



SECRETARY OF THE AIR FORCE
WASHINGTON

U.S. OFFICE OF
SPECIAL COUNSEL
WASHINGTON, D.C.

2006 APR 14 AM 11:06

The Honorable Scott J. Bloch
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, DC 20036-4505

12 APR 2006

Dear Mr. Bloch:

In response to your letter dated 10 November 2005, attached is the completed Report of Investigation for OSC File DI-05-0995.

The Space Warfare Center at Schriever Air Force Base, Colorado conducted a commander-directed investigation into all four allegations referred by your office. These allegations were not substantiated based on a preponderance of evidence. However, the investigation identified a consistent theme of poor and mishandled superior-to-subordinate communications. The attached Report of Investigation cites numerous examples.

Please note that in several instances prior to this investigation, the complainant took specific portions of the case to an appropriate agency seeking feedback on the allegations. Respondents offered their professional ethical and/or judicial evaluation, however the complainant was dissatisfied with these responses.

My point of contact for this matter is Maj Stephen Silvers, SAF/IGQ at (703) 588-1532.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Wynne".

Michael W. Wynne

Attachment:
Report of Investigation (2 February 2006)

For Official Use only

**COMMANDER DIRECTED
REPORT OF INVESTIGATION
PREPARED BY
JAMES P. BLANTON, JR.
INVESTIGATING OFFICER
AIR FORCE SPACE COMMAND
SPACE WARFARE CENTER
CONCERNING
COMMANDER'S ISSUES
2 FEB 2006**

SECTION I

SCOPE AND AUTHORITY:

Colonel Larry Chodzko, Commander, Space Warfare Center appointed James P Blanton Jr, GS-15 Deputy Director, Space Warfare Center on 8 Dec 05 to conduct the Investigation into Maryann Zelenak's, GS-14 DAFC allegations. Ms Zelenak filed her complaint with Office of Special Counsel on 18 Feb 05. The Investigation was conducted from 8 Dec 2005 to 03 Feb 2006 at various locations primarily at Schriever, Peterson and Kirtland AFBs in Colorado and New Mexico.

BACKGROUND AND ALLEGATIONS:

BACKGROUND

Ms. Zelenak, GS-14, DAFC, worked in the Air Force Space Command's Space BattleLab as the AFRL Liaison. During her employment, she documents several issues she did not feel were ethically, morally, contractually and legally correct. AFRL leadership took actions (early Feb-Mar 2004) to PCS her to another location (due to her workplace concerns and her time spent in the job) but were overrode by Ms. Zelenak for personal reasons. From 2004 until 2005 she alleges the allegations continued to take place and grew to include multiple other complaints (documented later in this report). Ms. Zelenak formally filed a complaint with the Office of Special Counsel in February 05 and she continued to send them documentation until she PCS'd from the BattleLab in the summer of 2005.

ALLEGATIONS

The complainant alleged the following as given to me by the HQ AFSPC/IG via the Secretary of the Air Force, who received the initial OSC tasking;

- a. Col (Ret) Ronald G. Oholendt, former Commander, Space Battlelab, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05.
- b. Lt Col (Ret) Allan R. Cassady, former Chief of Concept Evaluation, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05.
- c. Col Patrick P. Rhodes, Commander, Space Battlelab, was aware of Col Oholendt's and Lt Col Cassady's illegal communication and took no action.

d. Other personnel assigned to the BattleLab, were aware of Col Oholendt's and Lt Col Cassady's illegal communications and took no action.

SECTION II:

FINDINGS

This complaint starts in late 2002 and runs through May of 2005. Throughout the course of Ms. Zelenak's employment supporting the Air Force BattleLab she starts to document multiple findings based on her various duties as the AFRL Liason Officer. Specifically, she starts with the Commander of the Space BattleLab, Col Ron Oholendt, and his involvement with a BattleLab project called Razorview and several concept proposals named ASPEN, Dragonfire and Vigilant Light. She also had issues with his continued involvement with the same project and proposals after his retirement from the USAF. The complainant also starts documentation on several other matters concerning legal/ethical and contractual matters surrounding these and other projects, as well as other individuals associated with the same. Because of the complainants extensive documentation and timelines concerning her complaints, please refer to her provided documentation for a thorough understanding of the timelines and concerns. Note: Ms Zelenak's complaints are thoroughly documented and in many cases are different than the actual four complaints handed down from the OSC. Please refer to her personal email to me dated 3 Jan 06 and 4 Jan 06.

The investigation I conducted evolved around the four documented complaints from OSC and as such, the following timeline is how my investigation played out to ascertain the facts for those allegations.

Dec 7-8 2005. Tasked by Col Chodzko, became IO for an OSC complaint filed by Maryann Zelenak.

-Tasked Mr Doug Urbaniak (Region 7 AFOSI, also serves as the SWC senior security representative) and Lt Col Nordlie (newly appointed Space BattleLab CC to assist in the investigation).

-Requested an immediate extension back to Col Chodzko. Original timeline as tasked a response to SAF/IG on 27 Dec 05.

8 Dec 05, Phoned OSC Ms Catherine McMullen, Chief Disclosure Unit, and asked for a copy of the complaint and all files. Ms McMullen stated the files were extensive and that it would be OK to first try and receive them from Ms Zelenak.

-Spoke with Maj Linette Romer, AFSPC/JA, who was also assigned to support the investigation, concerning several issues surrounding the startup of the investigation.

-Called Col Pat Rhodes to set up interview.

-Called Col (R) Oholendt and Lt Col (R) Cassady to set up interviews.

-Set up meeting with 50 JA .

9 Dec 05, met with investigation team to establish questions for BattleLab (BL) members, and other interview questions for other members.

