

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Washington Field Office**

[REDACTED] [REDACTED]	)	
Complainant,	)	EEOC No. [REDACTED]
	)	Agency No. [REDACTED]
v.	)	
	)	
Jeh Johnson, Secretary	)	
Department of Homeland Security,	)	Judge Antoinette Eates
	)	
Agency.	)	
	)	

**COMPLAINANT [REDACTED] [REDACTED] RESPONSES TO AGENCY'S FIRST SET OF DISCOVERY REQUESTS**

**REQUESTS FOR ADMISSION**

- 1) Admit that on December 13, 2013 you voluntarily disclosed your disability to the USSS, specifically to the CIO and Deputy CIOs, prior to receiving a conditional offer of employment. (ROI, Ex. A-1 p. 4).  
  
ADMIT.
  
- 2) Admit that you did not disclose any previously undisclosed disability to the USSS after you received your conditional offer of employment on July 17, 2014.  
  
ADMIT. I disclosed my disability four times during the hiring process. I provided a statement titled "proof of disability" from a physician with my application, at the initial interview with the Chief Information Officer, at the security clearance interview, and during the interrogation that occurred during my polygraph exam.

- 3) Admit that on September 18, 2014, you indicated that you were fit to take a polygraph examination.

ADMIT. I indicated I was physically able to take a polygraph examination. I did not know if the medications I was taking or my condition would make me unfit to take a polygraph exam.

- 4) Admit that you do not have any formal training in the administration of polygraph examinations. ADMIT.

- 5) Admit that after the polygraph examination on September 18, 2014 began, you did not indicate that your anxiety or OCD interfered with your ability to continue the examination.

ADMIT. As stated above I disclosed my condition to the person administering the polygraph examination, a professional who knew or should have known how account for my condition.

- 6) Admit that you have never been employed in a position which required you to administer polygraph examinations.

ADMIT.

- 7) Admit that you have never been employed in a position which required you to interpret the results of polygraph examinations.

ADMIT.

### **INTERROGATORIES**

- 1) If your response to any of the above request for admissions was other than an unqualified admission, state:

- a) all facts which you contend support your denial or the qualification of your admission; and

- b) attach copies of all documents and any other tangible things that you contend support your denial or the qualification of your admission.

**Answer:** Any denials are explained within the Request for Admissions section. There are no documents.

- 2) Identify the person responding to these requests, as well as any individual who provided information responsive to these requests. Include name, position, work address, and work telephone number.

**Answer:** The Complainant, [REDACTED] [REDACTED] responded to these requests with the assistance of his counsel, Thomas J. Gagliardo, General Counsel AFGE Local 1923, 6401 Security Blvd., Room 1720 OPS, Mail Stop 1-G-15, Baltimore, Maryland 21235, 410 965 5566.

- 3) Identify all individuals whom you believe might have information concerning the allegations in your Complaint. For each identified individual, provide his/her name, address, telephone number, employer, and a summary of information possessed by the individual.

**Answer:** Scott Cragg former CIO USSS, Ronald Layton USSS, Ellen Ripperger SA USSS, Robin Despero USSS, Teresa Keith USSS, Jernee Beaty USSS, George Stakias USSS, Stephen Tignor USSS, Crocetta Argento Complainant's Spouse, Any and all employees assigned to the USSS Polygraph Unit, Any and all employees assigned to the Human Capital Division, any and all employees assigned to the Security Clearance Adjudication, any and all employees assigned to the Quality Control Division for polygraph examinations, and an unknown person who contacted the Complainant and indicated themselves to be a Special Agent of the USSS, told the Complainant his case had more

merit than he ever could have imagined, and that Agent Ripperger routinely gives candidates with mental disabilities a hard time, especially veterans with PTSD. It is unknown to the Complainant what information is possessed by any or all of these individuals.

- 4) State when you first disclosed to any employee of the USSS that you had a disability.

**Answer:** At the conclusion of the Complainant's interview with CIO Scott Cragg and his Deputies, Mr. Cragg told the Complainant he would have to take a polygraph examination if offered the position. At that point the Complainant informed them he had taken psychiatric anti-depressant medications for many years and did not want to waste his time or that of the Secret Service if that fact would make him ineligible for appointment. The Complainant believes he informed them he suffered from depression and/or OCD and that was the reason for taking the psychiatric medication. The Complainant also told them he did not want to face the disappointment nor go through all the time and effort required to apply for a Top Secret security clearance if his condition would preclude approval of such a clearance required for appointment. The Complainant also disclosed his disability three other times. The Complainant provided a statement titled "proof of disability" from a physician with his application, at the security clearance interview, and during the interrogation that occurred during his polygraph exam.

- 5) You stated that you believed that SA Ellen Ripperger had "an underlying hostility" during a phone conversation in September 2014. (ROI, Ex. A-1, p. 6). Explain why you believed this and include all facts which support your answer.

**Answer:** A lot can be discerned from the manner in which someone speaks to you. Tone of

voice, inflection, volume, and cadence of speech can be indicative of hostility or friendliness. The Complainant did not have the impression that Agent Ripperger was looking forward to meeting him or having anything to do with him for that matter. The hostility was felt by the Complainant during that phone call and it was certainly present during the Complainant's polygraph exam.

