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The Special Counsel

October 19, 2011

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

Re: OSC File No. DI-11-1580

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report and supplemental report based on disclosures received from Mr. Wendell R. Bates, former Administrative Officer, Surgery Service, Southeast Louisiana Veterans Healthcare System (SLVHCS), New Orleans, Louisiana. Mr. Bates, who consented to the release of his name, disclosed that Dr. Mary Fazekas-May, SLVHCS Chief of Surgery, violated agency rules and regulations regarding time and attendance and the use of official time.

Mr. Bates' allegations were referred to the Honorable Eric K. Shinseki, Secretary of the U.S. Department of Veterans Affairs, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on May 13, 2011. On July 12, 2011, the Secretary submitted his report, based on the results of an investigation conducted by an Administrative Investigation Board (AIB) convened by the VA. The AIB was comprised of personnel from outside of the SLVHCS. The agency submitted a supplemental report on August 26, 2011. Mr. Bates filed comments in response to the original agency report and the supplemental report. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and comments to you.

Mr. Bates disclosed that Dr. Mary Fazekas-May, SLVHCS Chief of Surgery Service, frequently misused official time by either failing to report to work or being extremely tardy for work in possible violation of 5 C.F.R. § 2635.705. Mr. Bates alleged that Dr. Fazekas-May reported to work on average approximately 15 to 20 hours of her scheduled 40 hour work week. He also alleged that Dr. Fazekas-May operated a more financially lucrative private practice, which contributed to Dr. Fazekas-May's frequent tardiness and absences.

The AIB report did not substantiate Mr. Bates' allegations. According to the report, the investigation found no evidence to support Mr. Bates' allegations that Dr. Fazekas-May was either tardy or absent without prior approval from her supervisor. The report further indicated that Dr. Fazekas-May does not operate a "private practice." Rather, the investigation found that Dr. Fazekas-May treats a small number of patients at the Tulane Medical Center pursuant to an approved affiliation with Tulane University. The AIB found no evidence that her work at Tulane interfered with her work at the VA.

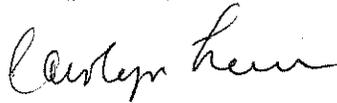
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The August 26, 2011, supplemental report was submitted in response to OSC's request that Mr. Bates be interviewed pursuant to the investigation. In the supplemental report, the agency indicated that, in response to OSC's request, Mr. Bates was interviewed on August 4, 2011, and that Mr. Bates' testimony had no bearing upon the agency's previous finding that the allegations were unsubstantiated. Mr. Bates' comments in response to the reports expressed his dissatisfaction with the manner in which he, a veteran, was treated by the VA.

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

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency reports to the Chairmen and Ranking Members of the Senate and House Committees on Veterans' Affairs. I have also filed copies of the reports in our public file, which is now available online at [www.osc.gov](http://www.osc.gov), and closed the matter.

Respectfully,



Carolyn N. Lerner  
Special Counsel

Enclosures