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Lynn M. LoPucki
Security Pacific Bank Professor of Law
Direct phone: (310) 794-5722 • Direct fax: (310) 267-0350
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SCHOOL OF LAW
405 HILGARD AVENUE
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476

July 14, 2006

Sue Ann Slates, FOIA/Privacy Counsel
Office of General Counsel
Executive Office for U.S. Trustees
United States Department of Justice
20 Massachusetts Ave., N.W. (Suite 8100)
Washington, DC 20530

Dear Ms. Slates:

This is a request pursuant to the Freedom of Information Act. The records requested are as follows:

records of studies conducted by the EOUST or any regional office of the US Trustee of (1) the costs of fee application preparation in Chapter 11 bankruptcy cases or (2) compliance with section (b)(4) of the US Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, 28 CFR Pt. 58, App. A as that section relates to fee application preparation.

As I am making this request as a scholar and this information is of timely value, I would appreciate your communicating with me by telephone or email, rather than by mail, if you have questions regarding this request. My direct dial telephone number is (310) 794-5722 and my email address is lopucki@law.ucla.edu.

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am affiliated with an educational institution and this request is made for a scholarly purpose and not for a commercial use. I am willing to pay fees for this request up to \$50. If you estimate that the fees will exceed this limit, please inform me first.

Thank you for your consideration of this request.

Yours truly,

A handwritten signature in black ink, appearing to be "Lynn M. LoPucki", written over a horizontal line.

Lynn M. LoPucki

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NAME
Mr. LYNN LOPUCKI TELEPHONE

COMPANY
UCLA/SCHOOL OF LAW

STREET ADDRESS
405 HILGARD AVENUE #1242

CITY AND STATE
LOS ANGELES CA ZIP CODE 90095-8347

2 EXTREME/URGENT DELIVERY TO
NAME TELEPHONE

COMPANY
SUE ANN SLATES)

STREET ADDRESS
45. DEPT of Justice

CITY AND STATE (INCLUDE COUNTRY IF INTERNATIONAL)
20 MASSACHUSETTS AVE. NW
Washington DC ZIP CODE 20530



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U.S. Department of Justice

Executive Office for United States Trustees

Office of the General Counsel

20 Massachusetts Ave., N.W. (Suite 8000)

Washington, D.C. 20530

(202) 307-1399 FAX: 307-2397 (www.usdoj.gov/ust)

July 20, 2006

Lynn M. LoPucki
Security Pacific Bank Professor of Law
University of California, Los Angeles - School of Law
405 Hilgard Avenue (Box 951476)
Los Angeles, CA 90095-1476

Re: FOIA No. 2006-2043

Dear Mr. LoPucki:

This responds to your July 14, 2006, information request received in this Office on July 18, 2006, and assigned the above-referenced tracking number for processing under the Freedom of Information (FOIA) and Privacy Acts and related rules.^{1/} 5 U.S.C. §§ 552-552a; 28 CFR § 16.1, *et seq.*

Your request states in pertinent part as follows:

This is a request pursuant to the Freedom of Information Act. The records requested are as follows:

records of studies conducted by the EOUST or any regional office of the US Trustee of
(1) the costs of fee application preparation in Chapter 11 bankruptcy cases or (2)
compliance with section (b)(4) of the US Trustee's Guidelines for Reviewing
Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C.
330, 28 CFR Pt. 58, App. A as that section relates to fee application preparation.

Before further processing your request, please confirm the scope of your request, memorialized above, and clarify the information that you requesting in accordance with the Department of Justice FOIA regulations cited below.

^{1/} This is the central FOIA processing unit for the United States Trustee Program, a Department of Justice component charged with bankruptcy oversight. 28 U.S.C. § 586; *cf.* 28 CFR § 16.3(a) ("FOIA request[s] . . . will be considered received as of the date . . . received by the proper component's FOIA office").

(1) Intended Use. Based on the statutory standard for fee categories, OMB Fee Guidelines, Department regulations, and all of the information available to me, I conclude that for purposes of your request, you qualify as a representative of an educational institution, whose purpose is scholarly research. See 5 U.S.C. §552(a)(4)(A)(ii)(II). This means that you may be charged only for the direct costs of duplication of the releasable records. By statute, requesters in the "educational institution" fee category are entitled to the first 100 pages of duplication without cost. See 5 U.S.C. § 552(a)(4)(A)(iv)(II).

