

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION;
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

TRANSPORTATION SECURITY
ADMINISTRATION,

Defendant.

15 Civ. 2061 (JPO)

STIPULATION AND ORDER

WHEREAS, this action concerns plaintiffs American Civil Liberties Union's and American Civil Liberties Union Foundation's (together, the "ACLU's") request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, dated October 1, 2014 (the "FOIA Request"), to defendant Transportation Security Administration ("TSA" or the "Government"), for certain records concerning TSA's behavior detection activities, including the Screening Passengers by Observation Techniques program;

WHEREAS, on March 19, 2015, the ACLU filed this action against TSA;

WHEREAS, TSA has produced certain documents and withheld certain information in response to the FOIA Request;

WHEREAS, by letters dated August 24, 2017, and September 25, 2017, the parties notified the Court that they had resolved the merits of the underlying FOIA claims as to the FOIA Request and would attempt to resolve the ACLU's claim for attorneys' fees and litigation costs; and

WHEREAS, the parties have agreed to resolve this matter upon the terms and subject to the conditions set forth in this Stipulation and Order;

IT IS HEREBY STIPULATED AND AGREED, by and between the ACLU and the Government, and subject to endorsement by the Court, that:

1. The Government shall pay to the ACLU the sum of forty-three thousand one hundred fifty-six dollars (\$43,156) for attorneys' fees and litigation costs (the "Settlement Amount"). This payment shall constitute full and final satisfaction of any and all claims by the ACLU for attorneys' fees and litigation costs in this matter, and is inclusive of any interest. Payment shall be made by electronic funds transfer, and counsel for the ACLU will provide the necessary information for the Government to effectuate the transfer.

2. The ACLU releases and discharges the United States of America, and the United States of America's agencies, departments, officers, employees, servants, and agents from any and all claims and causes of action that the ACLU asserted, or could have asserted, in this litigation arising out of the FOIA Request. In consideration for, and effective upon, receipt by the ACLU of the Settlement Amount, this release and discharge includes any and all claims for attorneys' fees and litigation costs that the ACLU asserted, or could have asserted, in this litigation.

3. Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, this action is hereby dismissed with prejudice and without costs or fees other than as provided in paragraph 1 of this Stipulation and Order, provided that the Court shall retain jurisdiction over any issues that might arise relating to the enforcement of this Stipulation and Order.


4. Nothing in this Stipulation and Order shall constitute an admission that the Government is liable for any attorneys' fees or litigation costs, or that the ACLU has "substantially prevailed" in this action under 5 U.S.C. § 552(a)(4)(E), or that the ACLU is entitled to or eligible for any attorneys' fees or litigation costs. This Stipulation and Order is

entered into by the parties for the purpose of avoiding the expenses and risks of further litigation concerning the ACLU's claim for attorneys' fees and litigation costs. This Stipulation and Order is non-precedential with respect to any other proceeding involving either of the parties, including, but not limited to, any other FOIA action or administrative proceeding, and shall have no effect or bearing on any pending or future request for records under FOIA.

5. This Stipulation and Order contains the entire agreement between the parties, and no statement, representation, promise, or agreement, oral or otherwise, between the parties or their counsel that is not included herein shall have any force or effect.

6. This Stipulation and Order may be executed in counterparts. Facsimile or pdf signatures shall constitute originals.

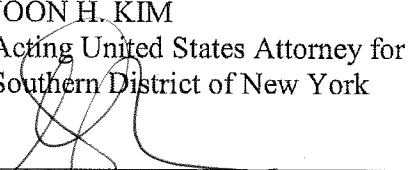
Dated: October 20, 2017



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Counsel for the Government

SO ORDERED.

Dated: October 23, 2017
New York, New York



J. PAUL OETKEN
United States District Judge