



UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

December 14, 2010

MEMORANDUM FOR: Dr. Jane Lubchenco
Under Secretary of Commerce
for Oceans and Atmosphere
Todd J. Zinser
FROM: Todd J. Zinser
SUBJECT: GCEL Performance Management and Other Issues

This is in follow-up to our *Review of NOAA Fisheries Enforcement Programs and Operations*, for which we issued three separate reports, the most recent in September 2010 principally addressing issues involving NOAA's Office of General Counsel for Enforcement and Litigation (GCEL) in the Northeast Region. Presented below are three issues we believe are important to call to your attention: (a) identified weaknesses in the performance management process for GCEL's enforcement attorneys; (b) a problematic statement and questionable timing for an award issued to a Northeast Region [REDACTED]—involving an ongoing proceeding at the time; and (c) a safety-related concern raised by [REDACTED] in the Northeast Region.

Significant weaknesses in the process for evaluating GCEL enforcement attorney performance

In the course of our *Review* in examining issues involving NOAA fisheries enforcement personnel, we examined performance appraisals for GCEL attorneys. We reviewed 64 GCEL attorney appraisals provided to us for the five-year period of Fiscal Years (FY) 2005-09. We found GCEL's process for evaluating the performance of its enforcement attorneys¹ to be essentially pro forma (e.g., only one appraisal had written comments of any sort from rating officials, none contained an employee self-assessment, and the appraisal form offered just two rating choices: pass/fail). We also found, fundamentally, inattention by GCEL management to the basic requirements for completing appraisals (e.g., missing employee and supervisor signatures)—reflecting a lack of proper care and regard for this important performance management function.

We expressed our observations about the condition GCEL's appraisal process to GCEL management in fall 2009, and the then-Assistant General Counsel for Enforcement and Litigation acknowledged that the appraisals had been generic, cursory, and incomplete. He also advised us that NOAA was exploring a multi-level appraisal rating system for GCEL and other attorneys, but that implementation of such a system required negotiation with the union representing GCEL attorneys. Recently, we obtained GCEL's FY 2010 appraisals, which, while showing improvement in how they were completed, still lacked any narrative comments on

¹ During this five-year period the number of GCEL enforcement attorneys varied, up to a total of 16 individuals.



attorney performance from rating officials, did not include any employee self-assessments, and remained pass/fail.

Recognizing the importance of multi-level appraisals, the Department began implementation of a five-level performance appraisal system in October 2005, as now prescribed in Department Administrative Order (DAO) 202-430, "Performance Management System."² The current Departmental Office of Human Resource Management home-page on the Commerce Department public website includes the following about this effort:

"[T]he Department made a commitment to develop a performance management system which makes meaningful distinctions in performance. It is widely acknowledged that 2-level systems do not make these distinctions."³

The following Congressional testimony of the U.S. Office of Personnel Management's then-Deputy Director in 2006 underscores the importance placed on multi-level performance appraisal systems, while at the same time rejecting pass/fail appraisal:

"Also noteworthy is the fact that most agencies have already or are in the process of moving away from pass/fail appraisal programs and are implementing new, multi-level programs... Here again...adding a clear legislative ban on pass/fail appraisal...would be very valuable."⁴

We note that the same pass/fail performance plan and appraisal form used by GCEL in past years is in place for FY 2011. While our understanding is that NOAA has been in union negotiations for two years on implementing a multi-level appraisal rating system, this should not preclude GCEL rating officials, in the meantime, from making meaningful distinctions in attorney performance through narrative comments in appraisals.

In reviewing the 64 GCEL appraisals for the five-year period, we found the following:

- Only 8 appraisal forms (12.5%) showed completion of all required elements of the appraisal process, as prescribed by NOAA Administrative Order (NAO) 202-430, "NOAA Performance Management Program."⁵

Under NAO 202-430, performance appraisals require completion of four distinct sections: *Performance Plan* (at the beginning of the rating period, with signatures of the employee and

² Available at http://www.osec.doc.gov/omo/dmp/daos/dao202_430.html; last accessed December 9, 2010.

³ Available at http://hr.commerce.gov/Practitioners/PerformanceManagementandAwards/DEV01_006174; last accessed December 9, 2010.

⁴ Hearing on "Enhancing Employee Performance," before the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, Senate Committee on Homeland Security and Governmental Affairs, June 29, 2006.