(2) Fee Commitment. While the submission of a FOIA request constitutes an implied "agreement by you to pay all applicable fees . . . up to \$25," an *express* fee commitment is needed where fees may exceed \$25; and, where fees may exceed \$250, an advance payment will also be required before further processing a FOIA request. See 28 CFR §§ 16.3(c), 16.11(e). Your request states that:

In order to help to determine my status for purposes of determining the applicability of any fees, you should know that I am affiliated with an educational institution and this request is made for a scholarly purpose and not for a commercial use. I am willing to pay fees for this request up to \$50. If you estimate that the fees will exceed this limit, please inform me first.

We preliminarily estimate that your \$50 fee commitment will not be exceeded; however, we confirm your request to contact you if we exceed your \$50 commitment. Please remit no fees prior to billing.

(3) Scope Clarification. As our FOIA regulations state, "[y]ou must describe the records that you seek in enough detail to enable Department personnel to locate them with a reasonable amount of effort." 28 CFR § 16.3(b).^{2/} Clarification is needed so that we may properly process your request.

(a) United States Trustee Program (USTP) records are typically maintained in connection with specific bankruptcy cases, and there are 21 USTP regional offices and 95 USTP field offices nationwide, as well as an Executive Office in Washington, DC http://www.usdoj.gov/ust/eo/ust_org/office_locator.htm As we understand your request, you wish to limit your search to the Executive Office and 21 regional USTP offices where any relevant studies are most likely to be found. Please clarify if that is your intent. You may wish to consider narrowing the scope of your request and limiting the search for responsive documents to the Executive Office, as it will effect the amount of time required to conduct a search for responsive documents.

^{2/} Accord http://www.usdoj.gov/ust/eo/foia/foia_request.htm ("Although requests may be made in any written form, . . . [a] FOIA request should sufficiently describe the specific records sought, so as to enable USTP staff to conduct a search for the requested records with a reasonable amount of effort").

(4) Privacy Requirements. We understand that you are seeking Program studies related to fee applications. Please note, however, that to the extent any third-party information about a living individual record-subject protected under the Privacy Act appears in any responsive documents, processing such records may entail significant time for legal review and redaction prior to disclosure, absent record-subject consent or other legal authorization for disclosure of third-party information.^{3/}

For the foregoing reasons, if you wish us to further process your information request, please clarify it as noted above on or before August 21, 2006. We will close our file in this matter if we do not receive a response by that date.

Department regulations provide that you may appeal this decision by lodging an administrative appeal with the Office of Information and Privacy, Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530-0001, within 60 days of this letter. (Both the letter and envelope should be marked "FOIA Appeal.") If you are dissatisfied with the results of any such administrative appeal, judicial review may thereafter be available in U.S. District Court. 28 CFR § 16.9.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue Ann Slates", with a stylized circular flourish at the beginning.

Sue Ann Slates
FOIA/Privacy Act Counsel

^{3/} See, e.g., 5 U.S.C. § 552a(b) ("No agency shall disclose any record which is contained in a system of records . . . except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure" is otherwise authorized by law); accord 28 CFR § 16.3(a) ("If you are making a request for records about another individual, either a written authorization signed by that individual permitting disclosure of those records to you or proof that that individual is deceased . . . will help the processing of your request"); see also United States Trustee Program Privacy Act page (http://www.usdoj.gov/ust/eo/foia/privacyact_request.htm), containing links to sample Privacy Act certification and consent forms (e.g., http://www.usdoj.gov/04foia/forms/cert_ind.pdf).



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Failure to furnish this information will result in no action being taken on the request. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ _____

Citizenship Status ² _____ Social Security Number ³ _____

Current Address _____

Date of Birth _____ Place of Birth _____

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ _____ Date _____

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

¹ Name of individual who is the subject of the record sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.