12 Dec 05 Interviewed BL members, Mr Allen Vickery, GS-13, MSgt Greenard, Mr Alex Welton (contractor), Mr Colon (contractor), Mr Irwin (Civilian), TSgt Lombardo, Maj Donahue, Capt Quigley, TSgt Vaughn, Capt Livingston, Lt Higginbotham, Maj Zornes, Capt Roberts, MSgt Hopson, Lt Col Saxton, Lt Col Anderson, Lt Col Lane, Maj Staats, Lt Col Tinnerman and Mr Bragado, GS-13.

- Firmed interview with Col Rhodes and Lt Col Tomme.
- Follow-up interview discussions with Lt Col Lane and Anderson (BL).
- Interviewed Lt Col (R) Vozzola.

13 Dec 05 Spoke again with Ms McMullen, confirmed that material should come from the complainant; all other relevant documents were already sent down through channels. She stated that Ms. Zelenak sent lots of documents but that not all were relevant. Ms McMullen also stated first extension should be no problem.

- First attempt to contact Maryann Zelenak – left message
- Interview with Mr Chris Sanders, GS-12, SWC TSSOS PM
- Interview with Col Pat Rhodes
- Interview with Capt Corey Nelson, SWC/XRC (attended meeting with Ms. Zelenak along with Chris Sanders and Capt Cheryl Kreifels)

14 Dec 05 Interview with Maj Andy Richardson (then BL member and QAE on contract concerning complaints).

- Interview Lt Col Dan Reifschneider
- Interview Mrs Karen Bragado, 50th CONS

15 Dec 05 Interview Mr Tim Harris SWC/XR

- Interviewed Capt (R) Kreifels
- Interviewed Col (R) Oholendt
- Started receiving Ms Zelenak's documentation
- Telephone follow-on with Lt Col Reifschneider

19 Dec 05 received Mr Oholendt's personal statement

The period thru the Christmas holidays I was on leave. The last week of December was used to establish way aheads with the team for the case. The first week of Jan 06 was used to continue the review of documentation provided to me and I was also on leave (different single dates) through this period.

Ms. Zelenak complained that I could not serve as the Investigating Officer (IO) due to a possible conflict of interest. The first week of Jan 06, AFSPC/JA and AFSPC/IG reviewed the possibility of conflict on interest and found there was not a conflict of interest with me continuing as the IO.

3 Jan 06 I send email to Ms. Zelenak asking about the status of her documents and trying to establish an interview date.

4 Jan 06 Ms Zelenak sends another email to AFSPC querying the status of her OCI against the IO and members of the team.

-I send another email to Ms. Zelenak stating I was directed to proceed. I established a 17 Jan 06 interview date with her and she confirms she will start sending her documents.

-Interview Capt Lactorin (BL member) not available during first BL interview dates.

9 Jan 06 Ms Zelenak's documents start to arrive (multiple Fed Ex packages). The week was spent going through the documents.

-Received letter from Mr Oholendt concerning recusal. Forwarded to AFSPC/JA for review and determination on actions to follow-up on letter.

10 Jan 06 Granted extension for case. New date due from SWC is documented as 28 Feb 06.

-Interview Ms Karen Park SWC/XRP

-Interview Ms Vonda Fowler SWC/SFEI

13 Jan 2006 Receive direction from AFSPC/JA for recusal letter. I am to provide a copy to Ms Zelenak's supervisor and tell Mr Oholendt to get his company to provide a copy to the contracts officer assigned to the request for proposals.

-Receive statement from Lt Col (R) Cassidy

17 Jan 06 Interview with Ms Susan Bowman AFSPC/JA and Dr Harry Karasopoulos (AFRL rep to AFSPC).

18-19 Jan 06 TDY to Kirtland AFB, New Mexico, interview Ms. Zelenak and short meeting with Dr Dinwiddie. TDY was attended by Mr Doug Urbaniak, Lt Col Nordlie and Major Romer.

19 Jan 06 Receive additional documentation from Ms. Zelenak concerning allegations of harassment.

20 Jan 06 Receive question from Dr Karasopoulos concerning the conduct of the investigation.

23 Jan 06 I respond to Dr Karasopoulos concerns.

24 Jan 06 I receive statement from Dr Karasopoulos via AFSPC/JA

25 Jan 06 Telephone testimonies from Col Jack Franz, Col Mike Shepard, Mr Jack Blackhurst, GS-15.

26 Jan 06 Telephone interview with Gen (R) Gordon, previous assistant to POTUS

-Receive legal addendum from Col (R) Oholendt concerning the complaint – addendum prepared by Cohen Mohr LLP, Washington DC.

27 Jan 06 Telephone interview with Lt Gen (R) Goslin

-Telephone interview with Lt Gen Fraser

30 Jan 06 Interview with Maj Gen Darnell, follow-up phone call with Col Mike Shepard and Ms. Zelenak.

ANALYSIS

The beginning section of the investigation's analysis will deal specifically with the 4 complaints as provided by OSC. The remainder of Ms. Zelenak's complaints which were looked into will follow at the end of this section.

Findings concerning:

a. Col (Ret) Ronald G. Oholendt, former Commander, Space Battlelab, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05. Not Substantiated

Col (R) Oholendt's testimony documents (dated 19 Dec 05) that this is not the first time Maryann Zelenak has filed this complaint against him and the corresponding actions he took as a result of these concerns.

"To my knowledge, Ms. Zelenak has pursued three charges against me for what she believes is a violation of my post government service activities. The first charge Ms. Zelenak made was in Dec 2003 to Col Rhodes, the Air Force Space Battlelab Commander."

Col Oholendt further documents what actions he took as a result of Ms Zelenak's complaint to Col Rhodes.

"After a briefing on my concepts for applied technology development to the current Air Force Space Battlelab Commander, Col Patrick Rhodes, he informed me that it was brought to his attention that my offering may be in violation of post government service employment activities. Upon this notification, I immediately contacted the 50 SW/JA telephonically and by letter requesting an opinion on my activities. My 22 Dec 2003 letter is attached. In my letter I very clearly identified my efforts and associated subject matter (see attached). The 50 SW/JA responded in a 9 Jan 2004 letter rendering an opinion whether there were any ethical restriction related to my recommending that the government pursue an idea that I worked on while on active duty. In their opinion, they stated, "From our communications (your request and our telephone conversation), it is my understanding that you developed the ASPEN concept while on active duty. Your stated that the concept did not involve any specific party (such as a DoD contractor) during your time you were both a government employee and working on the concept. Therefore, it is my opinion that you would not violate 18 USC 207 by representing a DoD contractor attempting to influence the government to pursue the idea."

