



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 22, 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 I have completed 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. Notice of the proposal to dismiss you from the rolls of the FBI was provided to you by letter, dated February 14, 2003, from the Office of Professional Responsibility (OPR). This proposal letter further informed you that the evidence suggested that you lacked candor in your Signed Sworn Statement (SSS) when you addressed the allegation that you had falsified your employment applications by failing to disclose that you were a plaintiff in two court actions. I find, based on a preponderance of the evidence, that the allegations against you have been substantiated. Therefore, I am dismissing you from the rolls of the FBI for the efficiency of the service, effective upon your receipt of this letter.

As the deciding official in this matter, I have given full and impartial consideration to all documentation and evidence upon which your proposed dismissal was based, your written response dated May 7, 2003, and your oral presentation on May 9, 2003. The basis for my decision is set forth below:

Filing a false burglary report and a false insurance claim.

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

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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 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 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.

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."

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."

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Question: "Did you participate in staging a burglary of your home in November 1989?"

Answer: "No."

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.

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 Olympia typewriter.

In your written response to the proposal letter, and during your oral presentation, you challenged the credibility of your former spouse, noting her role in various aspects of the staged burglary, and asserting discrepancies in her recounting of the number of chandeliers purchased and the whereabouts of items of "stolen" property. You also asserted that she harbored ill-will against you both before and after your divorce.

#4 Although the number of chandeliers you actually owned is not pertinent to my conclusion that you filed a false burglary report and insurance claim, I note that there is considerable uncertainty on this matter, as the merchant who allegedly sold you these items denied having done so. While your former spouse may have been mistaken on other details of events from nearly thirteen years prior, this is no basis to conclude that she was inaccurate on the fundamental issue of whether you conspired with her to stage a burglary of your residence and file false reports with the police department and your insurance company. Moreover, your suspicion that your former wife's son was involved with the burglary is speculative and logically unsupportable. Presumably, your former wife's son would have stolen these items with the intention of selling or "hocking" them, but the fact that a number of the items reported stolen were still in the possession of your former spouse argues against her son's involvement. Finally, your contention that your former spouse was determined to destroy you over your divorce is contradicted by the fact that she did not reveal the information about the staged burglary until approached by investigators in conjunction with your five-year reinvestigation in 2002, nearly six years after your divorce. Her passive posture belies the argument that she was motivated by bitterness and a desire for revenge to concoct falsehoods about your conduct.

You further contested the results of your polygraph examination, stating that you have had problems with polygraph examinations in the past, and asserting that the polygraph examiner harassed you and made you nervous. After considering your explanation, I find no reason to discount the deceptive indications to the specifically focused pertinent questions in this matter.

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#1 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, together with your failure to report court actions addressing this "burglary," to be described in the next section, supports 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 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 settled and concluded until the latter part of 1994, well after you became a Bureau employee on January 9, 1994. Accordingly, the evidence indicates that you pursued a fraudulent claim against your insurance carrier during your term of Bureau employment, which constitutes a cognizable basis for discipline.

Your pursuit of a fraudulent claim against your insurance carrier violated Bureau policy, as cited in the proposal letter, dated February 14, 2003.

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 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 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 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 indicates your knowledge of these court actions. In your lawsuit against your insurance carrier, you received a letter from your attorney, dated April 13,

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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. You also received a fax from this attorney's office, dated February 7, 1994, and addressed to your attention, which asked you to sign a document "in front of a notary and return immediately as this is needed to file documents at court . . ." Attached to this faxed cover sheet is a notarized document signed by you before a notary which states, "on this day personally appeared Gamal Abdel-Hafiz, known . . . to be the person whose name is subscribed to the foregoing supplemental answers to interrogatories and after having been duly sworn, stated on his oath that he has read the foregoing supplemental answers to interrogatories and that they are true and correct." 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.

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 what appears to be a draft letter to your attorney in your tax action, dated December 14, 1993, and apparently hand-written by you, you 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." In neither your written response nor your oral presentation did you deny writing this document.

These documents 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. A conspicuous motive for you to omit reporting these actions under Section IX, Question 2 of the application, is that both actions are founded, in whole or part, upon the fraudulent burglary claim, and your predictable concern that the fraud behind the claim would be uncovered during the Bureau's investigative process into these judicial actions.