⁵ Available at http://www.corporateservices.noaa.gov/ames/NAOs/Chap_202/naos202_430.html; last accessed December 9, 2010.

supervisors); *Progress Review* (during the period, with initials of the employee and supervisors); and *Summary Level Review* and *Performance Certification* (end of period, requiring signatures of the “Rating Official,” “Reviewing Official,” and the employee). See attached example with itemized discrepancies.

- All but one appraisal reflected a *Summary Level* rating of “Meets or Exceeds” performance expectations. One attorney (no longer employed) was assigned a “Does Not Meet” rating.

The performance appraisal form consists of only two choices for the *Summary Level* rating: “Meets or Exceeds” or “Does Not Meet”. The appraisal form similarly provides for these same two rating choices for the four underlying *Critical Elements* of expected performance (*Responsiveness to Superiors, Organizational Effectiveness, Client Relations, and Technical Legal Ability*).

- Only one appraisal included any written comments from rating officials regarding attorney performance; this single appraisal was for the above-referenced attorney assigned the rating of “Does Not Meet” expectations.

Per NAO 202-430, rating officials are encouraged to include narrative comments in appraisals. DAO 202-430 and the Department’s “Performance Management Handbook”⁶ require rating officials to provide either an overall narrative justification of the *Summary Level* rating and/or a written justification for each *Critical Element* of expected performance.

- No appraisal contained or made any reference to an employee’s self-assessment of performance.

NAO 202-430 provides that employees may submit, and rating officials may solicit, self-assessment of performance during the rating period, for consideration in appraisal preparation.

- Only 8 of the appraisals (12.5%) were signed by the ratee at the end of the rating period (and absent any explanatory note that the employee declined to sign the appraisal)—thereby leaving uncertain whether rated attorneys ever received their appraisals at year’s end.
- 39 appraisals (61%) lacked the required *Progress Review*.

NAO 202-430 and the Department’s “Performance Management Handbook” require managers to conduct at least one documented *Progress Review* with employees during the rating period. The Deputy Assistant General Counsel for Enforcement and Litigation maintained a separate table for FY 2009 performance plan information indicating the dates he performed progress reviews for each of the enforcement attorneys; however, this is not consistent with the process required for documenting progress reviews on individual

⁶ Available at http://hr.commerce.gov/Practitioners/PerformanceManagementandAwards/DEV01_006173; last accessed December 9, 2010.

performance plans, with written acknowledgement by both the rating official and the employee.

- 16 appraisals (25%) were not signed by the “Rating Official” and/or “Reviewing Official.”
- 13 appraisals (20%) did not contain ratings for the individual *Critical Elements* of performance.

Based on these observations, we recommend that NOAA institute a more rigorous performance appraisal process as an integral part of its plans to improve performance management of GCEL. In particular, NOAA needs to follow-through on its expressed intention to implement a multi-level appraisal system, in keeping with Departmental and government-wide practice, in order to qualitatively assess and distinguish between levels of performance.

Actions that NOAA could take to implement this recommendation include (a) requiring that appraisals include accompanying narrative to provide qualitative management feedback, consistent with that required by the Department’s “Performance Management Handbook”; (b) soliciting voluntary self-assessments from employees for use in preparing and inclusion with appraisals; and (c) ensuring employees are placed on established performance standards at the beginning of the rating period, receive documented *Progress Reviews* as required by NAO 202-430, and that appraisals are properly completed at year’s end—to include completion of all sections of the form and obtaining all necessary signatures/initials.

Problematic statement and questionable timing for an award issued to a Northeast Region

We recently learned [REDACTED] of an approved \$2,000 “Special Act or Service Award” presented to a [REDACTED] in the Northeast Region in July 2001, commending the attorney’s efforts on a particular ongoing enforcement case and hearing. The attached award recommendation and justification form, signed by the [REDACTED] for [REDACTED] and approved by the [REDACTED] includes the following statement in the narrative section:

“It was a high stakes game and the respondent was fighting back as he stands to lose his license, and his livelihood and be fined \$250,000.”

We find it relevant to your reform efforts that GCEL’s justification for this award—constituting an official agency record—would characterize an enforcement case and proceeding as a “*high stakes game*.” We note that the above-referenced award was issued to the same Northeast Region [REDACTED]

[REDACTED] The description of this enforcement matter by GCEL management at the time as a “*high stakes game*” reinforces the adverse perception in the Northeast regarding GCEL and NOAA’s approach to regulatory enforcement cases. It is our understanding that [REDACTED] and that you have

initiated other reforms in the management of GCEL, including the appointment of a new Assistant General Counsel for Enforcement and Litigation.

