



U.S. OFFICE OF SPECIAL COUNSEL
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March 29, 2019

BY ELECTRONIC MAIL

Mr. Joseph Carson
c/o Dan Meyer
Partner
Tully Rinckey, PLLC
815 Connecticut Ave., NW, Suite 720
Washington, DC 20006
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Re: **OSC File No. MA-19-1256**

Dear Mr. Carson:

The U.S. Office of Special Counsel (OSC) terminated its inquiry into your allegations of prohibited personnel practices under 5 U.S.C. § 2302(b)(8) or (b)(9) on March 29, 2019. The purpose of this letter is to notify you that you may file an “individual right of action” (IRA) appeal seeking corrective action from the Merit Systems Protection Board (Board).

In your complaint against the Department of Energy (DOE), you alleged that DOE retaliated against you for making a disclosure to your management and the Secretary of DOE on September 11, 2018 that OSC and the Board have allegedly violated the law; DOE attorneys allegedly colluded to engage in reprisal against you; and DOE attorneys allegedly abused attorney-client privilege. You alleged that DOE retaliated against you by failing to respond to, or take any action in connection with, your disclosure.

In your IRA appeal, you may seek corrective action from the Board under 5 U.S.C. §§ 1214(a)(3) and 1221 for any personnel action taken or proposed to be taken against you because of a protected disclosure or activity that was the subject of your OSC complaint. You may file the IRA appeal with the Board within 65 days after the date of this letter. The regulations concerning rights to file an IRA appeal with the Board can be found at 5 C.F.R. Part 1209. If you choose to file an IRA appeal with the Board, you should include this letter as part of your submission.

Although an individual bringing an IRA appeal to the Board must show that he or she has exhausted OSC procedures, our decision to end the investigation may not be considered in an IRA appeal. *See* 5 U.S.C. § 1221(f)(2); *Bloom v. Dep’t of the Army*, 101 M.S.P.R. 79, 84 (2006). The Board may order an individual to submit a copy of OSC’s determination letter, but the order

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must contain an explanation of why the letter is necessary and give the individual the opportunity to consent. *See* 5 U.S.C. § 1214(a)(2)(B); *Bloom*, 101 M.S.P.R. at 84.

Sincerely,

Sheri S. Shilling

Attorney

Retaliation and Disclosure Unit