John R. Marti
James Lackner
Erika Mozangue
Timothy Anderson

February 17, 2009

William E. Reukauf
Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505

Dear Mr. Reukauf:

We are responding to the report of investigation of the Associate Deputy Attorney General (ADAG) dated August 26, 2008.[1] The ADAG's report rejected the Office of Special Counsel's preliminary findings concerning USA Rachel Paulose. The Office of Special Counsel, after conducting an independent evaluation of the complaint, had determined that there was "a substantial likelihood that USA [Rachel] Paulose has grossly mismanaged the USAO MN, and has engaged in abuses of her authority as a USA." Based on this finding, the Office of Special Counsel directed the Department to conduct an investigation. The ADAG's report is incomplete, inadequate, and inaccurate. Because the management of the Department of Justice has changed since the date of the report and because Ms. Paulose is no longer an employee of the Department, we realize the report's findings may have little present day significance. We write to set the record straight and to highlight the inadequacies of the Department's investigation.

Initially, we note, we are career prosecutors and employees of the federal government who have served the citizens of the United States in public service for over 60 years collectively under a number of different administrations. We look forward to serving under the Department's new leadership, which we anticipate will restore the Department of Justice's well earned reputation for integrity which was unfortunately tarnished over the last several years.

Unfortunately, the ADAG's report reflects the institutional unwillingness by the Department's leadership in 2007 through 2008 to respond to the problems created by Ms. Paulose's tenure. It should be noted that on December 11, 2007, when the OSC forwarded John Marti's whistleblower referral to the Department, the Department objected to conducting any type of investigation, having prejudged the matter as without merit. The ADAG even asked the OSC to reverse its "substantial likelihood" finding.

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[1]The undersigned include the four senior managers who submitted resignation letters to John Kelly, Chief of Staff, EOUSA, on April 5, 2007. While the complaint was submitted to the Office of Special Counsel by John R. Marti, we are collectively submitting this response because we disagree with the ADAG's report's findings, including the report's findings as to our reasons for submitting resignation letters.

1. **The Investigation is deficient because, despite being repeatedly requested to do so, the investigators failed to interview significant and material witnesses and review material information.**

By ignoring important and relevant witnesses and material facts, the report inaccurately concludes that Ms. Paulose did not abuse her authority and mismanage this office. This error is immediately apparent by the report's failure to recognize that prior to Rachel Paulose's appointment as interim United States Attorney, the United States Attorney's Office for the District of Minnesota was a well managed office. That situation changed significantly during her eighteen month tenure. Upon Ms. Paulose's departure, this office, under the leadership of a new U.S. Attorney, is again a well managed office in which employees are respected and treated with dignity.

The failures of the report are numerous, and are manifest in several additional examples.[2]

- The investigators failed to interview the former Chief of Staff for the Executive Office for United States Attorneys (EOUSA), John Kelly. Mr. Kelly was present in the office during and immediately after the termination/resignation of the undersigned. Mr. Kelly interviewed us concerning our reasons for submitting resignation letter and our assessment of the problems related to Ms. Paulose's management of the office on the date we submitted resignation letters. If the investigation was intended to accurately determine the reasons for the senior management team's termination/resignation, and our assessment of the problems then existing in the office, Mr. Kelley's interview is clearly material.

- Further, Mr. Kelly's interviews and observations of this office would have provided the investigators with an independent basis to assess the situation and the acts of Ms. Paulose and her inability to constructively work with others. For example, they would have learned that Ms. Paulose routinely called EOUSA and complained about employees in the office, to the extent that Mr. Kelly wondered how many poor employees could be in one office.

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[2]We have limited our response to specific examples to highlight the report's deficiencies. In light of the change of leadership in the Department of Justice, we believe a more comprehensive response is unnecessary. We specifically disagreed with the skewed recitations of the facts concerning Project Safe Childhood and Ms. Paulose's expenditure of agency funds related to her investiture. Additionally, although the report confirms that Ms. Paulose mishandled classified information, it ignores evidence that Ms. Paulose publicly stated, through an internet blogger, "according to Paulose, she self-reported the incident to the Justice Department and was absolved of any security violation." ("The Paulose Test," www.nationalreview.com, November 16, 2007). The report does not attempt to reconcile this incongruity.

- Further, although repeatedly encouraged to do so, the investigators failed to interview other witnesses with direct knowledge of the events set forth in the complaint and report. For example, Alan Durand, the first Administrative Officer of the three who eventually served under Ms. Paulouse, was never contacted.[3] While it is true, as the report states, that Mr. Durand took an early retirement incentive, the investigators never attempted to find out why. The report just assumed that Mr. Durand wanted to retire for personal reasons. In fact, Mr. Durand specifically would have told investigators that he took an early out because of Ms. Paulose's abusive leadership and mismanagement, and would have been able to describe numerous incidents evidencing this claim.

