



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

September 8, 2016

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

Re: OSC File No. DI-14-3174

Dear Mr. President:

Pursuant to my duties as Special Counsel, I am forwarding a redacted Social Security Administration (SSA) report based on disclosures of wrongdoing at the Office of Disability Adjudication and Review, National Hearing Center (NHC), Albuquerque, New Mexico.¹ The whistleblower, Jason Smeltzer, who consented to the release of his name, alleged that NHC employees improperly released claimant information and records over the telephone in violation of SSA policies and federal regulations. I have reviewed the SSA report and, in accordance with 5 U.S.C. § 1213(e), provide the following summary of the agency investigation and my findings.²

Mr. Smeltzer's allegations were referred to Acting Commissioner Carolyn W. Colvin for investigation pursuant to 5 U.S.C. § 1213(c) and (d), who forwarded the allegations to the SSA Office of the Inspector General (OIG) to conduct the agency investigation. Acting Commissioner Colvin submitted the OIG Report of Investigation and investigative summary to OSC on January 21, 2015. Mr. Smeltzer declined to comment on the agency report.

The agency investigation did not substantiate Mr. Smeltzer's allegations. The NHC staff interviewed during the OIG investigation did not corroborate Mr. Smeltzer's allegation that employees were releasing information and records to individuals making

¹The exhibits to the agency report contain extensive private information about the whistleblower that is not relevant to the allegation investigated in this matter, and thus, has been redacted by SSA at OSC's request.

²The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c). Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

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requests by telephone without properly verifying their identity. OIG found that neither Mr. Smeltzer, nor any of the witnesses interviewed, were aware of any specific complaints or examples of unauthorized disclosures of protected information under 20 CFR § 401.45 and POMS GN 03360.005. In addition, each of the witnesses interviewed outlined the appropriate procedures they followed to identify claimants over the phone. Because the agency investigation did not substantiate the allegations, no corrective action was necessary.

I have reviewed the original disclosure and the agency report. Based on my review, I have determined that the SSA's report contains all of the information required by statute, and the findings appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency report to the Chairmen and Ranking Members of the Senate Committee on Aging and the House Committee on Ways and Means. I have also filed copies of the agency report in OSC's public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosure