

28242 S. Salo Rd., Mulino, OR 97042

tel. (971) 295-7669

Monday, July 23, 2012

FAA AWP, FOIA Office

~~-via email to Dolores Corpus-~~

Hi Dolores:

Please accept this as a request for records under the Freedom of Information Act (FOIA).

In a FOIA response letter received earlier this year, William Withycombe stated that Don Bobertz, "...performed a search of the case file...." The 'case' he was referring to was my MSPB case, as handled by Naomi Tsuda and Don Bobertz in early 2009.¹

For this FOIA, I am requesting complete copies of all records held by FAA in this 'case file', and all other records used or considered by AWP-7 in the handling of my MSPB case. This should include all emails sent by or received by Naomi Tsuda, Don Bobertz, and others in the AWP-7 offices (including cc copies, and including all email attachments). This should also include all records AWP-7 reviewed during the MSPB Appeal process. Some of these were released via MSPB Discovery phase; many of these were concealed as pre-decisional or citing Privacy Act, but were obtained years later, mostly via FOIA requests.

Please see the attached 2/13/09 pleading signed by Naomi Tsuda, "Agency's Supplemental Response to Appellant's First Request for Production." In fulfillment of this new FOIA request, all of these records now need to be released, using appropriate segregation of data, and with minimal redactions. There is no material pre-decisional relevance today, and there likely are few appropriate Privacy Act redactions. Furthermore, without regard to the propriety or ethics behind their actions, these concealed nonetheless reflect official business actions taken by FAA authorities, thus have no personal privacy value. In the event redactions are deemed necessary, please provide a Vaughan Index detailing a brief description of each element so redacted.

I agree to pay up to \$150 for this request. If you have questions, or if a higher fee agreement is needed, please call.

Thanks for your help.

Sincerely,



Jeff Lewis

¹ Agency improperly fired me on 11/6/08, six months prior to my becoming eligible to retire at age fifty. But, having been fired, I was no longer eligible to collect the annuity I had earned in 22-years of ATC service. I filed an MSPB Appeal in late November 2008. Although MSPB exists to ensure 'Merit Systems' and protect Due Process for employees, the MSPB looked the other way while AWP Counsel concealed the many exculpatory records from Discovery. Eventually, AWP Counsel forced a fraudulent settlement. It was another year, and many FOIA requests, before I began to see the more important concealed records.

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WESTERN REGIONAL OFFICE

JEFFREY LEWIS,	*	
	*	DOCKET NUMBER
Complainant,	*	SF-0752-09-0139-I-1
	*	
vs.	*	Judge Craig A. Berg
	*	
RAY LAHOOD, SECRETARY,	*	
DEPARTMENT OF TRANSPORTATION,	*	
	*	
Agency.	*	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.

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.

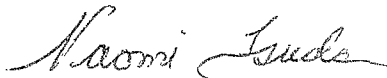
Response - This document is being copied and will be produced the week of February 2, 2009.

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

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
411 New Karner Road
Albany, NY 12205

Dated: February 13, 2009



Agnes Ebilane
Legal Technician
Office of the Regional Counsel
Federal Aviation Administration
Lawndale, California 90261