UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-61735-CIV-ZLOCH

BROWARD BULLDOG, INC.,
and DAN CHRISTENSEN,

Plaintiffs,

vs.

O R D E R

U.S. DEPARTMENT OF JUSTICE, and
FEDERAL BUREAU OF INVESTIGATION,

Defendants,

HALIFAX MEDIA HOLDINGS, LLC,
d/b/a The Sarasota Herald Tribune,

Amicus Curiae,

MIAMI HERALD MEDIA COMPANY,
d/b/a The Miami Herald,

Amicus Curiae.

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THIS MATTER is before the Court upon Plaintiffs' Motion For Order Compelling Additional Search (DE 46) and the Court's prior Order (DE 58). The Court has carefully reviewed said Motion, the entire court file and is otherwise fully advised in the premises.

Plaintiffs Broward Bulldog, Inc., and Dan Christensen (hereinafter "Plaintiffs") brought their Complaint (DE 1) under the Freedom of Information Act, 5 U.S.C. § 552 (hereinafter "FOIA"), as amended by the OPEN Government Act of 2007, and the Declaratory Judgment Act, 28 U.S.C. § 2201, seeking "the disclosure and release of agency records concerning persons who may have provided aid and assistance to the terrorists in the days and years leading to the

[9/11 attacks]." DE 1, ¶ 2. As Plaintiffs set forth in their Complaint (DE 1), they seek to determine whether Defendant Federal Bureau of Investigation (hereinafter "Defendant FBI") investigated such persons and, if so, what the outcome of this investigation was. By prior Order (DE 58), the Court granted Plaintiffs' Motion For Order Compelling Additional Search (DE 46) and indicated that the instant Order would follow, setting forth the Court's reasoning and fully articulating the manner in which this case will be proceeding.

The Court's role in refereeing a FOIA complaint is clearly delineated by the Act itself, which states, in pertinent part:

> On complaint, the district court . . . has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo . . .

5 U.S.C. § 552(a)(4)(B). The Supreme Court has explained the lack of deference required by FOIA's de novo review: "Unlike the review of other agency action that must be upheld if supported by substantial evidence and not arbitrary or capricious, the FOIA expressly places the burden 'on the agency to sustain its action' and directs the district courts to 'determine the matter de novo.'" United States Dep't of Justice v. Reporters Comm. for Freedom of the Press, 489 U.S. 749, 755 (1989) (quoting 5 U.S.C. § 552(a)(4)(B)). See also Adejumobi v. Nat'l Sec. Agency, No. 6:07-cv-1237-Orl-31UAM, 2007 WL 4247878, at *2 (M.D. Fla. Dec. 3, 2007)

(citing Steinberg v. United States Dep't of Justice, 23 F.3d 548, 551 (D.C. Cir. 1994); Hayden v. Nat'l Sec. Agency, 608 F.2d 1381, 1384 (D.C. Cir. 1979)). When evaluating an agency's search for documents requested under FOIA, the Court applies a reasonableness standard. The Eleventh Circuit has described this test as follows: "[T]he agency need not show that its search was exhaustive. Rather, 'the agency must show beyond material doubt . . . that it has conducted a search reasonably calculated to uncover all relevant documents.'" Ray v. United States Dep't of Justice, 908 F.2d 1549, 1558 (11th Cir. 1990), rev'd on other grounds sub nom. United States Dep't of State v. Ray, 502 U.S. 164 (1991) (citing Miller v. United States Dep't of State, 779 F.2d 1378, 1383 (8th Cir. 1985) (quoting Weisberg v. United States Dep't of Justice, 705 F.2d 1344, 1351 (D.C. Cir. 1983))). And, if the agency is able to establish that its search was reasonable, then the party requesting release of documents must rebut the agency's position by showing the search was not reasonable or was not conducted in good faith. Id.

