

UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

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(202) 218-7910 FAX: (202) 482-6608

August 20, 2013

OFFICE OF THE GENERAL COUNSEL

Jeffrey N. Lewis
28242 S. Salo Road
Mulino, OR 97042

Re: ~~Federal Aviation Administration~~
Washington, DC
Case No. SF-CO-12-0544

Dear Mr. Lewis:

The Office of the General Counsel considered your appeal of the San Francisco Regional Director's dismissal of the above unfair labor practice charge. For the reasons discussed below, the General Counsel denies your appeal.

The Regulations at 5 C.F.R. § 2423.11(e) provide the following grounds upon which the General Counsel may grant an appeal of a Regional Director's decision to dismiss an unfair labor practice charge: (1) the decision did not consider a material fact that would have resulted in issuance of complaint; (2) the decision is based on a finding of a material fact that is clearly erroneous; (3) the decision is based on an incorrect statement or application of the applicable rule of law; (4) there is no Authority precedent on the legal issue in the case; or (5) the manner in which the Region conducted the investigation has resulted in prejudicial error. *Id.* and 5 C.F.R. § 2423.11(f).

On appeal, you contend, among other things, that the Regional Director's decision did not consider material facts that would have resulted in issuance of complaint, and is based on an incorrect application of applicable law. With regard to the former, you state that the Regional Director failed to consider all of the evidence. With regard to the latter you maintain that the Regional Director erred in failing to equitably toll the statute of limitations under 5 U.S.C. § 7118(a)(4).

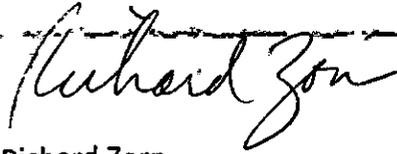
A review of the case file on appeal establishes that the investigation and regional deliberation of this case were conducted in accordance with the policies and procedures contained in the Office of the General Counsel's Unfair Labor Practice Casehandling Manual. You failed to establish any ground for reversing the Regional Director's decision or remanding the case for further investigation under 5 C.F.R. § 2423.11(e). The Regional Director's dismissal letter is the

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written statement of the reasons why she did not issue a complaint. See 5 U.S.C. § 7118(a)(1). The General Counsel affirms the Regional Director's reasons for not issuing a complaint. **The General Counsel denies your appeal and the case is closed.**

For the General Counsel.

Sincerely yours,



Richard Zorn
Assistant General Counsel
for Appeals

cc: Regional Director, San Francisco

Ryan S. Smith, Esquire, Associate General Counsel, National Air Traffic Controllers Association, AFL-CIO, 1325 Massachusetts Avenue, N.W., Washington, DC 20005