

**Subject:** [REDACTED] v. Department of Justice  
**From:** [REDACTED]  
**Date:** Tue, 03 Nov 2009 01:08:31 -0800  
**To:** patricia.miller@ic.fbi.gov



Dear Ms. Miller,

I have come across some documents in your filing of 10/26/2009 that I am very concerned about.

It appears the Office of General Counsel was consulted for its comments about the May 2008 drug transaction described in the suitability determination.

As I am sure you are aware, a legal opinion is only as good as the facts and the research upon which it is based.

Although I appreciate your office's judgment of me from partial and in some respects incorrect information for the "disregard for this [sic] legal/ethical obligations as a lawyer," respectfully, this extremely brief analysis without reference to the law or ethical rules of my state is very disconcerting. Did anyone at your office research this issue? I am unable to locate Mr. Broussard, the recipient of the Analyst's email inquiry, in the [REDACTED] State [REDACTED] directory of attorneys.

I respectfully invite your office to reconsider its brief opinion even with just the authorities and evidence I filed in my 10/30/2009 MSPB filing, before even seeing this unfortunate section of the file. How oddly serendipitous that the key case on creation of the attorney-client relationship and therefore ethical duties of an attorney came out of [REDACTED], so I understand it quite well. And I would hope that your office might also consider in conjunction with that the contents of the FBI file that you have now reviewed in order to include in your 10/26/2009 filing with the appeal.

I have to admit, I was as shocked to read that portion of the file as I was the next page, when after commenting about how my substantive background investigation is about to start, the Analyst states, "This applicant is a lawyer so I want to make sure that we could potentially discontinue him for this and not have him come back to appeal it."

Great. I'm sure that trying to prevent an applicant from appealing a serious issue in his investigation is consistent with the FBI manual stating that there is no more important aspect of FBI operations than "properly" investigating applicants.

The other comments about alcohol affecting work would have been addressed in the background investigation when my co-workers, one of whom is identified in my Initial Disclosure in the MSPB appeal, with whom I worked for three years, would have advised that she has no idea what I was talking about. I am unable to explain why I apparently overestimate how negative I actually am or its effect on others.

My now-former life coach would have stated that in [REDACTED] professional opinion after four years of once or twice monthly

sessions, I am well suited for the FBI.

The unnecessary implication about stress in the determination would be addressed in the Phase II interview responses where I describe a [REDACTED] trial of a \$1 million claim for which I was solely responsible as the plaintiff's attorney, that caused me to (with no ill effects or substance use) work approximately 70 consecutive days of 12-24 hours starting about two weeks after I stopped drinking permanently [REDACTED].

I would be pleased to travel to your office in Washington, D.C. to discuss the matter with you as I mentioned in a prior letter about settlement, but as I also mentioned in the same letter before having any idea what was contained in the file, I am unable to afford to travel due to leaving my most recent contract attorney arrangement because I witnessed unethical conduct occurring. If my 9 page account of my departure prepared on 9/14/2009 for my own use before even writing the Acting Unit Chief to theorize what the grounds were for my discontinuation is any indication, I believe I would amply have demonstrated mitigation to anyone's satisfaction. It might also interest you to learn that I only had to work at this new firm because I disclosed my FBI application to my former law firm as a result of an ethical duty to protect the clients I was serving due to the possible conflict between my Phase II interview and a 15 day jury trial. As a result of that, I got laid off. I guess the Analyst didn't provide that part of my application to you, even though it occurred in April 2009, a year more recently than the negative conduct that she had no problem advising you of. Interestingly, this was not mentioned when it is said in her recommendation on the preceding page that the issue from May 2008 "cannot be mitigated" because of how recent it is.

If an applicant were able to demonstrate in his appeal that he chose to forego, say, \$50,000 of income and counting when he had significant debt that could have been wiped out and then some, in order to comply with ethical rules in two separate ethical dilemmas in April 2009 and September 2009, I think the applicant might be persuasive in demonstrating mitigation to whoever hears applicant appeals.

From one attorney to a group of others, I wish that your office had contacted me to ask what I actually told FBI personnel and what was accepted on multiple other occasions as a harmless mistake in which I actually wasn't involved- especially clear from how I described it at the polygraph under appropriate questioning about what could appear to be a finessed written statement. But I have never practiced criminal law or applied to a job requiring a background investigation, so it seems pretty unfair to hold me to the same standards in judging involvement in criminal activity as you probably handle every day in vetting search warrant applications, etc. Anyway, my two friends could easily tell you specifics and are in the best position to judge my "involvement" in that "negotiation." Unfortunately, the SACU Special Agent omitted them from his backdated FD-302 in order to prevent having to admit that he chose not to "follow every lead to its logical conclusion-" contacting the verifiers to see what they had to say about the incident.

This is still coming back to issues with the Special Agent's

FD-302, but that is for another time and place. On the plus side, it would appear to me that this issue could be more easily addressed than by having to file an appeal with SACU or otherwise. I would appreciate your comments about how we might resolve this issue without the necessity of me having to accuse a Special Agent in the FBI and potentially an Analyst of potential firing offenses for misstating or incompletely stating the facts in the determination, the FD-302, and incidentally, to you. I hope we can discuss.

Best,

[Redacted]

