

February 5, 2015

Ms. Carolyn N. Lerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, D.C. 20036

Dear Ms. Lerner:

I am writing in response to Social Security Administration (SSA) Acting Commissioner Carolyn W. Colvin's letter dated October 8, 2014 and the SSA's Final Report of Investigation regarding the whistleblower disclosure by Scott Wiltrout, a former SSA employee. In 2013, Mr. Wiltrout filed a disclosure with the U.S. Office of Special Counsel (OSC) alleging that the SSA Baltimore National Hearing Center (NHC) had violated rules, regulations, and laws. Mr. Wiltrout reported that the Baltimore NHC had processed thousands of disability cases incorrectly. In addition, he disclosed that Baltimore NHC employees had failed to scan thousands of important documents into claimants' files in a timely manner, if at all. Mr. Wiltrout also explained that, when documents had made it into claimants' files, employees often had not taken the correct actions relating to those documents.

In addition, he reported that Baltimore NHC employees had failed to answer thousands of phone calls from claimants and their representatives during the first two years the office was open. Mr. Wiltrout further explained that these factors had undermined the legal sufficiency of decisions issued by the Baltimore NHC. He disclosed that the Baltimore NHC had violated the due process rights of claimants, many of whom were disabled.

Mr. Wiltrout also reported that Baltimore NHC employees had falsified official government time records in violation of 18 U.S.C. § 1001, and management had likely committed an ethics violation by not reporting this to the appropriate authorities. Furthermore, he explained that there had been a tremendous amount of waste at the Baltimore NHC. The Baltimore NHC's conduct clearly evidenced gross mismanagement.

The OSC reviewed Mr. Wiltrout's disclosure and determined that there was a substantial likelihood that the information Mr. Wiltrout had provided disclosed a violation of law, rule or regulation, and gross mismanagement. Accordingly, the OSC referred this information to SSA Acting Commissioner Carolyn W. Colvin for an investigation and report under 5 U.S.C. § 1213. Acting Commissioner Colvin asked the SSA's Office of the Inspector General (OIG) to conduct the investigation. Once the investigation was complete, Acting Commissioner Colvin sent a letter, Final Report of Investigation, and attachments to U.S. Special Counsel Carolyn N. Lerner. The OSC provided Mr. Wiltrout with copies of documents for comment.

Mr. Wiltrout found numerous deficiencies in the SSA's investigation of the Baltimore NHC. The SSA omitted a significant amount of evidence. The SSA also failed to adequately address the evidence that it did include. In addition, the SSA failed to ask a number of basic questions during interviews. The SSA also failed to interview several important witnesses. In addition, the SSA made misleading statements. Furthermore, the SSA greatly underestimated the amount of wrongdoing that took place at the Baltimore NHC.

The SSA's investigation served to obfuscate rather than clarify what actually happened at the Baltimore NHC. Mr. Wiltrout believes that the deficiencies in the SSA's investigation are far too numerous to be accidental. Mr. Wiltrout also believes that no investigator acting in good faith could have made so many omissions.

The deficiencies in the SSA's investigation should be viewed in light of the numbers involved. The SSA's Final Report of Investigation indicates that federal administrative law judges (ALJs) at the Baltimore NHC issued a total of 26,136 dispositions for Fiscal Years 2010, 2011, 2012, and 2013 combined. This does not include dispositions for Fiscal Years 2009 and 2014. On June 10, 2014, the U.S. House Committee on Oversight and Government Reform issued a report regarding SSA disability programs, which states, "The average lifetime disability benefit, including the benefit from programs linked to enrollment in a disability program, is estimated at \$300,000." If Baltimore NHC ALJs issued dispositions on 26,136 disability cases, and the average lifetime disability benefit is estimated at \$300,000, then it is possible to estimate that claims adjudicated by the Baltimore NHC were potentially worth more than 7.8 billion dollars in lifetime disability benefits.

Of course, not all of the decisions were favorable. It is possible that the claims for which favorable decisions were issued may only amount to a few billion dollars in lifetime disability benefits. In addition, the Final Report of Investigation does not indicate if other types of claims were included in the number of dispositions reported. Mr. Wiltrout respectfully requests that the OSC require the SSA to provide the total number of Baltimore NHC decisions that were favorable and the total number of Baltimore NHC decisions were unfavorable. This information is necessary to put the Baltimore NHC's actions in perspective and estimate the damage caused.

The numbers involved could help explain the motivation behind the numerous deficiencies in the SSA's investigation of the Baltimore NHC. Despite these numerous deficiencies, there are some kernels of truth in the SSA's Final Report of Investigation. Mr. Wiltrout will highlight these kernels of truth as well as the deficiencies. Mr. Wiltrout respectfully requests that the OSC require the SSA to remedy these deficiencies.

The Baltimore NHC processed thousands of disability cases incorrectly.

In his report to the OSC, Mr. Wiltrout reported that the Baltimore NHC had processed thousands of disability cases incorrectly. Baltimore NHC management had directed employees to process cases in a manner that was contrary to SSA procedures. Management had also

encouraged employees to violate SSA procedures by rewarding employees who had processed cases incorrectly and punishing employees who had processed cases correctly.

The SSA only admitted to some wrongdoing in regard to case processing at the Baltimore National Hearing Center. On October 8, 2014, SSA Acting Commissioner Carolyn W. Colvin sent U.S. Special Counsel Carolyn N. Lerner a letter stating, “The ‘simplified method’ of case assembly training provided by Mr. Hash and Chief ALJ Martin was inconsistent with agency policy.”

The SSA greatly underestimated the wrongdoing at the Baltimore NHC. At least two of the SSA’s interviews indicate that additional judges instructed employees to process cases in a manner that was inconsistent with agency policies. The SSA failed to ascertain which judges were involved. In addition, the SSA’s interviews of former Baltimore NHC supervisors, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of employees used the “simplified method” of case processing. The letter from SSA Acting Commissioner Colvin to U.S. Special Counsel Lerner, however, states, “There is no evidence that significant numbers of employees followed the ‘simplified method’ of case processing.” Furthermore, the SSA omitted relevant evidence and made misstatements in its investigation.

At least two of the SSA’s interviews indicate that additional judges instructed employees to process cases in a manner that was inconsistent with agency policies. On August 8, 2014, the SSA interviewed former Supervisory Case Manager Stephanie Meilinger. In regard to the “simplified method” of case processing, “She explained that there were no cases pulled and ready for hearing when the Baltimore NHC first opened. Due to a need to schedule hearings, Chief Administrative Law Judge (ALJ) Augustus Martin (Martin), in conjunction with other ALJs, instructed the Baltimore NHC staff to exhibit all documents in the case folder.” The language “in conjunction with other ALJs” indicates that other ALJs were involved.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked Ms. Meilinger which “other ALJs” were involved. The Report of Investigation for this interview does not show that Mr. Huse, the SSA investigator who conducted the interview, asked this basic question. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Meilinger again and ask her which “other ALJs” were involved. The American Public has a right to know which federal administrative law judges instructed employees to process disability cases in a manner that violated SSA policies. Furthermore, if any of the ALJs interviewed as part of this investigation instructed employees to violate agency policies, it would reflect on their credibility.

On July 10, 2014, the SSA interviewed ALJ David Pang. During the interview, ALJ Pang “explained that it is not uncommon for ALJs to request cases that have not been pulled.” Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked ALJ Pang which ALJs had requested cases that had not been pulled. The Report of Investigation does

not show that Mr. Huse, the SSA investigator who conducted the interview, asked this basic question. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview ALJ Pang again and ask him which ALJs had requested cases that had not been pulled.

The SSA's interviews of two former Baltimore NHC supervisors, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of employees used the "simplified method" of case processing. The letter that SSA Acting Commissioner Colvin sent to U.S. Special Counsel Lerner, however, states, "There is no evidence that significant numbers of employees followed the 'simplified method' of case processing."

On August 11, 2014, the SSA interviewed former Baltimore NHC Supervisory Case Manager Sonya Napier regarding conduct at the Baltimore NHC. The Report of Investigation states, "According to Napier, the office staff was not in compliance with HALLEX, specifically in regards to culling through exhibits. Napier thought employees frequently did a 'select all and add to the exhibit list' when retrieving from the Electronic Case File (ECF)." Ms. Napier referred to "the office staff." This indicates that a significant number of employees were involved.

On August 8, 2014, the SSA interviewed former Supervisory Case Manager Stephanie Meilinger. In regard to ALJ Martin's process, the Report of Investigation states, "Once the office pulled a sufficient amount of cases for scheduling, the use of this process ended." Ms. Meilinger referred to "the office," not just David Hash. This indicates that a significant number of employees were involved.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked Ms. Meilinger which other employees were involved. The Report of Investigation for this interview does not show that Mr. Huse, the SSA investigator who conducted the interview, asked this basic question. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Meilinger again and ask her which other employees were involved.

Baltimore NHC supervisors also sent employees e-mails regarding the "simplified method" of case processing. On January 22, 2010, Supervisory Paralegal Specialist Angela Delillye sent an e-mail stating, "Effective today, and until further notice start working up all cases in the streamline method." On January 22, 2010, former Paralegal Specialist (Case Manager) Donna Hopson inquired, "What exactly are they calling streamline method? Please respond." On January 22, 2010, former Baltimore NHC Supervisory Case Manager Sonya Napier forwarded a response from Supervisor Angela Delillye stating, "The way we were pulling cases prior to Judge Martin's simplified method of pulling." On January 23, 2010, Ms. Delillye sent another e-mail stating, "The streamline pulling I am referring to is the pulling everyone was doing before we began the Judge Martin simplified method."

