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Counsel's Office, White House

Fielding, Fred - General Files

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Office of Special Counsel Reports & Scott Bloch Issues: Bloch, Scott [Folder 2]



U.S. OFFICE OF SPECIAL COUNSEL

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The Honorable Scott J. Bloch Special Counsel

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On June 26, 2003, President George W. Bush nominated Scott J. Bloch for the position of Special Counsel at the U.S. Office of Special Counsel. The U.S. Senate unanimously confirmed Mr. Bloch on December 9, 2003. On January 5, 2004, he was sworn in to serve a five-year term.

In his tenure, Mr. Bloch has focused the agency on stepping up enforcement, doubling numbers of positive whistleblower disclosures that have brought greater integrity and efficiency to agencies in the executive branch, and going after wrongdoers in all areas of civil rights, illegal political activity and coercion of political activity in the federal workplace. He has increased enforcement of service member employment and reemployment rights during an historic mobilization of America's volunteer armed forces, and has resolved backlogs in all areas of enforcement at the Office of Special Counsel, so that for the last three years, there are no backlogs. He has emphasized greater outreach nationally and has appeared in the national media often to emphasize the work of the office and the great heroes, ordinary heroes who have the courage to blow the whistle, who are helping to bring our government to greater accountability.



Scott

Mr. Bloch brings over 17 years of experience to the Office of Special Counsel, including litigation, employment, lawyer ethics, and complex cases before state courts, federal courts and administrative tribunals. He briefed and argued cases before state and federal appellate courts and is admitted to practice in the United States Supreme Court.

From 2001-2003, Mr. Bloch served as Associate Director and then Deputy Director and Co-Chair of the Task Force for Faith-based and Community Initiatives at the U.S. Department of Justice, working on First Amendment cases, regulations, intergovernmental outreach, and programmatic initiatives. Serving in the Justice Department, he was a partner with Stevens & Brand, LLP, of Lawrensville, Ohio, where he practiced in the areas of civil rights law, employment law, and legal ethics. Mr. Bloch has tried cases before state and federal courts, representing employees and employers in cases involving whistleblower and other retaliation claims, as well as civil rights claims. He worked on important precedents in the field of legal ethics, including a ground-breaking Texas case that challenges the way plaintiffs' lawyers handle mass tort cases.

Mr. Bloch served as chair of his county Bar Ethics and Grievance Committee, investigating alleged breaches by attorneys of ethics rules, and making recommendations to the state Supreme Court on disciplinary action. He also served on the state board of discipline, hearing testimony and making findings on appropriate discipline of attorneys. For five years, he served as Adjunct Professor at the University of Kansas School of Law.

Mr. Bloch earned his bachelor's and law degree from the University of Kansas, where he graduated with honors from the Coif, and served on the Boards of Editors of *The Kansas Law Review* and *The Kansas Procedure Review*.

Mr. Bloch has published various articles including: "The Judgment of History: Faction, Politics and the Hatch Act," published in the *University of Pennsylvania Journal of Labor & Employment*, Pa. J. Lab. & Emp. L. 225 (2005), and "Don't Bury the Hatch Act: Hidden Dangers for the Legally Politically Active Prosecutor's Office Employee," published in *The Prosecutor* in the September 2004 issue (Vol.38/Number 5, Sept/Oct 2004).

Bakke, Mary Beth

From: Flood, Emmet T.
Sent: Friday, May 02, 2008 5:34 PM
To: Bakke, Mary Beth
Subject: Fw: OSC letter

Attachments: Scan001.PDF



Scan001.PDF (168
KB)

Pls print for Fred.

----- Original Message -----

From: jennifer.brosnahan@dot.gov <jennifer.brosnahan@dot.gov>
To: Flood, Emmet T.
Sent: Fri May 02 16:26:51 2008
Subject: OSC letter

Emmet -

D.J. Gribbin asked me to send you the attached letter. It was on his desk when he returned from his meeting with you at the White House today. How's that for timing.

Hope you have a good weekend.

