



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

February 14, 2003

PERSONAL

Mr. Gamal Abdel-Hafiz
Federal Bureau of Investigation
Washington, D.C.

Dear Mr. Abdel-Hafiz:

#1

This letter is to advise you that serious consideration is being given to dismissing you from the rolls of the FBI. I am proposing this action after my review of an administrative inquiry concerning allegations that you participated in filing a false police report by having your wife file a false burglary report with the Tarrant County Sheriff's Department (TCSD), Fort Worth, Texas; filed a false insurance claim with your insurance carrier regarding the alleged burglary; and provided false, misleading, or erroneous information on your applications for employment with the FBI. The facts and the basis for my proposal are explained below:

Filing a false burglary report and a false insurance claim.

#2

Your former spouse, during an interview pursuant to your five-year security reinvestigation, informed the Bureau that in November 1989, while you were both married, you and she filed a false burglary report with the TCSD in Fort Worth, Texas and a false insurance claim with your property insurance carrier. A copy of the burglary report filed with the TCSD, dated November 11, 1989, reflects that you apparently reported the theft of a significant number of items, of a total listed value of \$20,745. You subsequently filed a sworn claim, dated November 22, 1989, with your property insurance company, claiming a loss of \$20,903.75 attributable to the burglary of your residence on either November 11 or 12, 1989. The itemized claim form listed twenty-five stolen items, including three chandeliers of a total original cost of over \$12,000.

Your former spouse stated that you broke a window in your residence to stage a burglary, and directed her to call the police and report a crime. She further asserted that you instructed her to list numerous items as stolen to make the apparent crime appear more authentic, and that, in reality, you

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owned only two, rather than three, chandeliers. She added that for some of the items reported to the insurance company as "stolen," she slightly modified the recorded serial numbers so that the reported serial numbers of "stolen" items would not match those of items in the residence in the event the police ever searched your residence.

Your former spouse subsequently produced for investigators a number of items that she asserts were listed as stolen in your claim to your insurance company. These included: a Sharp VCR, manufactured in April 1988, serial number 694330, compared with a Sharp VCR, serial number 695320, which was reported stolen; a GE VHS movie video system, manufactured in May 1989, serial number 6H3A01313, compared with an RCA VHS camcorder, serial number 6H3B01313, which was reported stolen; one silver 14-piece punch bowl set, consisting of a punch bowl, a ladle, and twelve cups, compared to a 14-piece punch bowl reported stolen; an Olympia typewriter, compared to an Olympia typewriter reported stolen; an Olympus 35mm camera, a Vivitar 70-150mm zoom lens, a 28mm lens and a 50 mm lens, and an Olympus camera flash attachment compared with an Olympus 35mm camera, Vivitar 70-120mm zoom lens, a 35mm lens and a 50mm lens, and a Vivitar flash attachment which were reported stolen.

#3 In your Signed Sworn Statement (SSS), dated January 21, 2003, you stated that you "did not file a false insurance claim with [your insurance company]. My claim to [my insurance company] was based on losses that I believed we incurred when our house . . . was burglarized and the claimed property was stolen." You further stated that you "have no knowledge of how [your former spouse] could still possess any of the property which we reported as stolen."

#4 On January 22, 2003, you submitted to a polygraph examination, during which you were asked the following relevant questions pertaining to this allegation:

Question: "Did you instruct [your former wife] to file a false police report of a home burglary in November 1989?" Answer: "No."

Question: "Did you participate in staging a burglary of your home in November 1989?" Answer: "No."

#5 In the opinion of the polygraph examiner, your negative responses to the above questions were indicative of deception. In accordance with Bureau policy, the results of this polygraph examination may be considered in conjunction with other evidence.

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During the post-polygraph interview, you were shown photographs of a number of items which your former spouse produced and identified as being falsely reported as stolen to your insurance carrier. When shown a photograph of the punch bowl, you stated, "[t]hat's the punch bowl," and you also indicated that you recognized the photograph of the Olympic typewriter.

#2 A preponderance of the evidence, to include your former wife's statement against interests, the items produced by your former wife which she claimed had falsely been reported as stolen, and your deceptive polygraph examination results, suggests that you filed a false burglary report with the TCSD, and a false insurance claim with your insurance carrier in the amount of approximately \$20,000. Although this apparent false reporting and false claim were made prior to your Bureau employment, you maintained a lawsuit against the insurance carrier to pay this false claim which was not apparently settled and concluded until the latter part of 1994, well after you became a Bureau employee on January 9, 1994. Accordingly, the evidence suggests that you pursued a fraudulent claim against your insurance carrier during your term of Bureau employment, which constitutes a cognizable basis for discipline.