*With the specificity I included in my request and the above response from the 50SW/JA, I concluded my pursuits for providing services offered to the government to include ideas that began while I was on active duty **were lawful**. I provided the 50 SW/JA letters to the Air Force Space Battlelab Commander."*

Col Oholendt provided copies of his 50th JA opinion letters and his letter written to the 50th requesting their opinion. His testimony also states that Ms Zelenak's description of the projects involved was not correct. He states this to add on to the fact that the projects were only demonstrations of technology to prove a concept. The demonstrations were a NORTHCOM ACTD submission being supported by Multimax (the company he works for) while he was on contract for NORTHCOM as a SETA. They were not related to the Space BattleLab's ASPEN idea. Lt Col Reifschneider documented in his testimony that there was an ACTD concept being proposed for MDA known as ASPEN. It was not related to the BattleLab's idea of ASPEN or a follow-on to the project known as Razorview. Mr Cassady stated that the confusion of the NORTHCOM ASPEN project related to the BattleLab and a Boeing submittal caused the name change to Vigilant Light. This is further documented in Col (R) Oholendt's testimony:

"In regards to her reference to Multimax...my SETA work supporting NORTHCOM's ACTD for Missile Defense Discrimination was as a Multimax employee. Again, this work was not ASPEN. Even if this work was ASPEN, which it was not, I have a legal opinion from 50 SW/JA, that I could pursue the development of the ASPEN concept and help demonstrate the technologies. I would add again that ASPEN was never more than a concept. While I was on active duty and post active duty, ASPEN was never considered for pursuit by any government agency.

ASPEN was never more than a concept, had no contractual basis, and was never offered as a product, but as a series of demonstrations to prove the value of EO technology. 50 SW/JA rendered a legal opinion allowing me to pursue my effort to convince the government to consider the idea of a series of technology demonstrations."

The meeting that took place between Mr Chris Sanders, Capt Kreifels, Capt Corey Nelson, Maj Andrew Richardson and Ms Zelenak documents the fact that Mr Sanders researched the allegation against Mr Oholendt and that there was no truth to it. Mr Sanders stated to Ms Zelenak that the correct documents were in place and he was legal;

"The discussion continued on about how the civil service employee had a problem with Mr Oholendt. I questioned Mr Oholendt on his current and past relationships at the BattleLab and other SWC organizations and his ability to work at the SWC. He provided me with three letters; one from the JAG on his availability of employment, another where he asked the JAG for a ruling to pursue a capability in the contractor realm that he had from being on active duty, and the JAG's response to pursue that capability."

Maj Richardson also states *"conversations with Mr Sanders and Capt Kreifels reassured me that Ron Oholendt had a letter from legal and was allowed to pursue business as Multimax."*

Ms Zelenak also had a meeting with the AFSPC/JA Ms Susan Bowman concerning the same allegation against Mr Oholendt. According to Ms Bowman's testimony she described the Title 18 USC 207 code to her and how that applies. After the meeting she forwarded the concern to the 50th JA to ascertain the situation. According to her testimony;

"I sent an email to the Staff Judge Advocate, 50th SW/JA, and his deputy, to ascertain if they had any discussions with Mr Oholendt and/or provided him any legal opinions on post government employment. A Capt Sheila Stoffel contacted me in response to this email and provided me a copy of

a draft opinion she was preparing. Based upon the information she had provided and what I was able to discern I saw nothing wrong with the opinion and provided that view to her."

I received a legal addendum from the Cohen Mohr law firm on behalf of Col (R) Oholendt. This addendum documents the "particular matter" issue surrounding Col (R) Oholendt WRT the Razorview and ASPEN projects. Their opinion states that Razorview, ASPEN and ASPEN Plus are not the same particular matters involving specific parties. Their opinion also documents that no acquisition was ever contemplated or formulated in connection with implementing ASPEN. Therefore ASPEN never rose to the "particular matter involving a specific party" as required by 18 USC 207.

According to Col P Rhodes testimony;

"I received a single email from her that raised concerns about the ethical behavior of the former BattleLab commander, Ron Oholendt. I directed an investigation of the allegations presented by Ms Zelenak... He reported back to me Ms Zelenak would not file a formal complaint... He reported back that he could not substantiate any of the complaints." Col Rhodes was referring to Mr. Sanders in this statement.

b. Lt Col (Ret) Allan R. Cassady, former Chief of Concept Evaluation, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05. Not Substantiated

The amount of documentation concerning this issue in the complainant's supporting material is far less. Lt Col (R) Cassady's formal involvement in the APSEN program was while supporting NORTHCOM as a SETA contractor under Lt Col Reifschneider.

According to Mr Oholendt's testimony;

"In regards to her claims about Allan Cassady, Ms. Zelenak is categorically inaccurate. To my knowledge, Allan Cassady had no restriction resulting from his 50 SW/JA opinion on post government service. Upon his retirement, Allan Cassady was employed by SI International performing SETA support to the Missile Defense Agency. He worked at the JNIC on Schriever AFB. In December, 2004, when NORTHCOM hired Multimax to develop and manage their ACTD for missile defense discrimination, I hired Allan Cassady to perform this duty. Again, as stated above, this work was not ASPEN. The NORTHCOM ACTD involved different optics, lasers, and a different mission application than ASPEN. Further, our concept did not represent anyone's particular technology. It was NORTHCOM's plan to compete the ACTD in a full and open competition. Mr. Cassady's duties were the design and management of the ACTD submission. In Sep 2005, NORTHCOM chose not to submit the ACTD due to questions about the technology readiness levels with the high power active laser. Finally, in regards to Mr. Cassady, Ms. Zelenak was categorically wrong on her interpretation of remarks I made during Mr. Cassady's retirement ceremony. Mr. Cassady's work for the Space Battlelab was at the program classification level. Ms. Zelenak's program clearances were pulled by AFRL so she was not knowledgeable of Mr. Cassady's actual work. I can tell you that he did not work on RazorView, but worked on similar technology. I used the remarks I did in order to explain to his family the influential work Mr. Cassady performed at the Battelab because I couldn't reference

his actual work. Those in the Battlelab that maintained program clearances understood my remarks perfectly. Ms. Zelenak would not have known this since she did not have the clearances required to be aware of Mr. Cassady's work."

