



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE**
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

JAN 16 2013

Ms. Carolyn N. Lerner
The Special Counsel
U.S. Office of Special Counsel
Suite 300
1730 M Street, N.W.
Washington, DC 20036-4505

Dear Ms. Lerner:

This is in further response to your letter dated July 18, 2012, to the Secretary of Defense, referring for investigation OSC File No. DI-12-2840, a whistleblower disclosure made by Mr. Charles Mason, concerning allegations that employees of the Defense Commissary Agency (DeCA), Ord Community Commissary, Presidio of Monterey, California, were engaging in a number of serious health, safety, and management breaches.

On November 20, 2012, the Acting Inspector General provided you a copy of the investigation that the Defense Hotline directed the DeCA Inspector General (IG) to conduct. The investigation substantiated the allegations made by Mr. Mason. DeCA management initiated corrective actions by issuing letters of proposed actions (s) to the individual concerned. The results of the disciplinary action are provided in the enclosed memorandums.

In addition to the unredacted memorandums, we have also enclosed a redacted version of the memorandums that may be publicly posted. Because personal information in the unredacted report is exempt from public release under the Freedom of Information Act (FOIA), the memorandums are designated "FOR OFFICIAL USE ONLY." We ask that you coordinate any additional releases of the unredacted memorandums with our FOIA Requester Service Center/Privacy Act Office, Office of the Inspector General of the Department of Defense, 4800 Mark Center Drive, Alexandria, Virginia 22350-1500.

If you have any questions regarding this matter, please contact me at (703) 604-8324.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett A. Mansfield".

Brett A. Mansfield
Acting Assistant Inspector General
Communications and Congressional Liaison

Enclosures: As stated



DEFENSE COMMISSARY AGENCY
HEADQUARTERS
1300 E AVENUE
FORT LEE, VIRGINIA 23801-1800

IN REPLY
REFER TO

CO

January 2, 2013

MEMORANDUM FOR [REDACTED],
ORD COMMUNITY COMMISSARY

SUBJECT: Decision on Notice of Proposed Suspension - Mitigated

Reference is made to the Notice of Proposed Suspension dated October 31 2012, and an amendment to the Notice of Proposed Removal dated November 15, 2012, proposing your suspension for Negligent Performance of Duty and Conduct unbecoming a Federal Supervisor.

You were afforded the opportunity to reply to the proposed removal orally and/or in writing, and to submit affidavits or other documentary evidence in support of your answer. I received your written reply dated November 19, 2012. I carefully and impartially considered your reply and impartially reviewed and considered all the information that formed the basis for this action contained in the adverse action file. In determining the appropriate remedy in this matter, I considered the factors outlined in *Douglas v. Veterans Administration*. Based on my review of the case file, your response and your years of service and operational expertise, it is my decision to mitigate the proposed penalty from a 30-calendar day suspension to a 7 calendar day suspension.

As a DeCA management official at the Ord Community Commissary, you hold a position of trust, responsibility and authority. As such, I must be continually confident that you will conduct yourself in a professional manner at all times while on duty in the Ord Community Commissary, representing the interests and the principles for which DeCA stands. The behavior you displayed has diminished my trust and confidence in your being able to supervise and lead employees in the manner expected of a [REDACTED]. Your negligence in overseeing the operations of the meat department at Ord Community Commissary and signing the weekly pricing reports without verifying if the information was correct seriously undermines the very integrity of leadership responsibilities this Agency placed in you and which were entrusted to you by the American public for the position that you encumber.

It is therefore my decision that you be suspended for 7 calendar days, effective January 20, 2013. This action is necessary to promote the efficiency of the service.

You have the right to file a formal grievance regarding this action under the Department of Defense Administrative Grievance System. In order for your grievance to meet regulatory requirements, it must (a) be in writing and addressed to the grievance deciding official, Mr. Joseph H. Jeu, Director, Defense Commissar Agency, c/o [REDACTED], Lead Human Resources Specialist; (b) specify the issue(s) involved and state the remedial action sought; and (c) be submitted not later than 15 calendar days following effective date of your suspension. If you file such a grievance, the decision rendered by Mr. Jeu, will be final and you may not request a further review within the Defense Commissary Agency.