We further find it troubling that the GCEL attorney received this award during the pendency of the subject enforcement proceeding—five months before the presiding administrative law judge rendered a final ruling, by which NOAA prevailed against the fisherman. The referenced enforcement case is included in our September 2010 complaint examination report (Appendix A, No. 21). Ultimately, under terms of a June 2005 settlement agreement, the fisherman sold his vessel and permits in order to pay imposed fines and left the commercial fishing industry. During our *Review of NOAA Fisheries Enforcement Programs and Operations*, the fisherman contacted us with his complaint that GCEL unfairly delayed the sale of his vessel and permits for two years, causing undue financial hardship, including possible foreclosure of the fisherman's family home.

Our examination of this complaint found it to be inconclusive and we identified it as "Appropriate for Further Review" in our September report. Based on the potential relevance, we will be providing information concerning this award to the Special Master recently appointed by the Secretary to review certain NOAA enforcement cases.

Safety-related concern voiced by a Northeast Region senior GCEL attorney

During the course of our *Review of NOAA Fisheries Enforcement Programs and Operations*, several NOAA personnel in the Northeast expressed concern about their safety and that of their fellow enforcement employees, stemming from what they heard and felt would be angry reactions from industry members to our reported findings. At the time, due to the non-specific nature of such concerns, we advised them to apprise their senior management and pursue any protective measures as may be appropriate.

Recently, an industry party sent us the attached email message, dated March 8, 2010, captioned "Blood in the water," from a senior GCEL enforcement attorney in the Northeast Region (a different individual than the attorney referenced above), addressed to GCEL senior management along with NOAA's Deputy General Counsel. Although the message did not identify a specific threat to any particular person, the attorney expressed strong concern that NOAA enforcement personnel could get hurt physically consequent to our reporting the results of our review, including our testimony before Congress. The attorney also related in the email that this concern was shared by others, stating, "It's not just my own paranoia that leads to my concern for agents', attorneys', or other employees' safety." The email further included the following:

"I've had an agent tell me about hearing of someone he's investigated...allegedly training himself to hold his breath underwater for long periods so that if he has an opportunity to bring an agent with him overboard, he'll last longer underwater than the agent..."

While the email did not name any possible perpetrator, based on the concern conveyed by this GCEL attorney, we request that NOAA expeditiously inform us of any known threats of physical harm to NOAA fisheries enforcement personnel should such be communicated. We take threats

to Departmental personnel seriously and will promptly take or coordinate appropriate action in response.

We appreciate your continued personal attention to NOAA's fisheries enforcement program, and the many substantive actions you have taken and announced to date in furtherance of reform. Please apprise us within 60 days of any action in response to the foregoing issues we have identified and our recommendations.

If you have any questions, or if we can be of further assistance, please do not hesitate to call me at 202-482-4661.

Attachments

cc: Lois Schiffer
General Counsel, NOAA

Cameron Kerry
General Counsel, U.S. Department of Commerce

Identified Discrepancies in GCEL Attorney Performance Plan and Appraisal (Attached)

1. The employee acknowledged receipt of the performance plan nearly 7 months into the performance period.
2. Management certified the position description during the final month of the performance period and 5 months after the employee acknowledged receipt of the performance plan.
3. The employee was not rated in any of the 4 critical elements of the performance plan.
4. The performance indicators list was not completed.
5. The progress review is dated the same as the date that the employee acknowledged receipt of the performance plan. There is no subsequent progress review noted.
6. There are no narrative comments from either the rating or reviewing official, and no indication whether the employee submitted a self-assessment.
7. The end-of-rating period performance certification signatures of the rating and reviewing officials are not dated.
8. The employee did not sign and date the completed appraisal.

Attorney-Advisor (General), GS-905-14 (Type III, Level D)

I. INTRODUCTION

The incumbent works on cases or legal issues of extreme complexity characterized by one or more of the following: 1) extremely complex and difficult legal or factual issues requiring a high order of legal endeavor with the incumbent often having to balance conflicting interests; 2) matters that can have the effect of substantially broadening or restricting the activities of an agency or have an important impact on a major industry whose economic position affects the health and stability of the general economy; or 3) the matter involves, directly or indirectly, very large sums of money and are frequently vigorously contested by extremely capable legal talent.