The statement concerning Ms Zelenak's security access is echoed in Lt Col (R) Vozzola's testimony. He states, *"During my first 2 years here, we tried to get Ms Zelenak read into several program level topics. The people back at AFRL @ Wright Patt would not approve her access. I was told that Ms Zelenak had by-passed proper supervisory levels and argued within those channels; therefore, they would not clear her to any programs. This was a frustration to both myself as the deputy and to her, since she could not see the whole picture on projects. Because of this, Maryann could not properly work these projects with the other AFRL organizations involved."*

Mr Cassady states in his testimony that;

"While at the AF Space Battlelab, I was the project manager for only one concept demonstration, beginning in Jan 1999, at the program level security classification. Ms. Zelenak did not have the appropriate clearances to access information on this project. This concept demonstration was performed by other government agencies and their technical support contractors. My involvement in RazorView was to obtain operational performance data to support development of advanced operational concepts at the program level. The RazorView would demonstrate only one of several technologies required for these operational concepts. I was not directly involved in evaluating the RazorView concept nor was I involved in any decision to make a contract award to Electro Optic Systems, Pty Ltd (EOS) for RazorView. Any contract actions or Project Arrangements with the Australian government would have been coordinated by Lt Col Thomas Resha, Chief, Concept Demonstration Branch, and SMSgt Alex Welton, RazorView project manager.

I do not recall working on a project in the Battlelab called ASPEN, which apparently was a network of RazorView sites for space surveillance. The name ASPEN was probably coined while I was in the 527th SA."

"In Dec 2005, I was hired by Multimax, Inc. to provide SETA services for US Northern Command (USNORTHCOM) to develop an Advanced Concept Technology Demonstration (ACTD) proposal for an active, laser illuminated, electro optical (EO) sensor concept for missile defense discrimination. This effort was initiated by USNORTHCOM/J5 based on capability gaps identified in their internal studies. Lt Col Daniel Reifschneider, USNORTHCOM/J532 requested Multimax to provide a concept prior to my employment. The initial concept was based on technology developed by EOS. However, this technology required for missile defense applications is substantially different than RazorView. The RazorView system searched for known objects from the Space Track Catalog with elements sets recently updated from radar. The proposed system for USNORTHCOM required larger optics, larger laser, capability to search for objects with real-time cueing and limited quality track data, simultaneous tracking and characterization of multiple objects, and provide discrimination data. My responsibilities were to develop the concept further and produce supporting documentation. Lt Col Reifschneider selected the name ASPEN and latter was asked by MDA to change the name to avoid confusion with an unsolicited Boeing proposal. The first white paper I produced included a competitive competition for design and construction of the active EO observatory for the demonstration. Lt Col Reifschneider requested all meetings to support the

ACTD. The ACTD Workshops were set up by another SETA working for another contractor. Lt Col Reifschneider briefed all external agencies with the exception of one brief I gave to describe the proposed facility during an ACTD workshop. Ms. Zelenak did not attend any of the workshops. During one government meeting/telecom with OSD, I was recused based on perceived involvement with RazorView/EOS ending over two and one-half (2½) years earlier. At the ACTD Breakfast Club pre-brief, which I did not attend, Dr. Perkins, OSD(AT&L) requested additional justification and studies to justify the reported technical readiness levels (TRL) and deferred the proposal until the following year or there was sufficient justification for an out-of-cycle submission.”

“During a technical review in Aug 2005 chaired by Lt Col David Doryland (Lt Col Reifschneider had been reassigned to MDA), representatives from AFRL and DARPA identified competing programs in research and development. USNORTHCOM decided not to actively pursue the ACTD further. My SETA task ended on 30 Sep 2005.”

“Regarding Title 18 USC, section 207(a)(1) and 207(a)(2), I have not had contact with the Air Force Space Battlelab regarding funding of any Battlelab project. My contact with the Battlelab was strictly limited to obtaining technical information for USNORTHCOM as stated above.”

I received a legal addendum from the Cohen Mohr law firm on behalf of Lt Col (R) Cassady. This addendum documents the “particular matter” issue surrounding Col (R) Oholendt and Lt Col (R) Cassady WRT the Razorview and ASPEN projects. Their opinion states that Razorview, ASPEN and ASPEN Plus are not the same particular matters involving specific parties. Their opinion also documents that no acquisition was ever contemplated or formulated in connection with implementing ASPEN. Therefore ASPEN never rose to the “particular matter involving a specific party” as required by 18 USC 207. Their conclusion based on the reasons set forth in their document is neither individual is prohibited from communicating with the Government because ASPEN existed merely as a general concept when both individuals were employed by the government.

Lt Col (R) Cassady provided a copy of his 50th JA opinion letter.