You have the right to representation. If you have a representative, you must designate that individual in writing. You are entitled to a reasonable amount of official time to prepare your grievance. You may contact your immediate supervisor to arrange for such time. If you have a representative who is an employee of DeCA and in an active duty status, that person is also entitled to a reasonable amount of official time to prepare your grievance. Arrangements for such time must be made with your representative's supervisor.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, Defense Commissary Agency, Headquarters, Fort Lee, VA (804) 734-8000, extension [REDACTED]



Michael Dowling
Deputy Director

Issued on: 1-3-2013



DEFENSE COMMISSARY AGENCY
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IN REPLY
REFER TO

CO

January 2, 2013

MEMORANDUM FOR [REDACTED],
[REDACTED], ORD COMMUNITY COMMISSARY

SUBJECT: Decision on Notice of Proposed Suspension - Mitigated

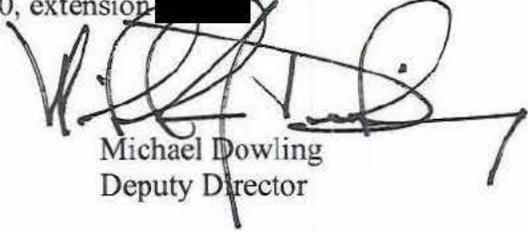
Reference is made to the Notice of Proposed Suspension dated October 31 2012, and an amendment to the Notice of Proposed Suspension, dated November 15, 2012, proposing your suspension for Negligent Performance of Duty and Conduct unbecoming a Federal Supervisor.

You were afforded the opportunity to reply to the proposed removal orally and/or in writing, and to submit affidavits or other documentary evidence in support of your answer. I received your written reply dated November 19, 2012, and your oral reply on December 14, 2012. I carefully and impartially considered your reply and impartially reviewed and considered all the information that formed the basis for this action contained in the adverse action file. In determining the appropriate remedy in this matter, I considered the factors outlined in Douglas v. Veterans Administration. I find that Charge 1, Negligent Performance of Duty, Specification 1, is not fully supported by the evidence. Consequently, I will not consider it in determining the penalty. I find that Charge 2, Conduct unbecoming a Federal Supervisor is not fully supported by the evidence. Consequently, I will not consider it in determining the penalty. Based on my review of the case file, your response and your years of service and operational expertise, it is my decision to mitigate the proposed penalty from a 30-calendar day suspension to a Letter of Reprimand. The Letter of Reprimand will be issued under a separate cover.

You have the right to file a formal grievance regarding this action under the Department of Defense Administrative Grievance System. In order for your grievance to meet regulatory requirements, it must (a) be in writing and addressed to the grievance deciding official, Mr. Joseph H. Jeu, Director, Defense Commissary Agency, c/o [REDACTED], Lead Human Resources Specialist; (b) specify the issue(s) involved and state the remedial action sought; and (c) be submitted not later than 15 calendar days following effective date of your suspension. If you file such a grievance, the decision rendered by Mr. Jeu, will be final and you may not request a further review within the Defense Commissary Agency.

You have the right to representation. If you have a representative, you must designate that individual in writing. You are entitled to a reasonable amount of official time to prepare your grievance. You may contact your immediate supervisor to arrange for such time. If you have a representative who is an employee of DeCA and in an active duty status, that person is also entitled to a reasonable amount of official time to prepare your grievance. Arrangements for such time must be made with your representative's supervisor.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, Defense Commissary Agency, Headquarters, Fort Lee, VA (804) 734-8000, extension [REDACTED]



Michael Dowling
Deputy Director

Issued on: 1-3-2013



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IN REPLY
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CO

January 2, 2013

MEMORANDUM FOR [REDACTED],
[REDACTED], ORD COMMUNITY COMMISSARY

SUBJECT: Letter of Reprimand

You are hereby being reprimanded for your Negligent Performance of Duty at the Ord Community Commissary (OCC).