The language used in these e-mails indicates that a significant number of employees used the "simplified method" of case processing. The word "we" suggests that a number of

employees, rather than just David Hash, processed cases incorrectly. Furthermore, if no employees other than David Hash had been processing cases incorrectly, there would have been no reason to send all clerical employees an e-mail telling them to stop processing cases using the “simplified method.” The fact that supervisors felt it necessary to send these e-mails to all clerical employees suggests that a significant number of employees were using the “simplified method” of case processing.

The SSA failed to address these e-mails in the Final Report of Investigation, and the SSA failed to include these e-mails as attachments. In doing so, the SSA omitted relevant evidence from an official government report. Mr. Wiltrout respectfully requests that the OSC require the SSA to address this evidence in the Final Report of Investigation and include the e-mails as attachments.

The SSA’s interviews of two former Baltimore NHC supervisors, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of employees used the “simplified method” of case processing. This plainly contradicts the letter from SSA Acting Commissioner Colvin to U.S. Special Counsel Lerner, which states, “There is no evidence that significant numbers of employees followed the ‘simplified method’ of case processing.” The SSA’s interviews, along with the e-mails omitted by the SSA, also contradict the statement in the SSA’s Final Report of Investigation that, “Although we found that the training provided by Hash was inconsistent with policy, the investigation did not substantiate its widespread use and implementation.” Mr. Wiltrout believes that the SSA’s omission of relevant evidence and failure to ask witnesses basic questions undermines the SSA’s credibility on the remaining portions of the investigation.

The SSA’s interviews indicate that employees continued to process cases incorrectly after January 2010. On August 5, 2014, SSA investigators interviewed former Case Manager David Hash. According to the Report of Investigation, “To determine the date range, Hash skimmed through the beginning, middle, and end of each document. Hash stated that he did not look at every page.” The Report of Investigation goes on to discuss “Martin’s policy.” According to the Report of Investigation, “Hash stated that he used this process the entire time he worked at the Baltimore NHC, even after Martin transferred to South Carolina and ALJ Milagros Farnes became chief.” Essentially, this Report of Investigation indicates that David Hash admitted to working up all of his cases incorrectly.

The Report of Investigation also states, “Hash was employed as a Paralegal Case Manager in the Baltimore NHC from approximately October 2009 through June 2011.” Based on this Report of Investigation alone, at least one employee worked up cases incorrectly well into 2011, long after the e-mails from supervisors in January 2010.

Given that David Hash admitted to working up all of his cases incorrectly, Mr. Wiltrout believes that a reasonable investigator acting in good faith would have determined the total

number of cases that Mr. Hash had worked up. This could serve as a starting point for determining how many thousands of cases the Baltimore NHC worked up incorrectly. Mr. Wilttrout respectfully requests that the OSC require the SSA to determine and report the total number of cases that Mr. Hash worked up.

Mr. Hash also instructed other employees to process cases incorrectly, and at least some of those employees did process cases incorrectly. On May 18, 2010, former Acting Administrative Officer Michael Polvino sent all clerical employees an e-mail regarding a mandatory training session on case workup. Mr. Polvino also sent this e-mail to Judge Martin and all supervisors. The SSA failed to attach this relevant e-mail to the Final Report of Investigation. Mr. Wilttrout respectfully requests that the OSC require the SSA to address this evidence in the Final Report of Investigation and include it as an attachment.

On May 19, 2010, Mr. Hash conducted a training session on case workup for the legal assistants and case managers. Mr. Polvino was in attendance. Mr. Hash told employees to exhibit all documents in the A thru E sections of each case file and open only a few of those documents.

On July 30, 2014, the SSA interviewed Case Manager John Stasik, and one of the topics was training given by David Hash. The Report of Investigation for this interview states, "During the training, Hash advised the staff to look at the first and last page of a document to determine a date range. Stasik recalls several employees having an issue with that technique since documents are not always in order. However, Martin approved of that method and some members of the staff began using that process." Stasik mentioned "some members of the staff." This indicates that multiple employees processed cases incorrectly according to Mr. Hash's instructions.

Mr. Wilttrout believes that a reasonable investigator acting in good faith would have asked Mr. Stasik who the "some members of the staff" were. The Report of Investigation for this interview does not show that Mr. Huse, the SSA investigator who conducted the interview, asked this basic question. Mr. Wilttrout respectfully requests that the OSC require the SSA to interview Mr. Stasik again and ask him which employees were involved.

Mr. Wilttrout and the SSA also disagree on trends regarding the quality and quantity of cases worked up by Baltimore NHC employees. In his report to the OSC, Mr. Wilttrout stated, "During a clerical meeting that I attended at the end of 2009, Judge Martin directed members of the clerical staff not to open any of the documents in claimants' files while working up cases. He said that we should simply select all documents and then exhibit all documents. Judge Martin referred to this as his 'simplified method.'" Mr. Wilttrout also stated that "a review of case files worked up during this time period should show a sudden increase in the number of case files worked up and a drastic decline in the quality of cases."

SSA Acting Commissioner Colvin sent U.S. Special Counsel Lerner a letter stating, “There is no evidence to support the validity of Mr. Wiltrout’s concern that the use of the ‘simplified method’ resulted in a ‘sudden increase’ in the volume of work and a ‘drastic decline’ in the quality of work.”

The SSA failed to submit the evidence that would have shown whether there was a “sudden increase” in the amount of cases processed. The Baltimore NHC’s total monthly workup numbers for each month of 2009, 2010, and 2011 would be necessary to determine whether there was a “sudden increase” in the amount of cases processed at times when employees were directed to process cases incorrectly. The SSA failed to submit this relevant evidence. Instead, the SSA submitted the total workup numbers for each year, which is far too long a time period to reflect a “sudden increase.” Then, after the SSA had omitted the relevant monthly workup numbers, Acting Commissioner Colvin declared, “There is no evidence to support the validity of Mr. Wiltrout’s concern that the use of the ‘simplified method’ resulted in a ‘sudden increase’ in the volume of work and a ‘drastic decline’ in the quality of work.”

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have reported the monthly workup numbers. Mr. Wiltrout respectfully requests that the OSC require the SSA to report Baltimore NHC’s total monthly workup numbers for each month of 2009, 2010, and 2011. These numbers are necessary to determine whether there was a “sudden increase” in the amount of cases processed at times when employees were directed to process cases incorrectly.

At least one SSA interview suggests that there was a decline in the quality of work. On July 31, 2014, the SSA interviewed Administrative Law Judge Roseanne Dummer, who “acknowledged that, at some point, the staff was taking short-cuts because her cases did not include all of the line information (metadata) that she was used to receiving.” There was a drastic enough decline in the quality of work that a federal administrative law judge noticed it. ALJ Dummer’s use of the word “staff” indicates that a significant number of employees were “taking short-cuts.” ALJ Dummer’s use of the phrase “that she was used to receiving” indicates that at some earlier point cases had been processed better. This interview suggests that there was a decline in the quality of work, and a significant number of employees were involved.

The SSA also mischaracterized Mr. Wiltrout’s assertion in his disclosure to the OSC of which “time period should show a sudden increase in the number of case files worked up and a drastic decline in the quality of cases.” The SSA’s Final Report of Investigation discusses Mr. Hash’s instructions regarding “*Modified Streamline[d] Folder Assembly*.” After this discussion, the SSA states, “Although we found that the training provided by Hash was inconsistent with policy, the investigation did not substantiate its widespread use and implementation. Wiltrout proclaimed that a review of cases worked up during this period would reflect ‘*a sudden increase in the number of case files worked up and a drastic decline in the quality of cases.*’” This mischaracterizes the time period to which Mr. Wiltrout referred in his disclosure to the OSC.

The SSA's remarks incorrectly imply that Mr. Wiltrout was referring to only the time period after Mr. Hash's May 19, 2010 training session, during which Mr. Hash provided instruction on "Modified Steamlined Folder Assembly."

A review of Mr. Wiltrout's disclosure to the OSC, a copy of which Mr. Wiltrout provided to Mr. Huse, clearly indicates that Mr. Wiltrout was referring to the time period after Judge Martin's instruction on his "simplified method" at the end of 2009. In his report to the OSC, Mr. Wiltrout stated, "During a clerical meeting that I attended at the end of 2009, Judge Martin directed members of the clerical staff not to open any of the documents in claimants' files while working up cases. He said that we should simply select all documents and then exhibit all documents. Judge Martin referred to this as his 'simplified method.'" Mr. Wiltrout also stated that "a review of case files worked up during this time period should show a sudden increase in the number of case files worked up and a drastic decline in the quality of cases."

Mr. Wiltrout was clearly referring to the time period after Judge Martin's instruction on his "simplified method" of workup at the end of 2009. Of course, it is always possible that there was also an increase in the number of cases worked up after Mr. Hash's training session on May 19, 2010. As previously noted, the SSA omitted the Baltimore NHC's total monthly workup numbers for each month of 2009, 2010, and 2011, which would be necessary to determine whether there was a "sudden increase" in the amount of cases processed at times when employees were directed to process cases incorrectly.

The SSA's Final Report of Investigation claims that the SSA performed "audits" of cases that were worked up at the Baltimore NHC in Fiscal Years 2009 and 2010. SSA's Final Report of Investigation states, "The OIG/OA also conducted an analysis of pulled cases at the Baltimore NHC. The audit sample consisted of 50 cases from 2009 and 50 cases from 2010. All cases were assigned to either ALJ Martin or ALJ David Pang, the judge presiding over Hash's unit."

