Ogilvie, Janice E

From: Mark D Siciliano [Mark.Siciliano@inl.gov]
Sent: Tuesday, January 05, 2010 11:19 AM
To: [redacted] Ogilvie, Janice E
Cc: Siciliano, Mark David
Subject: Re: Pursuit of ADR Process
Importance: High
Attachments: SCAN5665_000.pdf

Dear [redacted] and Janice,

I agree to use this process for a limited amount of time and not to interfere in any way with my ability to pursue my 10CFR708 complaint. I am entering this process in good faith and look forward to a positive and speedy result.

Aside from the 10CFR708, I am still concerned about [redacted]'s suitability to hold a TS/SCI clearance while in a position of national trust. A fundamental tenant of holding such a high level clearance is based on honesty, integrity and trust. As you have seen in my complaint, it concerns me that [redacted] appears to be lacking in these areas. It is not my position to judge his suitability, but it does concern me and I believe I have an obligation to report. This is nothing personnel against [redacted] and hopefully whoever investigates this will be able to assuage my concern.

To that end, where do I find the 10CFR710 information required to raise this concern to the appropriate federal authority? Thank you both for your assistance. I truly appreciate it.

V/R

[redacted]

Idaho National Laboratory

Mark Siciliano, Department Manager, Special Programs
National & Homeland Security Directorate
Idaho National Laboratory
P.O. Box 1625, MS-3520, Idaho Falls, ID 83415-3520
O: 208-526-4464, C: 208-360-4367, STE: 208-526-4464
Email: Mark.Siciliano@inl.gov
SIPR: sicilimd@idaho.doe.sgov.gov, IC: idsicimd@doe.ic.gov
(Please call/email if a time critical msg sent to SIPRNET)

[redacted]

[redacted]

01/05/2010 10:29 AM

ToMark D Siciliano/SICIMD/CC01/INEEL/US@INEL
cc"Janice E Ogilvie" <OGILVIJE@ID.DOE.GOV>
SubjectPursuit of ADR Process

[redacted]

I'm writing to document our conversation (largely for the benefit of Jan) of earlier this morning regarding the option and, arguably, requirement (note the mandatory language on p. 55 of the enclosed description of BEA's ADR program found in our Employee Handbook; as I indicated on the telephone, however, while one local judge, in an employment case filed several years agreed that the ADR process is a mandatory prerequisite to pursuing the employee's state law employment claim against the company, the Office of Hearings and Appeals concluded that BEA's ADR procedure for a non-bargaining unit employee does not require dismissal of a 708 case pending exhaustion of this mediation requirement. I believe that decision is flawed; but we did not appeal) of attempting to resolve your issues through mediation.

As I indicated on the telephone, mediation is a means of resolving a matter if **both** sides agree with the proposed resolution; in other words, if either party does not agree with what the mediator recommends or what the other party offers during the mediation, that party can reject those solutions; and you may still pursue your Part 708 complaint. Also, the costs associated with pursuing mediation through the ADR process are borne by BEA -- i.e. the cost of the mediator is paid by BEA and your time spent in the ADR process is chargeable to BEA.

Since this ADR process is OUTSIDE the 708 process, if you still agree that it is worth pursuing the ADR process, you will need to contact Jan Ogilvie (by separate e:mail or simply replying to this e:mail), indicating that you would like to put the Part 708 case on hold while we pursue the ADR process. Since there are a number of deadlines associated with a 708 complaint (the first deadline being BEA's obligation to respond to your complaint within 10 days), if you still agree with attempting to resolve your concerns through the ADR process, please advise Jan Ogilvie and myself as soon as possible that you would like to put the 708 case on hold so that we can focus on jointly agreeing on a mediator and then scheduling that mediator to come to Idaho Falls to conduct the mediation.

Please contact me if you have any questions. Also, [redacted] in HR manages the ADR process; and if after reading the attached, you still have any questions, you're welcome to call her, too.

(See attached file: SCAN5665_000.pdf)

[redacted]
Idaho National Laboratory
2525 North Fremont Ave. [redacted] Idaho Falls, ID 83415-3899
[redacted]

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Alternative Dispute Resolution

If disputes arise between an employee and BEA, the Alternative Dispute Resolution (ADR) program is available to all non-represented employees. Contact the Alternative Dispute Resolution Coordinator at 208-526-0085.

Represented employees have an alternative dispute resolution process, known as the grievance process, under the terms of their Collective Bargaining Agreements. Please contact Labor Relations for assistance with this process.

The philosophical emphasis of ADR is to encourage people to talk to each other early. The expectation is that when disputes can be understood and discussed by parties, acceptable solutions can be found.

Alternative Dispute Resolution Process: The three steps in the Alternative Dispute Resolution (ADR) process are:

1. Management Appeal. Managers are to assist employees in using existing programs and resources to resolve disputes.

2. Mediation (or assisted negotiation). A process in which an employee and his/her manager are assisted by an objective third-party mediator in discussing a problem and finding a mutually agreeable solution.

3. Peer Review Panel. A voluntary process in which a panel of fellow BEA employees listens to both sides of a dispute between an employee and a manager and renders a decision. The panel consists of (two) appropriately trained management employees and (three) non-management employees chosen jointly by both parties from a pool of volunteers.

   The Peer Review Panel reviews disputes related to any of the following:

   - Discharge
   - Disciplinary actions
   - Working conditions
   - Inequitable/biased distribution of work
   - Application of leave procedures
   - Health, safety, and security issues.

The following disputes are excluded from the Peer Review Panel process:

- Job postings
- Promotions and demotions
- Layoffs
- Rates of pay
- Annual Performance Reviews (APR)
- Benefits issues.

Employees must use the ADR program through Step 2 (Mediation) as the exclusive method for resolving work-related disputes before resorting to litigation, including the filing of administrative complaints with enforcement agencies. If a dispute has not been resolved through Steps 1 or 2, the employee has the choice of pursuing Step 3 (Peer Review Panel) or other avenues, including formal litigation. If the employee chooses to pursue the Peer Review Panel process, the decision of the Peer Review Panel is final and binding for both the employee and BEA.

Alternative Dispute Resolution (ADR) is an alternative to litigation or the filing of administrative complaints with enforcement agencies. The program does not apply to benefits issues because a separate claim appeal process is provided for those issues in accordance with the Employee Retirement Income Security Act and Department of Labor Regulations.

See the *Employee Management Appeal Program and Procedure, Alternative Dispute Resolution Program* or *Employee Assistance* sections for more detailed procedures on these programs.

Refer to the *Alternative Dispute Resolution* section or LWP-25401, "Alternative Dispute Resolution," for more information.

Management Appeal Program and Procedure

An employee who has a concern regarding any aspect of working conditions at BEA is encouraged to have such concerns addressed. Perceived unsatisfactory working conditions or other situations affecting an employee's working conditions are considered cause for expressing concern. In accordance with BEA's open door policy, the following avenues are available to employees who have a concern:

- An employee should immediately notify his/her immediate manager of any work-related concerns. The manager must then discuss these concerns with the employee, conduct an investigation, and inform the employee of any findings and/or conclusions. Higher levels of management should participate in the investigation as appropriate, depending on the seriousness and complexity of the problem(s).

Ogilvie, Janice E

From: [redacted]
Sent: Tuesday, January 05, 2010 10:30 AM
To: Siciliano, Mark David
Cc: Ogilvie, Janice E
Subject: Pursuit of ADR Process
Attachments: SCAN5665_000.pdf

Mark,

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[redacted]

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2525 North Fremont Ave. - [redacted], Idaho Falls, ID 83415-3899

[redacted]

E-mail: [redacted]

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