

May 30, 2007

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The Honorable Scott J. Bloch
The Special Counsel
U.S. Office of Special Counsel
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

Re: OSC File No. HA-07-1160

Dear Special Counsel Bloch:

We have received your letter of May 25, 2007.

With respect to the leak of the May 18th report provided to Administrator Doan, it is absurd to claim that Administrator Doan released this extremely damaging report herself or through someone else at GSA for any reason, and she strongly denies your charge of a "ruse". The damage done to Administrator Doan by the public release of the report in any form - without the mitigating effect of a meaningful response - cannot be undone. To compound the possible injury to the Administrator, the report was leaked to at least three major media outlets, none of which has shown any bias in Administrator Doan's favor. To suggest that the Administrator could somehow benefit from such self-inflicted damage is ridiculous. In addition, the scenario you propound simply does not make sense given the timeline of events, specifically, that these media outlets were in possession of the information at the same time, if not before, the Administrator first viewed it.

Moreover, my letter to you concerned two separate and distinct media leaks. With respect to the leak of the May 17th draft, it is perhaps noteworthy that the carefully worded opening sentence of your letter does not address that issue. You state that our accusation that your office leaked "the report sent to you is false." The May 17th draft was never sent to Administrator Doan, and you do not explain how the Administrator could have leaked a document which she did not have.

I note that when it became apparent on Monday, May 21st, that information from the report and perhaps the report itself, had been leaked, I contacted your office to express our very serious concerns about the leak. I also asked whether the report had been shared with anyone outside your office. I asked specifically whether the GSA Inspector General had been provided a copy as a courtesy since the initial report of allegations had come from his office. I was assured by your

The Honorable Scott J. Bloch

May 30, 2007

Page 2

office that neither the GSA Inspector General nor anyone else outside your office had been provided with the report.

In light of what is now known, however, I must ask the question in more all-encompassing terms: Has your office provided a copy of the report in any form - draft or final - and specifically the May 17th draft, to any person or any entity outside your office, including the GSA Inspector General or any member of his office or staff?

Given the fact that Administrator Doan never received the May 17th draft and your assurance that no one outside your office had been provided the final report, it is difficult to conclude that the leak of the draft report came from anywhere other than your office, and that point is important. If someone in your office was willing to leak the draft, that fact would make it all the more probable that the same source would have no qualms about leaking the final report.

Additional questions are also raised by your claim that the source of the leak was someone inside the GSA. As you know, members of the GSA senior staff and I began expressing very serious concerns about the leak on Monday, May 21st. The leaks of information and the report itself became more aggravated as the week continued. Neither you nor anyone from your office, however, claimed the source of the leak was internal to the GSA until after my letter to you late on Thursday, May 24th. You responded to me relatively quickly by telephone and you informed me that your sources indicated the report had been leaked by someone within the GSA.

I presume that information did not come to you between your receipt of my letter and your call to me. If that is the case, why didn't you or a member of your staff contact me as personal counsel for the Administrator or the GSA Acting General Counsel as agency counsel to inform us of that possibility? Knowing that we had serious concerns about the leaks, it seems that it would have been prudent to pass on that information as soon as you were aware of it if you believed the GSA itself was in any way responsible for such an irresponsible act.

Lastly, your discussion of your broad release authority for reports in matters such as this one calls for comment. You state:

"...I may release any information I deem appropriate or in the public interest, or to enhance the public's perception of the administration of justice, or for any other reason I deem appropriate in the public interest. There is no potential contamination of the jury pool here. The decision maker is the President ...who, I expect, will not likely be swayed by varying press reports, but will take into account all of the evidence, presented by the official report and responses, together with my letter to the President. Then when I deem appropriate, I may release all of that publicly."

The Honorable Scott J. Bloch

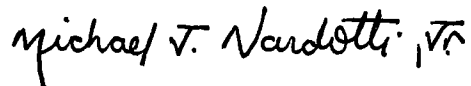
May 30, 2007

Page 3

We are well aware of and do not dispute your broad release authority, but we do not agree that it is relevant to the issue of leaks as now raised. We assumed the report could be made public at some later stage, but surely after Administrator Doan has had her opportunity to respond. It cannot be credibly argued that any public interest or the public's perception of the administration of justice has been served by the calculated, premature, and malicious release of the draft report and the final report in this instance. These actions will more likely have just the opposite effect when the public becomes aware of the more complete facts and circumstances of this aspect of the case. Further, emphasizing your broad release authority seems inconsistent with the underlying premise of your letter: if it was not your office which released the report, your authority to do so is not called into question. Of course, if dissemination of the report was an official act taken under your admittedly broad authority, it would not need to be in the form of a leak to the media.

We look forward to your further response to our questions.

Sincerely,



Michael J. Nardotti, Jr.
Major General, U.S. Army, Retired

Counsel to GSA Administrator Lurita A. Doan