OSC Obtains Stay of a Personnel Action Involving a Smithsonian Employee

FOR IMMEDIATE RELEASE
CONTACT: Nick Schwellenbach, (202) 254-3631; nschwellenbach@osc.gov

WASHINGTON, D.C./September 26, 2016 –

On Friday, the U.S. Office of Special Counsel (OSC) obtained a 45-day stay from the Merit Systems Protection Board (MSPB) of a change to a Smithsonian Institution employee’s work schedule and duty station. The employee is Carmine Tarantino, a utility systems repairer operator with the Smithsonian in New York City. Mr. Tarantino filed a claim of whistleblower retaliation with OSC alleging that his supervisor changed his work schedule to create significant hardship in retaliation for safety-related and other complaints that Mr. Tarantino filed against his supervisor in his capacity as a union representative. OSC is currently investigating Mr. Tarantino’s retaliation claim.

During OSC’s investigation, the Smithsonian asserted that OSC does not have jurisdiction over it or its employees, such as Mr. Tarantino. The MSPB addressed this in its order: “To the extent that the agency contends that OSC lacks authority to request a stay or that the Board lacks authority to order a stay, the agency is incorrect. The Board has held that the Smithsonian Institution is an ‘agency’ under” the applicable law, according to the Board’s order.

A stay of a personnel action provides temporary relief to complainants while OSC investigates their prohibited personnel practice claim (for example, whistleblower retaliation). OSC may request a stay from the MSPB when OSC has a reasonable belief that the personnel action taken or to be taken is the result of a prohibited personnel practice. Such a request by OSC shall be granted unless, under the facts and circumstances, such a stay would not be appropriate. A grant of a stay request is not a finding on the merits of the claim.

The MSPB’s stay order, which contains further details, can be found here.

***

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: The Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at www.osc.gov.