

**Re: OSC File No. DI-08-2166**

Thank you to all involved in this case and it's nice to see the conclusions found through the investigation. My comments below are mainly untruths I believe in sworn interviews by US Army Corps of Engineers Louisville District employees.

**John Cheek - Sworn Interview**

① Q: Do you know Flora?

A: No

Comment - Flordeliza "Flora" Suntup in this investigation is the same woman who cleans for the USACE sometimes, this would be known to Mr. Cheek since he is involved in setting up the cleaning personnel to fill in as needed. Suntup and Cheek would have discussed when she would have been needed to clean. Suntup would have even cleaned Cheek's office during a typical day of normal office operations. James Harris and Rebecca Zurschmiede (employees) with the Louisville District USACE may have insight on Suntup and Cheek's communications. I believe John Cheek was aware of who Flora Suntup is in relation to the investigation.

② Q: Why do you believe this has been reported?

A: Retaliation by Paul Jason Polly. Mr. Polly was terminated in February 2008 for falsifying a letter of recommendation by his Supervisor to obtain a USCG master license.

③ Comment - His answer goes against the settlement brokered by the MSPB between myself and the USACE. I "resigned" my position and that is to be the official statement by the USACE. John Cheek violated the settlement by stating I was terminated.

**Gary Murphy - Sworn Interview**

④ Mr. Murphy claims his primary residence is by Jeffersonville IN, and a secondary residence by Owensboro KY. These residences are the point of the TDY issues with Mr. Murphy.

Comment - I think Mr. Murphy has stated his residences incorrectly and needs corrected. I found the information below to determine primary residency.

Edward B. Jones, CPA - Kossier Jones & Company, LLC

Issue : When you have two or more homes, how do you determine which is a primary residence.

**Definition of principal residence**

The IRS says that, generally, your principal residence will be the home where you spend the majority of your time. But this isn't the only test. Other factors that will be relevant to the determination include but are not limited to:

- Your place of employment
- Where your family lives
- The address you use on your tax return
- The address you use for your general mail, bills, bank statements, and brokerage statements
- Where you maintain your bank accounts and banking relationships
- Where you maintain your memberships (such as country clubs, health clubs, etc.) and religious affiliations

Not stated in the regulations but important to the determination of your principal residence are:

- Where you are registered to vote
- The address on your driver's license

Owensboro KY should be Murphy's primary residence. His wife and family live there, his vehicles are registered there, his bank accounts are there, his mail goes there, his church is there, his doctor is there, his phone numbers are for there, and he votes there. How much more does one need to see that is his "Primary Area" in which he deals with daily matters. This may have changed the outcome of the allegations against Mr. Murphy if this standard had been used. His primary residence should be listed as Owensboro KY.

Final Comments - I appreciate the chance to "right a wrong" in some manner. I can only hope my comments will be evaluated and considered. There are more issues with the USACE Louisville District that need reviewed, maybe they will come up in future cases, so please consider them seriously.

Thank you,



Paul Jason Polly

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Paul Jason Polly

A RESIDENCE IN SOUTHERN WYOMING AND WAS AUTHORIZED TO BE ON TDY ORDERS.

JAMES HARRIS BEGAN WORKING AT LRS IN THE EARLY TO MID 1990s. THE ~~FORMER~~ FORMER CHIEF OF LRS INVESTIGATED AN ALLEGATION THAT JAMES HARRIS WAS STAYING WITH HIS GIRLFRIEND IN EVANSVILLE, IN AND CLAIMING HE WAS STAYING IN A BED AND BREAKFAST NUMEROUS YEARS AGO. I BELIEVE HE (FORMER CHIEF OF LRS) TOLD ME THE CLAIM WAS VALID. I DO NOT RECALL APPROVING A TRAVEL VOUCHER WITH A RECEIPT FROM "FLORA'S BED AND BREAKFAST" FOR JAMES HARRIS. 76

Q: SA PACETTI

A: MR. CHEEK

Q: WHERE IS MR. FRICK?

A: KABUL, AFGHANISTAN.

Q: WHO CONDUCTED THE INVESTIGATION WHICH PERTAINED TO MR. HARRIS?