Specifically, sometime during the timeframe of July 29, 2012 to August 9, 2012, the DeCA IG team was sent to the OCC to conduct a thorough inquiry into the allegations that were contained in the DoD IG referral.

It was concluded in the investigation that the OCC Meat Department was improperly repacking meat and improperly dating labels, marking up sale prices and mislabeling product, and engaging in improper inventory management. Also, it was written in the investigation that there was inadequate oversight of the meat department by leadership at all levels at OCC.

The above findings have diminished my trust and confidence in your ability to serve in a managerial position that has a high degree of independence, as does your current position of [REDACTED]. As the [REDACTED] at the OCC, you hold the [REDACTED]. I must be able to trust you in this position with the responsibility and authority you have in providing guidance to subordinate supervisors and employees. It is expected that not only are you to enforce the rules and regulations to be carried out by commissary managers and employees, but to conduct yourself in accordance with applicable standards of conduct expected of a professional member of this staff, and in a manner with neither interferes with the efficiency of operations, nor brings discredit to the Federal Government as an employer.

You are advised that any future misconduct of this nature may result in more progressive and corrective disciplinary action.

You have the right to file a formal grievance regarding this action under the Department of Defense Administrative Grievance System. In order for your grievance to meet regulatory requirements, it must (a) be in writing and addressed to the grievance deciding official, Mr. Joseph H. Jeu, Director, Defense Commissary Agency, c/o [REDACTED], Lead, Human Resources Specialist; (b) specify the issue(s) involved and state the remedial action sought; and (c) be submitted not later than 15 calendar days following effective date of your suspension. If you file such a grievance, the decision rendered by Mr. Jeu, will be final and you may not request a further review within the Defense Commissary Agency.

You have the right to representation. If you have a representative, you must designate that individual in writing. You are entitled to a reasonable amount of official time to prepare

your grievance. You may contact your immediate supervisor to arrange for such time. If you have a representative who is an employee of DeCA and in an active duty status, that person is also entitled to a reasonable amount of official time to prepare your grievance. Arrangements for such time must be made with your representative's supervisor.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, at (804) 734-8000, extension [REDACTED]

This letter of reprimand will be placed in your Official Personnel Folder (OPF) where it will be retained for not more than three (3) years or until you leave the Agency, whichever occurs first, at which time it will be removed and destroyed



Michael Dowling
Deputy Director

Issued on: 1-3-2013



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IN REPLY
REFER TO

CO

January 2, 2013

MEMORANDUM FOR [REDACTED],
[REDACTED], ORD COMMUNITY COMMISSARY

SUBJECT: Decision on Notice of Proposed Removal

Reference is made to the Notice of Proposed Removal dated October 31 2012, and an amendment to the Notice of Proposed Removal dated November 15, 2012, proposing your removal from Federal service, for Negligent Performance of Duty and Conduct unbecoming a Federal Supervisor.

You were afforded the opportunity to reply to the proposed removal orally and/or in writing, and to submit affidavits or other documentary evidence in support of your answer. I received your written reply dated November 20, 2012, and your oral reply on December 14, 2012. I carefully and impartially considered your reply and impartially reviewed and considered all the information that formed the basis for this action contained in the adverse action file. I find that Charge 1, Negligent Performance of Duty, Specification 3, is not fully supported by the evidence. Consequently, I will not consider it in determining the penalty. I find that Charge 2, Conduct unbecoming a Federal Supervisor, Specification 1, is not fully supported by the evidence, and consequently, I will not consider it in determining the penalty. Based on my review of the case file, your oral and written response, and your prior discipline, it is my decision to remove you from Federal service.

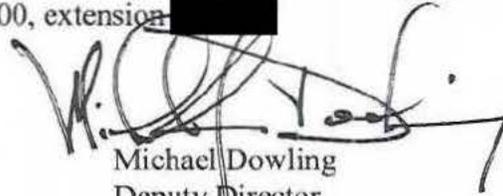
As the [REDACTED] at the Ord Community Commissary, you hold a position of trust, responsibility and authority. As such, I must be continually confident that you will conduct yourself in a professional manner at all times while on duty in the Ord Community Commissary, representing the interests and the principles for which DeCA stands for. The behavior you displayed has diminished my trust and confidence in your being able to supervise and lead employees in the manner expected of a [REDACTED]. Your behavior seriously undermines the very integrity of leadership responsibilities this Agency placed in you and which were entrusted to you by the American public for the position that you encumber. Any Commissary Supervisory employee who engages in this type of misconduct places his or her employment in jeopardy.

