November 24, 2010

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Motion to Dismiss

Names of Petitioners:	Hansford F. Johnson B&W Pantex LLC
Dates of Filings:	November 1, 2010
Case Numbers:	TBZ-0104

This Decision will consider a Motion to Dismiss filed by B&W Pantex LLC (B&W), the Management and Operating Contractor for the Department of Energy's (DOE) Pantex Plant (Pantex), in connection with the pending Complaint of Retaliation filed by Hansford F. Johnson against B&W under the DOE's Contractor Employee Protection Program and its governing regulations set forth at 10 C.F.R. Part 708. The Office of Hearings and Appeals (OHA) assigned the hearing component of Mr. Johnson's Part 708 Complaint proceeding, Case No. TBH-0104, and B&W's Motion to Dismiss, Case No. TBZ-0104. For the reasons set forth below, I will grant B&W's Motion in part and dismiss Mr. Johnson's Complaint as to certain alleged retaliations.

I. Background

A. The DOE Contractor Employee Protection Program

The DOE's Contractor Employee Protection Program was established to safeguard "public and employee health and safety; ensur[e] compliance with applicable laws, rules, and regulations; and prevent fraud, mismanagement, waste and abuse" at DOE's government-owned, contractor-operated facilities. 57 Fed. Reg. 7533 (March 3, 1992). Its primary purpose is to encourage contractor employees to disclose information which they believe exhibits unsafe, illegal, fraudulent, or wasteful practices and to protect those "whistleblowers" from consequential reprisals by their employers.

The regulations governing the DOE's Contractor Employee Protection Program are set forth at Title 10, Part 708 of the Code of Federal Regulations. The regulations provide, in pertinent part, that a DOE contractor may not discharge or otherwise discriminate against any employee because that employee has disclosed, to a DOE official or to a DOE contractor, information that the employee reasonably believes reveals a substantial violation of a law, rule, or regulation; a substantial and specific danger to employees or to the public health or safety; or, fraud, gross mismanagement, gross waste of funds, or abuse of authority. *See* 10 C.F.R. § 708.5(a)(1)-(3). Available relief includes reinstatement, back pay, transfer preference, and such other relief as may be appropriate. *Id.* at § 708.36.

Employees of DOE contractors who believe they have been discriminated against in violation of the Part 708 regulations may file a whistleblower Complaint with the DOE and are entitled to an investigation by an investigator from the Office of Hearings and Appeals (OHA), an independent fact-finding and a hearing by an OHA Hearing Officer, and an opportunity for review of the Hearing Officer's Initial Agency Decision by the OHA Director. 10 C.F.R. §§ 708.21, 708.32.

B. Procedural History

Mr. Johnson filed a Part 708 Complaint on September 8, 2008, with the Whistleblower Program Manager at the National Nuclear Security Administration's Service Center in Albuquerque, New Mexico. He filed an amendment to his Complaint on November 20, 2008. In his Complaint, Mr. Johnson alleged that he had made protected disclosures and, as a result of his so doing, B&W engaged in a series of retaliatory actions against him, including threatening to fire him and subjecting him to an internal audit. B&W filed its response to the Part 708 Complaint on December 10, 2008, contesting that Mr. Johnson had engaged in any conduct protected under Part 708, and arguing that his Complaint did not identify any acts of retaliation. The Whistleblower Program Manager transmitted the Complaint to OHA for an investigation, to be followed by a hearing, when informal resolution of the Complaint proved unsuccessful. While the case was pending before an OHA Investigator, Mr. Johnson requested that his Complaint be dismissed. On June 4, 2009, the OHA dismissed his Complaint.

On April 14, 2010, after leaving his employment with B&W on March 24, 2010, Mr. Johnson filed a new Part 708 Complaint with the Whistleblower Program Manager. In this Complaint, he referenced his earlier alleged protected disclosures and his previous Part 708 Complaint, and alleged that B&W management had retaliated against him by harassing and constructively discharging him. B&W filed a response to the Complaint on April 23, 2010, requesting that the Complaint be dismissed because Mr. Johnson was improperly attempting to reinstate his prior Complaint, which had been dismissed at his request, and because Mr. Johnson had not alleged an act of retaliation for which relief could be granted under Part 708. The Whistleblower Program Manager subsequently transmitted the Complaint to OHA for an investigation followed by a hearing.