- Similarly, Tim Anderson (one of the undersigned), the acting Administrative Officer appointed by Ms. Paulose after Mr. Durand left, would contradict many of the report's findings, including that the management team resigned for the reasons alleged by the report. Mr. Anderson left his employment at the United States Attorney's Office for similar reasons as Mr. Durand. The failure to interview Mr. Anderson is a glaring error because he was one of the four management team members to submit resignation letters on April 5, 2007.

- Other essential interviews would have included, among others, Joan Humes, Perry Sekus, and Andrew Dunne. Mr. Dunne resigned his position on Ms. Paulose's management team, and Ms. Humes and Mr. Sekus resigned their positions as Assistant U.S. Attorneys after distinguished careers in public service, largely because of Ms. Paulose's abuse of her authority. These interviews are material in that they would further corroborate the findings of the OSC as to substantial likelihood of gross mismanagement and abuse of authority.

- Furthermore, Michael Cheever and Greg Brooker voluntarily tendered their resignations to Ms. Paulose in November 2007, yet the report does not mention these resignations or their motives for resigning. Mr. Cheever was not even interviewed.

- The report finds that two of the undersigned purportedly pressured the "replacement management team" to resign after the publication of the November 13, 2007 blog. The report makes this finding solely based on the comments of one member of Ms. Paulose's replacement management team. We believe that other than the one source, the remaining management team members, including those who tendered their resignations in November 2007, disagree with this finding of the report. In any event at this point, in a thorough investigation, the investigators should have approached the remaining management team members, including those who had tendered their resignations, to determine whether this one statement was correct. They should also have recontacted the

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[3]Mr. Durand had previously served with distinction as an Administrative Officer from approximately 1979 and under at least 7 prior United States Attorneys.

undersigned to follow up on the comments of this one person. None of this was done.

- Another source of information which would have confirmed the findings of substantial likelihood by the OSC concerning Ms. Paulose's mismanagement, and which was not reviewed in this investigation, was the EARS evaluation conducted in the summer, 2007. The EARS evaluation specifically examined Ms. Paulose's management. Most significantly, USAO employees submitted information to the EARS evaluation team through interviews and questionnaires, which would, we believe, further establish that Ms. Paulose was an abusive leader who mismanaged the office. At a minimum, the EARS staff that participated in the review should have been interviewed regarding their observations.

2. **The report is deficient because it ignored material evidence directly contrary to its conclusion, namely that Ms. Paulose's mismanagement resulted in repeated management turnovers throughout her brief tenure.**

The report finds that "although the four supervisors resigned their positions, responsibility for the resignations cannot be attributed exclusively to USA Paulose's management style. A confluence of events and circumstances led to the resignation of the management team." Report, page 10. The report then finds that we resigned due to, among other reasons, the U.S. Attorney firing controversy and the departure of a popular USA and FAUSA. The report then finds that the "resignation of her management team" was something other than the result of her mismanagement. These findings are wrong. The so-called "confluence of events" played no role in the submission of our resignation letters, as we specifically told the Department's investigators, OSC investigators, and John Kelly. These unsupported findings are also directly contradicted by the (ignored) facts that:

- A number of other persons, at different times, most of whom Ms. Paulose installed in her management team, resigned or threatened to resign during her tenure. For example, immediately prior to Ms. Paulose's reassignment to Main Justice, two then current managers informed Ms. Paulose that they were resigning. Other managers of this team also informed her that they intended to resign if she remained as the U.S. Attorney. In addition, other long term and valued employees left the U.S. Attorney's Office for reasons they themselves stated were due to her gross mismanagement and abusive leadership.

- During Ms. Paulose's brief eighteen month tenure as U.S. Attorney, her management personnel included three First Assistant U.S. Attorneys, two criminal chiefs, three civil chiefs, three administrative officers, three narcotics section chiefs, and three press officers, among other positions.

- Lastly, this office had been remarkably stable for decades prior to Ms. Paulose's tenure. The office was remarkably unstable while she was the U.S. Attorney. Once she departed as U.S. Attorney, the office's stability returned.

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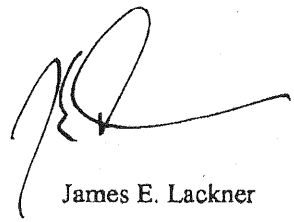
In conclusion, we believe the sad legacy evidenced by this report has come to a end. We write to correct the inaccurate factual record set forth in this report. We do not expect, nor do we seek, any further action on this matter. We look forward to continuing our service to the United States, and believe that under new leadership, the Department of Justice will return to its proud tradition of service to the rule of law.

Sincerely,

John R. Marti



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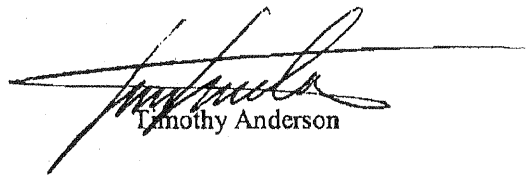

Timothy Anderson