Lynn M. LoPucki
Security Pacific Bank Professor of Law
Direct phone: (310) 794-5722 • Direct fax: (310) 267-0350
E-mail: lopucki@law.ucla.edu

July 28, 2006

SCHOOL OF LAW
405 HILGARD AVENUE
BOX 951476
LOS ANGELES, CALIFORNIA 90095-1476

Sue Ann Slates, FOIA/Privacy Counsel
Office of General Counsel
Executive Office for U.S. Trustees
United States Department of Justice
20 Massachusetts Ave., N.W. (Suite 8100)
Washington, DC 20530

Re: FOIA No. 2006-2043

Dear Ms. Slates:

Thank you for your letter of July 20, 2006 in which you request clarification of the above FOIA request. My initial request was for:

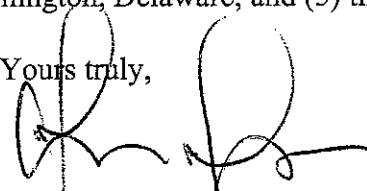
records of studies conducted by the EOUST or any regional office of the US Trustee of (1) the costs of fee application preparation in Chapter 11 bankruptcy cases or (2) compliance with section (b)(4) of the US Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, 28 CFR Pt. 58, App. A as that section relates to fee application preparation.

You suggested this clarification:

[USTP] records are typically maintained in connection with specific bankruptcy cases, and there are 21 USTP regional offices and 95 USTP field offices nationwide, as well as an Executive Office in Washington, DC. As we understand your request, you wish to limit your search to the Executive Office and 21 regional USTP offices where any relevant studies are most likely to be found. Please clarify if that is your intent. You may wish to consider narrowing the scope of your request and limiting the search for responsive documents to the Executive Office, as it will affect the amount of time required to conduct a search for responsive documents.

In partial accord with your suggestion, I hereby limit my request to (1) the Executive Office, (2) the Region 2 Office in New York, New York, (3) the Region 3 Office in Philadelphia, Pennsylvania, (4) the Region 3 Office in Wilmington, Delaware, and (5) the Region 11 Office in Chicago, Illinois.

Yours truly,


Lynn M. LoPucki



U.S. Department of Justice
Executive Office for United States Trustees
Office of the General Counsel
20 Massachusetts Ave., N.W. (Suite 8000)
Washington, D.C. 20530

(202) 307-1399 FAX: 307-2397 (www.usdoj.gov/ust)

September 12, 2006

Lynn M. LoPucki
Security Pacific Bank Professor of Law
University of California, Los Angeles - School of Law
405 Hilgard Avenue (Box 951476)
Los Angeles, CA 90095-1476

Re: FOIA No. 2006-2043 (Via Certified Mail)

Dear Mr. LoPucki:

This responds to your July 14, 2006, information request received in this Office on July 18, 2006, as modified by your July 28 response to our July 20 request for clarification. Your request was assigned the above-referenced tracking number for processing under the Freedom of Information (FOIA) and Privacy Acts and related rules.^{1/} 5 U.S.C. §§ 552-552a; 28 CFR § 16.1, *et seq.*

The United States Trustee Program is a component of the Department of Justice and is responsible for overseeing the administration of bankruptcy cases and private estate trustees. *See, e.g.*, 11 U.S.C. § 101, *et seq.*; 28 U.S.C. § 586. The United States Trustee Offices in New York, New York; Wilmington, Delaware; Philadelphia, Pennsylvania; and Chicago, Illinois; as well as the Executive Office for United States Trustees in Washington, DC, performed local searches of their files, but found no responsive documents regarding "1) the costs of fee application preparation in Chapter 11 bankruptcy cases or 2) compliance with section (b)(4) of the US Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. 330, 28 CFR Pt. 58. App. A as that section relates to fee application preparation." Therefore, no responsive documents reside within the Program's files.

Since this completes our work upon your request, we are closing our file. Department regulations provide that you may appeal this decision by lodging an administrative appeal with the Office of Information and Privacy, Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530, within 60 days of this letter. (Both the letter and envelope should be marked "FOIA Appeal.") If you are dissatisfied with the results of any such administrative appeal, judicial review may thereafter be available in U.S. District Court. 28 CFR § 16.9.

Sincerely,

Sue Ann Slates
FOIA/Privacy Counsel

^{1/} This is the central FOIA processing unit for the United States Trustee Program, a Department of Justice component charged with bankruptcy oversight. 28 U.S.C. § 586; *cf.* 28 CFR § 16.3(a) ("FOIA request[s] . . . will be considered received as of the date . . . received by the proper component's FOIA office").