II. MAJOR DUTIES AND RESPONSIBILITIES

Performs a variety of legal duties relative to cases or legal issues of extreme difficulty as characterized by one or more of the traits described above in I. The incumbent may act as the primary legal counsel to a significant operating program or in adversarial proceedings where legal questions posed are of an extremely complex nature. Where the incumbent is reviewing applications for specific governmental approval or protection, the types of applications reviewed will have one or more of the characteristics outlined in I. above. The incumbent will have the final approval authority relative to the application and will normally review and approve the work of lower graded attorneys.

III. FACTOR LEVEL DESCRIPTIONS

Factor 1. Knowledge Required By the Position Level 1-8 1550 points

Knowledge of research strategies and techniques sufficient to research the most complex legal issues. The issues researched are almost always factually complex and are in areas of the law which are often in a continual state of evolution, thus requiring atypical and innovative research strategies. Knowledge at the expert level of the controlling statutes, regulations, and case law pertaining to the subject matter of the particular issue sufficient to develop legal opinions whether through the litigation process or administratively, which may alter the state of the law in the particular area or expand the charter of the agency. Skill in oral and written expression sufficient to pursue the particular legal issue against opposition which vigorously contests the agency position and is highly sophisticated and talented usually involving top attorneys in both the private and public sector.

Factor 2. Supervisory Controls Level 2-4 450 points

Independently plans and organizes work, investigates the facts, searches legal precedents, drafts the necessary legal documents, and develops conclusions and recommendations. Completed work is assumed to be accurate with respect to legal citations, treatment of facts and other aspects of technical treatment and may be subject to review for soundness

of approach and argument, application of legal principles, and consistency with governing policies, procedures, and regulations of the agency.

Factor 3. Guidelines Level 3-5 650 points

Guidelines relative to the specific legal problem are usually lacking or relatively unclear. Consequently, the incumbent must apply ingenuity and judgment in interpreting the guidelines which do exist such as relevant case law, legal references, agency guidelines and regulations and relevant legal theories. Frequently, the incumbent is recognized as an expert in their specific area of the law and expected to deal with those legal issues for which there is little direct guidance.

Factor 4. Complexity Level 4-5 325 points

The complexity of legal matters is characterized by difficult legal or factual questions. There is often an absence of clearly applicable precedents due to the novelty of the issue and the complexity of the factual situation. In choosing the correct legal strategy for resolving the specific legal issue, the incumbent must apply a sound knowledge of the specific legal field and creativity to adapt legal theories to the specific factual situation.

Factor 5. Scope and Effect Level 5-6 450 points

Legal matters dealt with at this level can have the effect of substantially broadening or restricting the activities of an agency or have an important impact on a major industry whose economic position affects the health and stability of the general economy.

These matters also typically have an important impact on major private or public interests and involve, either directly or indirectly, very large sums of money and are frequently vigorously contested by extremely capable legal talent. At this level, interest in the legal matter is normally nationwide.

Factor 6. Personal Contacts Level 6-3 60 points

Contacts are with high level personnel within the agency as well as high level personnel in other agencies. Contacts may also be with industry representatives, defendants, petitioners and their attorneys, State and local government officials, and private organizations. Contacts are in a relatively unstructured setting with incumbent required to exercise a great deal of discretion.

Factor 7. Purpose of Contacts Level 7-3 120 points

Purpose of contacts at this level is normally to present complex cases, legal opinions or program advice which requires the incumbent to be able to motivate and convince the parties at issue to accept the position of the incumbent. Therefore, the incumbent must be skillful in presenting their case in order to gain the desired effect. When providing legal

advice to program officials, the incumbent must be skillful in presenting the legal options and their ramifications.

Factor 8. Physical Demands Level 8-1 5 points

The work is sedentary requiring no special physical demands.

Factor 9. Work Environment Level 9-1 5 points

The work environment involves everyday risks or discomforts which require normal safety precautions typical of such places as offices, meeting and training rooms, and libraries.

III-D

This position is exempt from coverage under the Fair Labor Standards Act.

IV. UNIQUE POSITION REQUIREMENTS

The incumbent is required to complete a Confidential Financial Disclosure Report (OGE Form 450), within 30 days after entrance-on-duty date, and annually thereafter.