If substantiated, your apparent pursuit of a fraudulent claim against your insurance carrier violated the following Bureau policy:

The Manual of Administrative Operations and Procedures (MAOP), Part I, Section 1-1, states, in pertinent part:

"...employees shall conduct themselves in a manner that creates and maintains respect for the Department and the U.S. Government. In all their activities, personal and official, they should always be mindful of the high standards of behavior expected of them."

The MAOP, Part I, Section 1-1(8), provides, in part:

"...the Bureau expects its employees to so comport themselves that their activities both on and off duty will not discredit either themselves or the Bureau."

The MAOP, Part I, Section 1-2 (1), provides, in part:

"Employees must not, at any time, engage in criminal, dishonest, immoral or disgraceful conduct . . ."

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Providing false, misleading, or erroneous information on your employment applications with the FBI.

You twice applied for Bureau employment, first, for a language specialist position in 1993, and second for a Special Agent position in 1994/5.

Your signed applications (FD-140, Application for Employment) for the language specialist position, dated February 15, 1993 and updated on March 8, 1993, and for the Special Agent position, type-dated September 19, 1994 and hand-dated August 8, 1995, both reflect in Section IX, the following question: "Have you ever been a plaintiff or defendant in a court action?" You checked the "yes" box, and described a lawsuit involving American Express. However, you apparently omitted two other court actions in which you were the plaintiff or a petitioner. First, a lawsuit by you and your former wife against your insurance carrier concerning the false claim for theft losses in District Court, in the 17th Judicial District, Tarrant County, Texas, which commenced apparently in 1991; and an action by you and your former wife in 1992 in the United States Tax Court over a notice of deficiency concerning your tax return for 1989. Your petition in the Tax Court action reveals that, among other things, you contested the IRS disallowing your claim for theft losses, in the amount of over \$18,000, which you claimed on your 1989 tax return. Apparently, this claimed theft loss pertained to the presumably staged "burglary" of your residence in November 1989. This is consistent with your former wife's belief that you attempted to claim this "burglary" loss on your taxes for that year.

That you were aware of both of these court actions at the time you completed your applications for employment is apparent. Apart from the basic presumption that you are aware of court actions in which you serve as plaintiff, documentary evidence suggests your knowledge of these court actions. In your lawsuit against your insurance carrier, you received a letter from your attorney, dated April 13, 1992, requesting you answer the defendant insurance carrier's interrogatories and request for production of documents, which clearly reflected the judicial nature of the proceedings, to include the style of the case in the district court. On February 2, 1993, your attorney in your tax dispute with the IRS sent you a letter which inquired about "the current status of the lawsuit against the insurance company," beneath which is a typed response which states that "[t]he insurance company is arranging for more depositions overseas." In that same letter, your attorney requested "a copy of the lawsuit that is currently pending against the insurance company," beneath which is a typed response which states, "Enclosed." Additionally, before your application for the Special Agent position was apparently finalized, you received a settlement check from your attorney in your insurance company lawsuit on or about December 17, 1994, and a followup letter on January 11, 1995, responding to your request for itemized expenses.

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Regarding your action in the Tax Court, in addition to the petition filed in the Tax Court, dated September 1, 1992, is a letter from your tax attorney to the Clerk of the Tax Court, also dated September 1, 1992, with a courtesy copy to you, enclosing copies of the "Tax Court Petition and Designation of Trial in the above-referenced case" in which you, as "petitioners" designated Dallas, Texas as the place of trial. You also received the decision of the Tax Court in your case from your attorney on April 27, 1993, before you applied for the Special Agent position. Additionally, in an apparent draft letter to your attorney in your tax action, dated December 14, 1993, and presumably hand-written by you or your spouse, you or your spouse stated, "Also you told me that we have a very good chance to win the Battle for the 1989 taxes. Few days befor (sic) the court date you have informed me that you have nothing for my defence and the judge in this case is pro-government and you are almost sure he will find for the I.R.S."

These documents would appear to clearly indicate that you were fully aware of your court actions against both your insurance carrier and the IRS prior to your filing your applications for the language specialist and Special Agent positions. The evidence suggests that a possible motive for you to omit reporting these actions under Section IX, Question 2 of the application, is that both actions appear to have been founded, in whole or part, upon the apparently fraudulent burglary claim, and your consequent concern that the fraud behind the claim would be uncovered during the Bureau's investigative process into these judicial actions.

