

8-7-08

Open communications are essential to good business

Thursday, August 7, 2008 10:24:35 PM

Jeff Lewis <lsjef@yahoo.com>

To: Andy.Richards@faa.gov  
080807..Extract, ROI receipt and last chance at disability.doc (21KB)

Andy,

Thanks for the reply. It looks like you can send me a copy on Monday, so I'll expect it.

I plan to pick up the certified letter tomorrow...I assume that will be the day your 15-day clock starts for my reply, right?

Given the incredible delays I have experienced from FAA in FOIA requests (most of which are still not finished) and getting the ROI last Fall (six months after I should have gotten it), can you entertain being more reasonable about your clock-start-date so I can get the necessary documentation? I am particularly concerned about the incomplete FOIAs from last September for Gwen Marshall (copies of the other contents of the Accountability Board Case Files), Dr. Goodman (copies of his notes from the 2/16 telecon Jason Ralph initiated, plus all other undisclosed notes/documents that would support the slanderous 6/7/07 memo that ended up in my secure personal medical file), and a list of and notes from all participants at the 2/16/07 Violence in the Workplace (ViWP) telecon Jason initiated. Your first proposal, two weeks ago, made me realize you read the ROI quite differently than I do, so I am now working feverishly to get FOIA answers that a few weeks ago I thought were not necessary (at that time, I thought someday I would hear from you my Return to Work Plan).

Anyway, it is quite evident, from the ROI and from the history these past eighteen months, that Jason slandered me at the ViWP telecon and the evidence needs to be brought forward...which would shed a necessary light of truth onto the many conflicting testimonies in the ROI that you are misapplying toward my proposed firing. So, again, is it possible you could entertain a little additional time and maybe some real cooperative assistance so we can move past the bureaucratic delays and lay out the facts...and finally find the truth in this case?

One last question, I assume from past experience that you have been keeping Records of Conversation for our interactions since last September, as I learned to do years ago (when dealing with hostile reprisal at my first ATC facility). You may know from our discussions that I had serious problems with the gross inaccuracies of the RoC's and memos that Patricia Hardy and Jason Ralph were in the habit of creating and intimidating me into signing. If you were not aware of this, let me know and I'll email a few samples and notes. Anyway, I learned long ago, a good work environment needs good leadership and no intimidation and, especially, open communications, all of which were seriously

SF-0752-09-0139-I-1  
Appellant Exhibit:

J-24

L7-1

absent at Concord. So, at this critical juncture in the process of trying to clean up this mess, would you like to exchange Records of Conversation and make sure we are understanding the other's position? I've attached a sample of some of my notes, a chronology of mostly the phone calls extracted from last Fall...the final weeks of my LWOP status to the point in time when Aeromedical finally agreed to their responsibility to pay for my psych eval (the second one, at least; they are still trying to see the light on round one, which was badly complicated by the liberties Jason took in February 2007). It also includes the process of you retroactively putting me on admin leave, and making the final offer to me of a medical disability, a month after my diagnosis was suspended at my request.

Initially, I had intended to provide you with notes from just a couple of our key conversations, but I noticed while extracting these notes that the other notes really help illustrate the hellacious emotional rollercoaster I was experiencing at the time. Unlike the RoCs produced by Patricia Hardy and Jason Ralph, these notes are factual. If you disagree with any of the notes I have recorded from our conversations, please provide an explanation of your disagreement and a copy of your own record of conversation.

I look forward to hearing from you, and getting a copy of the 9/5/07 email, too. And, that Performance Appraisal as soon as you can.

Thanks, J

---

SF-0752-09-0139-I-1  
Appellant Exhibit

J-25

L7-2

Extract of Communications Notes,

(Related to receipt of ROI F request, and last opportunity to take medical retire. , which I rejected)

8-7-08

9/27 9:39AM..called Richard Giles, left voicemail. Please call back to confirm status of ROI that I understand was sent to Pleasanton but recalled (not my address since May). Dick Fossier had advised me it was mailed to Pleasanton. Also, can he send it to me electronically? I would appreciate receipt soon as I am now 7-weeks LWOP. (he never called back)

9/27 10:32AM..called FAA Administrator's Hotline, because no letter has yet been received. I advised I had called 15-days ago and made a complaint about the manager at CCR ATCT. I also advised earlier this summer, in another Hotline Complaint, I had received a letter from Regional management in roughly two weeks...but none was received this time. Thus, I want to confirm the complaint is in process. She advised sometimes additional time is requested and granted. She took my name and number and will call back with information. (She called back at 11:35 and confirmed it is being worked but the Region was given the extension they requested. So, I can expect a letter in the next few days; letter rcvd 10/1 but does not address issue.)

