

# Exhibit 18:

The following 2 pages are submitted as an Exhibit for 'Plaintiff's Memo, Presenting Details of his Complaint'.

**Description of Exhibit Contents:**

*This is Plaintiff's Appeal (dated December 23, 2011) to the Response by Defendant FAA for FOIA #2011-8134. It includes a 1-page cover letter, and a 1-page attachment. The attachment is a copy of Plaintiff's FOIA Request email, with key elements circled to emphasize the irregularities in the FOIA Response.*

28242 S. Salo Rd., Mulino, OR 97042

tel. (971) 295-7669

Friday, December 23, 2011

Federal Aviation Administration  
AFN-1, Asst. Administrator for Finance and Management  
800 Independence Avenue SW  
Washington, DC 20591

Dear Sir or Madam,

Please accept this letter as an **appeal requesting reconsideration** of the partial denial response to my FOIA request 2011-8134. I was mailed two responses; the first, with Teresa Bruner and Konstantine Nezer responsible for 75-pages with partial redactions, was received on 11/22/11; the second, with John McFall responsible for 43-pages with partial redactions, was received on 11/26/11.

Please see a copy of the email I sent on 7/31/11, which clearly states my original FOIA request. As you can see, I asked for "*...the entire unredacted copies of all investigative records, all letters proposing discipline, and all letters implementing the final disciplinary decision.*" You will further note that I also copied an actual FAA Press Release, so as to ensure my FOIA request was clearly understood.

It appears the FOIA response was defective. Content was improperly redacted. Entire pages (the draft and final disciplinary letters for the controller and the supervisor) were fully redacted, but not declared.

**For this Appeal, I ask that you immediately produce unredacted copies of all letters proposing discipline, and all letters implementing the final disciplinary decision. Please note, the 4/18/11 FAA Press Release explicitly stated that "...the controller and the front line manager have been suspended..." I also ask that you produce all response copies sent with partially-redacted pages, but for the Appeal, provide them with no redactions. Lastly, I ask that you fully comply with the FAA FOIA Order and produce these records within twenty days.**

I await your response.

Sincerely,



Jeff Lewis

*"...the government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed..."*

*- President Barack Obama, 1/21/2009*



Jeff Lewis <reformfaanow@gmail.com>

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## New FOIA request: ZOB ARTCC movie over hot mic incident

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Jeff Lewis <reformfaanow@gmail.com>

Sun, Jul 31, 2011 at 9:51 AM

To: FAA-HQ FOIA <7-awa-arc-foia@faa.gov>

Please accept this as a request for records under the FOIA.

Text below was copied from the 4/18/11 FAA Press Release concerning a controller and an FLM suspended "pending an investigation" for the apparent viewing of a DVD movie at ZOB ARTCC.

*During the early morning hours of April 17, 2011, an air traffic controller at the Cleveland Air Route Traffic Control Center was watching a movie on a portable electronic device while working a radar position. For a little more than three minutes, the controller's microphone was inadvertently activated, transmitting the soundtrack of the movie over the radio frequency for that airspace. The problem was brought to air traffic control's attention by the pilot of a military aircraft using an alternate frequency. The controller and the front line manager have been suspended from operational duties pending an investigation. FAA policy prohibits the use of portable DVD players and other devices from being used on the floor of the radar room.*

For this FOIA request, I ask for the entire unredacted copies of all investigative records, all letters proposing discipline, and all letters implementing the final disciplinary decision.

FOIA Exemption #2 is not applicable as, clearly, Agency rules against the viewing of a movie while performing ATC duties would not be considered "internal". FOIA Exemption #5 is not applicable as all these records would be releasable to a party in litigation with the Agency. FOIA Exemption #7 is not applicable as none of these records were compiled for law enforcement purposes.

As regards FOIA Exemption #6, there is a clear and substantial public interest in disclosure which far outweighs the debatable "privacy" value of the names of the FAA personnel involved, all of whom were acting in an official (not personal) capacity. A full disclosure would serve the core purpose of the FOIA by contributing significantly to public understanding of the operations or activities of the government.

I agree to pay up to \$25 for the production of these records, so long as the fee amount is justified by FAA's FOIA Order. I ask that you fully comply with this FOIA Order and produce these records within the Time Limits as specified within this Order.

Thank you for your assistance.

Jeff Lewis

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