Based on the record in this case, and taking seriously the role of non-deferential review FOIA demands, the Court finds that it does not yet possess enough information to assess the reasonableness of the search conducted in the above-styled cause. In Miccosukee Tribe of Indians of Florida v. United States, the Eleventh Circuit described the inquiry that precedes the

reasonableness of the search determination:

> The Tribe first argues that the evidence presented by the EPA was simply not sufficient for the district court to determine on the merits whether the search was adequate and reasonable. This is a threshold issue. Setting aside the question of whether the search was reasonable based upon the Rule 56 record, the court must determine whether the Rule 56 record before the trial court was adequate for it to make a summary judgment determination.

516 F.3d 1235, 1244 (11th Cir. 2008) (emphasis added). In Miccosukee Tribe, discovery and testimony had been permitted, and the court found that the record had been sufficiently developed to allow for a reasonableness determination. Id. at 1248 ("We answer this threshold question in the affirmative."). In the above-styled cause, however, at this point, the Court answers this threshold question in the negative. Therefore, by its prior Order (DE 58) and by the requirements set forth herein, the Court makes no conclusive finding as to the reasonableness of the search conducted or whether any of the claimed exemptions of Defendants United States Department of Justice and its component, Federal Bureau of Investigation (hereinafter "Defendants") are appropriately invoked.

The Court has exercised its discretion to review in camera the unredacted versions of the thirty-five pages of material which Defendants contend comprise the totality of documents relevant to Plaintiffs' request. Section 552(a)(4)(B) of Title 5 of the United States Code indicates that the Court "may examine the contents of such agency records in camera to determine whether such records or

any part thereof shall be withheld under any of the exemptions set forth." Discussing the necessity of more rigorous review in some cases, the Sixth Circuit explained that, "In certain circumstances the court must play a more active role because no party or institution is available to ensure that the agency's assertions are reliable." Jones v. FBI, 41 F.3d 238, 243 (6th Cir. 1994) (emphasis in original).

At this point, the Eleventh Circuit's decision in Ely v. FBI is instructive.[1] In Ely, the Court canvassed methods by which the district court might establish that it had an adequate factual basis when deciding FOIA cases, and in describing in camera review stated that, "If the court elects to satisfy this requirement by means of in camera review, then a priori the government must, at a minimum, tell the court whether the documents in dispute exist. Once that is done, the statute envisions an activist role for the trial court." 781 F.2d 1487, 1492 (11th Cir. 1986). The Court then cautioned, "Failure of a trial court to undertake this probing and exacting review constitutes an erroneous default of its

[1] Defendants correctly state in their Reply To Plaintiffs' Memorandum In Opposition To Defendants' Motion For Summary Judgement (DE 30) that in Miscavige v. IRS, the Court noted that "[Ely] cannot be deemed to be binding authority that affidavits will never be sufficient, however, because the district court there 'required no Vaughn Index, no in camera inspection, no hearing, not even the filing of an affidavit to support the government's claim.'" 2 F.3d 366, 368 (11th Cir. 1993) (quoting Ely, 781 F.2d at 1494). In other respects, Ely remains undisturbed. The Court is not required to review documents in camera, or even to order a Vaughn Index in every case. At times, other methods, such as affidavits, will suffice. But when the Court decides to review documents in camera, Ely explains the withholding agency's obligation in that process.

obligations under the statute." Id. (citing Stephenson v. IRS, 629 F.2d 1140, 1146 (5th Cir. 1980)).[2] The Ely court concluded by describing the effect of such a failure as "giv[ing] the government an absolute, unchecked veto over what it would or would not divulge, in clear violation of the provisions of the statute." Id. at 1494. Describing Ely's exhortation to diligent review, the district court in McNamera v. United States Dep't of Justice explained that, "What the Ely court did was remind the district courts that FOIA intended for them to have a very active role in construing the applicability of the claimed exemptions." 974 F. Supp. 946, 956 (W.D. Tex. Aug. 12, 1997). In the instant cause, the Court cannot plausibly take an active role in determining whether specific exemptions apply until the Court has knowledge of the existence or non-existence of and access to the materials Plaintiffs are actually seeking, that is, until the Court is confident that a reasonable search has been performed.