On June 28, 2010, the OHA Director appointed an Investigator (OHA Investigator), who conducted an investigation into the allegations contained in Mr. Johnson's Complaint. The OHA Investigator issued a Report of Investigation (ROI) on September 17, 2010. In the ROI, the OHA Investigator noted that the filing of Mr. Johnson's previous Part 708 Complaint would constitute a protected activity under the regulations, which protect from retaliation conduct including "[p]articipating in . . . an administrative proceeding conducted under this regulation; . . . ." 10 C.F.R. § 708.5(b). However, the Investigator concluded that it was uncertain whether there was sufficient temporal proximity between the filing of Mr. Johnson's 2008 whistleblower Complaint and the harassment he allegedly experienced beginning in January 2010 to permit an inference that the Complaint was a contributing factor to the alleged retaliation. In addition, the Investigator, though finding that the OHA has held that a constructive discharge can form the basis for relief under Part 708, reached no conclusion as to whether the facts alleged by Mr. Johnson in this case would constitute a constructive discharge.

Immediately after the ROI was issued, the OHA Director appointed me the Hearing Officer in this case. On October 8, 2010, I sent a letter to the parties and asked them to submit briefs discussing the ROI, specifically identifying the parts of the ROI with which each party agreed and disagreed, and identifying facts in the record supporting the party's position. On October 28, 2010, B&W submitted its brief, in which it requested that the Complaint be dismissed. Mr. Johnson tendered his brief and a response to the Motion to Dismiss on November 9, 2010.

C. Factual Overview

Mr. Johnson alleges that, in 2007 and 2008, he made disclosures protected under Part 708 regarding the implementation of an Energy Savings Performance Contract (ESPC) at Pantex, including by filing a Complaint with the DOE Office of Inspector General (IG). An ESPC is a partnership between a Federal agency and an energy service company (ESC). The ESC conducts a comprehensive energy audit for the Federal facility and identifies improvements to save energy. In consultation with the Federal agency, the ESC designs and constructs a project that meets the agency's needs and arranges the necessary financing. The ESC guarantees that the improvements will generate energy cost savings sufficient to pay for the project over the term of the contract. After the contract ends, all additional cost savings accrue to the agency. Contract terms up to 25 years are allowed. Federal Energy Management Program: Energy Savings Performance Contracts, http://www1.eere.energy.gov/femp/financing/espcs.html.

Mr. Johnson claims he was subject to retaliation for his advocacy of the ESPC by virtue of an audit requested by Pantex Manager Dan Swaim. In March 2008, Mr. Swaim requested an internal audit of the ESPC, to review several issues, including Mr. Johnson's relationship with the owner of NORESCO, LLC, the ESC chosen for the Pantex ESPC. Mr. Johnson further alleges that, in late August 2008, he experienced "emotional distress" from negative interactions with his supervisor, Dale Stout, and that Mr. Stout gave him an increased workload and increasingly shorter deadlines to comply with. Allegedly pursuant to a Complaint by Mr. Stout about Mr. Johnson's performance, Mr. Johnson was subsequently asked by Pantex HR to respond to a Complaint about his work performance.

As noted above, Mr. Johnson filed a Part 708 Complaint in September 2008, but withdrew the Complaint in June 2009, after the Whistleblower Program Manager referred the Complaint to the OHA. Mr. Johnson alleges that he dropped this Complaint because he feared for his job.

In his present Complaint, Mr. Johnson alleges that he began to notice, in approximately January 2010, that Mr. Stout was again retaliating against him by demanding that major documents be finished within one day. Johnson also alleges that Mr. Stout would angrily ask a few hours later what Mr. Johnson was doing or why he was doing a particular function. It seemed to Mr. Johnson that Mr. Stout's conduct was "angrier and louder" every day. These incidents allegedly increased in frequency.

In March 2010, Mr. Johnson went to his physician regarding the stress he was experiencing on the job. His physician prescribed a tranquilizer and recommended that Mr. Johnson stay at home for one week. Mr. Johnson stayed home on sick leave during the week of March 15. Mr.

Johnson alleges that, on March 22, 2010, his physician wrote on a Return to Work Form (Form 53-B) that Mr. Johnson should not be returned to his previous work environment.

