

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., :
 :
 Plaintiffs, :
 :
 v. : Civil Action No. 04-0814 (HHK)
 :
 CENTRAL INTELLIGENCE AGENCY, :
 :
 Defendant :

**REPLY OF PLAINTIFF ROGER HALL TO DEFENDANT'S
OPPOSITION TO HIS MOTION FOR AN ACCOUNTING**

The CIA opposes Hall's request for an accounting of searches it already has conducted on the grounds that this concerns "issues related to the estimates or searches conducted by the CIA related to Plaintiff's May 1998 FOIA request or C.A. 98-1319. . . ." Def's Opposition to Plaintiff's Motion for an Accounting ("Opp. to Mot. for Acctg.") at 4 (emphasis added). There were no "estimates" proffered in Civil Action No. 98-1319. Rather, the CIA put forward hugely discrepant claims as to the amount of fees incurred for searches already conducted.

While the CIA did render its greatly varying fee claims in the context of Civil Action No. 98-1319 and Hall's 1998 FOIA request, that does not render them "immaterial" to this lawsuit as the CIA contends. First, in order to obtain the nonexempt documents located by the CIA's searches, Hall must still pay the CIA \$10,906.33, as he has twice attempted to do. Since the CIA originally stated it had incurred about \$29,000 in search fees and then later reduced the amount to \$10,906.33, the honesty and/or competency of its fee assessments are obviously open to question. The fact that

the CIA's subsequent statement of the amount of fees was only about one-third of its original demand does not necessarily mean that the \$10,906.33 figure is correct. Given the blatant inconsistencies of the figures it gave in connection with Hall's 1998 request, there is no reason to accept the reduced figure as correct. Unease about the sums of money the CIA is demanding is further enhanced by the fact that it now appears to be referring to its former statements of fees incurred as "estimates" when in fact they were representations as to costs actually incurred.

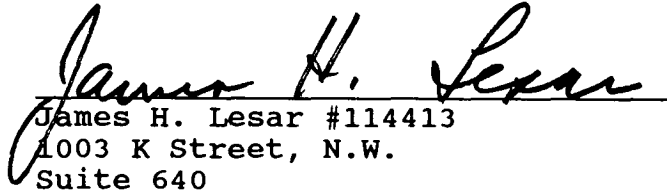
The CIA also contends that Hall's motion for an accounting with respect to its fee estimates in connection with Hall's February 7, 2003 request is "factually erroneous and in any event premature." *Id.* The CIA is correct in pointing out that Hall's counsel overlooked a second part of item 5 of the request which greatly increased number of individual searches to be made under that item. Counsel apologizes for that error.

However, counsel's error does not erode the basis for requiring the CIA to account for its estimate. The CIA's past figures for the searches have been so widely divergent that they call into question either the CIA's motives or its methodology regarding its fee claims. In light of this, whether its current estimates are affected by similar maladies is obviously a problem.

Given the CIA's history of irreconcilably different claims for the same amount of work, both this Court and plaintiffs need to know more about the basis for the CIA's current fee estimates before making any decisions regarding them.

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Respectfully submitted,

A handwritten signature in cursive script that reads "James H. Lesar". The signature is written in black ink and is positioned above a horizontal line.

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May 25, 2005