

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

SENT VIA EMAIL

(G@xny.io)

October 21, 2024

Gunnar D. Larson
xNY.io – Bank.org
406 West 25th Street
New York, NY 10001

Re: Freedom of Information Law (“FOIL”) Tracking No. 2023-096828

Dear Gunnar D. Larson:

I write in response to the FOIL request that you submitted to the New York State Department of Financial Services (“Department”), which has been assigned the above-referenced tracking and requests in pertinent part:

“Dear Sir or Madam: Please submit any and all records related to the LendingClub.com September 11 Board of Directors resignation below. The date of the resignation is in question. You may understand the sensitive nature of the date of the resignation Gunnar Larson Sun, Oct 24, 2021, 5:06 PM to Anuj, Investor, Press Hello there: Thank you very much for the reply. Gunnar On Sun, Oct 24, 2021, 11:36 AM Anuj Nayar wrote: Hi Gunnar On September 11, 2021, in connection with her nomination to serve as superintendent of the New York State Department of Financial Services, Adrienne Harris notified us of her resignation, effective September 12, 2021, from the Company’s Board. Details can be found in the 8k filed on 9/15/21 (below)
<https://d18rn0p25nwr6d.cloudfront.net/CIK-0001409970/bbc437e4-2920-4d5d-8e0d-86bca622f0ca.pdf> From: Gunnar Larson Date: Saturday, October 23, 2021 at 9:37 AM To: Investor Relations , Press Cc: Gunnar Larson Subject: [EXT] LendingClub: Current Board of Directors
CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Dear Madam or Sir: Good day to you. Surveying market research, I was wondering if you can kindly confirm, from

LendingClub's July 15, 2021 press release: Is Ms. Adrienne Harris currently a member of LendingClub's board of directors?
<https://www.prnewswire.com/news-releases/lendingclub-appoints-adrienne-harris-to-its-board-of-directors-301335198.html#financial-modal> [prnewswire.com] Reviewing your website, Ms. Harris is not referenced:<https://www.lendingclub.com/company/leadership> Bloomberg and other sources do not reference Ms. Harris as a LendingClub board member: <https://www.bloomberg.com/quote/LC:US> [bloomberg.com]
Sending you the very best regards. Thank you, Gunnar -- Gunnar Larson - xNY.io [xny.io] | Bank.org [bank.org] MSc [unic.ac.cy] - Digital Currency MBA [unic.ac.cy] - Entrepreneurship and Innovation (ip) G@xNY.io +1-646-454- 9107 New York, New York 10001.”

Your current request is an exact duplicate of a request that you previously submitted to the Department on January 26, 2022, which was assigned the tracking number 2022-089773 and reads as follows:

“Dear Sir or Madam: Please submit any and all records related to the LendingClub.com September 11 Board of Directors resignation below. The date of the resignation is in question. You may understand the sensitive nature of the date of the resignation. Gunnar Larson Sun, Oct 24, 2021, 5:06 PM to Anuj, Investor, Press Hello there: Thank you very much for the reply. Gunnar On Sun, Oct 24, 2021, 11:36 AM Anuj Nayar wrote: Hi Gunnar On September 11, 2021, in connection with her nomination to serve as superintendent of the New York State Department of Financial Services, Adrienne Harris notified us of her resignation, effective September 12, 2021, from the Company’s Board. Details can be found in the 8k filed on 9/15/21 (below)
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<https://www.prnewswire.com/news-releases/lendingclub-appoints-adrienne-harris-to-its-board-of-directors-301335198.html#financial-modal> [prnewswire.com] Reviewing your website, Ms. Harris is not referenced:<https://www.lendingclub.com/company/leadership> Bloomberg and other sources do not reference Ms. Harris as a LendingClub board member: <https://www.bloomberg.com/quote/LC:US> [bloomberg.com]
Sending you the very best regards. Thank you, Gunnar -- Gunnar Larson - xNY.io [xny.io] | Bank.org [bank.org] MSc [unic.ac.cy] - Digital Currency

MBA [unic.ac.cy] - Entrepreneurship and Innovation (ip) G@xNY.io +1-646-454-9107 New York, New York 10001.”

On January 19, 2023, the Department denied your previous request pursuant to Public Officers Law § 89(3) as not reasonably described because it did not clearly describe the records sought to enable the Department to conduct a reasonable search for such records. Notwithstanding this denial, the Department advised you that, in August of 2021, the Superintendent resigned from the Board of Directors of the Lending Club, effective September 12, 2021.

Consequently, the Department considers your current request to be duplicative of the one assigned tracking number 2022-089773, which resulted in a final Department determination. An agency is not required to consider duplicate requests for records for which it has already made a final determination. see Walker v. Roque, 137 A.D.3d 643, 643-44 (1st Dep’t 2016) (affirming dismissal of Article 78 petition because FOIL request at issue was “duplicative of [petitioner’s prior] FOIL request seeking essentially the same materials pertaining to the same criminal case, notwithstanding that the prior request was more detailed than the instant request,” and because petitioner was precluded from challenging denial of prior request); Zarvela v. Banks, 117 A.D.3d 1070, 1071 (2d Dep’t 2014), lv. to appeal denied, 24 N.Y.3d 906 (2014) (affirming denial of petition as a “belated attempt to seek judicial review of [a] prior determination” that was “duplicative” of the instant request); Garcia v. Division of State Police, 302 A.D.2d 755, 756 (3d Dep’t 2003) (affirming dismissal of petition where FOIL request was “nearly identical” to a prior request that agency had denied and “more specific” than an even earlier request FOIL request that was the subject of a prior Article 78 proceeding); Pennington v. Clark, 1 A.D.3d 912, 912 (4th Dep’t 2003) (recognizing that “[i]f two FOIL requests are duplicative, the court may dismiss the proceeding challenging a determination of the latter request, as a belated attempt to seek judicial review of the denial of the first request”) (citations omitted). Additionally, there has been no change in circumstances, i.e., no additional records in possession of the Department since the January 19, 2023 determination. see Corbin v Ward, 160 A.D.2d 596, lv. denied 76 N.Y.2d 706, 706 (1st Dep’t 1990) (petitioner may not “obtain reconsideration of [a] prior request without any change in circumstances”).

Based on the foregoing, the Department will not consider your current FOIL request because it is duplicative of a request that you previously submitted, and for which the Department has already made a final determination. Moreover, there has been no change in circumstances since that determination was made.

Accordingly, your request is denied as duplicative and is now closed.

Pursuant to N.Y. Public Officers Law § 89(4), you may appeal this determination within 30 days by sending an email to FOIL.Appeals@dfs.ny.gov.

Very truly yours,

Pascale Jean-Baptiste
Pascale Jean-Baptiste
FOIL Officer