On March 23, 2010, Mr. Johnson met with Jeff Flowers, Mr. Stout's supervisor, and expressed his desire to work in a different location. Mr. Flowers instructed Mr. Johnson to report to him the following day. Mr. Johnson describes the March 24th meeting as follows:

> I went to Mr. Flower's office at 8 am. He told me to come in and shut the door. He said, "So are you ready to go back to work?" I said, "Yes. Where am I going? He said, "Back to your cubicle." At this point I went into shock. I was dazed, and stayed that way for several weeks. I said, "Back to that same environment? No, I'm not going back there. Haven't you seen the doctor's restrictions? Haven't you seen the 53-B? I am under doctor's orders not to go back to that environment." He said "Reconsider." I said, "No. I can't." He said "Again, reconsider." I said, "No. You surely know I can't go back there." He turned around and grabbed a sheaf of papers. He put them in front of me. Without looking at them, I said "Are you firing me?!" He said, "No. I'm retiring you. Sign at the bottom." I said, "I don't want to retire. I can't afford to retire." He said, "Sign your name at the bottom." I said I can't retire. I'll lose my house." He said, "Sign." I signed, in shock. The rest of the day was a blur.

ROI at 9.

II. Analysis

In its pre-hearing brief, B&W argues that Mr. Johnson's Complaint "does not present issues for which relief can be granted pursuant to 10 CFR 708. For this reason, the Company respectfully requests that the Complaint be dismissed." B&W Brief at 2. More specifically, B&W contends that the Complaint fails to identify "any protected disclosure or protected activity that falls within the scope of Part 708, and in the alternative, it fails to identify any act of retaliation that is covered by the regulations." *Id.*

The Part 708 regulations do not include procedures and standards governing motions to dismiss. In the absence of such standards, the Federal Rules of Civil Procedure, though not governing this proceeding, may be used for analogous support. *See, e.g. Billy Joe Baptist*, Case No. TBH-0080 (2009); *Edward J. Seawalt*, Case No. VBZ-0047 (2000) (applying standards of Fed. R. Civ. P. 56 to Motion for Summary Judgment). The motion to dismiss filed by B&W in the present case is most analogous to what would, under the Federal Rules, be a motion to dismiss for "failure to state a claim upon which relief can be granted . . . ." Fed. R. Civ. P. 12(b)(6).

The Supreme Court has held that, to survive a Rule 12(b)(6) motion to dismiss, a Complaint must plead "only enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). While the Complaint "does not need detailed factual allegations, . . . [f]actual allegations must be enough to raise a right to relief above the speculative level, on the assumption that all of the Complaint's allegations are true (even if doubtful in fact), ..." *Id.* at 555 (citations omitted).

In addition, prior cases of this office instruct that such a motion should be granted only where there are clear and convincing grounds for dismissal, and no further purpose will be served by resolving disputed issues of fact on a more complete record. *Curtis Broaddus,* Case No. TBH-0030 (2006); *Henry T. Greene*, Case No. TBU-0010 (2003) (decision of OHA Director characterizing this standard as "well-settled"); *see also David K. Isham*, Case No. TBH-0046 (2007) (complaint may be dismissed where it fails to allege facts which, if established, would constitute a protected disclosure); *accord Ingram v. Dep't of the Army*, 114 M.S.P.R. 43, 47 (2010) (finding Merit Systems Protection Board jurisdiction under federal Whistleblower Protection Act where complaint makes non-frivolous allegation that he engaged in whistleblowing activity by making a protected disclosure, and the disclosure was a contributing factor in the agency's decision to take or fail to take a personnel action).

Applying the relevant standards, for the reasons explained below, I will dismiss the present Complaint only to the extent that it alleges acts of retaliation for which relief cannot be granted because the Complaint was not filed "by the 90th day after the date [the employee] knew, or reasonably should have known, of the alleged retaliation." 10 C.F.R. § 708.14. In all other respects, however, the Complaint presents enough facts to state a plausible claim for relief, assuming that all of the Complaint's allegations are true. There are clearly disputes as to a number of the allegations in the Complaint, and the hearing in this matter will provide an opportunity to resolve the disputed issues of fact on a more complete record.