According to Mr Chris Sanders, SWC TSSOS Program Manager, *“He never heard or received any allegations concerning Lt Col (R) Cassady. The listing of his name in the OSC complaint was the first time he had heard of his name in any review of the entire situation.”*

According to Col Rhodes testimony, *“I have never met or spoken to Lt Col Allen Cassady.”*

According to Maj Richardson’s testimony, *“After Lt Col (R) Cassady retired I heard from Ms Maryann Zelenak he was working for MultiMax. I did not deal with Lt Col (R) Cassady and only saw him on a few occasions.”*

c. Col Patrick P. Rhodes, Commander, Space Battlelab, was aware of Col Oholendt’s and Lt Col Cassady’s illegal communication and took no action. Not Substantiated

According to Col P Rhodes testimony;

“I received a single email from her that raised concerns about the ethical behavior of the former BattleLab commander, Ron Oholendt. I directed and investigation of the allegations presented by

Ms Zelenak... He reported back to me Ms Zelenak would not file a formal complaint...He reported back that he could not substantiate any of the complaints." Col Rhodes was referring to Mr. Sanders.

"Once I received the email I held a meeting with my deputy and branch chiefs to see if they could shed some light on the issue. No one knew of any conflicts or ethics violations with any work the BattleLab was conducting."

"In Fact, since MultiMax was providing technical support to the BattleLab I told them that I would not consider MultiMax for any demonstrations because it might be construed as favoritism."

"In conclusion, when I received the email from Ms Zelenak I took immediate action. I had an independent organization investigate the allegations. Since none of them could be substantiated I considered the matter closed." Col Rhodes was referring to SWC/XR in this statement.

According to Col Rhodes testimony, *"I have never met or spoken to Lt Col Allen Cassady."*

According to Mr Sander's testimony after looking into the allegations, *"I then had a meeting with Col Rhodes on the issue and my findings. I informed him that I was not going to take any action against MultiMax, Dr Chu, or Mr Oholendt at this time concerning Adam Chu, MultiMax and any other OCI concerns. Accompanying me to this meeting was Capt Kreifels."*

According to Capt Kreifel's testimony, *"Chris, Capt Kreifels (SWC/XRC), and possibly Mr Harris (SWC/XR) met with Col Rhodes (SB/CC) to discuss concerns brought to us."*

In response to the question Do you know Col Oholendt and Were you ever made aware of any post employment ethical concerns related to the individuals, Lt Col (R) Vozzola (then Space BattleLab Deputy, states, *"to the best of my recollections Col Oholendt called based legal to ensure there was no conflict and Col Rhodes checked with legal and I was told all was fine."*

According to Mr. Vickery, *"Col Rhodes, in Sept 2004, published an email directing all BattleLab staff review training material on Contractor/government interaction, which he attached to the email directive."*

Col Rhodes states, *"As Commander I was fully aware of the Air Force ethics training requirement. In compliance with Air Force regulations I received the training and directed all members of the BattleLab to complete it also."*

In a telephone interview with Ms Zelenak's previous boss, Col Jack Whitehurst, he stated, *"the employee/employer relationship just wasn't working out. The relationship was going south and we decided to remove her, it took a while due to her personal reasons. She came up with reasons not to move after the harassment issue, she was concerned about her dog and selling her house. As a result of this, she became obstructive to the process in the BattleLab. She continued her situation by not being willing to move. She outlived her usefulness, she became less of a Liason and more of a nitpicker on the day to day process in the BL. I thought she was out of her job parameters."*

According to Dr Harry Karasopoulos, he states, *"We have also discussed and commiserated on several occasions her allegations of SB retaliation due to her attempts to be a "Straight arrow." Maryann told me some time ago she had filed appropriate complaints." I spoke with Maryann on numerous occasions in 2004 and 2005 before she left her position as AFRL Commanders representative at SB (I believe it was in the summer 2005). On several occasions she mentioned that the SB was retaliating for her communicated concerns (above) and was making her work life miserable. We talked about job opportunities and I urged her to leave that position as soon as possible. I don't remember discussing specifics of this alleged retaliation but she was obviously shaken and I believed her implicitly." "On 16 May 2005 (according to my calendar) I attended a meeting at AFSPC/XPXT's Lt Col Kyle Charles's request in which MultiMax proposed a candidate ACTD. I believe Maryann had pre-warned both Kyle and I on possible multiMax issues and so we were both cautious in the meeting.*

d. Other personnel assigned to the BattleLab, were aware of Col Oholendt's and Lt Col Cassady's illegal communications and took no action. Not Substantiated

All BattleLab personnel were interviewed to determine who was aware of the alleged complaint.

The following BL members in their testimony stated they were not aware of any ethics violations on behalf of Col (R) Oholendt or Lt Col (R) Cassady;

MSgt Greenard, Mr. Alex Welton (contractor), Mr. Colon (contractor), Mr. Irwin (Civilian), TSgt Lombardo, Mr. Steven Bragado (GS), Maj Donahue, Capt Quigley, TSgt Vaughn, Capt Livingston, Lt Higginbotham, Maj Zornes, Capt Roberts, MSgt Hopson, Lt Col Saxton, Lt Col Anderson, Maj Staats, Lt Col Tinnerman, Lt Col Tomme, Lt Col Lane, Lt Col Anderson and Capt Lactorin.

The following BattleLab members documented:

TSgt Lombardo stated, *"I vaguely recall a short conversation that, in my recollection, involved ethical concerns. The response was that is was "BS." I do not recall who was involved. I do not recall where, when, why, or what the context was of the conversation. The conversation meant nothing to me personally so I disregarded it."*

Alex Welton (SETA contractor) stated, *"While supporting the Razorview I project Ms Zelenak would come to me expressing frustration with the way her complaints regarding Mr Oholendt and Mr Cassady were being handled. She told me she had voiced concerns over project information Mr Oholendt and Mr Cassady were using as MultiMax employees to Col Rhodes and Lt Col Vozzola. She felt she was being "Blown Off." I do not recall specific points of her complaint."*

Maj Richardson (QAE of contract in BL) wrote, *"Ms Zelenak seemed concerned that Ron Oholendt was pursuing business opportunities first at SAIC then as MultiMax that he should not be allowed to pursue. I was told by Mr Sanders, Col Rhodes, Capt Kreifels, Dr Chu and Ron Oholendt that Ron Oholendt went to legal at Schriever AFB and got a letter outlining business areas he could pursue*

once he left active duty. Again conversations with Mr Sanders and Capt Kreifels reassured me that Ron Oholendt had a letter from legal and was allowed to pursue businesses as MultiMax."