This case is not about the thirty-five pages of material produced, the majority of which Plaintiffs have now received in redacted form and which the Court has reviewed in unredacted form. At the core of the dispute between the Plaintiffs and Defendants is Plaintiffs' belief that Defendants have a large number of relevant documents, detailing a thorough investigation, and Defendants'

[2] In Bonner v. City of Pritchard, 661 F. 2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

strident assertion that the only documents which are relevant to Plaintiffs' inquiry are those already produced by the search they argue was reasonable.[3] Defendants have refused to conduct searches utilizing the names of individuals, arguing that such searches would be outside of the scope of Plaintiffs' FOIA request and, additionally, protected by privacy exemptions. But Defendants' eagerness to assert exemptions and wooden method of interpreting Plaintiffs' FOIA requests essentially deprives the Court of its role in examining any relevant documents and independently determining whether any exemptions may apply. In order to assess whether a reasonable search has been performed, and then to make legal determinations about exemptions, the Court must be satisfied it has before it a search which looks where documents can be found.

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[3] With respect to assessing the reasonableness of the search, a determination the Court is not able to make at this time, the Court has no concern with what the results of such an investigation were if it did take place. At times, without so stating in unequivocal terms, the Parties imply that this case is about the results of an investigation. For example, in Defendants' February 7, 2002 letter in response to Plaintiffs' second FOIA request, Defendants include an entire paragraph discussing the results of the investigation:

> As the FBI has publically stated, a review of our records revealed that in the aftermath of the 9/11 attacks, the FBI received a large number of calls from the public reporting suspicious activity. At no time during the course of its investigation of the attacks, known as the PENTTBOM [sic] investigation, did the FBI develop credible evidence that connected the address at 4224 Escondido [sic] Circle, Sarasota, Florida to any of the 9/11 hijackers.

DE 1-11. Instead, the Court's inquiry as to the reasonableness of the search is merely about the existence of an investigation and about whether such an investigation, if it did exist, produced documents which may be relevant to Plaintiffs' FOIA request. The only conceivable pertinence of the results of any investigation would be to a later stage, when the Court is required to balance various interests in determining the application of particular exemptions.

No in camera review or Vaughn Index or permission to engage in discovery could compensate for a search which has been preemptively narrowed in scope based on agency decisions that categories of documents are exempt and thus, will not even be sought.

Plaintiffs' second FOIA request of October 27, 2011, exhausted through Defendants' appeal process, states that Plaintiffs seek information that "pertains to the FBI investigation into the 9/11 terrorist attacks," and more specifically, "information pertaining to an anti-terrorism investigation regarding activities at the residence at 4224 Escondito Circle, in the Prestancia development near Sarasota, Florida prior to 9/11/2001," activities which "involve apparent visits to that address by some of the deceased 9/11 hijackers." DE 1-7. The primary difference between this request and Plaintiffs' original request of September 26, 2011, is that the earlier request listed the names of the family members who owned and resided at the address. See DE 1-5. Throughout the duration of the requests, the appeal of the second request through agency review, and the litigation in the above-styled cause, Defendants maintain any search they perform should not in any way involve the names of the individuals who would have been the subjects of the investigation about which Plaintiffs seek information. The Declaration Of David M. Hardy (DE 25-1), submitted with Defendants' Motion For Summary Judgement (DE 25), lists all of the search terms employed, and these include only

variations on the address and location. See DE 25-1, ¶ 23. This remains Defendants' position, as they argue:

> The FBI should not be required to search for records using the names of individuals who are not the subject of plaintiff's request. Plaintiffs are being disingenuous in suggesting that the Court should require the FBI to search for records identified by individual names despite the fact that they purposefully modified their request, explicitly stating that they were not interested in any records regarding individuals.

DE 47, p. 8. First, Defendants' characterization of Plaintiffs' second request is literal to the point of being nonsensical. While the second request did not mention the names of any individuals and included a footnote stating that it "concerns no third parties," DE 1-7, it is evident that an inquiry about a particular investigation necessarily concerns the activities of individuals, whether these individuals are denominated by their names or by their residence or sphere of activity. Second, even under Defendants' explanation in response to Plaintiffs' first request, which did list the names of specific individuals, Defendants list several conditions under which records pertaining to third parties may be released, one of which is "a clear demonstration that the public interest in disclosure outweighs the personal privacy interest and that significant public benefit would result from the disclosure of the requested records." DE 1-6.