Jenny



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

May 1, 2008

The Honorable Robert A. Sturgell
Acting Administrator
Federal Aviation Administration
U.S. Department of Transportation
800 Independence Avenue, S.W.
Washington, D.C. 20591

Re: Request for Preservation of Documents and Electronic Records and Data
OSC File Nos. MA-07-3041; MA-08-1726, et al.

Dear Acting Administrator Sturgell:

The United States Office of Special Counsel (OSC) is investigating allegations that individuals currently and formerly employed by the Federal Aviation Administration (FAA) retaliated against whistleblowers for disclosing circumvention of safety rules, regulations, protocols and policies as well as the intentional underreporting of operational errors by FAA personnel. Specifically, OSC has received allegations including, but not limited to, reprisal for reporting operational and safety-related disclosures from Aviation Safety Inspectors, Air Traffic Controllers, and other related FAA employees working in or under the Eastern Region, the Southern Region, the Southwest Region, the Great Lakes Region, as well as Dulles International Airport, Memphis International Airport, Detroit Metropolitan Airport, Juneau International Airport, and Dallas-Fort Worth International Airport.

OSC has determined that certain documents, records and data held by your agency are necessary to OSC's investigative fact finding efforts. Consequently, OSC makes the following request to preserve documents, electronic records and data for law enforcement purposes and in connection with the official investigation being conducted by OSC. The obligation to retain these materials requires that your agency communicate those obligations to employees in possession of these materials.

The Special Counsel, pursuant to the authority contained in 5 U.S.C. §§ 1212, 1216, 1303, and 7321-7326 and in Civil Service Rule 5.4 (5 C.F.R. § 5.4), requests that you preserve and retain the records listed below until OSC completes the above-referenced investigations:

1. The hard drive and work station, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by the Administrator and/or Acting Administrator of the Federal Aviation Administration, the Deputy Administrator, the Chief Operating Officer for the Air Traffic Organization (ATO), the Vice Presidents of the ATO, the Assistant Administrator for Region and Center Operations, the Assistant Administrator for Human Resource Management, the Central Service Director, the Alaska Regional Administration, the Alaska Regional Deputy

Administrator, the Great Lakes Regional Administrator, the Great Lakes Regional Deputy Administrator, the Southern Regional Administrator, the Southern Regional Deputy Administrator, the Eastern Regional Administrator, the Eastern Regional Deputy Administrator, the Southwest Regional Administrator, and the Southwest Deputy Regional Administrator.

2. The hard drive and work station, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by the DFW Air Traffic Manager and the DFW Air Traffic Assistant Manager, from January 1, 1998 to present, by immediately backing up and archiving these items. To the extent practicable, a copy of all data and records should be made to tape or compact disc and retained by your office.

3. The hard drive and work station, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by the Associate Administrator for Aviation Safety, the Director of Flight Standards Services, the Office of Air Traffic Oversight, the Air Traffic Organization for Safety, the Aircraft Certification Service, and all current and former personnel in the American Airlines and/or SWA Certificate Management Office from January 1, 2003 to present, by immediately backing up and archiving these items. To the extent practicable, a copy of all data and records should be made to tape or compact disc and retained by your office.

4. The hard drive and work station, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by any personnel of the Aviation Systems Integration Team or Aviation Systems Standards (AVN), from January 1, 2004 to present, by immediately backing up and archiving these items. To the extent practicable, a copy of all data and records should be made to tape or compact disc and retained by your office.

5. All data or documents, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by any present or former employee of the Federal Aviation Administration having any relation to the above-referenced allegations, including but not limited to, data received from the National Association of Air Traffic Controllers, the Professional Aviation Safety Specialists and the Professional Airways Systems Specialists from January 1, 1998 to present, by immediately backing up and archiving these items in the manner described in paragraph one above.