It is therefore my decision that you be removed from Federal service effective January 11, 2013. This action is necessary to promote the efficiency of the service.

You have a right to appeal this action to the Merit Systems Protection Board (MSPB) within 30 calendar days of the effective date of this action. If you choose to file an MSPB appeal, it must be in writing and contain all the information specified in the Board's regulations (attachment 1). Such an appeal must be filed with the Merit System Protection Board, Western Regional Office, 201 Mission Street, Suite 2310, San Francisco, CA 94105-1831, telephone number, (415) 904-6772, and facsimile (415) 904-0580. An appeal may be filed by mail,

facsimile, commercial overnight delivery or personal delivery. Attachment 2 (MSPB 185) contains the Board's appeal form, which may be used in filing your appeal. Additionally, should you wish to file an electronic appeal you will find assistance at the MSPB website, www.mspb.gov.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, Defense Commissary Agency, Headquarters, Fort Lee, VA (804) 734-8000, extension [REDACTED]



Michael Dowling
Deputy Director

Attachments:

As stated

Issued on: 1-3-2013



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IN REPLY
REFER TO

CO

January 2, 2013

MEMORANDUM FOR [REDACTED],
[REDACTED], ORD COMMUNITY COMMISSARY

SUBJECT: Decision on Notice of Proposed Removal - Mitigated

Reference is made to the Notice of Proposed Removal dated October 31 2012, and an amendment to the Notice of Proposed Removal dated November 15, 2012, proposing your removal from Federal service, for Conduct unbecoming a Federal Supervisor, False Official Statement, and Negligent Performance of Duty.

You were afforded the opportunity to reply to the proposed removal orally and/or in writing, and to submit affidavits or other documentary evidence in support of your answer. I received your written reply dated November 26, 2012 and your oral reply on December 14, 2012. I carefully and impartially considered your reply and impartially reviewed and considered all the information that formed the basis for this action contained in the adverse action file. In determining the appropriate remedy in this matter, I considered the factors outlined in Douglas v. Veterans Administration. I find that Charge 1, Conduct unbecoming a Federal Supervisor, Specification 6, will not be considered because it was addressed in the past. Consequently, I will not consider it in determining the penalty. All other charges and specifications are supported by the preponderance of the evidence. Based on my review of the case file, your response and your years of service, it is my decision to mitigate the proposed penalty from removal to a reduction in grade from [REDACTED].

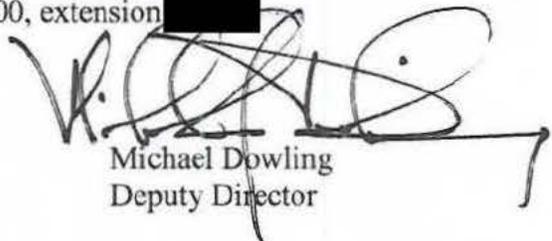
As a DeCA management official at the Ord Community Commissary, you hold a position of trust, responsibility and authority. As such, I must be continually confident that you will conduct yourself in a professional manner at all times while on duty in the Ord Community Commissary, representing the interests and the principles for which DeCA stands. The behavior you displayed has diminished my trust and confidence in your being able to supervise and lead employees in the manner expected of a [REDACTED]. Your behavior seriously undermines the very integrity of leadership responsibilities this Agency placed in you and which were entrusted to you by the American public for the position that you encumber.

It is therefore my decision that you be demoted to a [REDACTED], effective January 13, 2013. This action is necessary to promote the efficiency of the service.