As rationale for their response to Plaintiffs' first request, Defendants cited both the Privacy Act, 5 U.S.C. § 552a (hereinafter "Privacy Act") and FOIA exemptions under 5 U.S.C. § 552(b)(6) and

(b)(7)(C). See DE 1-6. The Court will not——indeed should not——evaluate said exemptions before it can be determined whether a reasonable search took place in the first instance. Indeed, whether an exemption may be claimed once relevant requested information is located should have no bearing on how a reasonable search should be conducted. A reasonable search seeks the documents requested, and when the agency believes these located documents are exempt, then——and only then——should the agency claim an appropriate exemption.

Additionally, with respect to the relationship between the Privacy Act and FOIA exemptions, the Eleventh Circuit held in News-Press v. United States Dep't of Homeland Sec., that, "The net effect of the interaction between the two statutes [the Privacy Act and FOIA] is that where the FOIA requires disclosure, the Privacy Act will not stand in its way, but where the FOIA would permit withholding under an exemption, the Privacy Act makes such withholding mandatory upon the agency." 489 F.3d 1173, 1189 (11th Cir. 2007). As in News-Press, then, when the Court ultimately evaluates privacy concerns, "the dispositive question" will be "whether disclosure . . . 'would constitute a clearly unwarranted invasion of personal privacy' under FOIA Exemption 6," or any other FOIA privacy-related exemptions. Id. (citing 5 U.S.C. § 552(b)(6)).

The remedy the Court will provide flows not only from the

preceding recognition of the issues at play at the heart of this matter, but also from the Court's ensuing observations based on the record, pleadings, and in camera inspection of unredacted documents. These observations touch upon various inconsistencies and concerns about whether the search conducted thus far is one which "beyond material doubt" has been "reasonably calculated to uncover all relevant documents." Ray, 908 F.2d at 1558.

The first concern relates to the substance of the universe of responsive documents currently produced based on Plaintiffs' second request. As chronologized by Plaintiffs, see DE 46, p. 8, excepting of course the pages Bates stamped SARASOTA 29 through and including SARASOTA 32 which Plaintiffs have not viewed, the apparent gaps between the documents in this list are unaccounted for.[4] From September 19, 2001, to September 25, 2001, seven separate documents comprising sixteen of the thirty-five pages located, record initial calls and follow-up interviews related to the address mentioned in Plaintiffs' request. The next document, dated April 16, 2002, is a summary of work performed. Many details in this particular document seem to indicate that investigative work, in addition to that mentioned in the previous seven documents, took place. The second paragraph notes that there were "repeated citizen calls." DE 25-2, SARASOTA 5. Next, this document

[4] In this discussion, the Court will of course refrain from referring to any unredacted documents or details and will base its comments solely on the redacted pages to which all Parties have access.

mentions an inspection, admittedly not conducted by Defendants per se, but by another federal agency. Another paragraph directly mentions the "[f]urther investigation," and goes on to describe various details which were therein learned. No reports of underlying inspections and investigation have been produced. Defendants may offer many reasons why no documents in between those from September of 2001 and this document dated April of 2002 were produced. Defendants may also argue that some of such documents and details, if they exist, should be exempt from FOIA discovery, or are in some other way not relevant to the allegedly reasonable search conducted based on Plaintiffs' request. However, based on the limited information before it now, the Court is unable to glean the whole truth. It notes simply that an investigation took place during this time period that apparently resulted in certain findings, yet, seemingly, the search yielded no documentation of this investigation. This alone moves the Court to believe a further search is necessary. And, this is not the only chronological jump in the documents which strikes the Court has highly unusual.

After the April 2002 document, SARASOTA 7 through and including SARASOTA 10 contain a letter and interview record, also dating from 2002. The final group of documents located by the initial search are from a much later period in time. These

documents purport to be from 2010 to 2013,[5] and many reference the newspaper articles by Plaintiffs and other publications and summarize again what appears to have been a past investigation. Again, these materials seem to indicate that there was indeed an investigation, and again, according to Defendants, somehow this investigation yielded no documentation that would be relevant to Plaintiffs' FOIA request which directly sought information about this very subject.

