

[REDACTED]

November 21, 2009

Federal Bureau of Investigation
Security Division
Special Agent Clearance Unit
Attn: Unit Chief
935 Pennsylvania Ave. NW
Washington, D.C. 20535

Re: Special Agent Applicant File #67B-HQ-[REDACTED]
[REDACTED]

Subject: Further Request for Notice of Appellate Procedure

Dear Unit Chief,

Applicant respectfully references his pending FOIPA requests of 7/23/2009, 8/20/2009, 9/7/2009, 9/20/2009, and 10/21/2009, pending FOIPA appeals of 9/9/2009 and 9/20/2009, letters to Acting Unit Chief Montchell Brice of 9/16/2009 and 9/23/2009, and a letter to the current Unit Chief/Acting Unit Chief dated 10/20/2009.

Applicant makes the following representations of fact.

The single FD-302 prepared by Special Agent Grahm Coder, dated 6/25/2009, is a false and misleading investigative record. Among other fatal errors, the FD-302 falsely attributes statements to Applicant that Applicant never made. Applicant is defamed. The FD-302 omits statements necessary to make the statements made not misleading. Applicant is defamed. The FD-302 is backdated to prevent the admission by the author of willful blindness to excusing information requested from Applicant and provided by Applicant. Applicant is defamed.

The single FD-302 forms the sole basis for the negative suitability determination made by the Special Agent Clearance Unit on 6/30/2009. The Office of General Counsel issued what appears to be an unauthorized "curbstone" opinion of California law, concluding that Applicant committed a crime, violated his attorney's oath, and acted unethically in a recent incident with no mitigating factors. OGC was not provided

Applicant's complete application, which contains clearly more serious and more recent ethical dilemmas resolved appropriately by Applicant. Applicant is defamed.

The Director appears to be the only California-licensed attorney in the chain of command. Applicant and The Director are both licensed to practice in California and therefore Applicant and The Director are equally qualified to assess Applicant's conduct under California law. Applicant defers to The Director, but The Director was not consulted for his opinion.

Applicant believes that The Director has issued standing orders to apply OPM guidelines to FBI applicants, but these orders were suppressed under FOIPA. Applicant did locate an order from the Department of Justice to all of its components directing compliance with the Merit System and the law of Prohibited Personnel Practices.

Analyst Abby M. Halle's "presentation" states that Applicant's work performance was affected by alcohol. Applicant stated in his SF-86 that his work attendance was somewhat affected, not his performance. Applicant is defamed.

The suitability determination contains false statements from the FD-302 and omits statements necessary to make the statements made not misleading. The determination fails to include any reference to the polygraph report or examiner's notes, to which Applicant expressly referred SA Coder in an email message on 6/25/2009.

Applicant's entire phone conversation of 6/30/2009 with SA Coder is omitted from the FD-302, as well as portions of the 6/25/2009 and multiple email messages.

Applicant makes this fourth request for notice and an opportunity to be heard. In light of the Analyst's statement to OGC that she wishes to prevent Applicant from appealing because Applicant is an attorney, Applicant is unsure how to proceed and seeks advice from the Unit Chief on where to appeal.

Sincerely,

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cc: Applicant Coordinator
FBI San Francisco

cc: Patricia Miller
Employment Law Unit