A. Acts of Retaliation Alleged in Mr. Johnson's Previous Part 708 Complaint

First, B&W argues in its brief that "Mr. Johnson's relating back to his 2008 claim (OHA Case No. TBI-0086) is improper because that Complaint was dismissed on June 4, 2009 . . . at the request of Mr. Johnson." B&W Brief at 4. The company contends that the present Complaint "is completely based on a previously voluntarily resolved Complaint" and that, therefore, "Mr. Johnson cannot simply re-urge it at this later date." *Id.* At 2.[1]

In a analogous case decided under the Whistleblower Protection Act (WPA), upon which Part 708 is modeled, the Merit Systems Protection Board addressed the question of whether a party was barred from bringing an action concerning matters that "were the subject of a prior Board appeal that was dismissed with prejudice pursuant to the appellant's request." *Greenspan v. Dep't of Veterans Affairs*, 94 M.S.P.R. 247, 249 (2003).

In *Greenspan,* the appellant had filed a Complaint alleging that the agency retaliated against him by proposing a one-day suspension for alleged disclosures made during a March 1999 staff meeting. *Id.* The appellant filed an appeal with the Board, but later withdrew the appeal. After the first appeal was filed, the agency "reprimanded the appellant for his March 1 conduct in lieu of the suspension." *Id.* at 255. The employee subsequently filed a second appeal, this one based

[1] In support of its argument, B&W cites 10 C.F.R. §§ 708.17(c)(5) and 708.23(c). B&W Brief at 2. However, section 708.17 concerns when a "Head of Field Element or EC Director" may dismiss a Complaint, i.e., prior to the referral of a Complaint to the OHA, and section 708.23 describes procedures for issuance of a Report of Investigation. Thus, neither of the cited provisions are applicable at this stage of the present proceeding.

on the reprimand, and the agency argued that the employee's withdrawal of his first "appeal with prejudice bars the current appeal under the doctrines of collateral estoppel or res judicata." *Id.*

The Board disagreed, noting that the first appeal could not have concerned the reprimand because the agency had not yet taken that action, and that the appellant filed his first Complaint months before the reprimand occurred. "While both the reprimand and the suspension were based upon the same events, the proposed one-day suspension is a different action than the agency's ultimate actions—a letter of reprimand. Thus, neither collateral estoppel nor res judicata apply." *Id.* at 255-56.

Similarly, in the present case, Mr. Johnson alleges new acts of retaliation by B&W, beginning in January 2010, that occurred *after* he withdrew his first Part 708 Complaint, in June 2009. As in *Greenspan,* simply because Mr. Johnson alleges that these new actions were based, at least in part, on the same disclosures that he alleged in his first Complaint does not mean that his new Complaint must be dismissed.

In addition, Mr. Johnson's new Complaint is based on a separate allegation that he engaged in conduct protected under the Part 708 regulations when he filed his first Complaint. The OHA Investigator found, correctly, that filing a Part 708 Complaint constitutes a protected activity under the regulations, which protect from retaliation conduct including "[p]articipating in . . . an administrative proceeding conducted under this regulation . . . ." 10 C.F.R. § 708.5(b).

Moreover, because the June 4, 2009, letter dismissing Mr. Johnson's first Complaint did not state that the Complaint was being dismissed "with prejudice," it is not clear that this dismissal would bar Mr. Johnson from raising again *even the same* allegations of retaliations in a new Complaint. Letter from Steven L. Fine, Investigating Attorney, OHA, to Fred Johnson (June 4, 2009). However, I need not reach this issue, as the present Complaint was filed on April 14, 2010, and the Part 708 regulations require that an employee must file a Complaint "by the 90th day after the date you knew, or reasonably should have known, of the alleged retaliation." 10 C.F.R. § 708.14. Thus, Mr. Johnson is clearly time-barred from alleging, in his April 14, 2010, Complaint, any acts of retaliation that he alleged in his first Complaint, since he clearly knew of those acts at the time he filed his first Complaint in September 2008.

Indeed, other than the alleged retaliations of harassment and constructive discharge in 2010, Mr. Johnson alleges no retaliations of which he only became aware within the 90 days preceding the filing of his Complaint. Accordingly, I will dismiss the current Complaint to the extent that it alleges any acts of retaliation other than the harassment and constructive discharge Mr. Johnson alleged occurred in 2010.