The SSA's "audit" of cases worked up at the Baltimore NHC in 2009 is seriously flawed. The SSA documented the "audit" of Fiscal Year 2009 cases on a chart labeled "FY 2009 50 Sample Cases from ALJ PANG and ALJ Martin." On this chart, there is a column labeled "FINAL_DISPOSITION_DATE." In this column, 43 of the 50 final disposition dates listed are before July 2009. This is a serious problem, as the Baltimore NHC did not open until July 2009. If the final disposition dates are correct, 86% of the cases used for the SSA's Fiscal Year 2009 "audit" could not have been decided at the Baltimore NHC because they were decided before the Baltimore NHC had opened. These cases certainly could not have been worked up at the Baltimore NHC. Either these cases were decided by Judges Martin and Pang while they were at their previous offices, or the final disposition dates are not correct.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would not have conducted an "audit" of cases that had been decided before the Baltimore NHC had even opened,

claiming to have “conducted an analysis of pulled cases at the Baltimore NHC.” Mr. Wiltrout respectfully requests that the OSC require the SSA to explain the serious flaw in the Fiscal Year 2009 audit. Mr. Wiltrout also requests that the OSC require the SSA to identify the employee or employees who conducted this “audit.” In addition, Mr. Wiltrout requests that the OSC require the SSA to conduct an audit of cases that were worked up in Fiscal Year 2009, but during the time period when the Baltimore NHC was actually open.

The SSA also failed to provide the methodology for reviewing these cases. In order to evaluate whether cases had been worked up properly, auditors would have needed to verify that cases were correctly labeled, correctly dated, and cover sheets had been correctly completed, among other things. It would not have been sufficient to simply look at whether each exhibit had a label and a date. It is impossible to know how the SSA’s auditors evaluated these cases, as the SSA did not provide this basic and crucial information.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have included the methodology for auditing these cases in the Final Report of Investigation. Mr. Huse, the SSA investigator who wrote the Final Report of Investigation, failed to include this basic information. Mr. Wiltrout respectfully requests that the OSC require the SSA to provide the methodology for auditing these cases. Based on the numerous deficiencies in the SSA’s investigation, the OSC should not take the SSA’s word that the cases from the “audit” of Fiscal Years 2009 and 2010 were evaluated correctly.

In the Final Report of Investigation, the SSA also implies that the Baltimore NHC worked cases up perfectly in Fiscal Year 2010. The Final Report of Investigation claims that the “audit” of “FY 2010” cases found that “50 out of 50 cases were worked up properly.” Mr. Wiltrout believes that this cannot be correct.

Previously mentioned SSA interviews of former Baltimore NHC employees, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of Baltimore NHC employees processed a significant number of cases incorrectly in Fiscal Year 2010. Before moving on in this discussion, it is important to make distinction between the calendar year and the fiscal year. In his disclosure to the OSC, Mr. Wiltrout did not mention fiscal years, as he was referring to calendar years. In the Final Report of Investigation, however, the SSA used fiscal years as audit periods. The federal fiscal year begins with October 1st and ends the following September 30th. This will prove relevant in the following discussion.

In his disclosure to the OSC, Mr. Wiltrout stated, “During a clerical meeting that I attended at the end of 2009, Judge Martin directed members of the clerical staff not to open any of the documents in claimants’ files while working up cases. He said that we should simply select all documents and then exhibit all documents. Judge Martin referred to this as his ‘simplified method.’” Mr. Wiltrout was referring to the end of Calendar Year 2009. This would be the beginning of Fiscal Year 2010.

On August 8, 2014, the SSA interviewed former Supervisory Case Manager Stephanie Meilinger. In regard to the “simplified method” of case processing, “Meilinger estimated that it was used for six months to one year.”

Judge Martin instructed employees to follow his “simplified method” at the end of Calendar Year 2009, which was the beginning of Fiscal Year 2010. If the Baltimore NHC staff began processing cases using Judge Martin’s “simplified method” at the beginning of Fiscal Year 2010, and this method of processing cases “was used for six months to one year,” as indicated by Ms. Meilinger, then a significant number of employees processed cases incorrectly for between half and all of Fiscal Year 2010. It is simply not possible that the Baltimore NHC worked up cases perfectly in Fiscal Year 2010, as implied by the SSA’s Final Report of Investigation and “audit” of Fiscal Year 2010 cases.

In addition, at least one employee admitted to processing cases incorrectly before, during, and after Fiscal Year 2010. On August 5, 2014, SSA investigators interviewed former Case Manager David Hash. According to the Report of Investigation, “To determine the date range, Hash skimmed through the beginning, middle, and end of each document. Hash stated that he did not look at every page.” The Report of Investigation goes on to discuss “Martin’s policy.” According to the Report of Investigation, “Hash stated that he used this process the entire time he worked at the Baltimore NHC, even after Martin transferred to South Carolina and ALJ Milagros Farnes became chief.” Essentially, this Report of Investigation indicates that David Hash admitted to working up all of his cases incorrectly. The Report of Investigation also states, “Hash was employed as a Paralegal Case Manager in the Baltimore NHC from approximately October 2009 through June 2011.”

Based on the above referenced Report of Investigation, Mr. Hash worked up cases incorrectly for all of Fiscal Year 2010. In addition, Mr. Hash was frequently one of the top pullers of cases in the office, if not the top puller of cases in the office. It stands to reason that Mr. Hash worked up a large number of cases incorrectly in Fiscal Year 2010. It is simply not possible that the Baltimore NHC worked up cases perfectly in Fiscal Year 2010, as implied by the SSA’s Final Report of Investigation and “audit” of Fiscal Year 2010 cases.

Baltimore NHC supervisors also sent e-mails suggesting that a significant number of employees were working up cases incorrectly for at least the first few months of Fiscal Year 2010. On January 22, 2010, Supervisory Paralegal Specialist Angela Delillye sent an e-mail stating, “Effective today, and until further notice start working up all cases in the streamline method.” On January 22, 2010, former Paralegal Specialist (Case Manager) Donna Hopson inquired, “What exactly are they calling streamline method? Please respond.” On January 22, 2010, former Baltimore NHC Supervisory Case Manager Sonya Napier forwarded a response from Supervisor Angela Delillye stating, “The way we were pulling cases prior to Judge Martin’s simplified method of pulling.” On January 23, 2010, Ms. Delillye sent another e-mail

stating, “The streamline pulling I am referring to is the pulling everyone was doing before we began the Judge Martin simplified method.”

The fact that supervisors felt it necessary to send these e-mails to all clerical employees suggests that a significant number of employees were using the “simplified method” of case processing. Supervisors sent these e-mails to employees more than three months into Fiscal Year 2010. This suggests that a significant number of employees were working up cases incorrectly for at least the first few months of Fiscal Year 2010. As previously mentioned, the SSA omitted these e-mails from the Final Report of Investigation.

The SSA’s interviews of former Baltimore NHC employees, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of NHC employees processed a significant number of cases incorrectly in Fiscal Year 2010. It is simply not possible that the Baltimore NHC worked up cases perfectly in Fiscal Year 2010, as implied by the SSA’s Final Report of Investigation and “audit” of Fiscal Year 2010 cases.

In light of this information, Mr. Wiltout respectfully requests that the OSC require the SSA to explain the Final Report of Investigation’s assertion that “50 out of 50 cases were worked up properly” in the “audit” for Fiscal Year 2010. In addition, Mr. Wiltout requests that the OSC require the SSA to disclose and thoroughly describe the methodology for auditing these cases. Based on the numerous deficiencies in the SSA’s investigation, the OSC should not take the SSA’s word that the cases from the “audit” of Fiscal Years 2009 and 2010 were evaluated correctly.

The Final Report of Investigation also includes workup numbers from other National Hearing Centers. The workup numbers of other offices would only be relevant if the SSA verified that those offices worked up the vast majority of their cases correctly, and if the SSA verified that the other offices being compared did not differ in any other respects. Given that the SSA failed to make these verifications, the workup numbers of other offices are irrelevant. It is entirely possible that the case processing at the other NHCs was just as bad as, or worse than, the case processing at the Baltimore NHC. The inclusion of workup numbers from other offices in the Final Report of Investigation only serves to confuse matters.

The SSA’s Final Report of Investigation also fails to address the fact that a former member of Baltimore NHC management rewarded an employee with a prize for processing cases incorrectly. On April 4, 2011, former Acting Administrative Officer Renea Bowles sent an e-mail offering prizes to employees who worked up more than 50 cases during the month.

The SSA interviewed former Case Manager David Hash on August 5, 2014. According to the Report of Investigation for this interview, “Hash stated that competitions were held at the Baltimore NHC to encourage staff to perform case workups. He recalled that the Administrative Officer at the time, Renea, last name unknown, organized a 1970’s themed office party. During

the party, Renea offered a disco ball prize to anyone that was able to pull 50 or more cases. Hash confirmed that he won a disco ball.”

Mr. Wiltrout provided Mr. Huse with copies of exhibit lists from several cases that Mr. Hash had worked up in April 2011. Mr. Hash had not added date ranges to many of the medical records. The Report of Investigation for the SSA’s interview of Mr. Hash notes that the documents were printed on May 2, 2011. By looking at case status changes in CPMS, investigators could have determined that Mr. Hash had worked up these cases in April 2011, the month for which Mr. Hash had received a prize. Mr. Wiltrout knew who had worked up the cases and when the cases had been worked up because he had checked CPMS when he printed the exhibit lists in 2011. There is no indication that the SSA made an attempt to review CPMS to determine when the cases had been worked up.

Renea Bowles’ e-mail, the Report of Investigation for the interview of Mr. Hash, and the exhibit lists show that Mr. Hash processed cases incorrectly in April 2011, and Ms. Bowles rewarded him with a prize. Mr. Wiltrout provided Mr. Huse with the e-mail and the exhibit lists, but the SSA failed to address this relevant evidence in the Final Report of Investigation and include it as an attachment. Mr. Wiltrout respectfully requests that the OSC require the SSA to address this e-mail and these exhibit lists in the Final Report of Investigation. In addition, Mr. Wiltrout requests that the OSC require the SSA to attach the e-mail and redacted copies of the exhibit lists. Mr. Wiltrout also requests that the OSC require the SSA to verify when Mr. Hash worked up these cases.