The Court also observes that not only does the library of located documents presented seem incomplete, but the summary documents do in fact seem to contradict one another. In SARASOTA 5-6, one paragraph concludes, "Further investigation of the [redacted] family revealed many connections between the [redacted] and individuals associated with the terrorist attacks on 09/11/2001." DE 25-2, SARASOTA 5 (emphasis added). But in SARASOTA 1-2, the first paragraph states, "The FBI found no evidence that connected the family members mentioned in the Miami Herald article to any of the 9/11 hijackers, nor was any connection found between the family and the 9/11 plot." DE 25-2, SARASOTA 1. The Court is not, as previously noted, concerned at this point with what was discovered or was not discovered in terms of the

[5] The Court is curious about the date on the document marked SARASOTA 1 through and including SARASOTA 2. This document is dated "15 September 2010," but if Plaintiffs are correct that the newspaper articles referenced in the first paragraph began appearing in September 2011, it does not seem that the date on this document can be correct. See DE 1, ¶¶ 17-18.

investigation. But these statements seem to be in conflict, and there is nothing in Defendants' thirty-five produced pages that reconciles this stark contradiction. Further, the documents appear to be summarizing information external to the thirty-five produced pages. Naturally, the Court cannot know what else might exist, but these gaps and inconsistencies within the current universe of documents underscore the need for a more thorough search, after which the Court will be better able to determine if said efforts truly have been reasonable.

Next, the Court turns to the additional reasons from the record, aside from the documents themselves, which support the Court's hesitation to find that the search efforts by Defendants up to this point have been reasonable. The Court is concerned about the time line of the production of the documents. In his Declaration, Hardy merely states that as a result of Plaintiffs' second request, word searches were conducted, six documents were located, and they were originally withheld due to FOIA exemptions. See DE 25-1, ¶ 23. Next, Hardy states, "Subsequent to learning of this litigation, the Tampa Field Office ("TPFO") was contacted regarding this matter." Id. at ¶ 24. As a result of contacting the Tampa Field Office and the search this office performed, after the lawsuit had been filed, "fourteen documents, consisting of 35 pages, were located. The 35 pages located as a result of this search included the pages previously located during the

administrative phase." Id. In Miccosukee Tribe, the court explained that an adverse inference need not always be drawn from the late production of documents. 516 F.3d at 1256-57. At the conclusion of this discussion, the court found: "We are not certain that a 'one size fits all' answer to that question exists. Rather than announcing that a certain inference can always be drawn from such a late production, we believe that the better course is to evaluate the reasoning behind the delay." Id. at 1257. In that case, the court was satisfied that the agency had offered a reasonable explanation for its delay and found that the district court had not erred by failing to draw any adverse inferences due to the delay. Id.

But as to the search at issue here, Defendants do not explain to the Court's satisfaction why additional steps were undertaken or were suddenly reasonable to undertake merely because a lawsuit was filed. Hardy's Declaration references its steps as being "the FBI's current policy." Id. at ¶ 23, n.3; ¶ 25. In contacting the Tampa Field Office, documents were located that had not been located previously. The Court is less concerned with the FBI's policy than with whether it can be determined that a particular search under particular circumstances was reasonable. The Court is troubled by the fact that the filing of the above-styled cause appears to be cited by Defendants as a rationale or at least a prompt for performing further searches. The Court cannot

understand why the imminence of judicial review of an agency's search in response to a FOIA request would by itself cause the agency to reevaluate its procedure. While it is the Court's responsibility to assess reasonableness after such a suit is filed, it is the agency's responsibility to conduct reasonable searches at all times and in response to every FOIA request, even a request which does not lead to litigation. According to Hardy's Declaration (DE 25-1), "[The Tampa Field Office] would be the most logical [field office] which could assist with the search for responsive records, should they exist, since it was the [field office] which handled the alleged complaint in regard to the address subject of this FOIA request." DE 25-1, ¶ 24. This statement explains why this particular field office was selected for further inquiry, but it does not explain why such inquiry only became part of performing a reasonable search after Plaintiffs' filed the above-styled cause.