B. Allegation of Constructive Discharge

As noted above, Mr. Johnson alleges that B&W constructively discharged him on March 24, 2010. In its brief, B&W references an occasion where Mr. Johnson's supervisor, Mr. Stout, "verbally counseled Mr. Johnson for reading the newspaper when Mr. Johnson was responsible for supporting Mr. Stout on an important deadline." B&W Brief at 3. B&W contends that "Mr. Johnson must prove that the isolated verbal exchange . . . arose from Mr. Stout's desire to

encourage his voluntary retirement." *Id.* at 4. The company contends that there "is simply no authority that an employee who is subjected to necessary verbal counseling by his supervisor for reading a newspaper during a pending work deadline is acting reasonably when he decides to voluntarily take retirement." *Id.*

The OHA has held that a constructive discharge can form the basis for relief under Part 708. *Richard L. Urie*, Case No. TBH-0063 (May 21, 2008). In *Urie*, the hearing officer used the standard articulated in a Supreme Court case, *Pennsylvania State Police v. Suders*, 542 U.S. 129 (2004), as the standard to establish constructive discharge in the Part 708 context. Consequently, for a whistleblower to establish that he or she was constructively discharged, the whistleblower must prove by a preponderance of the evidence that his or her working conditions became so intolerable that a reasonable person in the employee's position would have felt compelled to resign. *Urie* at 11. This is an objective "reasonable employee" standard which cannot be triggered by an employee's subjective beliefs. *See Roman v. Porter*, 604 F. 3d 34, 42 (1st Cir. 2010); *accord Heining v. General Serv. Admin.*, 68 M.S.P.R. 513, 519 (1995) ("presumption of voluntariness may be rebutted if the employee can establish that the resignation or retirement was the product of duress or coercion").

Nonetheless, in considering this issue for purposes of ruling on B&W's motion to dismiss, my decision must be based "on the assumption that all of the Complaint's allegations are true (even if doubtful in fact)," *Twombly,* 550 U.S. at 555, and the facts alleged in the present Complaint are significantly more severe than portrayed in B&W's brief. The ROI describes allegations by Mr. Johnson of not just one incident of verbal counseling, but rather conduct by Mr. Stout that became "'angrier and louder' every day" and "increased in frequency." ROI at 6. Moreover, as set forth above, Mr. Johnson alleges that, in their March 24, 2010, meeting, Mr. Flowers told him that he had to return to his former work environment, and when Mr. Johnson complained that he was under doctor's orders not to do so, Mr. Flower's told Mr. Johnson that "I'm retiring you." ROI at 9.

B&W's position on this issue is very similar to one advanced by a DOE contractor is a prior Part 708 case, *Boeing Petroleum Services*, Case No. LWZ-0026 (1994). Prior to the hearing in that case, Boeing argued, in response to a claim of constructive discharge, that the complainant "voluntarily resigned from his position . . . ." *Id.* However, the Hearing Officer noted that the complainant "maintains that his resignation was precipitated by being 'belittled and harassed by management personnel' and therefore did in fact constitute a 'constructive discharge,' . . . ." *Id.* The Hearing Officer concluded that because "this is a factual matter that is in dispute, it is premature for us to rule upon whether [the complainant] has established the existence of circumstances amounting to a 'constructive discharge' from his position." *Id.*[2] For the same reason, I find here that, based on the stark factual dispute in the present case, it would be premature to dismiss the present Complaint, which I find clearly alleges "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570.

[2] The Hearing Officer in *Urie* reached a similar conclusion regarding a pre-hearing Motion to Dismiss the claim of constructive discharge in that case, finding "that unresolved issues of fact remained regarding these claims, and that the goals of the Part 708 Contractor Employee Protection Program would best be served by resolving these issues on a more complete record." *Urie* at 4-5.

C. Nexus Between Alleged Protected Conduct and Alleged Retaliation

Under Part 708, a complainant must prove that his alleged protected act was a contributing factor to a retaliatory action. 10 C.F.R. § 708.29. One way a complainant can meet this evidentiary burden is to provide evidence that "the official taking the action has actual or constructive knowledge of the disclosure and acted within such a period of time that a reasonable person could conclude that the disclosure was a factor in a personnel action." *See David Moses*, Case No. TBH-0066 (2008), *Ronald Sorri*, Case No. LWA-0001 (1993).