As previously noted, the Report of Investigation for the SSA’s interview of Mr. Hash indicates that he continued to process cases incorrectly well into 2011. According to the Report of Investigation, “To determine the date range, Hash skimmed through the beginning, middle, and end of each document. Hash stated that he did not look at every page.” In addition, “Hash stated that he used this process the entire time he worked at the Baltimore NHC, even after Martin transferred to South Carolina and ALJ Milagros Farnes became chief.”

This Report of Investigation indicates that David Hash admitted to working up all of his cases incorrectly. The Report of Investigation also states that “Hash was employed as a Paralegal Case Manager in the Baltimore NHC from approximately October 2009 through June 2011.” According to this Report of Investigation, at least one employee worked up cases incorrectly well into Fiscal Year 2011.

Based upon this information, Mr. Wiltrout believes that a reasonable investigator acting in good faith would have conducted an audit of cases worked up during Fiscal Year 2011. The SSA failed to conduct an audit of cases worked up during Fiscal Year 2011. Mr. Wiltrout respectfully requests that the OSC require the SSA to conduct an audit for this time period.

The SSA seems to have relied upon former Acting Administrative Officer Michael Polvino’s explanation of the “Modified Streamlined Folder Assembly” process. According to

the Final Report of Investigation, “Polvino recalled that the intention of the ‘*Modified Streamline[d]*’ process was to provide a means of reviewing the pertinent information without rearranging and ordering records spanning multiple years. It was not intended to be an alternative to reviewing documents altogether. Polvino further confirmed that each page of every document would need to be reviewed for misplaced documents and PII.”

Mr. Wiltrout finds the SSA’s reliance on Mr. Polvino’s explanation problematic. On May 18, 2010, Mr. Polvino sent all clerical employees an e-mail regarding a mandatory training session on case workup. Mr. Polvino also sent this e-mail to Judge Martin and all supervisors. On May 19, 2010, Mr. Hash conducted the training session where he instructed employees on “Modified Streamlined Folder Assembly.” Mr. Polvino was in attendance.

On August 5, 2014, the SSA interviewed former Case Manager David Hash. According to the Report of Investigation for this interview, “Hash stated that the [sic] he briefed Martin and the Administrative Officer at the time, Mike, last name unknown, prior to the training at the Baltimore NHC. Both Martin and Mike approved of the ‘Modified Streamlined Folder Assembly’ process, the content of the handout, and the PowerPoint presentation used by Hash during the training.”

On August 20, 2014, the SSA interviewed Mr. Polvino regarding the “Modified Streamline[d] Folder Assembly” process. According to the Report of Investigation, “Polvino was familiar with the process, but did not specifically recall approving of it while serving as the Administrative Officer.”

Mr. Polvino sent all clerical employees an e-mail regarding the mandatory training session where Mr. Hash instructed employees on “Modified Streamlined Folder Assembly.” Mr. Polvino was present during the training session. Mr. Wiltrout believes that the e-mail regarding the mandatory training session and Mr. Polvino’s presence at the training session suggest that Mr. Polvino approved of what was taught during the training session. In addition, Mr. Hash said, “Both Martin and Mike approved of the ‘Modified Streamlined Folder Assembly’ process, the content of the handout, and the PowerPoint presentation used by Hash during the training.” When the SSA asked Mr. Polvino about the “Modified Streamline[d] Folder Assembly” process, however, he said that he “did not specifically recall approving of it while serving as the Administrative Officer.”

Mr. Wiltrout believes that this has a bearing on Mr. Polvino’s credibility in terms of the “Modified Streamlined Folder Assembly” process. The SSA should not have relied upon former Mr. Polvino’s explanation of the “Modified Streamlined Folder Assembly” process for the Final Report of Investigation. In addition, the Final Report of Investigation does not include Mr. Polvino’s e-mail regarding the mandatory training session on case workup, dated May 18, 2010. Mr. Wiltrout respectfully requests that the OSC require the SSA to attach this e-mail to the Final

Report of Investigation. Mr. Wiltrout has attempted to only cite Mr. Polvino on other issues where there is additional support for Mr. Polvino's statements.

The SSA also made misstatements regarding agency policy and Mr. Wiltrout's characterization of agency policy. The Final Report of Investigation states, "Before highlighting the findings of this investigation, it should be noted that SSA field procedures for generating CEFs, and ODAR's own interpretation of its policy, suggest that Mr. Wiltrout's allegations are predicated upon a mischaracterization of policy." The same paragraph states that "every page of every document must be viewed, but it does not necessarily require analysis." Mr. Wiltrout's did not even include the word "analysis" in his disclosure to the OSC.

The same paragraph of the Final Report of Investigation also states, "Legal Assistants must only view pages to determine relevance, identify metadata, and ensure that the PII of others in [sic] not contained in the file." This is a misstatement. Legal assistants were also required to complete a cover sheet, also referred to as a fact sheet, for each case worked up. According to CJB 10-03, "Preparation and completion of the DGS 'Cover Sheet' is still required. When the cover sheet has been completed, select the Send to eFolder button to upload the document to the Private Section of the CEF."

On the cover sheet, the legal assistant working up the case had to indicate whether the claimant had worked after the alleged onset date (AOD) of disability and whether drug and alcohol addiction was involved, among other things. A legal assistant had to read at least some information from at least some of the documents in the file to complete the cover sheet. In addition, the cover sheet contained a section for remarks where a legal assistant could include other information that needed to be brought to the ALJ's attention. Much of the information on the cover sheet was relevant in the determination of whether a claimant was disabled.

A case had not been correctly worked up unless it contained a cover sheet that had been correctly completed. Mr. Wiltrout recalls that several ALJs emphasized the importance of cover sheets. The SSA's Final Report of Investigation does not describe, or even mention, cover sheets. Mr. Wiltrout respectfully requests that the OSC require the SSA to discuss cover sheets in the Final Report of Investigation. Mr. Wiltrout also requests that the OSC require the SSA to correct the misstatement regarding agency policy referenced above. Mr. Wiltrout also respectfully requests that the OSC require the SSA to remove the misstatement suggesting that Mr. Wiltrout mischaracterized agency policy, as there is no foundation for this statement, and it is actually the SSA that mischaracterized agency policy.

The SSA greatly underestimated the wrongdoing at the Baltimore NHC. At least two of the SSA's interviews indicate that additional judges instructed employees to process cases in a manner that was inconsistent with agency policies. The SSA failed to ascertain which judges were involved. In addition, the SSA's interviews of former Baltimore NHC supervisors, as well as e-mails from Baltimore NHC supervisors to employees, indicate that a significant number of

employees used the “simplified method” of case processing. A letter from SSA Acting Commissioner Colvin to U.S. Special Counsel Lerner, however, states, “There is no evidence that significant numbers of employees followed the ‘simplified method’ of case processing.” Furthermore, the SSA omitted relevant evidence and made misstatements in its investigation.

Baltimore NHC employees failed to scan thousands of important documents into claimants’ files in a timely manner, if at all.

In his disclosure to the OSC, Mr. Wiltrout reported that Baltimore NHC employees had failed to scan thousands of important documents into claimants’ files in a timely manner, if at all. This undermined the legal sufficiency of decisions issued by the Baltimore NHC. The SSA interviewed a former supervisor regarding her instruction to destroy mail, but the SSA failed to ask a couple of basic questions during that interview. The SSA also failed to interview two important witnesses. In addition, the SSA omitted evidence showing that the Baltimore NHC had failed to scan a significant amount of evidence into claimants’ files in a timely manner.

The SSA interviewed a former supervisor regarding her instruction to destroy mail. On March 9, 2010, former Baltimore NHC Supervisory Case Manager Sonya Napier sent Mr. Wiltrout an e-mail stating, “Mike has been piling stacks of returned envelopes to me. We need to go through this stuff. I am having [T]erry and [T]angela open it for you. Please go through and see if the case is still open. If so, distribute mail, if not destroy.”

On August 11, 2014, the SSA interviewed Ms. Napier. The SSA failed to ask a couple of basic questions during the interview. The Report of Investigation for this interview states, “Napier was unaware of any ‘priority’ mail not being opened in a timely manner.” Claimants and representatives did not send the vast majority of evidence by priority mail. The issue was how much mail had not been processed in a timely manner, not just how much priority mail. The fact that Ms. Napier needed three employees to process this mail indicates that there was a considerable amount. The Report of Investigation for this interview does not show that the SSA investigators who interviewed Ms. Napier asked how much mail had not been processed in a timely manner. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked this basic question. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Napier again and ask this basic question.

Ms. Napier’s e-mail refers to “Mike” giving her stacks of envelopes. The Report of Investigation for this interview does not show that the SSA investigators who interviewed Ms. Napier asked who she was referring to when she mentioned “Mike” in her e-mail. Mr. Wiltrout is aware that the only “Mike” who processed mail at the Baltimore NHC at that time was Michael Joyner. Others reading the Report of Investigation, however, would not know that Ms. Napier was referring to Mr. Joyner. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked Ms. Napier who she was referring to when she mentioned “Mike”

in her e-mail. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Napier again and ask this basic question.

The SSA also failed to interview two important witnesses, Case Manager Tangelia Taylor and former Administrative Assistant Terri Brown. Ms. Napier assigned three employees to process the old mail that Mr. Joyner had given her because there was so much of it. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have interviewed Ms. Taylor and Ms. Brown. There is no indication that the SSA made an attempt to interview these important witnesses.

