



U.S. OFFICE OF SPECIAL COUNSEL

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May 25, 2010

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

Re: OSC File Nos. DI-08-2143 and DI-09-0033

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), the Office of Special Counsel (OSC) is forwarding to you agency reports concerning a disclosure from Melvin Shibuya, former Chief, Employee Relations Branch, United States Department of Agriculture (USDA), Forest Service, Albuquerque Service Center in Albuquerque, New Mexico, and Jeffrey G. Park, former Chief, Incident Finance Branch, USDA Forest Service, Albuquerque Service Center. Mr. Shibuya and Mr. Park, both of whom have consented to the release of their names, alleged that Jesse L. King, former Chief Financial Officer, Forest Service, violated federal regulations and abused his position by falsifying his official duty station, misusing his government issued travel credit card and failing to pay his travel credit card account in a timely fashion.

On April 14, 2009, Mr. Shibuya and Mr. Park's allegations were referred by our office to the Honorable Tom Vilsack, Secretary of USDA, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). Secretary Vilsack tasked the USDA Inspector General (IG) with responsibility for conducting the investigation and delegated authority to take all necessary responsive actions regarding this matter and to report the results of the investigation to the Honorable Kathleen A. Merrigan, Deputy Secretary, USDA. Deputy Secretary Merrigan submitted a report of her findings based on the results of the USDA IG investigation to OSC on August 17, 2009. Upon receipt of Deputy Secretary Merrigan's response, OSC requested additional information. Deputy Secretary Merrigan responded to this request for additional information by letter dated January 26, 2010, based upon the results of a supplemental USDA IG investigation. The USDA reports, therefore, include both Deputy Secretary Merrigan's August 17, 2009, and January 26, 2010, responses, as well as the results of both the original and supplemental USDA IG investigation.

The USDA reports substantiated the whistleblowers' allegations that Mr. King falsified his official duty station, misused a government issued travel credit card and failed to pay his travel credit card account in a timely fashion. According to the reports, Mr. King's actions violated federal and USDA regulations and policies. The reports further found that USDA officials erred in issuing Mr. King a \$13,000 Senior Executive Service (SES) performance

award soon after the USDA Office of Human Capital Management (OHCM) completed an investigation which substantiated Mr. King's travel and credit card improprieties. As a result of these findings, USDA committed to instructing Forest Service and OHCM officials that performance bonuses should not be awarded "to subjects of serious ongoing investigations without prior careful review by the Office of the Secretary."¹

Mr. Shibuya and Mr. Park submitted comments on the agency's reports. Mr. Shibuya's comments noted his belief that the agency's system of review of credit card activity held members of the SES to a lesser standard of conduct than other federal employees. In his comments, Mr. Park expressed satisfaction with the investigation and the actions taken by the agency as a result. He did, however, express frustration with the failure of Forest Service leadership to act upon Mr. King's wrongdoing when it was originally reported.

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

As required by law, 5 U.S.C. § 1213(e)(3), we have sent a copy of the agency reports and the whistleblowers' comments to the Chairmen and Ranking Members of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry. We have also filed a copy of the agency reports and the whistleblowers' comments in our public file which is now available online at www.osc.gov and closed our files in these matters.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures

¹ The USDA reports acknowledged that Mr. King's removal was warranted in this matter. However, Mr. King voluntarily retired from federal service during the course of the OSC initiated investigation. It should also be noted that, according to the reports, the agency referred this matter to the U.S. Attorney's Office for the District of Columbia for possible criminal action. The U.S. Attorney's Office declined prosecution.