9/27 11:00AM..called Andy Richards after just missing his call. He wanted to know if I had received the ROI; I said no, that I understood from Fossier it had been called back from Pleasanton and should be re-sent to me...but Fossier was not sure what was being done. Andy expressed disbelief that it could take so much time to get me a copy, said he'd talk to Fossier and try to fix the delays. Andy then asked me point-blank: are you interested in a medical retirement? He said he had been talking to Dr. Goodman and believes both he and Goodman would support that route. I expressed my concerns...especially the history about how I initially (in late June) considered the medical retirement route, but opted out after recognizing the onerous OPM disability requirements (the absurdity of my answers to Q1 and Q2 on the application, the ethical twist of having to fabricate a medical condition, the having to live the rest of my life haunted by "OK, go pay for an eval to prove you are still nuts" orders, and the prospect of NOT being able to work as a contract ATC in retirement). I asked him what if I do not accept the "offer"? and he said Dr. Goodman has advised they will have me go to another evaluation (he later added they have one selected in Marin County). I commented that they need also to pay for the eval Jason ordered; he did not commit to doing this, but listened to my explanation about how noncompliant the process was with both the old and new NATCA contracts. I noted I was already out \$14K in LWOP and over \$50K in total loss (expenses, LWOP, forced leave burn) which needed to be corrected. Re: Dennis Sullivan (who apparently kept no files on my case, or at least left his replacement with nothing), Andy said he went back to his old job at ZOA. I mentioned a Flight Surgeon in ANM who had worked with me 16 years ago and with whom I have talked a couple times this year...and who has expressed concerns about how Dr. Goodman et al are handling this case), and that his comment last week about Goodman's seniority and clout made me already reconsider accepting a disability retirement. I mentioned too that I was now talking to the FLRA and may be soon filing charges against NATCA for withdrawing my grievance with prejudice. I wrapped up by explaining that I would consider his "offer" but needed him to review my file (grievance.

SF-0752-09-0139-I-1

Appellant Exhibit: \_\_\_\_\_

J-26

L6.1

Extract of Communications Notes,*(Related to receipt of ROI F request, and last opportunity to take medical retire , which I rejected)*

letters to Sullivan, etc.) and check with others, to let me know how we would handle my medical expenses and lost pay. He said he would call back, but he never did.

9/28 8:30AM..called Shawna Richards, left voicemail. Asked she call back as I had a call from my hub manager encouraging me to carefully consider a medical retirement and I am trying to consider but need further info on my retirement benefits. Shawna called back ~9:50AM. I explained my call from Andy Richards and the issue of Dr. Goodman's clout; she stated nothing is certain, but I interpreted that I can probably rely on getting the disability approved. I asked about the Benefit estimate reports. Some notes: disability is \$300/month higher because it uses 40% while my regular retirement at age 50 is slightly under 40%; although I am eligible to retire at 50 and cannot work traffic after 56, the "recomputation" does not happen until age 62 (i.e., the annuity is constant until I turn 62). Also, while it was not calculated here, I do receive a FERS annuity supplement (substitutes for social security until age 62, when Social Security kicks in), which is typically \$800-1000, but can be higher (my 2/07 disability estimate states \$1,975/month). Shawna recommended I go to OPM.gov and search "disability" to further research; she is also emailing me a disability handbook.

10/1 11:57AM..called Shawna Richard, left voicemail. Asked she call back as I had additional questions following my research this past weekend. By end of day, Shawna had not called back.

10/2 6:55AM..called Rich Van Allman, acting manager (still), Administrative Services Group, WSA; left message requesting he call as I had his name as contact person for an Administrator Hotline complaint. His message said he was on leave until 9/10; I alerted him to this error.

10/2 7:14AM..called FAA Administrator's Hotline, and asked they pull the file for complaint 200709130003. Explained that the complaint was not answered as the letter refers to a different FOIA request. She read back most of the same letter (9/26) and said I should send a letter to Administrator's Hotline at FAA, 800 Indep... I said I'd send a letter with my concern.(done 10/4)

10/2 9:18AM..called Shawna Richard after just missing her call back. She knows nothing about disability years adding on to total service at age 62, so I said I'd email her a link.

10/2 9:32AM..called Rich Van Allman again. This time his message was in office but not available. I left no message as he likely has already listened to my earlier message.

10/2 late night..email to Shawna Richard with two links re: disability annuity calculations.