6. All data or documents, including data files, email files, calendars, telephone logs, computer logs, laptop hard drives, personal computers, and personal digital assistants or organizers used by any present or former employees of the Federal Aviation Administration, including but not limited to, supervisors and managers assigned to Flight Inspection Center Operations, Terminal Radar Approach Control (TRACON) and Tower operational managers

The Honorable Robert A. Sturgell
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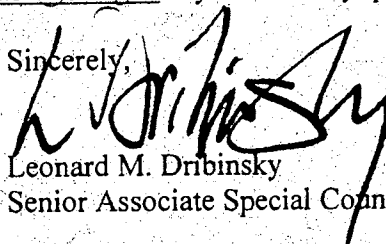
and operational supervisors, human resources staff at the Southwest Regional Office, the Eastern Regional Office, the Great Lakes Regional Office, the Alaska Regional Office, and the Southern Regional Office, and the airports identified herein, Quality Assurance personnel and the Office of Air Traffic Oversight personnel, who reviewed, commented, documented or investigated any of the aforementioned matters, by immediately backing up and archiving these items in the manner described in paragraph one above.

This request that the FAA preserve and retain evidence will be followed by a specific request from OSC that your office search through the items enumerated in paragraphs one through five above. OSC's request will contain key words that should be used in your office's search of the materials. We anticipate your office would review the items retrieved under the defined search parameters to ensure that no disclosures are made which otherwise are prohibited by law or regulation.

Please provide notification of compliance with this request by May 12, 2008. Notification can be made by email message to Tony Cardillo, Dallas Field Office Chief, at tcardillo@osc.gov. In addition, the notification shall describe the methods used to accomplish compliance with this request (e.g., affirmative instruction to FAA employees to preserve information that may be responsive to this request, suspension of business practices that if carried out may result in the deletion of information relevant to this matter, etc.).

Thank you in advance for your assistance. If you need further information, please contact Tony Cardillo at (214) 747-1519 or tcardillo@osc.gov if you have any questions.

Sincerely,



Leonard M. Dribinsky
Senior Associate Special Counsel

LMD:CAMC:ATC:AMG/ag

cc: The Honorable Mary E. Peters, Secretary
Mr. D. J. Gribbin, General Counsel
Mr. Kerry B. Long, Chief Counsel, FAA



FBI agents remove boxes of documents from the office of Scott J. Bloch, head of the Office of the Special Counsel, as part of an investigation of prohibited political activity by federal employees.

Agents raid OSC chief's office, home Bloch investigated in acts against whistleblowers

By Jerry Seder
THE WASHINGTON TIMES

Federal agents yesterday raided the office and residence of Office of Special Counsel head Scott J. Bloch as part of an ongoing criminal investigation into accusations that he obstructed justice.

FBI spokesman Richard Kolko in Washington confirmed that agents from the bureau's Washington field office, along with investigators from the inspector general's office at the Office of Personnel Management (OPM), "conducted a number of court-authorized federal search warrants," but declined further comment.

Law enforcement authorities said nearly three dozen agents seized computers and reports from Mr. Bloch's office and Virginia home in an investigation into accusations he intimidated and retaliated against whistleblowers among staff members working at the OSC. The OSC was established in the 1970s as an independent agency to protect whistleblowers and shield federal employees against improper management.

Mr. Bloch served on the Justice Department's Task Force for Faith-Based and Community Initiatives and was named by President Bush to head OSC four years ago. But the agency has been at odds with the White House during his tenure.

The OPM inspector general,

at the behest of the president's Office of Management and Budget (OMB), has been investigating a complaint by OSC staff members and others, including the Project On Government Oversight (POGO) and the Public Employees for Environmental Protection (PEER), who accused Mr. Bloch of interfering in cases involving the Hatch Act, which prohibits federal employees from engaging in partisan political activity.

At the same time, Mr. Bloch's staff has been conducting an ever-expanding investigation into questions of whether Bush administration officials, including former political adviser Karl Rove, illegally participated in partisan politics on the job.

Rep. Thomas M. Davis III of Virginia, the ranking Republican on the House Committee on Oversight and Government Reform, said the FBI raid on Mr. Bloch's office and home "reconfirms the need for this committee to continue its investigation of allegations that Mr. Bloch misused his government computer for personal business."

Mr. Davis asked Rep. Henry A. Waxman, California Democrat and committee chairman, to subpoena Mr. Bloch for a sworn deposition "so that we may obtain the answer to all questions the committee may have," including responses to questions Mr. Bloch has refused to answer.

The OSC probe, which ini-

tially focused on possible Hatch Act violations at the General Services Administration (GSA), was expanded to include whether anyone in the executive branch used federal resources for partisan purposes, conducted partisan political business on federal time or tried to coerce federal employees into taking partisan political actions.