In your SSS, you stated,

#3 "Before being shown documents in this inquiry, I was not certain whether my attorney ever filed suit against [your insurance carrier.] He had advised me that a vast majority of these cases are settled out of court and I did not go to court regarding the matter. . . Before being shown documents in this inquiry, I had no recollection of my attorney filing a suit on my behalf. It is because I did not appear in court for a legal case that I made no reference to this matter in my response to a question about court actions on my two applications for employment with the FBI. I understood the question to apply to a matter that was actually adjudicated by the court. I did not deliberately hide the fact of my claim against [my insurance carrier] from the FBI.


#4 "[The OPR investigator] has shown me a number of documents pertaining to my claim against [my insurance carrier] and actions by my attorney in that matter . . . Among the documents is a December 17, 1994, letter to [my wife] and me from [our attorney] enclosing a settlement check and a settlement sheet itemizing expenses associated with


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his actions. [The OPR investigator] has inquired how I could not have known [my attorney] had filed suit on my behalf when the settlement sheet reflects court costs for a subpoena and a court filing fee. My response is that I thought the question on the FBI application referred to matters in which the applicant physically went to court. Because I knew I had not gone to court for the [insurance carrier] matter, I did not mention it in response to that question on the application forms.

"[My wife] was handling all of our finances in 1994 and 1995. At the time I received the letter from [our attorney], I was working as a Language Specialist on the blind sheik case in New York City, working about fifteen to seventeen hours a day, six to seven days a week. I had no opportunity to focus on the details of the information contained on the settlement sheet. In fact, I may not have seen the settlement sheet at all."

#2 Your explanations for failing to report these court actions in your applications appear implausible, at best. The question plainly asked whether you had ever been a plaintiff or defendant in a court action, and not whether the matter "was actually adjudicated by the court," or whether you "physically went to court." In fact, the technical distinctions you make suggest your knowledge or understanding of the judicial process. Your failure to report this information was seemingly unreasonable and deliberate and deprived Bureau applicant adjudicators of information requested and required to determine your suitability for Bureau employment.

 In addition to your apparently false answers to question 2 of Section IX of the application forms, you also apparently falsely answered Question 11 in Section XVI on both applications for employment which you submitted. That question reads, "An investigation will be conducted of all information listed on this application. Because of this, are you aware of any information about yourself . . . which might tend to reflect unfavorably on your reputation, morals, character, ability or loyalty to the United States?" You answered "no" to this question on both applications.

 As it appears that you participated in filing a fraudulent insurance claim, as described above, you were required to answer "yes" to this question on both applications, as this behavior clearly reflected unfavorably upon your morals and character and clearly would have been relevant to a proper adjudication of your application for employment. If you choose to provide an answer to a question on the application form, it must be truthful.

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If substantiated, your misconduct in falsifying two employment applications violated the following Bureau policy:

The FD-140, Employment Application Form, reflects the following:

"...I am aware that willfully withholding information or making false statements on this application will be the basis for dismissal from the Federal Bureau of Investigation, and constitutes a violation of Section 1001, Title 18, U.S. Code. I agree to these conditions and I hereby certify that all statements made by me on this application are true and complete, to the best of my knowledge."

The FBI Employee Handbook, page 27, Section 5, captioned, "Rights and Responsibilities," reflects the following statement under the title, "Personal Conduct,"

"Falsification and/or illegal matters, by their very definition, adversely affect the integrity of the FBI and are considered serious misconduct violations. Any employee who:
(1) fails to uphold such values as reliability, trustworthiness, honesty, and integrity;
... (3) falsifies information and/or official documents for purposes of fraud or personal gain; ... will be subject to severe administrative action up to and including dismissal."

Lack of candor.

The evidence further suggests that you lacked candor in your SSS when you addressed the allegation that you had falsified your employment applications, specifically, by failing to disclose that you were a plaintiff in two court actions.

On the first page of your SSS, the following language appears:

- "I have been further advised of my rights and responsibilities in connection with this inquiry as set forth on a 'Warning And Assurance To Employee Required To Provide Information' form FD-645 which I have read and signed. I understand from my review of the FD-645 that should I 'refuse to answer or fail to reply fully and truthfully' during this interview, which I further understand would place me in violation of the Director's 'Bright Line' pronouncement, I can expect to be dismissed from the rolls of the FBI."

