

January 27, 2008

Barbara Beno
Division
Columbia Twp., MI

Disclosure Information Unit
U.S. Office Of Special Counsel
1730 M. Street N.W., Suite 300
Washington, D.C. 20036

RE: Response to Resolution Letter dated October 3, 2007 (Copy Attached)

Dear Ms/Sir:

This letter will serve as my final response to the above referenced decision letter issued concerning the complaint that I filed with the Office of Special Counsel. As stated in the letter that was signed by Admiral Cooper, dated October 3, 2007, the four employees named in the complaint were issued counseling letters and additionally received a copy of the organization's policy regarding processing resignations. That action alone would indicate that it was recognized that the employees acted in a manner that required discipline. The actions of one of the employees and possibly all four could be perjury. Perjury not to mention falsifying records is a federal crime and to issue a counseling letter for that action is but a slap on the hand not to mention that all employees are well aware that a counseling letter can be removed from the employees file after six months. **In my opinion this resolution falls far short of an equitable solution.**

When the Office of Special Counsel initially reviewed the evidence and then read the testimony that was given, under oath, by myself and the four named employees my understanding from conversations with the OSC was that the management staff of the Office of Special Counsel determined that the evidence provided was clear and concise and that the investigation concluded that. Again upon the second review of the evidence, I was told that the management staff concurred that the evidence was clear and concise and that additional investigation would not be necessary by the Department of Veterans Affairs investigator. **I don't know how that changed or what happened to the clear and concise evidence, apparently it no longer exists.**

I believed then, as I do now, that more action could have been taken to bring the additional truth to the surface in this situation. In my first rebuttal I clearly stated areas where it showed that one person who had possession of the my original resignation stated that she had that copy under lock and key as stated in the testimony and that since each copy was signed independently (information that I provided OSC a week prior to the investigation date) and that her copy showed the same signature shown on the fraud

document, that in and of itself is clear and concise. There were also several other areas that I felt a simple question by the VA Investigator could have cleared up any doubt which I clearly explained as well in my rebuttal....but since further investigation was not deemed necessary because the evidence was clear and concise additional questions were never asked, why?

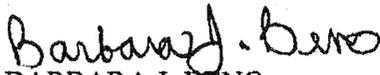
Additionally, I requested the fraudulent document, the basis of this complaint that was filed in my Official Personnel File from the Baltimore Human Resource Center but I never received the document or a letter stating why or even an acknowledgment of my request. That fraudulent federal document should have been extracted as evidence during the investigation, it was not, why?

My feeling is that when the Federal Government hires employees and those employees take an oath under God to do what is right, are put in positions to provide guidance to other federal employees, and are well compensated for their actions (three of the four employees are paid at a grade 13 and above) there should be unquestionable zero tolerance for any employee that compromises that oath and that position. Federal employees should be held to a higher standard and held accountable for their actions, and apparently they are not.

Basically, anyone who works for any level of the federal government is a public official and is responsible for satisfying all record requirements. Public officials are legally obligated to create and maintain records that adequately document the business of their agency. Government records provide evidence of agency operations and serve as a mechanism of accountability. Public officials must educate themselves to perform these special duties. Simply put, when a federal employee falsifies a federal document and then lies under oath about doing so, that employee has created fraud and perjury within the agency and has personally committed a federal crime. While working for the Department of Veterans for almost 16 years that is what I have always known to be true and is how I instructed my finance staff to conduct the business of our department within the agency. **When did that law changed and how gray is that area?**

Finally, I would like to thank the Office of Special Counsel for pursuing this complaint and keeping me well informed as to its outcome, albeit very disappointing. The wrong that each person does throughout his or her lifetime will follow them to the end, noting that, I can only say that each of us, under God, will ultimately have to deal with our own final outcome.

Very truly yours,


BARBARA J. BENO

Enclosure



THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

October 3, 2007

Ms. Catherine A. McMullen
Chief, Disclosure Unit
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20038-4505

Dear Ms. McMullen:

This concerns the complaint filed to the Office of Special Counsel by Barbara Beno, a former employee of the Department of Veterans Affairs. Per your telephone conversation with Michael Walcoff of my staff on September 19, 2007, we have issued counseling letters to the following employees:

Keith Thompson, Director
Yvonne M. Fisher, Chief, Support Services Division
Michele S. Blunk, HR Liaison
Erroll V. Clark, HR Specialist

The employees also received a copy of the organization's policy regarding processing resignations.

If you have any questions regarding this matter, please contact Michael Walcoff, Associate Deputy Under Secretary for Field Operations, at (202) 461-9340.

