to enable Mr. Rautenberg to best assess the options available to him, I would like to obtain an estimate of the total amount of fees that the CIA anticipates it will charge for satisfying the request within ten (10) days from the receipt of this letter. Based on my review of the applicable regulations, the fee category that appears to be most appropriate in this regard is "all other."

GOLDBERG, SCOTT, BELFIELD, STEINBERG & COHEN

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Kathryn I. Dyer
Information and Privacy Coordinator
Central Intelligence Agency
October 29, 1999
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By requesting an estimate of fees that may be charged by the CIA, Mr. Rautenberg does not waive his right to appeal the CIA's denial of his request for a fee waiver or reduction as provided for in 32 CFR §1900.13 (c) or any other rights or remedies he may possess, all of which are expressly reserved.

Thank you for your anticipated cooperation and prompt attention to this matter. I look forward to hearing from you.

Very truly yours,

**GOLDBERG, SCOTT, BELFIELD,
STEINBERG & COHEN**
A Professional Law Corporation



RAYMOND B. KIM

GOLDBERG, SCOTT, BELFIELD, STEINBERG & COHEN
A PROFESSIONAL LAW CORPORATION

Kathryn I. Dyer
Information and Privacy Coordinator
Central Intelligence Agency
October 29, 1999
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bcc: Matthew S. Steinberg, Esq.
Erwin Rautenberg