Many of the important documents contained in the piles of mail were more than a month old. As a result of Mr. Joyner not opening and processing mail in a timely manner, important documents did not make it into claimants' files in a timely manner. A number of the cases had already been closed. ALJs made decisions without considering evidence that claimants and their representatives had submitted. This undermined the legal sufficiency of decisions issued by the Baltimore NHC and the procedural due process rights of claimants. Even after this incident, management allowed Mr. Joyner to continue handling claimants' files. Baltimore NHC management later promoted Mr. Joyner.

Baltimore NHC employees also failed to manually index thousands of documents from the office scanners in a timely manner. Employees were supposed to manually index documents in the scanners on a daily basis to ensure that the documents were routed to the correct claimants' files in a timely manner. There were often many old documents saved in the scanners. In several instances, Mr. Wiltrout observed that there were more than 100 documents saved in the scanners, and the oldest document was more than a month old. This occurred repeatedly over several years.

The SSA omitted evidence showing that the Baltimore NHC had failed to scan a significant amount of evidence into claimants' files in a timely manner. On July 24, 2013, Mr. Wiltrout saved a screen shot from one of the scanners. The screen shot showed that there were 228 documents in the scanner's memory, and some of the documents were more than 9 months old. These documents did not make it into claimants' electronic files in a timely manner, and that likely impacted ALJs' disability decisions. If a document appeared on the scanner's indexing screen, it meant that the document had not been manually sent to the claimant's file. When an employee manually sent a document to a claimant's electronic file, that document disappeared from the scanner's indexing screen. In 2014, Mr. Wiltrout forwarded the screen shot from July 24, 2013 to Mr. Huse. Furthermore, Mr. Wiltrout later explained the screen shot to Mr. Huse. The SSA failed to attach this relevant evidence to the Final Report of Investigation.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have addressed this crucial evidence in the Final Report of Investigation and included the evidence as

an attachment. Mr. Wiltrout respectfully requests that the OSC require the SSA to address this crucial evidence in the Final Report of Investigation and include the evidence as an attachment.

At least one of the SSA's interviews supports Mr. Wiltrout's contention that this problem had been going on for some time. On August 20, 2014, the SSA interviewed former Acting Administrative Officer Michael Polvino. According to the Report of Investigation for this interview, "When Polvino was first assigned to the Baltimore NHC, he was notified of a backlog in the scanner queue. Some of these documents were awaiting indexing, while others could not be processed." According to the Report of Investigation, Mr. Polvino was first assigned to the Baltimore NHC in February 2010. This means that there were issues with documents not being cleared from the scanner at least as early as February 2010.

The screen shot submitted by Mr. Wiltrout and the Report of Investigation for the interview of Mr. Polvino suggest that problems with clearing the office scanners existed for at least three years. Mr. Wiltrout saved the screen shot on July 24, 2013. Mr. Polvino had been notified of a backlog in the scanner queue in February 2010, more than three years earlier. The significant amount of time that the problem existed supports Mr. Wiltrout's disclosure to the OSC that Baltimore NHC employees had failed to scan thousands of important documents into claimants' files in a timely manner, if at all. Even so, the Final Report of Investigation does not show that the SSA made or attempted to make an estimate of how many documents had not been routed from the office scanners to claimants' files in a timely manner.

Mr. Wiltrout believes that a reasonable investigator acting in good faith would have attempted to gather objective information that would allow the investigator to make an estimate of how many documents had not been routed from the office scanners to claimants' files in a timely manner. Mr. Wiltrout also believes that a reasonable investigator acting in good faith would have determined how many documents had not been sent from the office scanners to claimants' files until after decisions had been made.

Baltimore NHC employees failed to scan a large number of important documents into claimants' files in a timely manner, and the problem existed for at least three years. This undermined the legal sufficiency of decisions issued by the Baltimore NHC. The SSA interviewed a former supervisor regarding her instruction to destroy mail, and the SSA failed to ask a couple of basic questions. The SSA also failed to interview two important witnesses. In addition, the SSA omitted evidence showing that the Baltimore NHC had failed to scan a significant amount of evidence into claimants' files in a timely manner.

Baltimore NHC employees failed to answer thousands of phone calls from claimants and their representatives during the first two years the office was open.

In his disclosure to the OSC, Mr. Wiltrout reported that Baltimore NHC employees had failed to answer thousands of phone calls from claimants and their representatives during the first two years the office was open. The SSA's Final Report of Investigation indicates that there were

serious issues with calls not being answered at the Baltimore NHC. Even so, the SSA failed to determine how many thousands of calls Baltimore NHC employees failed to answer. In addition, the SSA failed to explain why the Baltimore NHC had used this phone system for more than four years. The SSA also failed to address the implications of the phone system in terms of mismanagement.

Mr. Wilttrout's disclosure that Baltimore NHC employees had failed to answer large numbers of phone calls is supported by the SSA Final Report of Investigation, which states that "callers to the Baltimore NHC frequently failed to reach a representative." When the SSA interviewed former Acting Administrative Officer Michael Polvino on August 20, 2014, "Polvino described the telephone system utilized at the Baltimore NHC as 'terrible.'" In addition, the SSA interviewed former Supervisory Case Manager Stephanie Meilinger on August 8, 2014, and "Meilinger explained that the telephone system at the Baltimore NHC was 'horrible.'"

Mr. Wilttrout and the SSA seem to agree that the Baltimore NHC failed to answer a large number of calls, but there is disagreement as to why this occurred. Mr. Wilttrout worked as a legal assistant at the Baltimore NHC for more than four years, and he observed that the problem with the Baltimore NHC phone system was that lazy SSA employees simply logged out of the phone system. Callers were then routed to the office voicemail, and lazy SSA employees failed to check the office voicemail and return calls. Management was aware that employees were not answering the public phone line and not returning calls, but management failed to discipline the employees who were responsible. Mr. Wilttrout acknowledges that the phone system at the Baltimore NHC was old, but the failure of SSA employees to answer large numbers of calls was more due to mismanagement than it was due to the old phone system. On days when Mr. Wilttrout and a few of the other employees who did their work were assigned to answer the public phone line, the phone system miraculously worked just fine.

Claimants' representatives began complaining to management about the failure of Baltimore NHC employees to answer large numbers of calls. When the SSA interviewed former Acting Administrative Officer Michael Polvino on August 20, 2014, he mentioned "complaints from the Rochester Bar Association (RBA) related to communication issues with the Baltimore NHC." According to Mr. Polvino, "The RBA complaints alleged" that "[c]alls were not reaching employees" and "[c]alls were not returned," among other things. Even so, supervisors still failed to discipline the employees who routinely logged out of the phone system and did not return voice messages. By not disciplining employees, supervisors avoided grievances.

Supervisors eventually started saying that the problem was the phone system. If the phone system was to blame, then Baltimore NHC employees were not responsible for failing to answer calls. If Baltimore NHC employees were not responsible for failing to answer calls, then supervisors were not accountable for failing to discipline employees. Eventually, more members

of management caught on and attributed large numbers of calls not being answered to the phone system.

The SSA Report of Investigation attributes the Baltimore NHC's failure to answer large numbers of calls to the "antiquated telephone system," which "lacked the ability to route overflow calls to available staff." By attributing the problem to an "antiquated telephone system," senior SSA management avoids having to hold Baltimore NHC supervisors accountable for their failure to discipline employees who ignored claimants' calls.

This is quite convenient for the SSA, but the Final Report of Investigation fails to highlight that this "antiquated telephone system" was in place for more than four years. The Final Report of Investigation also fails to explain why this "antiquated telephone system" was in place for more than four years. Mr. Wiltrout contends that, if the old phone system was really the problem, then leaving it in place for more than four years clearly constituted mismanagement.

Mr. Wiltrout respectfully requests that the OSC require the SSA to estimate how many thousands of calls from claimants and their representatives Baltimore NHC employees failed to answer. In addition, Mr. Wiltrout respectfully requests that the OSC require the SSA to explain why this "antiquated telephone system," which "lacked the ability to route overflow calls to available staff," was used by the Baltimore NHC for more than four years. Mr. Wiltrout also requests that the OSC require the SSA to explain whether this constituted mismanagement.

When documents did make it into claimants' files, Baltimore NHC employees often did not take the correct actions relating to those documents. The Baltimore NHC also violated the due process rights of claimants.

In his disclosure to the OSC, Mr. Wiltrout reported that, when documents had made it into claimants' files, Baltimore NHC employees often had not taken the correct actions relating to those documents. The Baltimore NHC failed to ensure that claimants received fair evidentiary hearings. The Baltimore NHC failed to ensure that claimants and their representatives received reasonable notice of hearings. The Baltimore NHC violated the due process rights of claimants, many of whom were disabled.

Acting SSA Commissioner Colvin, however, submitted a letter to U.S. Special Counsel Lerner stating, "No evidence substantiates Mr. Wiltrout's claims that claimants' hearing rights were violated because employees followed the 'simplified method' in 2010 and 2011. The agency's policy manual (Hearing, Appeals, and Litigation Manual, or 'HALLEX') incorporates several redundancies into the case assembly and review process to ensure that dispositions are rendered based upon a complete evidentiary analysis of the disability claim." The Final Report of Investigation describes several of these "redundancies." Mr. Wiltrout agrees that the policies which constitute these "redundancies" exist, but he contends that Baltimore NHC employees often failed to follow these policies.

There are serious flaws in the SSA's investigation. The Final Report of Investigation does not indicate that the SSA used objective evidence to determine whether Baltimore NHC employees had actually followed the policies and procedures that constituted the "redundancies" intended to ensure claimants' hearing rights. In addition, the SSA's interviews of two former members of Baltimore NHC management, and evidence omitted by the SSA, show that case managers often did not process and exhibit documents that were received between the time hearings were scheduled and the actual hearing dates. The SSA also failed to interview at least one important witness. Furthermore, Mr. Wiltrout has first-hand knowledge that Baltimore NHC ALJs decided to dismiss cases in which hearing notices had been sent to the wrong addresses. The Final Report of Investigation includes a detailed description of the policies that an ALJ is supposed to follow before dismissing a case, but the Final Report of Investigation does not show that the SSA verified that even one Baltimore NHC ALJ had followed these procedures in issuing a dismissal.