10/4, 0840..email to Andy Richards. He had not called back for a week, so I sent an email rejecting his disability retirement proposal and requesting four actions by him. An hour later, he called me.

SF-0752-09-0139-I-1 <b>Appellant Exhibit:</b>
--

Extract of Communications Notes,*(Related to receipt of ROI F... request, and last opportunity to take medical retire... which I rejected)*

10/4 9:45AM..call from Andy Richards. He advised ROI was sent yesterday, and confirmed it was sent certified. He acknowledged receipt of my email earlier this morning. Advised he would need to talk to Dr. Goodman to find out the details of my eval appointment; I noted I wanted us to follow the NATCA contract this time (unlike when Jason notified me last Spring) which meant I should be getting a letter from Aerospace Medicine detailing my status and giving me specifics for my appointment. I asked about the grievance which addressed that; Andy said he has talked to Dennis and Dave and he explains my grievance as having already gone through Step Two (first Patricia, then Jason)...thus, it appears the "FAA-line" is that it was OK for Caldwell to withdraw and nothing to happen at the Hub Manager level. I asked if he had talked to FAA legal counsel and I hoped they would confirm I needed to be placed back on paid admin leave retroactively...he said he'd look into it. He said he'd call back tomorrow. He did not call back.

10/8 8:30AM..called Carlette Young, left voicemail. Please call back so I can determine distribution of 9/24 FOIA request.

10/8 8:32AM..called Jene Zullo, left voicemail. Please call back so I can get sense of progress on FOIA requests and when I may start receiving materials. (No calls returned...today is Columbus Day Holiday).

10/9 ~noon..Jene Zullo called back. Says she has had many difficulties getting materials from Jason, but has my request nearly done. I told her that if she is stonewalled, please just forward that info to me asking what I want to do...so I can document the stonewalling. She said call any time.

10/10 ~6AM..went to Mulino PO and picked up certified letter copy of ROI sent by AWP700 (Giles).

10/14..received email from Shawna Richard: oddly, sent on Sunday morning. Confirms I am eligible for ATC retirement, in response to my email to her 10/5.

10/15 ~noon..call from Andy Richards. He advised I will receive a letter later this week with the following information: I will be given retroactive paid admin leave back to 8/30 (date Haldeman suspended diagnosis); I will be scheduled for a flight physical in Oregon (if I choose); after that, I will be scheduled for a repeat of the psych evaluation doctor my choice (I suggested Haldeman and Andy said he'd discuss that possibility with Goodman but noted it is ultimately Goodman's choice). I thanked him for the advance notice, but also added my remaining concerns: I have to be notified by Aerospace Medicine about these appointments (per Article 66 in BOTH contracts); I still need a reimbursement on the April evaluation; and I still need admin leave applied to the last three weeks of August. I also reinforced the need to finally truly consider the grievance. I did not mention I still

SF-0752-09-0139-I-1

**Appellant Exhibit:** \_\_\_\_\_

8-7-08

Extract of Communications Notes,

(Related to receipt of ROI F request, and last opportunity to take medical retirement, which I rejected)

need my AL and SL fully restored, but intend to do that after I get the written letter and submit my response.

10/23 9:30AM..called Carlette Young. Asked her about status of FOIA requests, said I was especially concerned about the one to Connie Toby forwarded to her, a part of which was sent to Aerospace Medicine. She asked and I gave her the tracking number: 7547. She looked it up and said I should have already heard from them. She will check into it and call me back.

10/23 2:47PM..called Carlette Young, left voicemail. Told her I was checking back as I had not heard from her. Asked her please call back; also alerted her to her having a voicemail message for being away the previous week.

11/1..rcvd letter from Dr. Goodman (erroneously dated 8/31/07) advising my flight physical had been received and I needed to provide another psychological evaluation from Dr. Haldeman, by 11//8/07, at my own expense. I made followup communications, advising of the erroneous date and pleading a case for their obligation to pay, per the NATCA contract. I also called NATCA to initiate a grievance filing and was referred to Scott Conde (Oakland Center).

11/9 10:00AM..rcvd FedEx from Dr. Goodman, which corrected the problems with their earlier letter. Now, FAA would pay and not due until 11/30/07.

11/9..after receiving FedEx from Goodman with a copy of Appendix 1 identifying psychological standard not met, I called Scott Conde to advise I would not need to send my grievance after all. The discussion was supposed to be 1-2 minutes, but ran closer to 20-minutes. Scott asked me, roughly "you do realize you are eligible and can definitely get a medical retirement, right?"

SF-0752-09-0139-I-1

Appellant Exhibit: \_\_\_\_\_

J-29  
L6-4