Sincerely,

Daniel L. Cooper

2007 OCT -9 PM 4:11

EDWARD F. FLOOD
OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W. SUITE 218
WASHINGTON, D.C. 20036-4505

July 31, 2007

Dear Mr. Flood:

1. **These comments** are in reference to the Investigation Report dated July 11, 2007 concerning allegations of a violation of law, rule or regulation by an employee at the Detroit Regional Office.
2. **Page 1 of the investigation report** states that Mr. Errol Clark, Human Resources Assistant could not recall who had given him the one-sentence memorandum of resignation. As a prior Veterans Affairs manager at the Detroit Regional Office I am aware that it is a requirement of Division Chiefs or their assistants to hand carry all sensitive documents such as resignations to the Detroit Human Resources Office. Noting that, there are only 3 Divisions in Detroit they are, Support Services, the Service Center, and Vocational Rehabilitation & Education. Support Services is the only Division that does not have an assistant to that position, because there is not enough FTE. As the manager of Support Services/ Finance Section I submitted my 3-page resignation letter to the Support Services Division Chief therefore, unless procedures have changed, there would have been only one employee that could have handed that fraudulent document to Errol Clark.
3. **Page 2 of the investigation report**, the VA Investigator, Ms. Clark states that the one-sentence memorandum of resignation is an exact copy of the signature on the three-page memorandum of resignation provided to Ms. Fisher. Per the investigation report that three-page memorandum copy was still in Ms. Fisher's possession and was provided to the VA Investigator at the time of Ms. Fisher's testimony. Ms. Fisher testified she had never seen the one-sentence memorandum. However, a simple question to Ms. Fisher could have been, "has the 3-page memorandum in your possession always been in your possession?" If Ms. Fisher would have answered "no" to that question then the question would become, "who else had access to that document?"

Also on page 2, the investigation report states that Ms. Fisher prepared the SF 52 (Request for Personnel Action). Ms. Fisher testified that Ms. Blunk called her requesting the reason for my resignation. However, there were two SF 52s prepared without my signature as there were two SF 50s, **the first SF 52 which was prepared by Ms. Fisher** which was dated 4/21/05 which stated the reason as, "per employee's resignation letter dated April 18, 2005." That SF 52 was obviously accompanied by the fraudulent 1- sentence memorandum because that was the document found in my Official Personnel Folder, That SF 52 was signed by Ms. Fisher and Keith Thompson showing a date of 4/19/05 and it was accepted by the Baltimore, HR Center's

Deborah Pointer where she signed and dated it on the bottom as 4/21/05. HRC Baltimore then created the first SF 50 (Notification of Personnel Action) based on the fraudulent 1-sentence memorandum where HR Baltimore indicated my reason as: "REASON NOT GIVEN."

After discovering the fraudulent document in my Official Personnel Folder and the SF 50 that stated "REASON NOT GIVEN," I immediately wrote a letter dated May 8, 2005 to Deborah Pointer, HRC Baltimore, Director and attached my 3-page resignation letter thereby requesting that my SF 50 reflect the contents of my 3-page resignation letter which was not in my Official Personnel Folder.

At that point, Baltimore must have contacted Detroit in order for Detroit to concur with Baltimore creating a second SF 52, which obviously Detroit did. That SF 52, dated 5/16/05, was only signed by Deborah Pointer's employee Ms. King-Young and signature stamped Deborah Pointer, Director, HRC Baltimore. That SF 52 stated on the back, "REASON FOR RESIGNATION: DISSATISFIED WITH SUPERVISOR'S MANAGEMENT STYLE." HR Baltimore then created the second SF 50, dated 5/16/05, same date as the SF 52. **Detroit did not prepare or sign the second SF 52. So, whomever hand carried the first SF52 to the HR Assistant had to of had the fraudulent document attached.**

The normal processed is first, the SF 52 (Request for Personnel Action) is prepared by the losing regional office/station and attached along with any resignation letter and then forwarded to the receiving HR Center where the SF 50 (Notification of Personnel Action) is created. Those documents go into the employee's Official Personnel Folder. In this case the second SF 52 was not created at Detroit but in Baltimore due to my request for a personnel change which was addressed to Deborah Pointer, HRC Director.

This in of itself should have shown the VA Investigator that Baltimore had to have contacted someone in Detroit to notify them of my request for change, in order for Detroit to concur with the second SF 52 and ultimately receiving the second SF 50. HRC Baltimore does not make those decisions without contacting someone with authority from the losing regional office/station involved for concurrence of their transaction.

A simple phone call by the VA Investigator to the Baltimore, HRC Director could have possibly cleared up who prepared the first SF 52 and attached the 1-sentence fraudulent memorandum to it since it was signed by Ms. Fisher and Keith Thompson, Baltimore would have asked for one of those two employees to respond.

Also, I testified that Ms. Blunk contacted me on 4/18/05, the day of my resignation. During that phone call, she stated that I would not need to complete an SF 52 because my resignation letter would become my official record, which she had just read and had in her possession. Ms. Blunk states during her testimony on page 2 of the investigation report that she remembers reading the 3-page memorandum but does not recall the Director, Mr. Thompson, providing his copy of the 3-page memorandum to her. However, Mr. Thompson testifies in the investigation report that he discussed the 3-page resignation letter with Ms. Blunk and believes he provided his copy to the Detroit Human Resource Office.