- 6) Do you believe that SA Ripperger included inaccurate information in the report of your polygraph examination? (ROI, Ex. E-7)?

**Answer:** Yes.

- 7) If the answer to the above question is "yes," please explain the basis of this belief and all facts which support your answer.

**Answer:** The Complainant did not lie or mislead the examiner with regard to any of the questions put forth to him during the exam, yet SA Ellen Ripperger stated to the Complainant during the exam that he failed two questions, one on past drug abuse and one with respect to past serious undetected crimes. Yet in the ROI, it states that the Complainant only failed the question on past serious undetected crimes and the result with regard to drug use was "inconclusive." Further, Special Agent Ellen Ripperger asked the Complainant during the exam something to the effect of "Do you like to start fires" and asked about drugs the Complainant takes related to his disability, but denied doing so in her affidavit provided in the ROI.

- 8) Have you ever applied for a Top Secret Security Clearance (TSSC) other than in connection with the application at issue in this Complaint?

**Answer:** No.

9) If the answer to the above question is “yes,” what was the result of your application for a TSSC?

**Answer:** N/A

10) Have you ever taken a polygraph examination other than the one you took in connection with the application at issue in this Complaint?

**Answer:** No

11) If the answer to the above question is “yes,” what was the result of your polygraph examination?

**Answer:** N/A

12) On what basis do you believe that you should have been offered an opportunity to retake a polygraph examination with the USSS? Include all facts which support your answer.

**Answer:** Other individuals who have failed polygraph examinations by Special Agent Ellen Ripperger were retested, but I was not given this same consideration. USSS applicant Stephen Tignor underwent a polygraph examination by Special Agent Ellen Ripperger on or about May of 2013, and Special Agent Ellen Ripperger failed applicant Stephen Tignor on his polygraph exam. Resident Agent in Charge (RAC) Jerry Scheuer questioned the results and integrity of applicant Stephen Tignor’s polygraph examination by Special Agent Ellen Ripperger, and applicant Stephen Tignor was administered a second polygraph examination by a different polygraph examiner which he passed. Applicant Stephen Tignor was ultimately hired by the USSS despite his failure of Special Agent Ellen Ripperger’s polygraph examination. The Complainant cannot understand why he was not given the same considerations afforded to Applicant Stephen Tignor. Special Agent Ellen Ripperger

also failed an African American Veteran on his polygraph examination. This individual, like the Complainant, complained about his treatment and/or test results by Special Agent Ellen Ripperger, and was granted a retest. Unlike the Complainant or Stephen Tignor, this individual did not insist on another polygraph examiner, and Agent Ripperger failed him a second time. The very fact the Complainant was asked if he would take a second polygraph exam by Special Agent Ellen Ripperger and that the CIO Scott Cragg indicated the Complainant was going to be retested in an email is indicative that a second test was in order. The Complainant also talked with a person who tried to recruit him for the NSA, and was told it is not uncommon to have to administer a polygraph exam two or three times before an individual will pass and be granted a TS SCI Clearance.

- 13) Itemize and provide a detailed statement of all damages and/or relief, both monetary and non-monetary, which you are seeking, and for each type of damage and/or relief, describe the factual and legal bases, if any, that support the claim for such damage and/or relief.

**Answer:** This tabular calculation shows that the Complainant, if wrongly denied this promotion through wrongful retraction of his job offer, will have lost \$334,345 over his federal career until normal retirement at age 67. This figure does not include any increases in salary to the General Schedule nor interest the Complainant may have earned on his lost wages.

Year	Age	Grade 15	Grade 14	15-14	Sum Delta
2014	46	\$128,082	\$119,776	\$8,306	\$8,306
2015	47	\$132,352	\$123,406	\$8,946	\$17,252
2016	48	\$136,622	\$127,036	\$9,586	\$26,838
2017	49	\$140,892	\$127,036	\$13,856	\$40,694
2018	50	\$140,892	\$130,666	\$10,226	\$50,920
2019	51	\$145,162	\$130,666	\$14,496	\$65,416

2020	52	\$145,162	\$134,296	\$10,866	\$76,282
2021	53	\$149,432	\$134,296	\$15,136	\$91,418
2022	54	\$149,432	\$134,296	\$15,136	\$106,554
2023	55	\$153,702	\$137,926	\$15,776	\$122,330
2024	56	\$153,702	\$137,926	\$15,776	\$138,106
2025	57	\$153,702	\$137,926	\$15,776	\$153,882
2026	58	\$157,971	\$141,555	\$16,416	\$170,298
2027	59	\$157,971	\$141,555	\$16,416	\$186,714
2028	60	\$157,971	\$141,555	\$16,416	\$203,130
2029	61	\$160,300	\$141,555	\$18,745	\$221,875
2030	62	\$160,300	\$141,555	\$18,745	\$240,620
2031	63	\$160,300	\$141,555	\$18,745	\$259,365
2032	64	\$160,300	\$141,555	\$18,745	\$278,110
2033	65	\$160,300	\$141,555	\$18,745	\$296,855
2034	66	\$160,300	\$141,555	\$18,745	\$315,600
2034	67	\$160,300	\$141,555	\$18,745	\$334,345

Compensatory damages and reimbursement of Attorney's fees and costs are to be determined.

