

THANG NGUYEN,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-0018 (RWR)
)	
FEDERAL BUREAU OF INVESTIGATION,)	
)	
)	
Defendant.)	
)	

In response to the Order of August 28, 2006, defendant has filed the Third Declaration of David M. Hardy (“Third Hardy Decl.”) to explain its withholding of a credit profile and a sealed court order identified as documents responsive to plaintiff’s request under the Freedom of Information Act, 5 U.S.C. § 552. The issue concerning the credit profile is moot because defendant has released an unredacted copy of the document to plaintiff. Third Hardy Decl.

¶ 6.

Defendant “contacted and confirmed” with the United District Court for the Western District of New York that the order concerning “the receipt of information about a third party informant and a third party company” remains sealed. *Id.* ¶ 7. The order “only allows the FBI to retain a copy, the FBI has no discretion to release the records.” *Id.* Defendant’s “lawful obedience of an injunction issued by a federal district court with jurisdiction to enter such a decree” deprives the FOIA court of jurisdiction because no improper withholding has occurred. *GTE Sylvania, Inc. v. Consumers Union of United States, Inc.*, 445 U.S. 375, 387

(1980); *see accord Morgan v. U.S. Dep't. of Justice*, 923 F.2d 195, 198 (D.C. Cir. 1991) (“If the [agency] obtains a clarifying order stating that the seal prohibits disclosure, the [agency] is obviously entitled to summary judgment.”). A separate Order entering judgment for defendant on all claims accompanies this Memorandum.

DATE: October 19, 2006

_____/s/_____
RICHARD W. ROBERTS
United States District Judge