4. **In her report**, the VA Investigator, **presumed** that the Director, Mr. Keith Thompson received a copy of that same 3-page letter showing the exact signature shown on Ms. Fisher's copy. However, the VA Investigator did not ask me during my testimony if each 3-page resignation letter that I created had an original signature, had she asked that question I could have told her **under oath** that **yes**, each resignation letter that I printed from my Word document file had an original signature. All she had to do was call me back in and ask me or contact me at home, she did neither. Also, prior to the date of the Investigation Depositions of 6/8/07, I informed Ed Flood, Office of Special Counsel that all resignations letters I prepared had an original signature.
5. **Noting that**, the resignation letter that was left with Mr. Keith Thompson would have had an original signature and not **presumably** the same one that was provided to Ms. Fisher as the VA Investigator states in her report. There was no reason to presume anything, I was available to respond to any and all questions. According to the evidence found in the investigation report, Ms. Fisher's copy of my 3-page resignation letter shows the same identical signature that is shown on the fraudulent official federal document found in my Official Personnel Folder.....
6. **After having said that**, I find it hard to believe that the VA Investigator would have been unable to establish with certainty the individual who actually created and benefited from the fraudulent document and thus determine that her findings were inconclusive as she so states on page 2 of her investigation report.
7. **The SOP created by the Baltimore**, HR Center instructing supervisors on how to process an employee's resignation, however apparently necessary, is not the point of this complaint. To reduce the importance of this investigation to a lack in procedures is an injustice when the complaint concerns a criminal act of fraud.

This complaint, as stated on Mr. Nicholson's cover letter, is because I believe there was a violation of law, rule or regulation by an employee of the Detroit Regional Office that needs to be addressed. That statement has nothing to do with procedures on processing resignation documents. How did we get there?

The United States Code, Title 18, Section 1001, clearly states that if someone falsifies, conceals or covers up by any trick, scheme or device a material fact, makes a false, fictitious or fraudulent statement, or representation, or makes use of false writing or document, the act is criminal. It also goes on to say that a statement is material if it had the natural tendency to influence, or be capable of affecting or influencing a governmental function, which is the case when the Baltimore, HRC Director processed my first SF 50, dated 4/18/05, with my reason for leaving as "no reason given" based on the fraudulent one-sentence memorandum that was attached to the first SF 52 which, as stated in the investigation report on page 2, was prepared by Ms. Fisher and dated 4/21/05.

To limit this investigation to the procedures in filing an employees resignation document is an insult not only to myself but to the taxpayers of the United States. The employee that created this fraudulent official federal document lacks integrity for the position held and has truly compromised the integrity of the Detroit Regional Office not to mention the Department of Veterans Affairs as a whole.

Picture yourself taking an Official Federal Document and altering the structure of that document, fraudulently signing that document and turning it in as the original, how do you feel? Would you do it? Could you sleep at night? Employees that commit these types of crimes don't ask those questions they merely wait for the next situation that comes along and repeat the crime. Testifying under oath means truly nothing to them. That, in fact, is the management style that I cannot work under.

As stated on page 2 of the investigation report, the VA Investigator concluded that the one-sentence memorandum was substituted at the VA Regional Office, Detroit, MI. Clearly that states that an employee working for the Department of Veterans Affairs at the Detroit Regional Office has violated U.S.C. Title 18, Section 1001.

However, the investigation report **does not state who would have benefited** from creating the fraudulent 1-page resignation memorandum. This employee continues to be well compensated based on pay grade and any bonuses or awards received, without recourse.

Further investigation into this violation of U.S.C. Title 18, may very well uncover who this employee is and return the integrity back to the station as it should be, otherwise the Department of Veterans is obviously harboring an employee that has committed at least one identified crime.



BARBARA J. BENO
United States Citizen



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

July 18, 2007

Mrs. Barbara J. Beno
9068 Division
Columbus, MI 48063

Re: OSC File No. DI-07-1524

Dear Mrs. Beno:

Enclosed is a copy of a report from the Honorable R. James Nicholson, Secretary of Veterans Affairs, in response to your allegations of a violation of law, rule, or regulation by employees at the Department of Veterans Affairs (VA), Detroit Regional Office, Station 329, Detroit, Michigan.

Pursuant to 5 U.S.C. § 1213(e)(1), you may comment on the report if you wish. Your comments will be sent to the agency head, the President, and the appropriate congressional oversight committees in accordance with 5 U.S.C. § 1213(e)(3). With your consent, your comments will also become part of a public file maintained by OSC. We have enclosed a consent form for your signature, which we ask that you sign and return with your comments.

Please respond within 15 days from the date that you receive this letter. If you cannot complete your comments within this time, please call me at (202) 254-3622, so that we may arrange a short extension of the response date.

Sincerely,

A handwritten signature in black ink that reads "Edward F. Flood".

Edward F. Flood
Attorney
Disclosure Unit

CAM:EFF/eff

Enclosures