PERFORMANCE PLAN, PROGRESS REVIEW and APPRAISAL RECORD	Employee's Name:
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PART I. PERFORMANCE PLAN

A. CRITICAL ELEMENTS <i>(LIST at least TWO but no more than FIVE)</i> <i>(Expand size of blocks as desired)</i>	B. RATING <i>(Mark One)</i>	
<p>1. RESPONSIVENESS TO SUPERIORS: Responds to requests for information from superiors; Advises superiors of potential legal problems having a substantial impact upon policies of the Secretary, superior Departmental officials, or Departmental programs; Advises superiors of new or amended programs which change existing policy or strategy, or establish new policy or strategy; Advises superiors of program policy initiatives, which may include legislative and/or regulatory actions; Participates in meetings, seminars, task forces, speeches on behalf of superiors</p>	Meets or Exceeds	Does Not Meet
<p>2. ORGANIZATIONAL EFFECTIVENESS: Support superiors in establishing internal systems, processes, procedures for accomplishing goals of the office (e.g., filing systems, computer system effectiveness, follow up systems, case processing improvements) Establish work plans, methods, and priorities; Manage workload; Review actions, initiatives, etc., to ensure they conform to the goals of the office; Utilize personal leave effectively, exhibit good attendance and leave habits; Participate in inter-office projects by contributing ideas, improvements, and enhancements to present systems or programs;</p>	Meets or Exceeds	Does Not Meet
<p>Coordinate actions/information with other staff members.</p>		

**PERFORMANCE PLAN, PROGRESS
REVIEW and APPRAISAL RECORD**

Employee's Name:

3. CLIENT RELATIONS:

Provide legal services, including representation in litigation; produce opinions, pleadings, documents; review regulations, communications, issuances and replies to correspondence;

Develop and maintain sound legal procedures to carry out existing programs of the client or new programs initiated by the client;

Identify potential legal problems arising from the client programs and provide sound advice to avoid adverse effects, including the suggestion of sound legal alternatives which will accomplish client objectives;

Provide referrals for the client to the appropriate Departmental OGCs for assistance with legal problems outside the expertise of NOAA OGC;

Provide written communications to the client clearly and concisely;

Acquire and maintain confidence of the client;

Avoid exercise of client's discretion in final policy decision-making process.

Meets
or
Exceeds

Does
Not
Meet

4. TECHNICAL LEGAL ABILITY:

Keep current on changes in laws, as related to areas of assignment/responsibility;

Provide accurate interpretation of the law;

Use articulate communication, both oral and written, on legal subjects under area of assignment/ responsibility.

Meets
or
Exceeds

Does
Not
Meet

PERFORMANCE INDICATORS

<i>For each Performance Indicator listed below, circle the number of each Critical Element (from Part I) that is applicable, in the right column:</i>	Applicable Critical Elements
I. QUALITY	
A. Knowledge of Field or Profession: Maintains and demonstrates technical competence and/or experience in areas of assigned responsibility.	All 1 2 3 4 5
B. Accuracy and Thoroughness of Work: Plans, organizes, and executes work logically. Anticipates and analyzes problems clearly and determines appropriate solutions. Work is correct and complete.	All 1 2 3 4 5
C. Soundness of Judgment and Decisions: Documents assignments carefully. Weighs alternative courses of action considering long- and short-term implications. Makes and executes timely decisions.	All 1 2 3 4 5
D. Effectiveness of Written Decisions: Presentation meets objectives, is persuasive, tactful, and appropriate to audience. Demonstrates attention, courtesy and respect for other points of view.	All 1 2 3 4 5
E. Timeliness in Meeting Deadlines: Completes work in accordance with established deadlines.	All 1 2 3 4 5
F. Other (specify):	All 1 2 3 4 5

II. TEAMWORK	
A. Participation: Willingly participates in group activities, performing in a thorough and complete fashion. Communicates regularly with team members. Seeks team consensus.	All 1 2 3 4 5
B. Cooperation: Supports team initiatives. Demonstrates respect for team members. Seeks team consensus.	All 1 2 3 4 5
C. Leadership: Provides encouragement, guidance, and direction to team members as needed. Adjusts leadership style to fit situation.	All 1 2 3 4 5
D. Other (specify):	All 1 2 3 4 5

