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TWO COAST GUARD HUMAN RESOURCES SPECIALISTS DISCIPLINED

FOR IMMEDIATE RELEASE

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WASHINGTON, DC/May 20, 2010 – On May 14, 2010, the Merit Systems Protection Board (MSPB) ordered the U.S. Coast Guard to suspend two human resources specialists for 45 and 10 days, respectively, for aiding and abetting in the commission of a prohibited personnel practice. The Board's decision reversed an Administrative Law Judge's (ALJ's) March 13, 2009, initial decision dismissing the Special Counsel's May 2008 complaints against the two human resources specialists for violating 5 U.S.C. § 2302(b)(6). The ALJ conducted a two-day evidentiary hearing in Los Angeles, California in December 2008.

The MSPB concluded that both human resources specialists intentionally assisted a Coast Guard Officer in granting an illegal preference for employment to another Coast Guard employee during the hiring process for a GS-1801-11 Supervisory Merchant Marine Specialist job. They allowed the Officer to cancel two sets of vacancy announcements because her preferred candidate did not make the certificate of eligibles. The human resources specialists then drafted a third vacancy announcement tailored specifically to reach the preferred candidate. In order to reach this GS-8 candidate, the vacancy was advertised as a GS-9/11 and included a requirement that applicants have licensing experience, which was his specialty. Unlike the previous sets of vacancy announcements, this vacancy announcement was limited to merit candidates in the Los Angeles/Long Beach area where the candidate worked and was advertised "for the minimum amount of time."

The MSPB's decision reiterates that selections for federal positions must be made in accordance with law and not be the result of personal favoritism. Moreover, this decision confirms that the so-called legally permissible actions, such as recruiting for positions at a lower grade level, cannot be used for an illegal purpose, which in this case was for the purpose of qualifying an otherwise unqualified candidate.

The U.S. Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency and operates a secure channel for disclosures of whistleblower complaints. Its primary mission is to safeguard the merit system in federal employment by protecting federal employees and applicants from prohibited personnel practices, especially retaliation for whistleblowing. OSC also has jurisdiction over the Hatch Act and limited jurisdiction over the Uniformed Services Employment and Reemployment Rights Act. For more information please visit our web site at www.osc.gov or call (800) 872-9855.