

The James Madison Project
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9 February 2009

Melanie Ann Pustay
Director
Office of Information and Privacy
U.S. Department of Justice
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Re: MDR Request – *Black v. Sheraton Corp. of Am.* Classified Declarations and Affidavits

Dear Ms. Pustay:

This is a request on behalf of the James Madison Project (“JMP”) pursuant to the provisions of Executive Orders 12958 and 13292 for Mandatory Declassification Review of **any and all classified declarations or affidavits filed by the Attorney General (or his designee) in the following lawsuit wherein the State Secrets Privilege or Executive Privilege was invoked to withhold FBI documents: *Black v. Sheraton Corp. of Am.*, 371 F. Supp. 97 (D.D.C. 1974)**. Please note that the listed case citation is for reference purposes only to assist with identification of the relevant lawsuit and files, and is not intended to be relied upon for the specific proceeding in which the declaration or affidavit was filed (i.e., it may have been filed in an earlier proceeding in the noted lawsuit). To the best of our knowledge, these documents are currently being held by the Civil Division.

Never before have any of the classified declarations or affidavits submitted by an agency head in support of a State Secrets Privilege or Executive Privilege invocation been released to the public. The release of this historic information would significantly contribute to the understanding of the information provided by the government to the courts when considering the

“Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives.”

James Madison, 1822

State Secrets Privilege. As this case is 35 years old, we believe these records are not currently and properly classified at this time.

We do not authorize the DOJ to assess any charges to us for the processing of this request without seeking our prior explicit authorization.

We request that any documents or records produced in response to this request be provided in electronic (soft-copy) form wherever possible. Acceptable formats are .pdf, .jpg, .gif, .tif. Please provide soft-copy records by email or on a CD if email is not feasible.

Your cooperation in this matter would be appreciated. If you wish to discuss this request, please do not hesitate to contact my Director of FOIA Operations Kel McClanahan at Kel@JamesMadisonProject.org or 301-728-5908.

Please respond to this request by email to Kel@JamesMadisonProject.org or by fax to 240-681-2189.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Zaid for". The signature is fluid and cursive.

Mark S. Zaid
Executive Director

MSZ/km

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