According to the Final Report of Investigation, "it is standard practice for the Case Manager to periodically review the CEF from the time the hearing is scheduled until the actual hearing date. The Case Manager will ensure all documents received in the interim are processed and exhibited accordingly." The Final Report of Investigation does not show that the SSA obtained objective evidence to determine whether Baltimore NHC case managers had reviewed the CEFs and correctly processed all documents received between the time hearings were scheduled and the actual hearing dates. The Final Report of Investigation references policies that Baltimore NHC employees should have followed.

The SSA's interviews of two former members of Baltimore NHC management, and evidence omitted by the SSA, show that case managers often did not process and exhibit documents that were received between the time hearings were scheduled and the actual hearing dates. On July 10, 2014, the SSA interviewed ALJ David Pang, who was also the former Acting Chief ALJ for the Baltimore NHC. According to the Report of Investigation for this interview, ALJ Pang stated that "it is common to see documents not make it to exhibiting." If case managers had always ensured that all documents received between workup and hearings were processed and exhibited, as asserted by the Final Report of Investigation, it would not be "common to see documents not make it to exhibiting." This indicates that the problems at the Baltimore NHC still had not been fully resolved as of July 2014.

On August 11, 2014, the SSA interviewed former Administrative Officer Millicent Janey. According to the Report of Investigation for this interview, "Janey recalled only one ALJ, Susan Wakshul, complaining that cases were not being updated prior to the hearings." If case managers had always ensured that all documents received between workup and hearings were processed and exhibited, as asserted by the Final Report of Investigation, ALJ Wakshul would not have complained to Ms. Janey that "cases were not being updated prior to the hearings."

According to the SSA interviews referenced above, at least two federal administrative law judges, ALJ Pang and ALJ Wakshul, noticed that cases were not properly updated prior to hearings. This indicates that case managers failed to ensure that all documents received between workup and hearings were processed and exhibited. Furthermore, Mr. Wiltrout believes that a reasonable investigator acting in good faith would have interviewed ALJ Wakshul. The Final Report of Investigation does not show that the SSA interviewed ALJ Wakshul. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview ALJ Wakshul.

Howard D. Olinsky, whose law group had represented a large number of claimants before Baltimore NHC ALJs, submitted a letter indicating that Baltimore NHC employees had failed to ensure that documents were processed and exhibited. On November 17, 2011, Mr. Olinsky submitted a letter to former Administrative Officer Millicent Janey, stating the following:

Please accept the following letter as a demand to fix the process on the front end of your receipt of a reassigned file. This is not the first time I have complained to your office about repeated failures. Your office's failure to do basic tasks is precluding this office and other claimants' representatives from effectively representing their clients and is putting roadblocks in front of our clients' rights to due process and fundamental fairness in this non adversarial proceeding. Additionally, your failure to complete these basic tasks affects your judges, who are dealing with unnecessarily incomplete files and more AC appeals alleging failure to develop the record.

In his letter, Mr. Olinsky goes on to describe how the Baltimore NHC was responsible for unreasonable delay in adding representatives to claimants' records; unreasonable delay in processing objections to video hearings; unreasonable delay in processing motions for on-the-record decisions and dire need hearings; and unreasonable delay in entering evidence into claimants' records. Mr. Olinsky also copied the letter to former SSA Commissioner Michael Astrue.

If case managers had always ensured that all documents received between workup and hearings were processed and exhibited, as asserted by the Final Report of Investigation, Mr. Olinsky would not have experienced the problems that he described in his letter. In the section of Mr. Olinsky's letter titled "Unreasonable Delay in Entering Evidence into Record," Mr. Olinsky states, "In many cases, you staff does not enter said evidence into the record until the day of the hearing." This is consistent with what at least two federal administrative law judges noticed, according to the aforementioned interviews by the SSA.

Based on Mr. Wiltrout's first-hand experience working at the Baltimore NHC, Mr. Olinsky's concerns were quite valid. Mr. Wiltrout observed many of the same problems while working at the Baltimore NHC. Mr. Wiltrout provided a copy of Mr. Olinsky's letter to both the OSC and the SSA.

On June 26, 2014, SSA OIG Resident Agent in Charge Kevin Huse interviewed Mr. Wiltrout regarding his whistleblower disclosure to the OSC. During the interview, Mr. Wiltrout and Mr. Huse discussed the letter from Howard Olinsky, a copy of which Mr. Wiltrout had provided to Mr. Huse. Mr. Wiltrout explained that, based on his first-hand experience working at the Baltimore NHC, many of Mr. Olinsky's assertions were correct.

Mr. Huse responded by asking about Mr. Olinsky's motivation for submitting the letter. Mr. Huse also asked Mr. Wiltrout about the denial rates for the Baltimore NHC versus the denial rate for a New York hearing office. Mr. Wiltrout did not know the denial rates. Mr. Huse told Mr. Wiltrout that he would look into it. Mr. Wiltrout believed that Mr. Huse was trying to imply that Mr. Olinsky may have simply not liked the Baltimore NHC due to the denial rate. Mr. Wiltrout believed that Mr. Huse was attempting to undermine Mr. Olinsky's credibility. In addition, Mr. Huse said that he thought that he had heard the name Olinsky before. Mr. Wiltrout believed that Mr. Huse was implying that he had heard the name Olinsky in Mr. Huse's official capacity working for the SSA's OIG. Mr. Wiltrout believed that this remark was a further attempt by Mr. Huse to undermine Mr. Olinsky's credibility.

The SSA failed to attach Mr. Olinsky's letter to the Final Report of Investigation. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have attached the letter from Mr. Olinsky to the Final Report of Investigation. Mr. Wiltrout respectfully requests that the OSC require the SSA to attach Mr. Olinsky's letter, which constitutes relevant evidence, to the Final Report of Investigation.

The SSA claimed that there were other "redundancies" to ensure fair hearings. According to the Final Report of Investigation, "HALLEX I-2-1-35 requires that the claimant or their representative be provided the opportunity to examine all proposed exhibits, and the contents of the entire CEF, prior to the hearing." Two previously mentioned SSA interviews, as well as Mr. Olinsky's letter, indicate that the Baltimore NHC often did not provide claimants or their representatives "the opportunity to examine all proposed exhibits, and the contents of the entire CEF, prior to the hearing."

According to the Report of Investigation for the SSA interview of ALJ Pang, he stated that "it is common to see documents not make it to exhibiting." According to the Report of Investigation for the interview of former Administrative Officer Millicent Janey, ALJ Wakshul complained "that cases were not being updated prior to the hearings." Furthermore, Mr. Olinsky's letter to Ms. Janey states, "In many cases, you staff does not enter evidence into the record until the day of the hearing."

The SSA's interviews of two former members of Baltimore NHC management, and Mr. Olinsky's letter, suggest that documents for a significant number of cases did "not make it to exhibiting" or were not entered "into the record until the day of the hearing." By failing to exhibit evidence in a timely manner, the Baltimore NHC prevented claimants or their

representatives from reviewing complete files prior to hearings. According to the Final Report of Investigation, “HALLEX I-2-1-35 requires that the claimant or their representative be provided the opportunity to examine all proposed exhibits, and the contents of the entire CEF, prior to the hearing.” It appears that the Baltimore NHC violated another SSA policy. The policy that the Baltimore NHC violated was one of the “redundancies” intended to ensure fair hearings.

The Final Report of Investigation suggests that another one of the “redundancies” intended to ensure fair hearings was that Baltimore NHC employees attempted to contact claimants prior to scheduling hearings. This is clearly flawed, as contacting claimants depended upon the use of the Baltimore NHC’s old phone system. In regard to the Baltimore NHC’s old phone system, the Final Report of Investigation states that “callers to the Baltimore NHC frequently failed to reach a representative.” In addition, the Baltimore NHC used this system for more than four years. If a scheduler or a case manager called and left a voice message for a claimant or representative regarding a hearing, there is a good chance that the claimant or representative would not be successful in returning the call due to the fact that “callers to the Baltimore NHC frequently failed to reach a representative.”

When Mr. Wiltrout worked at the Baltimore NHC, several claimants’ representatives called him and complained that the Baltimore NHC had scheduled hearings without first calling the representatives. The Final Report of Investigation does not show that the SSA reviewed even one case to verify that schedulers had contacted claimants or their representatives prior to scheduling hearings. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have attempted to obtain objective evidence that this redundancy was being employed at the Baltimore NHC.

Baltimore NHC employees often failed to add claimants’ representatives to the CPMS database in a timely manner. This resulted in the Baltimore NHC scheduling several hearings without first contacting representatives, and it resulted in delaying representatives’ access to claimants’ files. Mr. Olinsky’s letter to former Administrative Officer Millicent Janey states, “It has taken your staff anywhere from weeks to months to add this office as the representative on a claimant’s application for disability benefits.” Even so, the Final Report of Investigation does not show that the SSA reviewed even one case to determine whether Baltimore NHC employees had added claimants’ representatives to the CPMS database in a timely manner. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have attempted to obtain objective evidence to determine whether Baltimore NHC employees had added claimants’ representatives to the CPMS database in a timely manner. Mr. Wiltrout respectfully requests that the OSC require the SSA to obtain and report this information.

In addition, Baltimore NHC employees often failed to update claimants’ addresses in the CPMS database in a timely manner, and this resulted in the Baltimore NHC sending several hearing notices to incorrect addresses. The Final Report of Investigation does not show that the

SSA reviewed even one case to determine whether Baltimore NHC employees had updated claimants' addresses in the CPMS database in a timely manner. Mr. Wiltrout believes that a reasonable investigator acting in good faith would have attempted to obtain objective evidence to determine whether Baltimore NHC employees had updated claimants' addresses in the CPMS database in a timely manner. Mr. Wiltrout respectfully requests that the OSC require the SSA to obtain and report this information.

