

**TOM MARINO**  
10TH DISTRICT, PENNSYLVANIA

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**Congress of the United States**  
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WASHINGTON OFFICE:  
410 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-3731

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1020 COMMERCE PARK DRIVE, SUITE 1A  
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SUNBURY, PA 17801  
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October 22, 2012

David Morris Michaels  
Assistant Secretary  
Occupational Safety and Health Administration  
200 Constitution Avenue, NW, Room S2315  
Washington, D.C. 20210

Dear Assistant Secretary Michaels,

Recently, I have received numerous reports from homebuilders regarding some alarming practices of the Occupational Safety & Health Administration's (OSHA) staff in Pennsylvania's Central Susquehanna Valley. I understand the importance of safety in the workplace, and I support OSHA's core goal to reduce workplace hazards. However, there is a line between ensuring workplace safety, and violation of the procedures by OSHA enforcement staff of the Field Operations manual, which appears to have been crossed in numerous instances, primarily by one particular inspector.

Specifically, constituents have reported to me instances of improperly documented citations (issuing two citations for a single act, whereby one citation was wrongful), falsely reporting facts as the basis for a citation, unnecessarily prolonged inspections, and warrantless inspections. Moreover, it was relayed to me that during some of these inspections, the enforcement staff member allegedly: committed acts of sexual harassment, left gifts for management staff upon completion of an inspection, and detained employees against their will in the personal vehicle of the enforcement staff.

I find these very credible reports of OSHA's improper and excessive enforcement actions against the residential homebuilder community extremely concerning, especially as the industry begins to rebound from the worst economic downturn since the Great Depression.

The Central Susquehanna Builders Association has been working with Dr. Janine McCartney, who is a safety consultant, to educate and evaluate OSHA's actions. Dr. McCartney has evaluated facts reported by countless contractors, in order to determine whether there was misconduct by this particular CSHO, as well as other actions by OSHA staff. She has evaluated the conduct of the OSHA staff per the Field Operations Manual, and OSHA Directives. According to her evaluation, OSHA staff has committed clear violations of the Field Operations Manual and OSHA Directives and have exceeded their authority. Let me be clear, this is not merely a case of OSHA staff doing their job properly and a contractor objected to the inspection process.

As a former United States Attorney and Lycoming County District Attorney, I spent years prosecuting individuals who broke the law, and understand that businesses must strictly follow workplace safety laws. However, I also know that the inspectors and enforcement staff must be held to the highest standards for ethical and professional behavior as they seek to enforce the laws. I ask that OSHA thoroughly review the reports of improper actions taken by OSHA inspectors in the Central Susquehanna Valley of Pennsylvania and provide me with an update of the findings of this review. Additionally, I ask that OSHA provide a detailed description of the standards that must be met by each of its inspectors, OSHA's policies for addressing accusations of sexual harassment, and its plans to reduce instances of excessive government interference and misconduct in the region. Finally, if OSHA confirms the reports of improper actions by one or more of its inspectors, I ask that OSHA address and remedy the situation to the fullest extent without delay.

Please feel free to contact my office if you need additional information or have any questions related to this matter. I look forward to your prompt response.

Sincerely,



Tom Marino  
Member of Congress