Because the Court is ordering additional steps be taken by Defendants, a detailed assessment of the sufficiency of Hardy's Declaration is not appropriate at this time. The Court will require an updated declaration in any event, documenting all future searches. But at this juncture, the Court advises Defendants to make certain that any future declaration is sufficiently thorough. Hardy's Declaration (DE 25-1), which purports to provide a detailed summary of all steps taken, by Defendants' own admission, was not

updated to include all past steps. Neither this Declaration (DE 25-1) nor any subsequent update mentions any use of the Sentinel case management system. But, in response to Plaintiffs' Motion (DE 46) in which Plaintiffs requests that this search system be used, Defendants state that, "This is unnecessary because the FBI has already conducted a Sentinel search using the same search terms as were used for the ACS search." DE 47, p. 6. Additionally, Hardy's Declaration (DE 25-1) is conspicuously vague in its description of the search at the Tampa Field Office. Many of the additional steps required herein will provide the Court with the necessary clarification as to all searches performed at this Field Office in order for the Court to make its reasonableness determination.

Further, the declarations submitted by Plaintiffs, considered in conjunction with Defendants' responses, point to the existence of responsive, relevant documents that Defendants' searches have not located. The Court acknowledges that the reasonableness of a search is not ultimately tied solely to the fact that it does not find certain extant documents. See Nation Magazine v. United States Customs Serv., 71 F.3d 885, 892 n.7 (D.C. Cir. 1995) ("[T]here is no requirement that an agency produce all responsive documents." (emphasis in original)(citing Perry v. Block, 684 F.2d 121, 128 (D.C. Cir. 1982)). Yet, "[i]n certain circumstances, a court may place significant weight on the fact that a records search failed to turn up a particular document in analyzing the

adequacy of a records search." Iturralde v. Comptroller of Currency, 315 F.3d 311, 315 (D.C. Cir. 2003) (citing Krikorian v. Dep't of State, 984 F.2d 461, 468 (D.C. Cir. 1993)). In this case, the Court needs additional information in order to weigh the allegations by Plaintiffs that particular documents exist against Defendants' arguments that they have taken sufficient steps to uncover all relevant documents. In particular, Plaintiffs provided the Declaration of former U.S. Senator D. Robert Graham (DE 29-5). Senator Graham describes how, after being contacted by Plaintiff Christensen, he began researching Christensen's information about a 9/11-related Sarasota investigation. DE 29-5, ¶ 28. At one point during Senator Graham's own inquiry, he was shown two documents, an April 16, 2002 document and a September 16, 2002 document, which he reviewed and believed contradicted Defendant FBI's public statements about the Sarasota investigation. Id. at ¶¶ 35-36. Graham states that after reviewing the thirty-one redacted pages he concluded that the April 16, 2002 document he was shown was included, but the September 16, 2002 document was not included. Id. at ¶ 50. The Court cannot make any determination about whether this document should reasonably have been located by the search at issue here. The existence of this document, however, is not speculative. At one time, it was believed relevant to Graham's inquiry, and his inquiry sprung from Plaintiffs' own research. Additionally, Graham was informed that other documents

in existence that he was never shown, were relevant to his inquiry, which again, is similar to Plaintiffs' inquiry. Id. at ¶¶ 37-41. Plaintiffs' Motion (DE 46) specifically targets Jacqueline Maguire of the FBI, with whom Graham spoke about these documents. Defendants claim that Maguire has been contacted, but their explanation does not appear to account for the documents that Graham was told existed, but that he was never shown. In order for the Court to conduct its review in this case, it must know whether such documents exist. The Court does not intend by referencing this example alone to provide an exhaustive catalogue of disagreements by the Parties about the existence of various documents.