The SSA and Mr. Wiltrout disagree as to whether Baltimore NHC ALJs issued dismissals in instances when hearing notices had not been sent to claimants' correct addresses. Mr. Wiltrout has first-hand knowledge that Baltimore NHC ALJs decided to dismiss cases in several instances when hearing notices had been sent to incorrect addresses. The Final Report of Investigation, however, states, "Should a claimant fail to appear at a scheduled hearing, an ALJ cannot dismiss a case based solely on that failure, as alleged by Wiltrout."

The Final Report of Investigation includes a detailed description of the policies that an ALJ is supposed to follow before dismissing a case, but the Final Report of Investigation does not show that the SSA verified that even one Baltimore NHC ALJ had followed these procedures in issuing a dismissal. The Final Report of Investigation also does not show that the SSA reviewed even one hearing notice from a case that had been dismissed to verify that the hearing notice had been sent to the correct address.

On August 20, 2014, the SSA interviewed former Acting Administrative Officer Michael Polvino. According to the Report of Investigation for this interview, "Polvino is not aware of any cases being dismissed because of missed items or documents, but he is sure it has happened. If this occurred, the case would likely be remanded back to an ALJ on appeal." The Final Report of Investigation states that an ALJ cannot dismiss a case based upon a claimant's failure to appear, but Mr. Polvino was sure that cases had been dismissed because of missed items or documents.

Mr. Wiltrout has first-hand knowledge that Baltimore NHC ALJs decided to dismiss cases in which hearing notices had been sent to the wrong addresses. Mr. Wiltrout witnessed this at least seven times. Each file contained information regarding a change of address, but Baltimore NHC clerical employees and the ALJ had failed to notice the updated address. Consequently, a hearing notice was sent to each claimant's old address, and the claimant did not appear at his or her disability hearing. Baltimore NHC ALJs then decided to dismiss these cases without following the policies referenced in the Final Report of Investigation. Claimants' cases were dismissed because they did not show up at hearings of which they had not been properly notified. This was a clear violation of claimants' procedural due process rights.

Mr. Wiltrout noticed most of these cases when former Supervisory Case Manager Stephanie Meilinger was his supervisor. He notified Ms. Meilinger of these cases. On August 8, 2014, the SSA interviewed Ms. Meilinger. The Report of Investigation discusses dismissals, but

it does not show that the SSA directly asked Ms. Meilinger if she was aware of any instances when Baltimore NHC ALJs had decided to issue dismissals despite the fact that hearing notices had been sent to incorrect addresses. Mr. Wiltrout respectfully requests that the OSC require the SSA to ask Ms. Meilinger whether Mr. Wiltrout ever notified her of cases that had been improperly dismissed.

Mr. Wiltrout recalls notifying ALJ Pang of a case where ALJ Pang had decided to dismiss the case despite the fact that the hearing notice had not been sent to the claimant's correct address. ALJ Pang said that he would vacate the dismissal. On July 10, 2014, the SSA interviewed ALJ Pang. The Report of Investigation does not show that Mr. Huse, the SSA investigator who conducted the interview, asked ALJ Pang about dismissals. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview ALJ Pang again and ask him if he is aware of any cases where Baltimore NHC ALJs issued dismissals despite the fact that hearing notices had been sent to incorrect addresses.

Mr. Wiltrout also recalls an incident involving a dismissal by ALJ Mary Joan McNamara. In fall of 2013, after the Baltimore NHC had relocated to Towson, Mr. Wiltrout was assigned to perform case manager duties for ALJ McNamara while ALJ McNamara's case manager was out of the office. Mr. Wiltrout remembers an incident where ALJ McNamara had decided to dismiss a case, but the hearing notice had been sent to the claimant's old address. There was documentation regarding a new address in the file. Mr. Wiltrout discussed this with ALJ McNamara, thinking that she would vacate the dismissal. Instead, she responded that the claimant would have to deal with the Appeals Council.

Mr. Wiltrout spoke with Administrative Officer Earnest Baskerville, Jr. and Supervisory Case Manager Wynnette Brogden. Mr. Wiltrout showed them documentation that he had printed regarding the claimant's new address. He also showed them a printout of the hearing notice that had been sent to the claimant's old address. Mr. Wiltrout told Mr. Baskerville that he was not comfortable with closing out the case as a dismissal in CPMS. Mr. Baskerville said that he understood, and he would have someone else close out the case. This incident occurred after Mr. Wiltrout had submitted his disclosure to the OSC.

SSA Acting Commissioner Colvin sent a letter to U.S. Special Counsel Lerner stating, "Claimants who are denied at the hearing level and who are dissatisfied may request a review of the decision with the Appeals Council of the Office of Disability Adjudication and Review (ODAR), Office of Appellate Operations (OAO)." If a case was improperly dismissed because a hearing notice had been sent to an incorrect address, the notice of dismissal would also likely have been sent to the same incorrect address. As such, the claimant would not have been notified that the case had been dismissed and would not know to request a review. Claimants whose cases had been improperly dismissed could have attempted to contact the Baltimore NHC, but, according to the Final Report of Investigation, "callers to the Baltimore NHC frequently failed to reach a representative." Essentially, claimants whose cases had been improperly

dismissed would likely not have been notified, and they would have had difficulty finding out that their cases had been dismissed.

Even if a claimant could request review of the improper dismissal by the Appeals Council, this would not change the fact that the Baltimore NHC had violated the claimant's procedural due process rights in the first place. In addition, many of the claimants who had hearings before Baltimore NHC ALJs had serious medical conditions and had waited long periods to time for hearings. They should not have had to wait for review by the Appeals Council and additional hearings because Baltimore NHC employees failed to perform basic tasks.

There are serious flaws in the SSA's investigation. The Final Report of Investigation does not indicate that the SSA used objective evidence to determine whether Baltimore NHC employees had actually followed the procedures that constituted the "redundancies" intended to ensure claimants' hearing rights. In addition, the SSA's interviews of two former members of Baltimore NHC management, and evidence omitted by the SSA, show that case managers often did not process and exhibit documents that were received between the time hearings were scheduled and the actual hearing dates. The SSA also failed to interview at least one important witness. Furthermore, Mr. Wiltrout has first-hand knowledge that Baltimore NHC ALJs decided to dismiss cases in which hearing notices had been sent to the wrong addresses. The Final Report of Investigation includes a detailed description of the policies that an ALJ is supposed to follow before dismissing a case, but the Final Report of Investigation does not show that the SSA verified that even one Baltimore NHC ALJ had followed these procedures in issuing a dismissal.

Baltimore NHC employees often failed to take the correct actions relating to documents that had made it into claimants' files. The Baltimore NHC failed to ensure that claimants received fair evidentiary hearings. The Baltimore NHC failed to ensure that claimants and their representatives received reasonable notice of hearings. The Baltimore NHC violated the due process rights of claimants, many of whom were disabled.

Baltimore NHC employees falsified official government time records in violation of 18 U.S.C. § 1001.

Mr. Wiltrout reported to the OSC that Baltimore NHC employees had falsified official government time records in violation of 18 U.S.C. § 1001. This is supported by the SSA's interviews of three former members of Baltimore NHC management, as well as e-mails from an additional two former members of Baltimore NHC management. Even so, the SSA's Final Report of Investigation fails to properly address the fact that Baltimore NHC employees falsified government time records. The SSA also failed to discuss the implications of falsification of government time records in terms of mismanagement.

On August 11, 2014, the SSA interviewed former Administrative Officer Millicent Janey. According to the Report of Investigation, Ms. Janey stated, "On a few occasions, she witnesses

[sic] employees sign-in with and [sic] earlier time than their actual arrival.” Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked Ms. Janey which employees had falsified time records. The Report of Investigation for this interview does not show that Mr. Huse, the SSA investigator who conducted the interview, asked this basic question. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Janey again and ask her which employees falsified time records.

On August 8, 2014, the SSA interviewed former Supervisory Case Manager Stephanie Meilinger. According to the Report of Investigation for this interview, “Meilinger stated that there were some instances of time and attendance misuse, but nothing pervasive. She recalled an instance or two where she witnessed time and attendance issues.” Mr. Wiltrout believes that a reasonable investigator acting in good faith would have asked Ms. Meilinger what she meant by “time and attendance issues” and which employees were involved. The Report of Investigation for this interview does not show that Mr. Huse, the SSA investigator who conducted the interview, asked these basic questions. Mr. Wiltrout respectfully requests that the OSC require the SSA to interview Ms. Meilinger again and ask her what she meant by “time and attendance issues” and which employees were involved.

On July 31, 2014, the SSA interviewed ALJ Roseanne Dummer. According to the Report of Investigation for the interview, “Dummer witnessed one instance where an employee, Rodney Lewis (Lewis), entered the incorrect time on the sign-in log. Dummer stated that she addressed the issue with Lewis and informed him that she would notify his supervisor if it occurred again.”

Two additional former members of Baltimore NHC management sent e-mails indicating that Baltimore NHC employees had falsified official government time records. On March 21, 2011, former Acting Administrative Officer Renea Bowles sent employees an e-mail stating, “I have noticed some employees are not signing in properly...and/or signing in at a time earlier than your arrival time.” When the SSA interviewed Ms. Bowles on August 8, 2014, however, “Bowles stated that she never caught anyone cheating time, but stated that she had a suspicion it was happening.” Mr. Wiltrout believes that these statements clearly contradict one another, and this has a bearing on Ms. Bowles’ credibility. Mr. Wiltrout also believes that a reasonable investigator acting in good faith would have confronted Ms. Bowles on the contradiction.