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In your SSS, you stated, "[b]efore being shown documents in this inquiry, I was not certain whether my attorney ever filed suit against [my insurance carrier] . . . Before being shown documents in this inquiry, I had no recollection of my attorney filing a suit on my behalf."

As fully explained in the previous section, the documentary evidence strongly suggests that you were fully aware of your court actions against your insurance carrier and the IRS at the time you filed your employment applications with the Bureau. Your assertion to the contrary does not appear to be supported by the documentary evidence.

If substantiated, your apparent lack of candor in this matter violates the following Bureau policy:

The MAOP, Part I, Section 13-4, provides, in part:

"(2) . . . The employee must be entirely frank and cooperative in answering inquiries of an administrative nature . . ."

In a communication to all employees dated January 3, 1994, the former Director advised of the following expectations of conduct by Bureau employees:

"I am, therefore, in this communication, drawing a 'bright line' which should serve to put all employees on notice of my expectations.

"In order to assure our being held in high esteem, we must acknowledge, uphold, indeed revere core values, such as integrity, reliability, and trustworthiness; and

"An employee who is unable to identify with these values and whose consequent conduct is fundamentally at odds with them should forfeit his or her right to FBI employment.

"In short, I believe in the simple truth that lying,....is wholly inconsistent with everything the FBI stands for and cannot be tolerated.... With that in mind, I am setting forth the following examples of behavior, not meant to be all-inclusive, for which employees can expect to be dismissed:

- 1.) Lying under oath, e.g., during an administrative inquiry.

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#1 Accordingly, I am proposing that you be dismissed from the rolls of the FBI for the efficiency of the service. No final decision will be made in this matter until after consideration of your written and oral response, should you choose to submit them.

PROCEDURAL PROTECTIONS

(1) This Statement of Proposed Action provides you thirty calendar days' advance written notice of the proposed action.

(2) You may contact and use an attorney to assist in the disciplinary matter, subject to limitations imposed by law and regulation regarding the disclosure of classified or sensitive information. The FBI will not be responsible for payment of any attorney's fee or other expense you incur in connection with an attorney's representation of your interests associated with a disciplinary matter or an appeal of a disciplinary sanction.

(3) You have ten calendar days from the date of receipt of this notice to make a written request to review the material which was relied upon by the Office of Professional Responsibility (OPR) official in support the proposed action. Copies of such material will be redacted in accordance with civil discovery policy and procedures. These documents are the property of the FBI and will be made available for review by you and your attorney within the FBI office space and control.

(4) You and/or your attorney may provide a written response to the proposed action. Your written response may include affidavits or other documents of choice, and may identify witnesses or documentary sources of exculpatory evidence. Your written response must be submitted within ten calendar days after your receipt of the proposed action or after you have been provided access to the material described in (3) above, whichever occurs later. Due to mail delays associated with security procedures, you must send your response by facsimile to Adjudication Unit I, OPR, Room 11112, at 202-324-0695.

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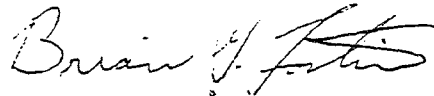
(5) In addition to, or in lieu of, submitting a written response, you may request an oral presentation which, at your election, will be made telephonically or in person, to the senior OPR deciding official. You must request an oral presentation, in writing, within ten calendar days after your receipt of the proposed action or after you have been provided access to the material described in (3) above, whichever occurs later. Upon receipt of your written request for an oral presentation, OPR will provide you at least fifteen days notice of the presentation date. If you are submitting a written response in addition to making an oral presentation, the oral presentation will be scheduled for a date after the deadline date for OPR's receipt of your written response. During your presentation, you and/or your attorney may present oral testimony or evidence, including any information, affidavits, and other documentation deemed pertinent to your case. The testimony of witnesses is not generally allowed, unless good cause is shown why the testimony of witnesses is necessary in your case. Any travel and/or attorney costs incurred as part of your presentation are your responsibility. Administrative leave will be granted for the presentation and necessary travel.

(6) You will receive a written decision letter from the senior deciding OPR official, after consideration of any oral and written responses to the proposed action, fully stating the reasons for the decision. This decision letter will be delivered to you as soon as practicable following completion of the disciplinary process described above.

REFERRAL TO OTHER DIVISIONS

In accordance with established policy, the results of this communication will be shared with other divisions as appropriate. This administrative inquiry is being provided to the Security Division as it may be relevant to an employee's retention of a Top Secret security clearance.

Sincerely yours,



Brian G. Fortin
Acting Deputy Assistant Director
Office of Professional Responsibility