



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

November 6, 2012

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

Re: OSC File No. DI-11-3544

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report and a supplemental report substantiating whistleblower disclosures that employees at the Department of Veterans Affairs (VA), Cleveland VA Medical Center (VAMC), Fiscal Department and North Central Consolidated Patient Account Center (CPAC), Cleveland, Ohio, engaged in conduct that constituted a violation of law, rule, or regulation, gross mismanagement, and a gross waste of funds, specifically involving fund transfers. Brigitte Bennerson, a VAMC Accountant, who consented to the release of her name, alleged that VAMC Fiscal Department and CPAC employees improperly transferred funds from suspense accounts to permanent accounts in violation of federal and agency regulations in order to hide the VA's failure to reconcile suspense funds. She also disclosed that employees failed to properly track payments made to the agency resulting in misleading financial records.

The agency determined that VA employees improperly transferred funds from suspense accounts to permanent accounts and, as a result, payments were not properly tracked in violation of Department of the Treasury and agency policies. I have reviewed the original disclosures, the agency reports, and Ms. Bennerson's comments. Based on that review, I have determined that the agency reports contain all of the information required by statute, and that the findings appear to be reasonable.

The 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) and (g).

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).

Ms. Bennerson's allegations were referred to the Honorable Eric K. Shinseki, Secretary of Veterans Affairs, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary delegated the investigation of the matter to the VA Health Administration's Office of the Chief Financial Officer. On June 7, 2012, the Secretary submitted the agency's report to the Special Counsel. In response to our inquiries about the agency report, the VA's Office of General Counsel submitted a supplemental report on August 17, 2012. Ms. Bennerson submitted comments in response to the agency reports on September 10, 2012. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the agency reports and comments to you.

The agency reports substantiated Ms. Bennerson's allegations. The Department of the Treasury requires federal agencies to classify payments and collections properly. According to the Department of the Treasury Financial Manual, Volume I, Part 2, Chapter 1520.25 (Clearing Accounts), suspense funds may be used to temporarily hold unidentified collections with the expectation that these funds will be cleared within 60 days. VA policy requires that employees must make all efforts to research and clear unapplied deposit items (suspense funds) prior to 60 days from receipt. The failure to reconcile deposits in a timely manner weakens the agency's financial reports and increases the risk of fund mismanagement. The investigation revealed, however, that the accounting errors were strictly accounting errors and did not rise to criminal wrongdoing, such as a misappropriation of funds or theft. The agency report added that only Ms. Bennerson and the VAMC's Chief Financial Officer (CFO) were able to correctly describe the procedures for transfers from suspense accounts to permanent accounts.

In the supplemental report, the agency confirmed that investigators had identified \$37,163 in accounting errors. As a result of these determinations, VA has taken several steps to address these issues at the VAMC and CPAC in order to ensure the integrity of the financial records. Specifically, employees conducted journal voucher reviews, identified accounting errors, and corrected them. Proper accounting training was also provided to the VAMC and CPAC accounting staff. Furthermore, VAMC issued an admonishment to Robert Kubec, the Accounting Section Chief, who resigned effective May 2012, and to Betty Hodge, the former Accounts Receivable Supervisor, who was reassigned to another VAMC position. The agency report found that these two individuals were responsible for ensuring the proper justification to transfer funds from suspense accounts to permanent accounts.

Ms. Bennerson provided comments to the agency reports. She emphasized that when she attempted to address the improper accounting procedures with Mr. Kubec and Gene DeAngelis, the facility's CFO, they failed to take corrective action.

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As required by law, 5 U.S.C. § 1213(e)(3), I have sent a copy of the unredacted agency reports and Ms. Bennerson's comments to the Chairmen and Ranking Members of the Senate and House Committee on Veterans' Affairs. I have also filed a copy of the redacted agency reports and Ms. Bennerson's comments in our public file, which is available online at www.osc.gov, and closed the matter.¹

Respectfully,



Carolyn N. Lerner

Enclosures

¹ The VA cited privacy concerns as the basis for not providing names in the report produced in response to 5 U.S.C. § 1213. OSC objects to the VA's assertion of privacy interests as a basis for withholding the names of individuals on the grounds that the public interest in this information outweighs the privacy interests of the unnamed individuals.