On April 3, 2013 former Chief Administrative Law Judge Milagros Farnes also sent employees an e-mail stating, “I have noticed some employees are not signing in properly...and/or signing in at a time earlier than the actual arrival time.” The SSA interviewed ALJ Farnes on July 30, 2014. In regard to time and attendance, “Farnes could not recall any significant or specific issues.” Mr. Wiltrout believes that a reasonable investigator acting in good faith would have confronted ALJ Farnes regarding her e-mail and asked her which Baltimore NHC employees had been “not signing in properly...and/or signing in at a time earlier than the actual arrival time.” The Report of Investigation for this interview does not show that

Mr. Huse, the SSA investigator who conducted the interview, confronted ALJ Farnes with the e-mail or asked her a basic question about which employees she had been referring to in her e-mail.

The SSA's interviews of three former members of Baltimore NHC management, as well as e-mails from an additional two former members of Baltimore NHC management, support Mr. Wiltrot's disclosure to the OSC that Baltimore NHC employees falsified official government time records in violation of 18 U.S.C. § 1001. In addition, it is important to note that Ms. Bowles sent her e-mail regarding time and attendance on March 21, 2011, and ALJ Farnes sent her e-mail regarding time and attendance on April 3, 2013. This indicates that Baltimore NHC employees falsified government time records for more than two years.

Mr. Wiltrot submitted the above referenced e-mails to Mr. Huse, and Mr. Wiltrot discussed the e-mails with Mr. Huse. In a pattern that has become all too familiar, however, the SSA omitted this relevant evidence and failed to properly address it in the Final Report of Investigation. The SSA also failed to discuss the implications of falsification of government time records in terms of mismanagement.

The Baltimore NHC's conduct clearly evidenced gross mismanagement.

In his disclosure to the OSC, Mr. Wiltrot reported that the Baltimore NHC's conduct clearly evidenced gross mismanagement. Mr. Wiltrot reported that the actions of management at the Baltimore National Hearing Center had created a substantial risk of significant adverse impact upon the Social Security Administration's ability to accomplish its mission. Furthermore, Mr. Wiltrot stated that the conclusion that the National Hearing Center had erred was not debatable among reasonable people. The Final Report of Investigation does not show that the SSA conducted a proper analysis of whether gross mismanagement had taken place at the Baltimore NHC. As such, Mr. Wiltrot will perform this analysis.

The Social Security Administration's Mission Statement is: "Deliver Social Security services that meet the changing needs of the public." At the time that Mr. Wiltrot submitted his disclosure to the OSC, the mission of the Office of Disability Adjudication and Review (ODAR) was: "Administer the hearings and appeals programs for SSA, providing timely and quality service to the public." Both of these missions include service to the public. In addition, ODAR had the following service principles:

1. Adherence to the law and policy
2. Quality – in every phase of the hearings and appeals process
3. Commitment to best demonstrated practices
4. Cultural sensitivity
5. Integrity
6. Prevention of waste, fraud, and abuse
7. Protection of privacy and personal information
8. Safety of the public and our employees

9. Communicate with the public in a clear and plain manner

At least two of the SSA's interviews indicate that multiple judges instructed to direct employees to violate agency policy. In addition, the SSA's interviews of former Baltimore NHC supervisors, as well as e-mails that Baltimore NHC supervisors sent to employees, indicate that a significant number of employees used the "simplified method" of case processing to process a large number of cases. This plainly did not provide good service to the public. In addition, the Baltimore NHC violated the following ODAR service principles by processing cases incorrectly: adherence to the law and policy; quality – in every phase of the hearings and appeals process; commitment to best demonstrated practices; integrity; and protection of privacy and personal information. The conclusion that the National Hearing Center erred by processing a large number of disability cases incorrectly is not debatable among reasonable people.

An interview of a former member of Baltimore NHC management, and evidence omitted by the SSA, show that Baltimore NHC employees failed to scan a significant number of important documents into claimants' files in a timely manner, if at all. This did not provide good service to the public. In addition, the Baltimore NHC violated the following ODAR service principles by failing to ensure that documents were scanned into the correct claimants' files in a timely manner: adherence to the law and policy; quality – in every phase of the hearings and appeals process; commitment to best demonstrated practices; integrity; and protection of privacy and personal information. The conclusion that the National Hearing Center erred by failing to scan a significant number of important documents into claimants' files in a timely manner is not debatable among reasonable people.

The SSA's interviews of two former members of Baltimore NHC management, and a letter from an attorney who represented a significant number of claimants before Baltimore NHC ALJs, show that Baltimore NHC employees often failed to take the correct actions relating documents that had made it into claimants' files. This did not provide good service to the public. In addition, the Baltimore NHC violated the following ODAR service principles by often failing to take the correct actions relating to documents: adherence to the law and policy; quality – in every phase of the hearings and appeals process; commitment to best demonstrated practices; and integrity. The conclusion that the National Hearing Center erred by often failing to take the correct actions relating documents that had made it into claimants' files is not debatable among reasonable people.

The SSA's interviews and the Final Report of Investigation indicate that Baltimore NHC employees failed to answer large numbers of phone calls from claimants and their representatives. This was not good service to the public. The Baltimore NHC also violated the following ODAR service principles by failing to answer large numbers of calls: quality – in every phase of the hearings and appeals process; commitment to best demonstrated practices; and communicate with the public in a clear and plain manner. The conclusion that the National

Hearing Center erred by failing to answer large numbers of phone calls is not debatable among reasonable people.

The SSA's interviews of three former members of Baltimore NHC management, as well as e-mails from an additional two former members of Baltimore NHC management, indicate that Baltimore NHC employees falsified official government time records. This did not constitute good service to the public. The Baltimore NHC violated the following ODAR service principles by falsifying time records: adherence to the law and policy; integrity; and prevention of waste, fraud, and abuse. The conclusion that the National Hearing Center erred by falsifying official government time records is not debatable among reasonable people.

The Baltimore NHC's conduct clearly evidences gross mismanagement. The actions of management at the Baltimore National Hearing Center created a substantial risk of significant adverse impact upon the Social Security Administration's ability to accomplish its mission. Furthermore, the conclusion that the National Hearing Center erred is not debatable among reasonable people.

Conclusion

Mr. Wiltrout found numerous glaring deficiencies in the SSA's investigation of the Baltimore NHC. The SSA omitted a significant amount of evidence. The SSA also failed to adequately address the evidence that it did include. In addition, the SSA failed to ask a number of basic questions during interviews. The SSA also failed to interview several important witnesses. In addition, the SSA made misleading statements.

Furthermore, the SSA greatly underestimated the amount of wrongdoing that took place at the Baltimore NHC. At least two of the SSA's interviews indicate that additional judges instructed employees to process cases in a manner that was inconsistent with agency policies. The SSA failed to ascertain which judges were involved. In addition, the SSA's interviews of former Baltimore NHC supervisors, as well as e-mails that Baltimore NHC supervisors sent to employees, indicate that a significant number of employees used the "simplified method" of case processing.

The SSA omitted evidence showing that the Baltimore NHC had failed to scan a significant amount of evidence into claimants' files in a timely manner. This evidence, and at least one interview of a former member of Baltimore NHC management, suggest that Baltimore NHC employees failed to scan a large number of important documents into claimants' files in a timely manner, and the problem existed for at least three years. Baltimore NHC employees failed to ensure that evidence was scanned into claimants' files before ALJs made decisions, and that undermined the legal sufficiency of decisions issued by the Baltimore NHC. The SSA interviewed a former supervisor regarding her instruction to destroy mail that contained evidence. The SSA failed to ask a couple of basic questions during that interview. The SSA also failed to interview two important witnesses regarding this incident.

The SSA's Final Report of Investigation states that "callers to the Baltimore NHC frequently failed to reach a representative." Even so, the SSA failed to determine how many thousands of calls Baltimore NHC employees failed to answer. In addition, the SSA failed to explain why the Baltimore NHC used this phone system for more than four years.

The SSA's Final Report of Investigation does not indicate that the SSA used objective evidence to determine whether Baltimore NHC employees had actually followed the policies and procedures that constituted the "redundancies" intended to ensure claimants' hearing rights. In addition, the SSA's interviews of two former members of Baltimore NHC management, and evidence omitted by the SSA, show that case managers often did not process and exhibit documents that were received between the time hearings were scheduled and the actual hearing dates. The SSA also failed to interview at least one important witness. Furthermore, Mr. Wiltrout has first-hand knowledge that Baltimore NHC ALJs decided to dismiss cases in which hearing notices had been sent to the wrong addresses. The Final Report of Investigation includes a detailed description of the policies that an ALJ is supposed to follow before dismissing a case, but the Final Report of Investigation does not show that the SSA verified that even one Baltimore NHC ALJ had followed these procedures in issuing a dismissal.

The SSA's interviews of three former members of Baltimore NHC management, as well as two e-mails from former members of Baltimore NHC management, support Mr. Wiltrout's disclosure to the OSC that Baltimore NHC employees falsified official government time records in violation of 18 U.S.C. § 1001. In addition, the two e-mails, which were omitted by the SSA, show that Baltimore NHC employees falsified government time records for more than two years.

The SSA's investigation served to obfuscate rather than clarify what actually happened at the Baltimore NHC. Mr. Wiltrout believes that the deficiencies in the SSA's investigation are far too numerous to be accidental. Mr. Wiltrout also believes that no investigator acting in good faith could have made so many omissions. Mr. Wiltrout respectfully requests that the OSC require the SSA to remedy the numerous glaring deficiencies in the SSA's investigation of the Baltimore NHC.

Sincerely,

A handwritten signature in cursive script that reads "Scott Wiltrout".

Scott Wiltrout