A: RICK MORGAN, CURRENT CHIEF OF OPERATIONS, LOUISVILLE DISTRICT.

Q: WAS THIS A FORMAL INVESTIGATION, PUT IN WRITING?

A: I DO NOT BELIEVE SO. I HAVE NOT SEEN A FORMAL REPORT.

Q: WHO TOLD YOU THAT MR. MURPHY'S CLAIMS WERE AUTHORIZED?

A: WILMA KROMENALKER (SP?) USE TO BE MULLOUD. 315-6621.

Q: DO YOU KNOW "FLORA"?

A: NO

Q: HAVE YOU EVER BEEN TO "FLORA'S BED AND BREAKFAST"?

A: NO

Q: DO YOU KNOW IF FLORA OWNS A BED AND BREAKFAST?

A: NO

Q: HAVE YOU EVER AUTHORIZED MR. HARRIS' TRAVEL VOUCHERS CLAIMING LODGING FOR "FLORA'S BED AND BREAKFAST"?

A: I DO NOT RECALL DOING SO.

Q: WHAT IS THE CRITERIA FOR CLAIMING LODGING, PER DIEM, ETC?

A: EMPLOYEE MUST MEET THREE CRITERIA:

1. TDY LOCATION MUST BE ONE HOUR DRIVE FROM PERMANENT DUTY STATION (PDS). ^ AT LEAST
2. EMPLOYEE'S RESIDENCE MUST BE ONE HOUR DRIVE FROM TDY LOCATION. ^ AT LEAST
3. EMPLOYEE MUST BE AWAY FROM RESIDENCE FOR MORE THAN 12 HOURS.

Q: DID YOU EVER KNOWINGLY AUTHORIZE TRAVEL ORDERS WHICH WERE FRAUDULENT?

A: NO

Q: HAVE YOU EVER CHANGED THE MILEAGE <sup>or time</sup> TO ACCOMMODATE CERTAIN EMPLOYEES?

A: NO.

Q: WHY DO YOU BELIEVE THIS HAS BEEN REPORTED?

A: RETALIATION BY PAUL JASON POLLY. MR. POLLY WAS TERMINATED IN

Continued on next page

EXHIBIT 6

STATEMENT OF Mr. Cheek TAKEN AT \_\_\_\_\_ DATED 28 Aug 08 CONTINUED:

FEBRUARY 2008 FOR CASE FALSIFYING A LETTER OF RECOMMENDATION BY HIS SUPERVISOR TO OBTAIN A USLB MASTER LICENSE.

Q: Do you have anything further you would like to add to your statement?

A: NO. /// End of Statement /// 74

AFFIDAVIT

I, John D. Cheek, HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1 AND ENDS ON PAGE 3. I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

WITNESSES:

ORGANIZATION OR ADDRESS

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

74

*[Handwritten Signature]*  
(Signature of Person Making Statement)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 28<sup>th</sup> day of Aug 2008 at \_\_\_\_\_

*[Handwritten Signature]*  
(Signature of Person Administering Oath)

SA Loretta Pacetti  
(Typed Name of Person Administering Oath)

10 USC 936  
(Authority To Administer Oaths)

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD  
CENTRAL REGIONAL OFFICE

PAUL J. POLLY,  
Appellant,

v.

DOCKET NUMBERS  
CH-0752-08-0412-I-1,  
CH-1221-08-0424-W-1

DEPARTMENT OF THE ARMY,  
Agency.

\* (3)

SETTLEMENT AGREEMENT

Whereas, Paul J. Polly (hereinafter Polly) has appealed his removal from his position as derrick boat deckhand with the U.S. Army Corps of Engineers, Louisville District (hereinafter "Louisville District"), for cause under MSPB Docket No. CH-0752-08-0412-I-1;

Whereas Polly has challenged his non-selection for Derrick Boat Operator Trainee with the Louisville District under MSPB Docket No. CH-1221-08-0424-W-1; and

Whereas Polly, the Louisville District, and its parent agency the Department of Army (hereinafter "Army") desire to resolve their differences amicably and expeditiously,


NOW THEREFORE, the parties agree as follows:

1. The Army agrees to allow Polly to resign effective February 5, 2008.
2. The Army agrees to amend Polly's official personnel records to reflect a resignation, rather than a removal effective February 5, 2008.
3. The Army agrees to delete all mention of Polly's removal and the basis therefor from Polly's official personnel records.