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In your SSS, you stated,

"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.

"[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 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."

In your written response to the proposal letter, you claim that there is no factual evidence showing that you saw or were aware of the correspondence sent to you on these court matters. Apart from the fact that it is clear that these documents were sent or brought to your residence, as they were in the possession of your former spouse, it is inconceivable that you would have been unaware of judicial actions of this magnitude filed on your behalf. Moreover, as previously noted, your signature appears on a notarized document in which you state under oath that the answers you provided to interrogatories were true and correct. This document was attached to a fax cover sheet from your attorney in this matter which advised you to return this document immediately as it was "needed to file documents at court."

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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 unreasonable and seemingly deliberate and deprived Bureau applicant adjudicators of information requested and required to determine your suitability for Bureau employment.

In addition to your false answers to question 2 of Section IX of the application forms, you also 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 I have determined 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.

Your misconduct in falsifying two employment applications violated the Bureau policy cited in the proposal letter, dated February 14, 2003.

Lack of candor.

The evidence further substantiates 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 substantiates 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. In view of this documentary evidence, your assertion to the contrary is not credible.

Your lack of candor in this regard violates Bureau policy, as cited in the proposal letter to you, dated February 14, 2003.

Your conduct as set forth herein represents a willful and intentional violation of Bureau rules and regulations. After considering the nature and seriousness of your misconduct, I find that it is incompatible with continued service with the FBI. Accordingly, I am dismissing you from the rolls of the FBI, effective upon your receipt of this letter. This action is necessary and warranted to promote the efficiency of the Bureau.

APPEAL RIGHTS

Should you desire to appeal this action, you may address your written response stating the grounds on which you base your appeal to the Assistant Director (AD), Inspection Division (INSD), Room 7825, U. S. Department of Justice, Federal Bureau of Investigation, J. Edgar Hoover Building, 935 Pennsylvania Avenue, Northwest, Washington, D.C. 20535-0001. Any appeal must be filed within ten calendar days following notification of the disciplinary action. *The discipline imposed by this letter is **not** postponed pending your appeal.*

Upon receipt of an appeal of a suspension of fourteen calendar days or less or a probation action, the AD or Deputy AD, INSD, will personally review and decide the appeal. Upon receipt of an appeal of a suspension more than fourteen calendar days, dismissal, or demotion, the AD, INSD, will establish a Disciplinary Review Board (DRB) to review the action taken by the OPR. In exercising appellate authority, INSD and a DRB may independently redetermine the factual findings and/or the penalty imposed. Should you wish to employ an attorney to assist you in this appeal, you must ensure that the enclosed forms on the disclosure of FBI information be completed prior to any disclosure of Bureau information to the attorney handling your appeal. If you and the attorney who will assist you on appeal have earlier completed and provided these forms to the Bureau in connection with this case, these forms do not need to be reaccomplished. You are referred to the Director's Memorandum to all SACs dated March 5, 1997, for additional details pertaining to appeals.

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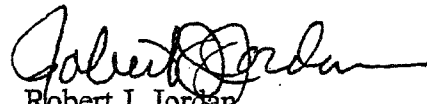
REFERRAL TO OTHER DIVISIONS

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.

**NOTICE TO SEPARATED EMPLOYEE REGARDING
FEDERAL EMPLOYEES HEALTH BENEFITS COVERAGE**

Under authority of 5 U.S.C. 8905a and 5 C.F.R. 890.1112, the Bureau has determined that this separation is for "gross misconduct" as defined by 5 C.F.R. 890.1102. This means that you will not be allowed to enroll for continued Federal Employees Health Benefits coverage after you leave the Bureau through the Temporary Continuation of Coverage provisions. You may appeal this determination to the Personnel Officer, Administrative Services Division, FBI Headquarters, Room 6012, and a final decision on this matter will be issued in writing. If upheld by the Bureau, the finding of "gross misconduct" may then be appealed only through suit in United States District Court.

Sincerely yours,



Robert J. Jordan

Assistant Director

Office of Professional Responsibility

Enclosures