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Friday, November 2, 2012

Federal Aviation Administration
AFN-1, Asst. Administrator for Finance and Management
800 Independence Avenue SW
Washington, DC 20591

Dear Sir or Madam,

Please accept this letter as an **Appeal requesting reconsideration** of the Agency response to my FOIA request 2012-6826WP. I made the original FOIA request on 7/23/12. The first part of the FOIA response provided 662-pages of records responsive to Groups #1 and #3; it was dated 9/20/12 and signed by Don Bobertz, for Naomi Tsuda. The second part of the FOIA response provided 598-pages of records responsive to Groups #4 and #5; it was dated 10/12/12 and signed by Richard Cambra, for William Withycombe. I have paid FAA \$115.70 for the production of these records.

FOIA Exemptions #5 and #6 were liberally and excessively applied, and, in many cases, this misapplication is revealed by earlier FOIA productions. In the interest of brevity, I will summarize seven examples; please advise if you need to see supporting agency records:

- Jason Ralph's 4/17/07 at 1337 email, in which I was (again) slandered. This email was initially sent to ten FAA officials, including Teri Bristol, Barry Davis, Dennis Sullivan, Patricia Hardy, Dick Fossier, Gwen Marshall, Cindy Lopez-Hickson, James Austin, Richard Giles, Dr. Stephen Goodman, and Dr. Stephen Roberts. During winter 2009 MSPB Discovery, a copy was provided to FAA Counsel by multiple officials. FAA Counsel improperly concealed this record from Discovery,¹ and has partially redacted it from this FOIA response.
- Dick Fossier's 9/5/07 at 1358 email, also widely distributed, in which he declared I had been admonished. This critical record was also provided to FAA Counsel in winter 2009, and it also was concealed from Discovery. It was provided at page 358 of the 10/12/12 portion of the F12-6826 FOIA response.
- Barry Davis' 12/3/07 at 1501 email from Barry Davis to Teri Bristol and Monique France. In the 10/12/12 FOIA response, Ms. Tsuda and Mr. Withycombe chose to conceal email contents in which Mr. Davis advised Ms. Bristol that District Manager Andy Richards intended to discipline me, then reassign me to the tower at Santa Rosa. Teri Bristol provided a copy of this email to AWP Counsel during the

¹ This concealment ensured that the MSPB ALJ could not weigh this evidence in their duty to ensure justice in MSPB Case No. SF-0752-09-0130-I-1. No MSPB hearing was ever held; thus, malfeasances by FAA officials have never been investigated.

MSPB Discovery phase, but Ms. Tsuda then chose to redact it. She has again chosen to partially redact the copy in the F12-6826 response.

- Jason Ralph's 10/30/08 at 1043 email to Mark Deplasco and Ros Marable, to which he attached a full-page jpeg file of my smiling badge photo. This was provided to FAA Counsel, but it too was improperly concealed during MSPB Discovery. It was again concealed during the production of F12-6826, despite the fact there is clearly no valid use of FOIA Exemptions #5 or #6 for my own badge photo.
- Melanie Yohe's 1/27/09 at 0710 inquiry and Naomi Tsuda's 1/28/09 memo responding, with numerous false statements about the handling of FOIA records and MSPB records. Copies were fully redacted from the 10/12/12 portion of the F12-6826 response.
- Jason Ralph's 2/5/09 at 1823 email to Naomi Tsuda. FAA Counsel has concealed this from earlier FOIA responses, and provided a partially redacted copy at page 595 of the 10/12/12 portion of the F12-6826 response.
- Naomi Tsuda's two emails (2/20/09 at 1334, and again on 2/24/09 at 1955) in which she briefs numerous FAA officials about her efforts to convince the MSPB ALJ that a secure hearing venue with armed guards and metal detectors is needed. This would seem appropriate for an MSPB Appellant with a history of violence; what makes this slanderous is I have no such history. These emails were fully redacted from the 10/12/12 portion of F12-6826.

I believe that Mr. Cambra and Mr. Withycombe may not be aware of the impropriety of the excessive redactions (both partial-page and full-page) they signed for, in the response to F12-6826. ***For this Appeal, I ask that you immediately produce unredacted copies of the following partial redactions in the 10/12/12 portion of the F12-6826 response:***

- ***the 4/17/07 Davis email (at pg.406-07),***
- ***the 5/24/07 Davis email (at pg.408-09),***
- ***the 2/16/07 Davis email (at pg.410),***
- ***the 12/3/07 Davis email (at pg.411),***
- ***the 1/9/09 Tsuda email (at pg.592-93),***
- ***and the 2/5/09 Ralph email (at pg.595).***

I also request full disclosure of all copies withheld in full. There are more than 100 pages that were fully withheld from the 10/12/12 FOIA Response package.²

² In an email sent by Mr. Bobertz (10/31 at 9:15am), he advised that "...there were a total of 71 pages of Group 4 documents (MSPB Discovery) withheld, and a total of 38 pages of Group 5 documents (Tsuda and Bobertz emails) withheld."

Please fully comply with all FOIA timelines. If you expect to exceed the allowable processing time for this FOIA Appeal, please advise in writing what date I may use to file a complaint at my local U.S. District Court.

I await your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Lewis", with a stylized flourish at the end.

Jeff Lewis