Lt Col (R) Vozzola (Space BattleLab Deputy) wrote, "*Maryann Zelenak complained about Col Oholendt. To the best of my recollections Col Oholendt called base legal to ensure there was no conflict and Col Rhodes checked with legal and I was told all was fine. Both items were verbal."*

Mr. Neal Vickrey (GS-13 DAFC assigned to the BL) wrote, "*Yes, Maryann Zelenak was assigned to the AF SB and sat near my desk. On several occasions she voiced concerns that the AF SB commander and branch chiefs were not giving her evaluations of Contractor/BattleLab interactions due considerations."* She spoke of both verbal interaction with several branch chiefs, Lt Col Randy Moser, Lt Col Ed Tomme, Lt Col Tom Resha, Lt Col Rich Lane and Lt Col Kelly Anderson. On a couple of occasions she showed me drafts and copies of correspondence she sent to Col Rhodes that related to her concerns about ASPEN, and ASPEN briefings being presented to Air Force organizations." I took no specific action as a result of these discussions because I was under the assumption that she was handling her concerns through the appropriate venues, that of notification of her concerns, as the AFRL Liason, to above identified Branch Chiefs and BattleLab commander.

Note: Throughout the complainant provided material (19 parts, 1000-1500 pages, not including her actual OSC file, approximately another 500-1000 pages) the investigation could not find documents supporting Mr. Vickery's statement as it pertains to the actual four OSC charges. The investigation did find several emails to the individuals dealing with Ms Zelenak's concerns over Dr. Adam Chu, Foreign disclosure and security concerns (these issues were brought up in the investigation by the complainant as additional concerns). As an example, her 8 Mar 05 email to Mr. Bragado and Maj Richardson states, "At this point, you stated that that I should contact Chris directly about this issue. Frankly, this concerns me. I am a AFMC employee (different Chain of Command). Not AFSPC, nor BattleLab. My Direct contact (alone) with Chris Sanders w/o BattleLab involvement doesn't seem quite right to me. I feel this is a matter between the BattleLab, contracting and the companies involved. I feel my responsibility is to report concerns (with documentation) to the BattleLab, not aide and abet crimes on my part, and try to prevent anyone in the BattleLab from undertaking unethical/illegal activities. If I see something that concerns me, I speak up. I believe that I have done this to the best of my ability in this case (Adam Chu/Ron Oholendt), over a very long period of time."

Through the course of the investigation, Ms. Zelenak documents *other individuals* who were, in some form, aware of her allegations.

(*) dictates information received from complainant provided information and their response
Names in *Italics* I was able to interview

(*) James Holt Civ AFSPC/XPIF

(*) John Lief Maj AFMC/PKP

Dr Dave Dinwiddie Civ AFRL/DE Face to face meeting before Ms. Zelenak interview on 18 Jan. Stated that he was aware of the issue and had told Maryann she had nothing to gain by pursuing it and everything to lose. I provided him a copy of the Multimax recusal letter. He stated she had

spent a lot of time researching the issue. This meeting was very brief as the reason was to pass on the recusal letter.

Col Jack Blackhurst AFRL: Telephone interview on 25 Jan. Stated that the role Ms. Zelenak was to follow was that of an advisor. She was not responsible for program management. She was to advise what she thought, but was not responsible for program management. Stated he received a call from Col Oholendt, BattleLab Commander stating Ms. Zelenak was not helping, he felt Ms. Zelenak was telling him how to do his business. Col Blackhurst asked if he wanted her removed and Col Oholendt said "yes." Ms. Zelenak had been there long enough and it was time for her to move on. "The employee/employer relationship just wasn't working out. The relationship was going south and we decided to remove her, it took a while due to her personal reasons. She came up with reasons not to move after the harassment issue, she was concerned about her dog and selling her house. As a result of this, she became obstructive to the process in the BattleLab. She continued her situation by not being willing to move. She outlived her usefulness; she became less of a Liaison and more of a nitpicker on the day to day process in the BL. I thought she was out of her job parameters.

Col Mike Shepard AFRL: Telephone interview on 25 Jan. Stated he was aware of the complaint and surrounding issues...was passed on to him by Col Blackhurst upon his retirement. He spoke with Col Rhodes about Ms Zelenak's rotation and replacement. He stated she takes a lot of care and feeding. He told her if the BL is breaking the law or security you must go to the SWC/CC, JAG, OSI, IG the AFMC security or the FWA hotline (this is backed up by emails in the complainant's supporting documentation). He also stated that in the fall of 2005 he and Col Stu Rodgers (AFRLXPA) were assessing a Near Space proposal submitted by Col (R) Oholendt and that Maryann was there. She pulled out of her briefcase a copy of her OSC file and made a statement something like, "maybe this will help with your decision." He stated that Col Stu Rodgers said, "Well this seals it, they aren't going to the Commander. I said, Sir, are you saying that based on her OSC complaint, not yet founded or unfounded, you made a decision not to let the brief go forward, and he stated, "no, we based it on probably a 100-200 hours of study on the proposal *and* her OSC complaint was a part of that decision not the sole decision." Afterwards, I called Ms Zelenak to confirm this subject (30 Jan 05). She stated yes, she did give Col Rodgers a portion of her OSC file (she didn't recall exactly how much) while he was making a decision on the Oholendt MultiMax Near Space proposal to go forwards to the AFMC Commander. Ms Zelenak stated, "I indicated there was dialog and that people were going to look into it."