Finally, the Court has carefully reviewed Defendants' descriptions of Defendants' own filing system. And, while the Court recognizes that FOIA requires agencies to be responsible for navigating the intricacies of their own record retrieval capabilities and explaining these processes to the Court, in this particular case, the ambiguities in Defendants' system——combined with the Court's previously cited concerns——have contributed to its decision to compel the additional production and search detailed herein.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED that Plaintiffs' Motion For Order Compelling Additional Search (DE 46) be and the same is hereby

GRANTED as follows:

1. To the extent Defendants have not already done so, and with respect to any searches ordered herein which were not previously performed, Defendants shall use the Sentinel case management system to conduct searches for responsive documents. Defendants are further ordered to perform all searches detailed herein in any other databases, whether accessible through the Sentinel system, or through another system, where responsive documents may be found. Defendants are specifically instructed to perform searches in any systems which contain information that has not been migrated into the Sentinel system, or which are in any other way not contained in or subsumed by the Sentinel system;

2. Defendants are hereby **ORDERED** to perform the following automated text searches:

a. "Esam Ghazzawi"

b. Esam AND Ghazzawi

c. Esam AND Ghaz!

d. "Deborah Ghazzawi"

e. Deborah AND Ghazzawi

f. Deborah AND Ghaz!

g. "Abdulaziz al-Hijji"

h. Abdulaziz AND al-Hijji

i. Abdulaziz AND al-Hij!

j. "Anoud al-Hijji"

k. Anoud AND al-Hijji

l. Anoud AND al-Hij!

m. Prestancia AND "Huffman Aviation"

n. Prestancia AND "Mohamed Atta"

o. Prestancia AND Terror!

p. Prestancia AND gatehouse

q. Prestancia AND "phone records"

r. Prestancia AND PENTTBOMB

s. Prestancia AND PENTTBOM

t. Escondito AND "Huffman Aviation"

u. Escondito AND "Mohamed Atta"

v. Escondito AND Terror!

w. Escondito AND gatehouse

x. Escondito AND "phone records"

y. Escondito AND PENTTBOMB

z. Escondito AND PENTTBOM

aa. Sarasota AND PENTTBOMB

bb. Sarasota AND PENTTBOM

The Court notes with respect to the names set forth above, these names have already been made a part of the public record by Plaintiffs' filings. Additionally, some of the names are matters of Sarasota County public record as the owners of the property in question. Defendants have never requested the Court redact or seal the names published by Plaintiffs.

3. In order to allow the Court to conduct manual document review to determine the reasonableness of the search, Defendants are hereby **ORDERED** to provide to the Court for in camera inspection photocopies of all documents containing the universal case file number 265D-NY-280350-TP. Additionally, with respect to the case file numbers, known to Defendants and to the Court, but redacted from documents produced to Plaintiffs, Defendants are likewise ordered to provide photocopies of all documents containing these case file numbers to the Court for in camera review by the Court. Finally, the Court notes that some of the thirty-five produced pages contain no case file number. Accordingly, Defendants alone know where any like documents in the Tampa Field Office relating to the 9/11 investigation would be located and how they are maintained. Photocopies of such documents shall also be produced for the Court's in camera inspection. All production set forth in this paragraph shall be completed by noon on Friday, April 18, 2014;

4. Defendants shall likewise conduct a manual review for responsiveness to Plaintiffs' FOIA request of the documents described in paragraph 3, as well as manually reviewing any documents located by the automated text searches described in paragraph 2. Defendants will provide a Report to the Court concerning the same and setting forth its search results by noon on Friday, June 6, 2014;

5. Defendants shall provide any declarations necessary to describe in detail with appropriate specificity all steps taken in compliance with this Order. The declarant or declarants providing such statements shall have personal knowledge of the steps taken therein. Defendants will provide such declaration or declarations to the Court by noon on Friday, June 6, 2014;

6. Defendants shall advise the Court of any documented communications between Defendants and other government agencies concerning the investigation which is the subject of Plaintiffs' FOIA request. Information about such communications shall also be included in the Report referenced in paragraph 4; and

7. While the production of all documents ordered in paragraph 3 exists to assist the Court in its reasonableness determination, should the Defendants locate any documents responsive to Plaintiffs' request, these shall be produced to Plaintiffs at the time they are located, either in unredacted or redacted form, should Defendants locate such documents but seek to assert FOIA exemptions to information contained therein.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 4th day of April, 2014.

WILLIAM J. ZLOCH
United States District Judge

Copies Furnished:
All Counsel of Record