



U.S. OFFICE OF SPECIAL COUNSEL
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March 29, 2010

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-08-0563

Dear Mr. President:

The Office of Special Counsel (OSC) received a disclosure from Leroy E. Falconi Jr., a whistleblower formerly employed as a Carpenter at the Department of Homeland Security (DHS), Coast Guard Academy, Public Works Department, New London, Connecticut. Mr. Falconi, who consented to the release of his name, alleged that he and his co-workers were exposed to hazardous asbestos while completing work request orders and that management officials deliberately did not disclose the presence of asbestos in order to avoid taking appropriate environmental safeguards. He asserted that the actions of these DHS employees constituted a violation of law, rule, or regulation, gross mismanagement, and an abuse of authority.

Mr. Falconi's allegations were referred to the Honorable Michael Chertoff, then-Secretary of DHS, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Honorable Janet Napolitano, Secretary of DHS, delegated authority to respond to OSC's referral to Calvin M. Lederer, Deputy Judge Advocate General. Mr. Lederer submitted a report to this office on June 5, 2009. A supplemental report was received on September 14, 2009. Mr. Falconi provided comments on the reports pursuant to 5 U.S.C. § 1213(e)(1). As required by law, 5 U.S.C. § 1213(e)(3), OSC is now transmitting the reports and Mr. Falconi's comments to you.

The Coast Guard Investigative Service (CGIS) investigated this matter. CGIS confirmed the presence of asbestos in the floor tiles that Mr. Falconi removed pursuant to the work request orders. It was also found that the asbestos contained in the tiles was not friable, and thus did not pose a significant danger to DHS employees. CGIS further concluded that Mr. Falconi's supervisor was not aware that asbestos was present, in part, because he helped Mr. Falconi dispose of the tiles and debris. After interviewing management officials, it was concluded that DHS employees were not intentionally exposed to asbestos containing materials. Consequently, Mr. Falconi's allegations were not substantiated. As a result of the investigation, DHS has revised agency policies, and the section of the branch responsible for creating the work orders received training on the locations of hazardous materials. Additionally, whenever an order is issued for work to begin on a project, a separate work order is also produced for the environmental branch to approve the initiation of work.

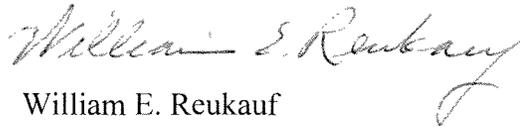
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Mr. Falconi provided comments on the reports. Although he was grateful, he was not satisfied with the outcome. Among other things, he expressed disagreement with the agency's decision not to pursue disciplinary action.

We have reviewed the original disclosure, the agency's reports and Mr. Falconi's comments. Based on that review, OSC has determined that the agency's reports contain all of the information required by statute, and the findings appear to be reasonable.

As required by 5 U.S.C. § 1213(e)(3), we have sent copies of the agency's reports and Mr. Falconi's comments to the Chairman and Ranking Member of the Senate Committee on Commerce, Science and Transportation, and the Chairman and Ranking Member of the House Committee on Transportation and Infrastructure. We have also filed copies of the agency's reports and Mr. Falconi's comments in our public file and closed the matter.

Respectfully,

A handwritten signature in cursive script that reads "William E. Reukauf". The signature is written in dark ink and is positioned above the printed name and title.

William E. Reukauf
Associate Special Counsel

Enclosures