In response to me querying Ms Zelenak about what she remembered concerning this meeting with Col Shepard and Col Rodgers, she submits the following on 30 Jan in an email to me,

"2) Col Stuart Rodgers (AFRL/XPA) dialog, 10 Nov 05 at Wright-Patterson AFB. Col Shepard (AFRL/XPS) in the room with the two of us.

a) There was a first round of dialog between HQ AFRL/XPS and HQ AFMC on the Multimax/CollaborX MaxFlyer concept earlier in 2005. You have a copy of that staff package already

b) This Nov 2005 dialog was in the "middle" of a 2nd round of dialog between HQ AFRL/XP (XPA now), Multimax, etc... When I sat down informally with him, Col Stuart Rodgers (I believe)

had already talked to Gen (ret) Hawley/Ron Oholendt/ Adam Chu in the room we sat in at the time. He indicated where Adam sat. (Paraphrasing) Col Rodgers stated that he already conveyed to this group of contractors that, he had to treat all contractors the same, he did not want to give them an impression of treating any one contractor differently than any other contractor (he didn't want to break any law, in that regard). That he perceived that this group may have wanted something along these lines (to be treated differently). He specifically mentioned dialog with Gen (ret) Hawley on this issue.

c) There had been some type of dialog at the AFRL/CC level on this subject prior to me meeting with Col Rodgers, I can't recall specifics at this time.

d) Something about he (Col Rodgers) had concerns with the technical credibility of the concept's aerodynamicsbasics you could find in his college textbooks.

e) I got the impression that this XPA/Multimax/CollaborX dialog was in conjunction with this round of dialog about the MaxFlyer, not the earlier 2005 staff package. I recall mentioning I'd reported the individuals, showing him a few pieces of paper work (including possibly, the Feb 05 OSC letter acknowledging receipt of my disclosure), but I also recall Col Rodgers stating that he may check with legal to make sure he's ok in talking to this group of CollaborX/Multimax individuals after this meeting, to make sure he wouldn't interfere in any potential on-going investigation (what I'd reported). A couple days after, I faxed him a few pieces of documentation. Information faxed included information describing my dialog with the OSI on how AFRL can protect its information from being disclosed inappropriately and how we (AFRL) conduct ourselves, given a perceived conflict of interest, if no legal action is taken. (This should be in the 6 Fed Ex packages of documentation you received approximately three weeks ago).

f) I don't know what course of action Col Rodgers took from after our meeting in early Nov 05. (you told me in our telecon, this morning, he stopped pursuing it)."

I received an additional phone call from Col Shepard on 30 Jan 06 (p.m.) stating he spoke with Col Rodgers and that the OSC file had no impact on his decision. I stated I would put his statement in the record and he said, "Oh, I didn't know you were putting that part in the record", I replied yes.

Susan Bowman AFSPC/JA Provided statement and some supporting emails.

Dr Harry Karasopoulos AFSPC/DR Provided statement and supporting emails.

The following names I was not able to determine what actions they took as a result of being informed by Ms. Zelenak. Although informed by Ms Zelenak and documented that they did read her emails (Ms. Zelenak placed delivered and read receipts on all her correspondence), there is no 'come back' copies of emails stating any action by them.

Iris Puentes, Civ, AFRL/DEOS
Joseph Peel, Civ, AFRL/DEOS
Dennis Montera Lt Col AFRL/DES
John Anderson Contr, AFRL/DES
Linda Stillman Civ, AFRL/DES
Jerilynne Messenger Civ AFRL/IA
Laura Ulibarri Civ AFRL/DEBS

Stanley Czyzak Civ AFRL/DETP
David Hardy Civ AFRL/VS
Arthur Giannetti Civ AFRL/VSEI
William Flynn Civ AFRL/VSEI
David Williams Maj, AFRL/XPS
Gary Streets Civ, AFSPC/XPX
Jennifer Cabellero Capt AFSPC/DRX

Other individuals interviewed:

Lt Gen (R) Goslin Telephone interview on 27 Jan 06. He stated he doesn't know APSEN, doesn't know anything about any of this complaint. He doesn't know who Ms. Zelenak is. He had no contact with anyone concerning the projects.

Lt Gen Douglas Fraser Telephone interview on 27 Jan 06. He stated that no cover up would ever have taken place if she would have filed a complaint. Whenever a complaint comes in as a commander he investigates it fully. He remembered the APSEN project, it was all talk. It dealt with a network of all sensors, radar, other apertures and laser. It was not just EOS technology. As the XO he thought it made sense. He never was aware of the complaints, never spoke with the Office of Transformation about it and the only door he opened was to suggest Mr Oholendt speak with the XR, Gen Sheridan, because it fell into the XR's domain – ASPEN wasn't an XO issue to deal with.

Gen (R) Gordon Telephone interview on 26 Jan 06. He stated all his contact with EOS is reported in DSS and DCAA. His security updates show all his involvement as well. He stated he was basically aware of the export controls but he was not specifically aware of this issue. He has had no contact with NORTHCOM or AFSPC or EOS on this issue. He had no contact with OSD or DoD on any ACTD in this area. He stated he has known Bob Dean (VP at Boeing) for years and he was invited by him to the EOS board. He was elected to the board by the shareholders. He stated he was not aware of any AFRL program called active track or ASPEN, he was not aware.

Maj Gen Darnell Telephone interview 30 Jan 06. He stated was not aware of any of this. If I had been aware I would have investigated it completely. I don't remember any of this. Ms. Zelenak is implying I was aware but I wasn't.

CONCLUSIONS

The conclusions based on this investigation are written again in accordance with the OSC tasking. Any conclusions based on the additional allegations provided by Ms. Zelenak during the course of the investigation will be addressed at the end of this section.

OSC Tasked complaints and/or violations:

a. Col (Ret) Ronald G. Oholendt, former Commander, Space Battlelab, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05.

