



FOIA Office

U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

July 25, 2023

Victoria Kapastin
Vellichor Consulting LLC
4234 N Damen Ave
#1
Chicago, IL 60618

RE: 23-00196-FOIA

Dear Ms. Kapastin:

This is in response to your request dated July 20, 2023 under the Freedom of Information Act seeking access to: [enforcement action or other disciplinary records naming a Christoph Henkel within the records of the CFTC.].

We can neither confirm nor deny the existence of any records responsive to your request. If they exist, records of this nature would be exempt from disclosure under FOIA Exemptions 6 and 7(C), as explained below. To even officially acknowledge the existence of investigatory records of the type that pertain to an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. If they do exist, even the very fact of their existence would be exempt from disclosure under the cited exemptions.

The Commission considers the foreseeable harm standard when reviewing records and applying FOIA exemptions. If responsive records exist, such records would consist of personal information, which is exempt from release under FOIA Exemption 6 because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. 5 U.S.C. § 552(b)(6); *see also The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003). In addition, such records, if they exist, would also be exempt from disclosure under FOIA Exemption 7(C), which provides protection for personal information in law enforcement records, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C).

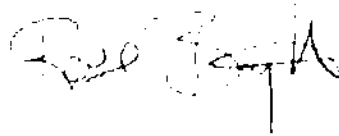
If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Bridget McFarland at 202-418-5319, or Jonathan Van Doren, our FOIA Public Liaison, at JVandoren@CFTC.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

College Park, Maryland 20740-6001, email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 8th Floor, 1155 21st Street, N.W., Washington, D.C. 20581, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Rose B. Killoy". The signature is written in a cursive style with a prominent vertical stroke at the end.

Rosemary B. Killoy
Assistant General Counsel



FOIA Office

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Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
www.cftc.gov

March 2, 2023

Rebecca Ballhaus
Wall Street Journal
280 Park Avenue S
26A
New York, NY 10010

RE: 23-00090-FOIA

Dear Ms. Ballhaus:

This is in response to your request dated January 9, 2023 under the Freedom of Information Act seeking access to:

I am seeking any and all records involving:

- a referral of Lihong McPhail to the inspector general related to potential violations of the Commodity Exchange Act[;]
- any communications between ethics officials and the OIG related to Lihong McPhail[;]
- any referrals to the OIG in 2022 involving short selling[.]

We can neither confirm nor deny the existence of any records responsive to your request. If they exist, records of this nature would be exempt from disclosure under FOIA Exemptions 6 and 7(C), as explained below. To even officially acknowledge the existence of investigatory records of the type that pertain to an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. If they do exist, even the very fact of their existence would be exempt from disclosure under the cited exemptions.

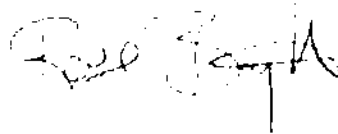
The Commission considers the foreseeable harm standard when reviewing records and applying FOIA exemptions. If responsive records exist, such records would consist of personal information, which is exempt from release under FOIA Exemption 6 because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. 5 U.S.C. § 552(b)(6); *see also The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003). In addition, such records, if they exist, would also be exempt from disclosure under FOIA Exemption 7(C), which provides protection for personal information in law enforcement records, the disclosure of which "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C).

If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Bridget McFarland at 202-418-5319, or Jonathan Van Doren, our FOIA Public Liaison, at JVanDoren@CFTC.gov.

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Rosemary B. Killoy
Assistant General Counsel