- 14) If you are asserting discrimination based on disability (OCD, anxiety disorder and/or depression) please describe in detail the reasons you believe you were discriminated against, including specifying what actions constituted discrimination, when the discrimination occurred, identifying the person(s) who discriminated against you, describing how that person's or persons' actions constituted discrimination.

**Answer:** The Complainant believes the CIO was genuinely impressed with his education and experience and offered him the position on that basis. A faulty assessment of his polygraph examination was used as pretext to revoke his written offer of employment due to his mental disabilities. It should be noted that Complainant is not required to establish discrimination or retaliation by his own testimony. The answer in this interrogatory will be supplemented as evidence is developed.

- 15) If you believe that the Agency's reasons, as set forth in the declarations of the management officials contained in the ROI, for why you were not selected for the vacancy at issue in this Complaint are pre-textual, state any and all facts that provide the basis for that contention.

**Answer:** The failure to provide the Complainant a retest of his polygraph examination, to properly analyze the polygraph examination results, and the hostility of Agent Ripperger are all pre-textual. Additionally please see the ROI for the numerous inconsistencies in this hiring process, the numerous self-contradictory statements made by USSS in explaining the retraction of this offer of employment, and the deviations from the norm with regard to both the standard hiring processes in the federal government, and the standard adjudication process for a security clearance.

- 16) Identify each and every health care provider (including but not limited to, physicians, psychologists, psychiatrists, chiropractors, physician assistants, nurses, social workers, or counselors) you have consulted with or been treated by, with respect to any compensatory damages you are seeking. **Answer:** Dr. David Leichtling, MD; Dr. Diana Habison, MD, Psychiatrist; Dr. Sanford Greenhouse MD; Dr. J Edward Ruffner, MD, Psychiatrist.

- 17) For each health care provider identified in response to Interrogatory No. 17, provide the date(s) of the consultations, what condition(s) Complainant sought treatment for, any diagnoses made by those health care providers, and any and all treatments/medications prescribed by those health care providers. **Answer:** Dr. David Leichtling, MD: 2010 to Present OCD, Anxiety, Major Depression; Lexapro, Ativan, Effexor, Wellbutrin - Dr. Diana Habison, MD, Psychiatrist, 2004 to 2010 OCD, Anxiety, Major Depression: Lexapro,

Ativan, Prozac - Dr. Sanford Greenhouse, MD 1990-2010 OCD, Anxiety, Major Depression: Lexapro, Zoloft, Prozac, Xanax, Dr. J Edward Ruffner, MD, Psychiatrist ~1994-2001 OCD, Anxiety, Major Depression: Prozac, Zoloft, Wellbutrin, Ativan, Xanax, Celexa, Lexapro. Dates of treatment are approximate.

18) List all GS-15 or equivalent positions for which you applied after October 28, 2014.

**Answer:** Please review the Excel file provided named “[REDACTED].xlsx” for a comprehensive listing of all GS-15 positions applied for, referred, offered, and declined.

### **REQUESTS FOR DOCUMENTS**

- 1) Produce any and all documents that were referred to in formulating your responses to the above requests for admission and interrogatories.
- 2) Produce any and all documents, including but not limited to all e-mails, notes, logs, lists, diaries, calendars, files, or correspondence, or any other personal notes prepared by you, that support, relate, and/or are relevant to the allegations in your Complaint.
- 3) Produce any and all documents, including any notes you took, which reflect communications between you and Chief Information Officer Scott Cragg regarding your application for the vacancy at issue in your Complaint.
- 4) Produce any and all documents that support your damages claim, to include, but not limited to, any and all medical records.
- 5) Produce any and all documents (including notes and emails) reflecting communications between you and anyone from the Agency relating to the allegations in your Complaint, including the Statement of Material Facts. (ROI, Ex. A-1).

- 6) Produce any and all documents (including notes and emails) reflecting communications between you and anyone from the Agency relating to the allegations in your Declaration and Rebuttal. (ROI, Ex. D-1 and D-2).
- 7) Produce copies of your personal calendars and diaries during the period at issue in this Complaint.

I HEREBY AFFIRM UNDER THE PENALTIES THAT THE ANSWERS TO INTERROGATORIES AND OTHER INFORMATION PROVIDED ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

/s/ [REDACTED]

Respectfully submitted,

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Thomas J. Gagliardo  
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**CERTIFICATE OF SERVICE**

The attached document entitled *COMPLAINANT* [REDACTED] [REDACTED] *RESPONSES TO AGENCY'S FIRST SET OF DISCOVERY REQUESTS* was sent to the following on Sunday, February 28, 2016 by electronic mail:

Steven Giballa  
Agency Attorney  
U.S. Secret Service  
Steven.Giballa@uss.s.dhs.gov

Tom Gagliardo, Esq.  
Complainant's Representative  
tomgagliardo@gmail.com

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