Not Substantiated

Col (R) Oholendt, on two separate occasions addressed Ms. Zelenak's concerns with the 50th JA office. His documentation on the subject coupled with others' testimony demonstrates the immediate actions he took to ensure he was ethically correct in his business with the US Government. He did not violate 18 USC, Section 207. The Legal opinion by Cohen Mohr Law Firm also confirms this with regard to "particular matter." This finding is also backed up by Ms Susan Bowman's (AFSPC/JA) statement that she discussed the matter with the 50th JA and saw nothing wrong with the opinion. (Ms Bowman email to Capt Stoffel dated 23 Jan 04, "I looked into the questions that arose with regard to his activities here in the building and gathered some additional details concerning Col Oholendt's responsibilities and activities before his retirement. I have found nothing that would impact your opinion"). She stated she believe she closed the matter with Dr Karasopoulos, but does not recall any further discussion with Ms. Zelenak.

b. Lt Col (Ret) Allan R. Cassady, former Chief of Concept Evaluation, improperly engaged in post-employment communications with government personnel in violation of 18 USC, Section 207, between Jun 03 and May 05.

Not Substantiated

Lt Col (R) Cassady's provided documentation on behalf of the 50th JA and his personal testimony demonstrate he did not violate 18 USC, Section 207. The Legal opinion by Cohen Mohr Law Firm also confirms this with regard to "particular matter."

c. Col Patrick P. Rhodes, Commander, Space Battlelab, was aware of Col Oholendt's and Lt Col Cassady's illegal communication and took no action.

Not Substantiated

Col Rhodes testimony along with others clearly demonstrates that when notified, he took immediate action. This is verified by the independent review he requested via SWC/XR.

Col Rhodes did not return to Ms. Zelenak and tell her about the findings. This, coupled with her statement that Mr. Sanders did not provide her with the written documents as proof, led to the issue not being resolved to her satisfaction.

Col Rhodes' statement back to her (after she brought up the related issues again) "why are you involved in this at all?" possibly led her to believe an apparent cover-up was taking place. According to Col Rhodes, this comment dealt with him being told there was no issue and the matter was closed, "*My relationship with Maryann was strained. I knew through the grapevine that she was badmouthing my leadership abilities to other members of the BattleLab. At one point, with my deputy present, I had a counseling session with Ms Zelenak. My concern was with her lack of support, as a liaison, with ongoing projects. I wanted her to present and represent*

our projects to gain support in AFRL. I felt she was doing just the opposite. At the conclusion of the session I asked her to just do her job. I did not receive a response."

"Question and supporting statement concerning perceived hostile environment from Ms. Zelenak interview"

JB: You've had no contact with Col Rhodes on any answers he got back with any of your concerns? Is that a true statement?

MZ: Ummm..that's correct. The last information I got from him was those two emails where he said, 'why are you involved in this at all?' in January 2004, and the second email, where he said, 'those are very good questions' and 'I want you to tell Air Force Research Lab how to team with us.'

According to Ms. Zelenak's email to Jack Blackhurst dated Jan 14th, 2004, she states, "*I was thrown a bit at first, thinking it was some combination of a threat and telling me to keep my mouth shut (aid and abet a crime). "It appears that while he read my previous emails expressing my concern about this situation, he never pursued finding out the answers...so maybe that's why he never responded to them." "I don't plan on discussing this matter with Col Rhodes, or emailing him anything else on this matter either."*

d. Other personnel assigned to the BattleLab, were aware of Col Oholendt's and Lt Col Cassady's illegal communications and took no action.

Not Substantiated

While interviews did provide documentation that some members were aware of Ms. Zelenak's various allegations, those allegations were not the 4 charged in the OSC complaint. The members who stated other members in the BattleLab were aware of (per documentation) dealt with Ms Zelenak's other concerns of Dr Chu, Security, Foreign disclosure, relationships with EOS and her "near space" concerns. Individuals were briefed of the ethics issues surrounding Col (R) Oholendt after the allegations were found "not substantiated" by Col Rhodes during a branch chief meeting. Since no one returned to Ms. Zelenak and told her about the finds, coupled with her statement that Mr. Sanders did not provide her with the written documents as proof, it led to the issue not being resolved to her satisfaction.

Final conclusion:

Ms. Zelenak testified that she had heard nothing back from anyone on her complaints,

MZ: Anybody in the BattleLab or anybody involved in this, who did anything. You know, getting a response back to me. I hope they did something, and I hope they can document it—they can prove it with documentation—that they actually did something—because I didn't get anything,

and that's why I had to report it. But I sent an email to Vonda before I left and I go, 'they may think that I'm being the bad-news person here' or whatever the phrase was, but I'm trying to keep them out of trouble. I'm trying to prevent themselves—them—from implicating themselves. I'm trying to—I don't know—save 'em—but trying to get 'em out of this, if they would just turn in my emails to them, to Chris Sanders, and all the way up—maybe we wouldn't have this problem. But what I'm afraid of is they did nothing, they don't have those emails, and nothing was done. And that's what I'm afraid of. So I can't give them—extra copy of those emails after the fact, I felt, because I'm afraid I would be aiding and abetting, by covering up the back [unintelligible] So, I hope you find something—and it's documented. But this is pretty—I don't know—I hope they had emails like me. I don't know. But, we'll see.

Ms. Zelenak never brought her concerns to any SWC leadership as she stated she wasn't in that chain of command. Because of the lack of communication back to her from any member in the BattleLab or anyone else she dialoged with (AFRL, AFSPC etc.), including Col Rhodes the Commander, my conclusion is she felt nothing had been done with her allegations. This is compounded by the fact Ms. Zelenak never formally filed any allegations formally with SWC members (SWC/XRC, the CC or CV) and stopped talking with Col Rhodes as a result of the perceived hostile environment towards her from him.

There were no funds expended on any of the projects listed in the OSC complaint. The ASPEN project and follow-ons were all ideas not approved.

RECOMMENDATIONS (As directed)

1. Ensure Ms. Zelenak is informed of the formal findings pertaining to her allegations.
2. Ensure that all the individuals she forwarded her allegations to or who she made allegations against are aware of the findings.
3. Ensure members in AFSPC, AFRL, etc...who have business dealings with MultiMax or Col(R) Ron Oholendt are clear on the findings of the OSC Complaint.

James P. Blanton Jr, GS-15, DAFC
Investigating Officer