

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WESTERN REGIONAL OFFICE

JEFFREY LEWIS,

Complainant,

vs.

RAY LAHOOD, SECRETARY,
DEPARTMENT OF TRANSPORTATION,

Agency.

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* DOCKET NUMBER
* SF-0752-09-0139-I-1
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* Judge Craig A. Berg
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* February 13, 2009

**AGENCY'S SUPPLEMENTAL RESPONSE TO APPELLANT'S FIRST REQUEST
FOR PRODUCTION**

The Agency, through counsel, hereby files the following Supplemental Responses to Appellant's discovery requests served on December 30, 2008.

1. Printed and un-redacted copies of all emails, memos, letters and other correspondence between and among Jason Ralph, Patricia Hardy, Barry Davis, Dick Fossier, Gwen Marshall, Andrew Robinson, Dr. Goodman, Dr. Griswold, and Frank Ferrera, related to Appellant, from 1/1/2007 through 8/30/2007.

Response – Copies of responsive documents obtained from Human Resources are being copied and will be sent out the week of February 2, 2009. Through inadvertence, responsive documents were not requested from other listed individuals.

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Requests have been made and responsive documents not already produced in the Agency file are anticipated on being sent out by the end of the week of February 9, 2009.

Supplemental Response. Objection. Upon review of the responsive documents, a number of the documents contain pre-decisional or Privacy Act information relating to other individuals and are thus being withheld. Copies of the remaining documents are enclosed.

2. Printed and un-redacted copies of all emails, memos, letters and other correspondence between and among Jason Ralph, Andy Richards, Barry Davis, Roslyn Marable, Tim Kubik, and Mark Deplasco, related to Appellant, from 8/1/2007 through 10/31/2008.

Response – See response to Request 1.

Supplemental Response. Objection. Upon review of the responsive documents, a number of the documents contain pre-decisional or Privacy Act information relating to other individuals and are thus being withheld. Copies of the remaining documents are enclosed.

3. A printed copy of all emails and other correspondence referring the Accountability Board cases for Formal Security Investigation, in accordance with Order 1110.125A, para. 15(f).

Response – The document(s) has been requested from Security, and any responsive document is anticipated on being provided the week of February 2, 2009.

Supplemental Response. Objection. Upon review of the responsive documents, a number of the documents contain pre-decisional or Privacy Act information relating to other individuals and are thus being withheld. Copies of the remaining documents are enclosed.

4. Printed copies of all emails and other correspondence, between the Accountable Official and the Accountability Board, regarding disposition of Accountability Board cases 20070097 and 20070098, as per Order 1110.125A, para. 15(f).

Response – Responsive records are being copied and are anticipated on being provided the week of February 2, 2009.

Supplemental Response. Objection. Upon review of the responsive documents, a number of the documents contain pre-decisional or Privacy Act information relating to other individuals and are thus being withheld. Copies of the remaining documents are enclosed.

15. Printed copies of the corrected Agency File, to include the reserve side of the sheet with the 6/28/07 email from Appellant to Fossier.

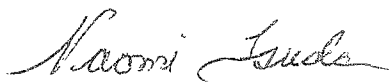
Response - This document is being copied and will be produced the week of February 2, 2009.

Supplemental Response. 6/28/07 email from Appellant to Fossier enclosed.

17 -21 (Note that responses to 17-21 were erroneously numbered No. 28 in the prior response. There is no supplemental response to these items.)

22. (Erroneously numbered at 23 in first response. There is no supplemental response to this item).

Respectfully submitted,



NAOMI TSUDA
Regional Counsel
Agency Representative

Dated: February 13, 2009

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CERTIFICATE OF SERVICE

I hereby certify that the attached **AGENCY'S SUPPLEMENTAL RESPONSE TO APPELLANT'S FIRST REQUEST FOR PRODUCTION** in MSPB Docket No.

SF-0752-09-0139-I-1 (JEFFREY LEWIS) has been sent by Federal Express mail to the following:

Ariel Solomon, Esq.
Tully Rinckey, PLLC
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Albany, NY 12205

Dated: February 13, 2009



Agnes Ebilane
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