III. CUSTOMER SERVICE	
A. Quality of Service: Delivers high quality products and services to both external and internal customers. Initiates and responds to suggestions for improving service.	All 1 2 3 4 5
B. Timeliness of Service: Delivers quality products and services in accordance with time schedules agreed upon with customer.	All 1 2 3 4 5
C. Courtesy: Treats external and internal customers with courtesy and respect. Customer satisfaction is high priority.	All 1 2 3 4 5
D. Other (specify):	All 1 2 3 4 5

PART II. PROGRESS REVIEW COMMENTS

Date(s) of reviews and initials of employee and rating official must be provided for each review. A summary of comments is optional unless expectations are not being met.

Employee Initials:		Date: <i>4/29/08</i>	Rating Official Initials:	Comments Attached:	Yes	No
Employee Initials:		Date:	Rating Official Initials:	Comments Attached:	Yes	No
Employee Initials:		Date:	Rating Official Initials:	Comments Attached:	Yes	No
Employee Initials:		Date:	Rating Official Initials:	Comments Attached:	Yes	No

PART III. SUMMARY LEVEL

NOTE: If any *one or more* of the Critical Elements in Part I above is marked "Does Not Meet" Expectations, the below Summary of Expectations must also be marked "Does Not Meet." Also, a written explanation must be attached.*

Summary	MEETS OR EXCEEDS	DOES NOT MEET*
<i>Mark one of the following --></i>	<input checked="" type="checkbox"/>	
<i>Check under "Yes" column if:</i>	YES	
1. Written comments or explanations are attached.*		
2. A Quality Step Increase is recommended (narrative justification attached).		

PART IV. PERFORMANCE CERTIFICATION

(Employee's signature certifies review and discussion with the Rating Official. It does not certify that the information on this form is true and accurate.)

Rating Official Signature:		Date:
Reviewing Official Signature (If Applicable)		Date:
Employee Signature:		Date:

RECOMMENDATION FOR RECOGNITION

INDIVIDUAL
 GROUP

1. NAME OF EMPLOYEE

3. ORGANIZATION

DOC/NOA/MGCEL - NORTHEAST REGION

8. TYPE AND AMOUNT OF RECOGNITION: (Guidance available on reverse side, see Item 7.)

SPECIAL ACT OR SERVICE AWARD \$ 2,000.00
 SPECIAL OPERATING UNIT AWARD

CASH-RWA-FLASH AWARD (CWF) (\$50 \$100 \$150 \$200 \$250 \$300 \$400 \$450 \$500)
 ON-THE-SPOT AWARD (OTS) - ITEM

TOTAL YEAR-TO-DATE (does not include current amount) _____
TIME OFF AWARD - NUMBER OF HOURS _____

7. ESTIMATED FIRST-YEAR BENEFITS (For Social Act or Service Awards ONLY)

TANGIBLE \$ _____
 INTANGIBLE BENEFITS (Check one box on each line.)
 MODERATE SUBSTANTIAL HIGH
 LIMITED EXTENDED BROAD GENERAL
 EXCEPTIONAL

TYPE NAME AND SIGN:

9. IMMEDIATE SUPERVISOR

10. REVIEWING OFFICIAL (if required)

11. APPROVING OFFICIAL (if required)

12. HUMAN RESOURCES OFFICE REPRESENTATIVE (if required)

13. REPORT FUND CASHIER (Cash-In-Flash Award ONLY)

14. EMPLOYER RECEIPT OF CASH (Cash-In-Flash Award ONLY)

DATE

DATE

DATE

DATE

DATE

DATE

7/12/01

7/12/01

This form was electronically produced by Ellis Federal Forms, Inc.
Provide a copy as follows:

10/10/01

Lois Schiffer

From: [REDACTED]
Sent: Thursday, March 11, 2010 1:27 PM
To: [REDACTED]
Subject: Email from [REDACTED]
Attachments: [REDACTED]

fyi

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

Subject: Blood in the water...

Date: Mon, 08 Mar 2010 09:25:03 -0500

[REDACTED]

The following blogs were posted in the GDT in response to this Saturday's article about the agents questioning a potential witness in the GSDA case. [REDACTED] that I am concerned someone will get hurt physically if complaints and distortions were allowed to go unaddressed. Now the IG himself has testified about complaints as if they're fact and failed to correct the record when congressmen testified incorrectly about his report that he found we were arbitrary. I also don't recall anyone from the Agency attempting to correct any of the record or dispute that we were found to be arbitrary (e.g., the idea that we are arbitrary because we allegedly assess penalties 250% greater than anywhere else). So, we are now known as lawbreakers and in need of corrective action.