You have a right to appeal this action to the Merit Systems Protection Board (MSPB) within 30 calendar days of the effective date of this action. If you choose to file an MSPB appeal, it must be in writing and contain all the information specified in the Board's regulations (attachment 1). Such an appeal must be filed with the Merit System Protection Board, Western Regional Office, 201 Mission Street, Suite 2310, San Francisco, CA 94105-1831, telephone number, (415) 904-6772, and facsimile (415) 904-0580. An appeal may be filed by mail, facsimile, commercial overnight delivery or personal delivery. Attachment 2 (MSPB 185)

contains the Board's appeal form, which may be used in filing your appeal. Additionally, should you wish to file an electronic appeal you will find assistance at the MSPB website, www.mspb.gov.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, Defense Commissary Agency, Headquarters, Fort Lee, VA (804) 734-8000, extension [REDACTED]



Michael Dowling
Deputy Director

Attachments:
As stated

Issued on: 1-3-2013



DEFENSE COMMISSARY AGENCY
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FORT LEE, VIRGINIA 23801-1800

IN REPLY
REFER TO

CO

January 2, 2013

MEMORANDUM FOR [REDACTED]

SUBJECT: Decision on Notice of Proposed Suspension - Mitigated

Reference is made to the Notice of Proposed Suspension dated November 13, 2012, for Conduct unbecoming a Federal Supervisor.

You were afforded the opportunity to reply to the proposed removal orally and/or in writing, and to submit affidavits or other documentary evidence in support of your answer. I received your oral reply on December 17, 2012. I carefully and impartially considered your reply and impartially reviewed and considered all the information that formed the basis for this action contained in the adverse action file. In determining the appropriate remedy in this matter, I considered the factors outlined in *Douglas v. Veterans Administration*. Based on my review of the case file, your response and your years of service and operational expertise, it is my decision to mitigate the proposed penalty from a 30-calendar day suspension to a Letter of Counseling. The Letter of Counseling will be issued under a separate cover.

For further information regarding the regulations and procedures used in this matter, you may contact [REDACTED], Lead Human Resources Specialist, Defense Commissary Agency, Headquarters, Fort Lee, VA (804) 734-8000, extension [REDACTED]



Michael Dowling
Deputy Director

Issued on: 1-3-2013



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FORT LEE, VIRGINIA 23801-1800

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CO

January 2, 2013

MEMORANDUM FOR [REDACTED]

SUBJECT: Letter of Counseling

This letter of counseling is provided to you regarding your performance as a [REDACTED]

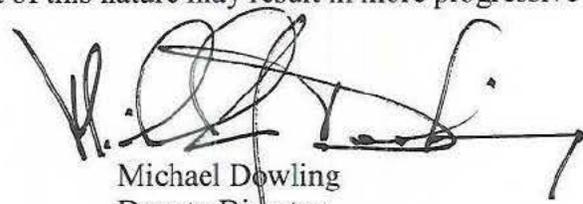
Specifically, sometime during the timeframe of July 29, 2012 to August 9, 2012, the DeCA IG team was sent to the OCC to conduct a thorough inquiry into the allegations that were contained in the DoD IG referral.

During your telephone interview with IG Investigation Team, you acknowledged the practice of the meat department at OCC developing a funding "Kitty" or "cushion" that could be used to offset future losses and keep the inventory account in tolerance.

As a [REDACTED], you have overall responsibility for store operations and supervision of the workforce. My expectation for your performance in a leadership position is that you direct your stores in your zone operations in compliance with applicable regulations and policy, oversee the sound fiscal management of stores in zone, and direct and monitor resale operations for your zone, fostering improvements in the efficiency of operations. These are essential attributes that must be demonstrated on a regular and recurring basis for a successful operation and to accomplish mission requirements.

If you believe that your unacceptable conduct/performance may be caused by personal, physical, or medical problems; substance abuse; and/or other reasons not directly related to the duties of your position, you are advised and strongly encouraged to use the assistance of the Employee Assistance Program. This program is designed to assist employees with personal problems and refer them to sources within the community that offer treatment or rehabilitative care. For additional information regarding this service, contact the program coordinator at 1-800-222-0364.

You are advised that any future misconduct of this nature may result in more progressive and corrective disciplinary action.


Michael Dowling
Deputy Director

Issued on: 1-3-2013