4. Employment inquiries will be referred to the Louisville District's Civilian Personnel Advisory Center, who will limit its response to date, position, and length of employment.
5. Polly will withdraw with prejudice his appeals CH-0752-08-0412-I-1 and CH-1221-08-0424-W-1 as of the date of this agreement.
6. Polly will not seek employment with the U.S. Army Corps of Engineers subsequent to the date of this agreement.
7. Polly will not raise the matters at issue in appeals CH-0752-08-0412-I-1 and CH-1221-08-0424-W-1 in any future administrative or judicial proceeding, to include Merit Systems Protection Board proceedings, Equal Employment Opportunity complaints, union grievances, unfair labor practice charges, or any similar actions.


For the Army:

4-9-08  
(date)

  
Jennifer M. Payton  
District Labor Counselor  
U.S. Army Corps of Engineers  
Louisville District

For the Appellant:

4-10-08  
(date)

  
Paul J. Polly



On November 7, 2008, Mr. Polly reported to the CID agent investigating the case that he (Mr. Polly) had received a voicemail from Mr. Harris pertaining to the investigation. [Tab H, Exhibit 11, Agent's Investigative Report of SA Number 2, page 1]. Mr. Polly played the voicemail to a CID agent who transcribed it as follows:

Paul, what are you trying to do again? What did you report this for ... to the Army for? They are goin' after her. They ain't, they ain't talkin' to John Cheek, they're goin' after her. Poor little girl ain't had nothin'. Her momma died when she was fifteen. She never had a daddy. And now they're goin' after her. She's wiggin' out. I owe you one for this one, buddy, reporting on her bed and breakfast. You didn't accomplish nothin' but (incoherent words). I owe you one.

### **The Interview of Mr. Murphy**

The CID agent charged with investigating the case interviewed Mr. Gary W. Murphy on August 28, 2008. Mr. Murphy waived his rights and gave a verbal statement in which he stated he had submitted travel vouchers claiming only mileage and Meals and Incidentals Expenses (M&IE) while residing at his "secondary" residence in Owensboro, Kentucky while TDY [Tab F, Agent's Investigative Report of SA Number 2, pages 1-2]. Mr. Murphy told the CID agent that he claims his Jeffersonville, Indiana home as his primary residence because his job is located in Louisville, Kentucky.<sup>17</sup> Mr. Murphy also has a secondary residence in Owensboro, Kentucky, which he stays at while working TDY in the Owensboro area. Mr. Murphy admitted to submitting travel vouchers claiming mileage and Meals & Incidental Expenses (M&IE) while staying at this secondary residence; however, Mr. Murphy did not state that he was also claiming lodging reimbursement while staying at this secondary residence. Mr. Murphy further stated that he had discussed this issue with his supervisor and the District's travel support personnel and was informed that he was authorized to claim mileage and M&IE because he was in an authorized TDY status and he was not staying at his primary residence in the Jeffersonville/Louisville area.

### **The Interview of Mr. Harris**

CID interviewed Mr. James W. Harris on August 28, 2008. In his interview, Mr. Harris waived his rights and gave a sworn statement in which he stated he had been dating Ms. Flordeliza Suntup for approximately eight years and that he had started staying in her apartment at 514A Richardt Avenue, Evansville, Indiana approximately five or six years ago [Tab F, Exhibit 10, Sworn Statement of Mr. James W. Harris]<sup>18</sup>. Mr. Harris stated that when he stayed at Ms. Suntup's apartment, he

<sup>17</sup> Jeffersonville, Indiana and Louisville, Kentucky are located directly across the Ohio River from each other. Two bridges connect the cities.

<sup>18</sup> The original of the subject CID report contained a CD numbered as "9" (which contained the original photographs of Exhibit 8 (with those originals only maintained in the USACRC and file copies only) while the Sworn Statement of Mr. James Harris was numbered as "10." However, the original report