It's not just my own paranoia that leads to my concern for agents', attorneys', or other employees' safety. I've had an industry attorney (a more credible source than local attorneys) express to me that he has heard statements that have him seriously concerned about the potential for physical harm and that he's never heard it so bad. I've had an agent tell me about hearing of someone he's investigated (he's a very vocal complainant who was removed from federal fisheries for repeatedly violating federal regulations) allegedly training himself to hold his breath underwater for long periods so that if he has an opportunity to bring an agent with him overboard, he'll last longer underwater than the agent (whether it's dock talk at this stage should be irrelevant, one of the posters below refers to this individual's case). People being forced out of business, whether it's from an enforcement or regulatory action, breeds desperation and anger. I think that allowing heated rhetoric and unsubstantiated complaints go unaddressed and to be fanned by distorted reporting and testimony is part of the problem. I hope and expect that no physical violence will ever occur and that if it does it's not irretrievable for the individuals involved.

[REDACTED] 21 hours ago

http://www.gdtrasterline.com/news/love_story_064/21101.htm#document=154250

ReMAVEN That quote is exactly what they want . FEAR we were afraid at first in RHODE ISLAND but when they have taken everything from you you have nothing to lose .RI was part of the reason the OIG report was so scathing. When all the details come to light people

will fall like dominoes in the enforcement realm Right down to the state level. There is nothing more dangerous than a father with nothing to lose but his children. I will die for them if i have to. The feds have approached me with their weapon unsnapped. Its not the first time Ive been threatened by a thug. They will not scare me again . I have lost too much because of their corruption. may they a;ll end up JOBLESS AND HOMELESS LIKE MANY FISHERMAN have ended up!!!!!!!

3 people liked this comment.

o Like

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

o Report

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

o Reply

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

o More ▼

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

Required:

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

Login http://4ps-us.com/profile.php?next_article=7304068

<http://disps.com/corruptionkiller>

corruptionkiller 20 hours ago

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

When pushed by these corrupt bastards.. most people stepped back out of fear and the threat of their corrupt ways. Now there is nowhere else to go..... except for the jugular.

=====

From other posts claiming he was charged \$10,000 per page, the user [REDACTED] appears to be one of [REDACTED] and his "tally sheet" seems to be drawn from [REDACTED]

[REDACTED] 1 day ago

http://www.globeandstar.com/news/local_story_06421100.html#comment=941170

Who is keeping the tally sheet

- (1) shaking down witnesses
- (2) ruinous fines
- (3) shredding documents
- (4) obstruction of justice
- (5) duration of over 15 years
- (6) illegal expenditures
- (7) flaws in the ALJ system
- (8) false testimony under oath
- (9) extortion
- (10) violation of due process by no miranda rights
- (11) illegal search without a search warrant
- (12) GCEL employees withholding exculpatory evidence
- (13) GCEL employees issuing knowingly false charges
- (14) GCEL employees violating Rules of Professional Conduct
- (15) GCEL employees violating NOAA Ethics rules
- (16) GCEL employees filing false legal motions
- (17) entrapment
- (18) posting false statements on the OLE web page
- (19) illegally notifying the media before respondents are even charged
- (Remember [REDACTED])
- (20) violation of the US Constitution which states all citizes are free from excessive government fines
- (21) GCEL employees use of a corrupt judicial system giving predetermined verdicts of guilt (read the affidavit of [REDACTED])

(22) GCEL and OLE employees unethically traveling with the judges that render decisions. I read that one such trip was to [REDACTED] Attendees included [REDACTED] and here is the clincher [REDACTED] To me... that doesn't pass the "sniff test". Just plain old looks unethical

(23) GCEL employees can hide their corruption by being exempt from taking the witness stand. they are also exempt from a deposition.

(24) perjury by OLE employees

(25) Breaking and entering with the intent to seize assets while said company is in bankruptcy proceedings, without a warrant from the bankruptcy court. Once siezed, auctioned off assets and took the proceeds from bankruptcy court. A violation of the federal bankruptcy code to obviate the process without the consent of the bankruptcy court.