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**FEDERALLY EMPLOYED WOMEN
LEGAL EDUCATION FUND**

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July 30, 2013

Phyllis Fong, Inspector General
USDA—Office of Inspector General
Room 117-W Jamie Whitten Building
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Washington, DC 20250

Milton Mayo, Jr., Inspector General
Equal Employment Opportunity Commission
Office of the Inspector General
P.O. Box 77067
Washington, DC 20013

RE: Request for Formal OIG Investigations

Inspectors General;

Over the last 30 years Federally Employed Women—Legal Education Fund (FEW/LEF) is one of the most prominent employee based support organizations protecting Title VII claimants in the Federal Sector. It has come to our attention that the Office of General Counsel has proffered fabricated evidence and backdated documents in the matter of **Michael McCray vs USDA** (EEOC No. 570-2010-00744X).

On April 21, 2009 Agriculture Secretary Tom Vilsack proclaimed a new era on civil rights enforcement at the U.S. Department of Agriculture. The Agriculture Department plans to review more than 14,000 civil rights complaints that have been filed against the agency since 2000. Secretary Vilsack said only a small number of those complaints were eventually decided against the department and that 3,000 of the complaints have not even been processed. (*Associated Press*)

USDA was faced with three options in resolving these cases: 1) provide full due process, investigate and fully process the unprocessed claims, albeit ten years late; 2) don't investigate but immediately enter Final Agency Decisions denying the claims and close the files, however this would trigger the complainants' right to appeal; or 3) simply "back date" Final Agency Decisions denying the claims and then close the files, asserting some sort of administrative error. This method would deny the discrimination claims and also eliminate the complainants' right to appeal—by illegally fabricating evidence.

In testimony for the EEOC, the Assistant Secretary for Civil Rights (Joe Leonard) takes credit for the increase in Agency FADs as evidence of increased confidence in the Office of Civil Rights. We contend that the remarkable increase in FADs may well be the fabricated/backdated FADs introduced to resolve these 3,000 unprocessed claims.

Mr. McCray possessed four of those unprocessed claims. After filing an additional grievance for non-selection and a class action complaint to resolve the unprocessed claims, Mr. McCray discovered that USDA had indeed fabricated evidence, backdated a FAD and submitted the fraudulent documents to the EEOC in an effort to unlawfully dispose of his prior claims and eliminate his right to appeal.

In addition to Mr. McCray's case, we have also been contacted by other USDA employees making similar complaints about backdated FADs and/or fabricated evidence in the processing of their EEO claims. By engaging in this conduct, USDA Officials have been routinely engaged in illegal and unethical conduct to deny due process in possibly thousands of EEO cases at the U.S. Department of Agriculture. Unfortunately, this unlawful conduct has been carried over to and coordinated with the EEOC.

Allegations

1. In an effort to reduce and/or eliminate the backlog of over 3,000 unprocessed EEO claims USDA fabricated evidence and backdated Final Agency Decisions (FADs) to avoid discrimination claims and deny appeal rights.
2. In an effort to reduce and/or eliminate the backlog of over 3,000 unprocessed EEO claims USDA submitted fabricated evidence and backdated FADs to the EEOC Office of Federal Operations to deny fair processing of complainant's OFO Appeals.
3. USDA has fabricated evidence in an effort to cover up a timely filed EEO class action complaint alleging 1) denial of due process for thousands of EEO claims and 2) disparate treatment in ADR resolution for African Americans, Hispanics and Women at USDA.
4. Disparate treatment in ADR resolution for African Americans, Hispanics and Women at USDA. The refusal to mediate results in disparate treatment between the processing and resolution of traditional claims of discrimination and "*reverse discrimination*" (e.g. Shirley Sherrod).
5. In an effort to assist USDA reduce and/or eliminate the backlog of over 3,000 unprocessed EEO claims, the EEOC/Carlton Hadden fabricated evidence and backdated OFO Appeal to avoid USDA discrimination claims and deny due process or the complainant's appeal rights.

Please find this document as an official complaint and request for a formal investigation by the respective OIGs into the enumerated allegations above.

Respectfully,

Matthew Fogg

Matthew Fogg, EEO Representative
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*cc: The Honorable Marcia Fudge
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