B&W contends that the 15-month period between the filing of Mr. Johnson's first Part 708 Complaint in September 2008 and the alleged harassment beginning in January 2010 "argues against allowing a presumption that the 2008 whistleblower complaint was a contributing factor in the alleged constructive discharge." B&W Brief at 4-5. This argument echoes the finding of the ROI which, as does the brief, cited as support a decision of the OHA on a Part 708 jurisdictional appeal. *See Donald Searle*, Case No. TBU-0079 (2008).

In *Searle*, we upheld the dismissal of a Part 708 Complaint by an Employee Concerns Director. We found that dismissal was warranted in that case, in part because the twelve months between the filing of an earlier Part 708 Complaint and the alleged retaliation was "an unusually extended period of time." *Id.* However, the present case is readily distinguishable from *Searle* in two respects. First, in *Searle*, the OHA cited as an additional basis for its decision the fact that the company in question "voluntarily rehired Searle after he made the protected disclosure referenced in Complaint I." *Id.*

Second, *Searle* relied on a prior decision of an OHA Hearing Officer in *Elaine M. Blakely,* Case No. VBH-0086 (2003). In *Blakely*, the alleged retaliation occurred 13 months after the official who took the alleged retaliatory action became aware of the complainant's protected disclosures, the Hearing Officer further finding that the official would not have been reminded of those disclosures in the intervening months. *Id.* Here, although 15 months elapsed between the filing of Mr. Johnson's September 2008 Complaint and the alleged retaliation beginning in January 2010, the complainant's protected activity was not limited to merely the *filing* of his first Complaint. The Part 708 regulations specifically protect employees from retaliation for "[p]articipating in . . . an administrative proceeding conducted under this regulation; . . . ." 10 C.F.R. § 708.5(b). Mr. Johnson's participation with regard to his first Part 708 Complaint continued until June 2009, when he withdrew the Complaint. Thus, in fact, only about seven months had lapsed between Mr. Johnson's protected activity and the January 2010 alleged retaliations, which is a shorter period than that found sufficient to meet the complainant's burden in prior cases. *See, e.g. Barbara Nabb,* Case No. VBA-0033 (2000) (over seven months); *Luis P. Silva*, Case No. VWA-0039 (2000) (nine months). [3]

[3] This same distinction became important in the Appeal of the Hearing Officer's decision in *Blakely*, where the OHA Director disagreed with the Hearing Officer's finding that the official taking the alleged retaliatory action was not aware of a previous Part 708 Complaint filed by the complainant. *Elaine M. Blakely,* Case No. VBA-0086 (2004). The Director found that, regardless of the official's actual knowledge, it was "appropriate to impute knowledge of this earlier Part 708 proceeding to" the official. *Id.* And though the earlier Complaint was *filed* 12 months before the alleged retaliation in that case, the Director found that it was "in and of itself sufficient to permit a finding that" the employee's *participation* in the previous Part 708 proceeding "was a contributing factor in her termination, which took place within a matter of days after that initial Part 708 proceeding was concluded." *Id.*

D. Summary

For the reasons set forth above, I find that, with respect to each of the bases for dismissal advanced by B&W, the Complaint in this case presents enough facts to state a plausible claim for relief, assuming that all of the complainant's allegations are true. However, I will grant the company's Motion to Dismiss to the extent that the present Complaint alleges any acts of retaliation other than the harassment and constructive discharge Mr. Johnson alleged occurred in 2010.

It Is Therefore Ordered That:

(1) The Motion to Dismiss filed by B&W Pantex LLC on November 1, 2010, Case No. TBZ-0104, be and hereby is granted as set forth in paragraph (2) below and denied in all other respects.

(2) The Complaint filed by Hansford F. Johnson against B&W Pantex LLC on April 14, 2010, Case No. TBH-0104, be and hereby is dismissed as to any acts of retaliation other than the harassment and constructive discharge alleged to have occurred in 2010.

(3) This is an Interlocutory Order of the Department of Energy. This Order may be appealed to the Director of OHA upon issuance of a decision by the Hearing Officer on the merits of the Complaint.

Steven J. Goering
Hearing Officer
Office of Hearings and Appeals

Date: November 24, 2010