

MAILED UPS SATURDAY
8/22 @ 5:33 pm \$4.876

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Friday, August 22, 2008

Andy Richards, ATM
FAA/ATCT, SFO International Airport
Terminal 2, Room 630
San Francisco, CA 94128

Mr. Richards,

This letter is my response to your letter dated July 28, 2008, in which you propose my removal. You implied in correspondence that the only evidentiary documentation you relied upon to support your proposal was ROI AWP20070078. If there is additional evidentiary documentation, please advise so we can start again.

Attached please find a Rebuttal letter, in which I have transcribed relevant content from your 6-page removal proposal letter and provided detailed comments and rebuttal statements. Text from your proposal letter is quoted in the same sequence it is presented in your letter, followed by my "response". ROI AWP20070078 is an incredible collection of lies and misleading statements. This ROI was never properly completed, and has been subjected to no effective review or meaningful substantiation. I have made the best effort I could to clarify this mess, despite the limited time you allowed and the profound non-cooperation demonstrated by you and everyone else in the FAA. In fact, I learned just this morning, my coworkers have been given a gag order to not talk to me. Please note, this gag order interferes with my basic rights not just to talk with others, but most critically now, to investigate and construct an effective defense. Please also note, this gag order is an example of the oppressive and hostile work conditions you are condoning, contrary to the Agency's Model Work Environment intentions.

In addition to the fact that your evidence is flawed and unsubstantiated, there is a problem of double jeopardy here. Although the ROI was completed on 3/28/07, 513 days ago, I did not receive my copy of the ROI until 10/10/07. This six-month delay was necessitated by a prolonged failure of the designated management official to comply with the 10-day timeframe for preparing action and issuing related correspondence, as per FAA Order 1110.125A, para. 15(f)6. Richard Giles, AWP-750, dutifully complied with his regulations by refusing to send me the copy I requested under FOIA until he received a 9/5/07 email indicating I had been "admonished". Additionally, I was placed into a "constructive suspension" that ran for six months, starting 4/17/07, in violation of Federal regulations, Agency Orders, and the FAA/NATCA Contract. So, I have already been twice punished for the same non-offense. This current proposal, to remove me for unsubstantiated and false misconducts alleged to have occurred 19-months ago, is not a double jeopardy; it is a TRIPLE JEOPARDY.

Please also be advised, Exhibit #22 of the ROI may not be used to document this or any disciplinary action, as per FAA/NATCA Contract, Article 10, Section 12. I also request you consult with Regional Counsel, with special attention to FAA/NATCA Contract, Article 10, Sections 3, 5, 9 and 10. Your proposed action is not sustainable and should be immediately abandoned.

Please accept this letter as a repeat of my prior requests, many made under FOIA, that you and others in FAA management have refused to fulfill, as follows:

1. full corrective action to make me whole for the Constructive Suspension from 4/17/07 to October 2007. This would include: reimbursement of all expenses related to the April 2007 evaluation in Seattle; restoration of all leave involuntarily burned (134-hrs annual leave, 546-hrs sick leave, 3:30-hrs credit hours earned); compensation for 101-hrs of LWOP improperly charged; and reimbursement of all expenses related to my October 2007 physical and December 2007 follow-up evaluation in Seattle)
2. FOIA 2007-007547, 8/28/07; completion requires source documents for libelous Flight Surgeon memo in my personal medical file, and "additional documentation" held by Jason Ralph, to document his concerns on and before my 2/16/07 lockout. (Andy, this has been appealed to ARC-1 for action later this year, so your cooperation now would help reduce their internal workload, thus would support FAA efficiency);
3. FOIA 2007-007648, 9/2/07; this FOIA seeks all contents of the Accountability Board case file with the HR POC's preserved notes and reports of pertinent facts and decisions relating to this case, and is critically needed for this defense. [ref.: ORDER 1110.125A, para 15(e)(6)]; (this FOIA was processed but completely blown off, then inexplicably closed 4/2/08)
4. FOIA 2007-000107WS, 9/24/07; completion requires Jason's notes and all other participants' notes, as well as a list of all attendees, from the Violence in the Workplace teleconference on 2/16/07, in which Jason Ralph apparently slandered me; (Andy, this one also has been appealed to ARC-1 for action later this year, so you have two chances here to support FAA efficiency by cooperating now);
5. FOIA 2007-07955WS, 9/26/07; completion requires various documents held by Jason Ralph and Patricia Hardy, to help define the work environment during my four months at Concord.

The crux of this dispute is credibility. I have offered no lies. I have done nothing to mislead you, or anyone. I have honestly presented the complete details behind my one indiscretion: the non-disparaging quoting of a Randy Newman lyric with the n-word in the context of a 1/21/07 tower cab discussion with James Swanson in which he was explaining how ATC training was like fraternity hazing. My only real offense, frankly, was my failure to report to my superiors James' setting up his laptop in the tower cab on the evening of 1/20/07 and viewing a DVD of "Boondocks", with its intensively racial content including the use of the n-word dozens of times. For this one offense, I should be reasonably subjected to disciplinary action in the range from reprimand to 5-day suspension, as per Offense #32 in the Table of Penalties, FAA Human Resources

Operating Instructions (HROI). As always, I will responsibly accept this penalty, provided all others involved are also properly penalized. For the record, an objective analysis of your 7/28/08 proposal letter indicates an extraordinary count of lies and misleading statements by the manager and supervisor at Concord, and by four of the Concord controllers interviewed. In accordance with Offense #23 in the HROI Table of Penalties, the following Concord personnel would be impacted:

- Neville Jason Ralph, manager: REMOVAL
- Patricia Hardy, supervisor: REMOVAL
- William Marks, CPC and NATCA facility representative: REMOVAL
- Ken Moyer, CPC: REMOVAL
- John Crabtree, CPC: REMOVAL
- James Swanson, CPC: REMOVAL

Mr. Richards, it is clear that you and FAA management are gravely concerned about this matter, to the point that you are insisting on removing an employee with a clean FAA work history of nearly 22-years. I hope you agree that we need to finally resolve this matter, which has been ongoing in excess of 518 days. Therefore, I respectfully request that you either make me whole or reopen the investigation so as to achieve substantiation, dismissal and closure on its content. If you choose to make me whole, please do so with an apology letter, restoration of all my leave and LWOP, reimbursement of all my illegally mandated medical expenses, and placement into a non-ATCS position so that I may serve the public. If you choose to reopen the investigation, which frankly does not seem possible given the time that has passed and the evident pressures on other personnel to sustain their earlier lies (your present gag order on them is an example of that extreme pressure), please understand, I will provide my full cooperation and will gladly submit to a lie detector test fairly provided to all other Concord ATCT personnel.

I await your reply.



Jeff Lewis

ATTACHMENTS:

1. Letter, 8/22/08, Rebuttal to Andy Richards Removal proposal (22p)
2. Memo, 2/11/07, "Preparations for LC OJT" (2p)
3. Memo, 2/13/07, "My Written Statement for the ROI"
4. Memo, 2/11/07, "Misconduct Allegations, and a request" (ROI Exhibit #12)
5. Concord Tower cheatsheet, "Warning Signals of Potentially Violent Behavior" (2p)
6. Memo, 1/8/07, "Record of Conversation" by Jason Ralph (misdated as 1/8/06)
7. Memo, 1/14/07, "Jason Ralph memo to you re: your alleged behavior 1/8/07"
8. "The Policy", 6/30/89 memo, TTD ATCT (2p)

3/28/09