

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Washington Field Office

1131 M Street, N.E.

Washington, D.C. 20507

[REDACTED]

Complainant

v.

**JEH JOHNSON, Secretary
U.S. Department of Homeland Security
(U.S. Secret Service)**

Agency

EEOC No.

Agency No.

October 3, 2016

AFFIDAVIT OF DANNY SEILER

I, DANNY SEILER, am an adult and am competent to testify to the matters herein at trial, hearing or other judicial or administrative proceeding.

1. I am court qualified as a polygraph expert in United States District Court for the Western District of Virginia and in Maryland Circuit Courts for Baltimore City, Howard, and Washington Counties.
2. I have administered more than 1,500 polygraph examinations as a Supervisor Sergeant and Polygraph Examiner for the Maryland State Police and then another approximately 2,500 in private practice. I am also a full member of the American Polygraph Association.
3. I was retained by [REDACTED] to review his polygraph examination with the United States Secret Service (USSS) that was administered by Special Agent Ellen Ripperger.
4. Mr. [REDACTED] informed me that the audio files that were provided are essentially blank. Since 1991 in the approximate 2,500 polygraph

examinations that I have given, the microphones have never failed to record the exam; nor have the exams not been recorded for any other reason.

5. I was provided with polygraph documents, charts and images of his examination. To perform a complete review, however, the digital (computer) files taken by the USSS of the exam are needed. From the provided data it appears that the polygraph test was conducted using the Lafayette (LX) software. Having the digital files created by the LX software would allow me to use my LX software to look at different facets of the exam in greater detail using the tools built into the software. For example, I can look at the tracings more closely by zooming in on them, which allows me to better assess a reaction and how to score it. The LX software contains Objective Scoring System, Version 3, which is the latest version of an algorithm used by the United States Government to assess polygraph test results.
6. To perform a proper review, I will also require at a minimum, a good audio recording of the exam. I would prefer to have both audio and video that would have been easily captured within the LX software, if used. The video is important as it may display facial expressions and movements of any examinee being tested. The audio and video also provides critical insight on whether the exam was properly administered.
7. Without the digital files of the exam I specifically cannot determine:
 - a. If the questions asked of the applicant were framed in a valid manner.
 - b. What the inflection of the voice of the examiner was to the examinee.
 - c. If any improper interchange occurred between the examiner and the examinee.
 - d. If the questions listed in the documentation were asked in the order represented.
8. Based on the materials provided I made the following observations:
 - a. The exam lacks congruency. Mr. [REDACTED] was asked both on his application and during the polygraph examination if he had committed

any serious crimes. He scored a “truthful” (+3) that he did not lie on any aspect of his application, which included both questions about illegal drug use and the commission of criminal acts, both of which Mr. [REDACTED] denied. During his polygraph exam, however, his answer to a question about illegal drug use was interpreted as inconclusive; and his answer to a question about criminal activity was first interpreted as inconclusive, and then as a significant response indicating deception.

- b. The Quality Control Review conducted by the Secret Service may not have met the model policy standards of the American Polygraph Association without a complete review of at least the audio files. A review of the polygraph charts in and of itself is not in my opinion a proper quality control review procedure. Without a review of the audio inflection, pace, timing, and consistency of answers the exam cannot be thoroughly reviewed.
 - c. I did not observe any strong and consistent evidence of countermeasures being employed on the control questions which is where they typically are employed by someone trying to defeat the exam.
 - d. In my professional judgment, based on the materials provided, I find the screening test to be inconclusive.
9. For an inconclusive exam, absent any disqualifying admissions, my standard protocol, as well as that of many of my colleagues, is to retest the examinee and target the most reactive specific relevant issues of concern.

I HEREBY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE STATEMENTS CONTAINED HEREIN ARE TRUE AND ACCURATE.



10/04/16

DANNY SEILER

Date