

July 11, 2012

Ms. Catherine McMullen  
Chief, Disclosure Unit  
Office of Special Counsel  
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Washington, DC 20036 [www.osc.gov](http://www.osc.gov)

**Via:** mail and email 202-254-3711 (fax) <[cmcmullen.osc.gov](mailto:cmcmullen.osc.gov)>

**Subject:** Disclosure per 5 U.S.C. sections 1213(g)(1) alleging up to 34 years of non-compliance by the Board of the Governors of the Federal Reserve with duties found at 5 U.S.C. sections 2301-2305, particularly 2302(c)

Dear Ms. McMullen,

Per 5 U.S.C. section 1213(g)(1) I, a current Department of Energy federal employee, submit a whistleblower disclosure, based on the December 21, 2010 and February 1, 2011 letters from the Board of Governors of the Federal Reserve to me, in response to my FOIA request and FOIA appeal, in conjunction with the August 17, 1989, Merit Systems Protection Board (MSPB) “special study” of “The Tennessee Valley Authority and the Merit Principles.”<sup>1</sup>

The Board of Governors of the Federal Reserve is a federal agency.<sup>2</sup> Despite that, the Federal Reserve claims to be exempt from the Merit System Principles and all other parts of Title V. It bases this a pre-Civil Service Reform Act of 1978 (CSRA) Court decision.

Apparently, MSPB has yet to do a “special study” of the Board of Governors of the Federal Reserve which would have exposed that this federal agency claims to be exempt from the merit system principles - based on a pre-CSRA court decision.

MSPB’s “special study” of TVA, a federal corporation (and therefore a federal agency), found that even though most parts of Title V do not apply at it, due to the TVA Act of 1933. However it found that chapter 23 of Title V, “Merit System Principles” did, unless explicitly stated otherwise in that Chapter.

I fail to see how merit system principles can apply at a federal corporation and not at the Board of Governors of the Federal Reserve. Because of the Board of Governors’ position, I doubt

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<sup>1</sup> These letters are attached, the MSPB “special study” is readily available by searching by its date at [www.mspb.gov/studies/studiessearch.htm](http://www.mspb.gov/studies/studiessearch.htm)

<sup>2</sup> See page 3 of booklet “In Plain English - Making Sense of the Federal Reserve” available at [www.stlouisfed.org/inplainenglish/intro.htm](http://www.stlouisfed.org/inplainenglish/intro.htm)

employees of the Board of Governors are aware of their right to make whistleblower disclosures to OSC and to seek protection from PPPs at OSC. How much might that be a cause of the financial disaster of 2008? Of the criminality that seems to have become normalized in America's banking and finance industries?

As I understand the law, OSC must receive this information and has complete autonomy about referring it to the Board of Governors of the Federal Reserve for investigation. If it does require an investigation, then the investigation results will become a permanent, publicly available report per section 1219.

I do NOT desire my identify be kept confidential from Board of Governors of the Federal Reserve. I understand OSC has a statutory duty to provide such confidentially to me but that I can waive it.

**Per the Office of Special Counsel (OSC) disclosure form, OSC-12, and the relevant regulation at 5 C.F.R. section 1800.2, I submit the following information:**

Joseph Carson, PE  
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865-300-5831

I consent to the disclosure of my name by OSC to Board of Governors of the Federal Reserve, the agency.

**Disclosure:**

As a result of the Watergate scandal and Church Committee investigation into CIA and FBI abuses, in 1978 Congress passed the Civil Service Reform Act (CSRA). The fundamental objective of the CSRA was to create the statutory framework and implementing agencies so that federal agency employees - whether in government corporations at TVA, FBI, intelligence agencies, units of agencies designated by the President to have primary functions in foreign intelligence and counter-intelligence, or other agencies, including the Board of Governors of the Federal Reserve - could perform their duties to protect the health, safety, security, and welfare of the American people in a trustworthy fashion, per the merit system principles, while being adequately protected from reprisal, unlawful discrimination, nepotism, personal favoritism and other type of "prohibited personnel practices (PPPs)." <sup>1</sup>

Congress created a new agency, the Office of Special Counsel (OSC), as a federal law enforcement agency for the **primary** purpose of protecting federal employees from PPPs (OSC has, at this point, five disparate and unique functions in federal civil service). Congress removed government corporations as TVA, the FBI, intelligence agencies, and units of other agencies designated by the President as involved with intelligence from OSC's PPP jurisdiction - but not

from OSC's jurisdiction for its other functions, including its being the only secure and independent whistleblower disclosure channel for information that can not be lawfully disclosed except by such authorized channels.<sup>2</sup>

Congress created another new agency, the Merit Systems Protection Board (MSPB), and assigned it the duty to conduct "special studies" - with a mandate to ensure those "special studies" evaluated:<sup>3</sup>

- 1) whether OSC was complying with its nondiscretionary duties as a law enforcement agency to protect federal employees from PPPs,
- 2) whether OSC was complying with its nondiscretionary duties to be a secure and independent disclosure channel, particularly for information that was unauthorized to be disclosed by other channels,
- 3) whether heads of agencies within OSC's PPP jurisdiction were complying with their duty to "prevent PPPs."<sup>4</sup>

Because Congress knew it had made a complex system, involving multiple independent agencies performing complementary functions, the CSRA assigns the President the duty, by 5 U.S.C. section 2301(c), "take any action....necessary" to ensure things as the following:

- 1) Employees of the Board of Governors of the Federal Reserve know they can make whistleblower disclosures to OSC containing classified or otherwise privileged information and they know OSC is mandated to provide confidentiality to such concerned employees.
- 2) OSC is willing and able to receive such sensitive disclosures, 24/7, from such employees - including those outside DC area - and will process them in accordance with law; and
- 3) Employees of the Board of Governors of the Federal Reserve are adequately protected from reprisal and other types of PPPs.
- 4) MSPB is performing the necessary "special studies" of OSC, the Board of Governors of the Federal Reserve so that the President has the information needed to "take any action....necessary" to correct any deficiencies and comply with his duties.

I contend all this has failed to happen, for 34 years now, at the Board of Governors of the Federal Reserve. I suspect the workforce at the Board of Governors of the Federal Reserve is battered as a result, enabling dysfunction and corruption - culture of "banksters" and criminality - to take root and flourish in America's banking and financial industries, leaving America is much diminished and more threatened. Because of these failures to comply with their duty - starting at

the President, then going to MSPB, then OSC, then the Board of Governors of the Federal Reserve, we have a rotten system, not rotten apples.

To evidence these contentions, I contend these agencies have no records by which their heads can objectively make contrary statements. The same is true for the President, even if disclosures of Presidential violation of statutory duty may fall outside the scope of OSC's whistleblower disclosure function.

I certify that all the statements made in this complaint are true, complete, and correct to the best of my knowledge and belief. I understand that a false statement or concealment of a material fact is a criminal offense punishable by a fine of up to \$10,000, imprisonment for up to five years, or both. 18 U.S.C. section 1001.

July 11, 2012

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Joseph Carson

**Endnotes:**

1. See Title V of United States Code, Chapter 23, "Merit System Principles," sections 2301-2305, for definitions of merit system principles and prohibited personnel practices (PPPs). In essence, PPP's are agency violations of the merit system principles.
2. Such information can include classified information, law enforcement information, attorney-client privileged information, etc.
3. See 5 U.S.C. section 1204(a)(3)
4. See 5 U.S.C. section 2302(c).