Included were political presentations and e-mail exchanges involving Cabinet offices and the executive branch coordinated through the White House and Mr. Rove's office. The inquiry has focused on 20 briefings the White House acknowledged giving to federal employees on the election prospects of Republican candidates, including a January briefing by Bush aide J. Scott Jennings to political appointees at the GSA.

Last week, GSA chief Lurita A. Loean was asked to step down after an April 29 meeting at the White House with Chief of Staff Joshua B. Bolten and Counsel Fred F. Fielding.

The OPM investigation of Mr. Bloch centered on a complaint filed in 2005 that he created a hostile work environment with retaliatory acts against his employees, that a dozen employees thought to be whistleblowers were involuntarily reassigned, and that Mr. Bloch did not enforce bans on workplace discrimination based on sexual orientation.

The Washington Times
May 7, 2008

Bakke, Mary Beth

From: Flood, Emmet T.
Sent: Tuesday, May 06, 2008 1:23 PM
To: Fielding, Fred F.
Cc: Bakke, Mary Beth
Subject: FW: press on the Bloch search warrants...

FYI

From: Fratto, Tony
Sent: Tuesday, May 06, 2008 1:18 PM
To: Stanzel, Scott M.; Perino, Dana M.; Flood, Emmet T.; Teuber, Terri M.; Mamo, Jeanie S.
Subject: FW: press on the Bloch search warrants...

From: Roehrkaase, Brian [mailto:Brian.Roehrkaase@usdoj.gov] ✓
Sent: Tuesday, May 06, 2008 1:16 PM
To: Fratto, Tony; Bergman, Cynthia L.
Subject: FW: press on the Bloch search warrants...

We are not commenting.

Fyi... (this just hit the wires)

WSJ: FBI Agents Raid Office Of Special Counsel

By John R. Wilke

Of THE WALL STREET JOURNAL

WASHINGTON (Dow Jones)--Federal Bureau of Investigation agents are raiding the Office of Special Counsel here, seizing computers and documents belonging to the agency chief, Scott Bloch, and staff.

More than a dozen FBI agents served grand jury subpoenas shortly after 10 a.m. EDT, shutting down the agency's computer network and searching its offices, as well as Bloch's home. Employees said the searches appeared focused on alleged obstruction of justice by Bloch during the course of a 2006 inquiry into his conduct in office.

The independent agency, created by Congress in the wake of the Watergate scandal, is charged with protecting federal employees and deciding whether their complaints merit full-scale investigation - a first line of defense against fraud and mismanagement in government. It also enforces a ban on U.S. employees engaging in partisan political activity.

(This story and related background material will be available on The Wall Street Journal Web site, WSJ.com.)

The Wall Street Journal reported last Nov. 28 that Bloch had used "Geeks on Call," an outside

computer-service firm, to erase his computer

and those of two former staff members in December 2006. Bloch's agency

is typically involved in sensitive investigations of alleged government wrongdoing. Before the departure of White House political director Karl Rove, Bloch's staff was looking into whether he or other White House officials improperly used federal agencies to help re-elect Republicans in 2006.

At the same time, Bloch has been under investigation himself since 2005. At the direction of the White House, the federal Office of Personnel Management's inspector general is looking into claims that Bloch abused his investigative authority, improperly retaliated against employees or dismissed whistleblower cases without adequate examination.

The computer erasures became part of that investigation and are one of the reasons behind Tuesday's raid, employees said. Investigators were trying to determine whether the deletions were improper or part of a cover-up, the Journal article reported.

Bypassing his agency's computer technicians, Bloch phoned 1-800-905-GEEKS, the mobile PC-help service. It dispatched a technician in one of its signature PT Cruiser wagons. In the Journal story, Bloch confirmed that he contacted Geeks on Call but said he was trying to eradicate a virus that had seized control of his computer. He said the erasures didn't delete any files related to the inquiry.

Bloch was in the office this morning during the raid and could not be reached for comment. The search is still under way, witnesses said.

-By John R. Wilke, The Wall Street Journal; 202-862-6625

(END) Dow Jones Newswires