

SUBJECT Eben Morales (XXX-XX- Associate Director of Operations (GS-01811-SES) U.S. Marshals Service Arlington, Virginia		CASE NUMBER 2012-002687
OFFICE CONDUCTING INVESTIGATION Fraud Detection Office	DOJ COMPONENT U.S. Marshals Service	
DISTRIBUTION	STATUS	
<input checked="" type="checkbox"/> Field Office FDO	<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED	
<input checked="" type="checkbox"/> AGENCY	<input type="checkbox"/> PREVIOUS REPORT SUBMITTED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/> Component USMS	Date of Previous Report:	
<input type="checkbox"/> USA		
<input type="checkbox"/> Other		

SYNOPSIS

This investigation was initiated based on a complaint the Department of Justice (DOJ), Office of the Inspector General (OIG), Fraud Detection Office (FDO), received about allegations of retaliation by Eben Morales, U.S. Marshals Service (USMS) former Assistant Director of Asset Forfeiture Division (AFD), currently the Acting Associate Director of Operations, against Brisa Aryai, a USMS contractor for Forfeiture Support Associates, LLC (FSA), after he reported that he suspected Leonard Briskman, Supervisor, USMS Complex Assets Team may be committing fraud and had conflicts of interest in connection with the performance of his USMS duties. After reporting his suspicions to an Assistant U.S. Attorney (AUSA), Aryai was removed from the project he was working on with the U.S. Attorney's Office for the Southern District of New York (USAO-SDNY), and subsequently fired by FSA. Aryai filed a civil lawsuit in the U.S. District Court for the Southern District of New York (USDC-SDNY) alleging that the USMS, FSA, and Morales violated the whistleblower's provisions of the False Claims Act by taking retaliatory actions against Aryai, including terminating his employment with FSA. On August 27, 2012, the court dismissed on legal grounds all claims against the USMS and Morales. The case against FSA remains pending.

The OIG determined that an AUSA in the USAO-SDNY, reported to Morales allegations she received from Aryai about Briskman's alleged conflicts of interest and suspected fraud in conducting his duties as supervisor of the USMS Complex Assets Team. Aryai reported that Briskman had a private asset valuation business and Aryai questioned whether Briskman's private business interest affected his handling of asset matters for the USMS. In view of the fact that Briskman operated a private asset valuation business, Aryai had a reasonable basis for reporting his concerns to the USAO-SDNY. In a separate investigation, the OIG concluded that Briskman's private business did not conflict with his USMS duties.

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Initially, the AUSA did not identify to Morales the source of the allegations. However, in a subsequent communication the AUSA identified Aryai to Morales as the source of the allegations against Briskman when Morales asked her who had made the allegations to her.

The OIG determined that Morales specifically inquired of the AUSA the source of the allegations against Briskman. The AUSA described Morales's reaction as being "furious" when she confirmed that Aryai had made the allegations to her. The AUSA's description of Morales's reaction is consistent with Aryai's statement that Morales was "angry" that he made the allegations to the USAO-SDNY. Within several days after Morales learned of Aryai's identity, he called in Aryai and his FSA supervisor for a meeting. Kim Beal, former Deputy Assistant Director of AFD, currently the Acting Assistant Director of AFD, also attended the meeting, at which Morales expressed dissatisfaction with Aryai having made the allegations to the USAO-SDNY about Briskman and Morales expressed his support for Briskman. Morales told Aryai that Aryai had "overstepped" boundaries by reporting his concerns about Briskman outside of the USMS and that he owed his loyalty to the USMS.

Subsequently, Pam Bass, Program Manager for Audits and Internal Controls, USMS AFD, drafted a memorandum to the DOJ contracting officer for the asset forfeiture support contract, [REDACTED] Justice Management Division. Bass's memorandum contained reasons for Aryai's removal from the project with USAO-SDNY. However, almost all of the points raised in the memorandum as justification for the action were alleged to have occurred after Aryai reported the allegations against Briskman, and all of the information for the memorandum appears to have been gathered as a result of Aryai's allegations against Briskman. Subsequently, Beal sent an e-mail to [REDACTED] referencing Bass's memorandum and an additional minor incident as reasons for the USMS' view that Aryai was not performing his duties and requesting immediate resolution. [REDACTED] used the Bass memorandum as support for a request that FSA remove Aryai from the USMS contract and in support of a referral to FSA for consideration of further action against Aryai.

The OIG investigation determined that Aryai was singled out by the USMS for adverse personnel action by his employer after he reported allegations of fraud and conflicts of interest against Briskman. Morales, Beal, and Bass were all directly involved by, among other things, inquiring of the USAO-SDNY for information about the source of the allegations about Briskman, meeting with Aryai to express displeasure with the allegations and support for Briskman, gathering information about Aryai after learning he had made the allegations, and raising concerns regarding Aryai, which the OIG concluded were pretextual, with the contracting officer, which ultimately resulted in Aryai's removal from the USMS contract and termination from FSA. The OIG concluded the purported concerns about Aryai presented by the USMS to cause FSA to terminate Aryai were pretextual for several reasons. First, there was no indication or evidence of problems with Aryai's performance until after he reported suspicions about Briskman; to the contrary, Aryai's performance was lauded. Second, none of the concerns presented by the USMS about Aryai had been raised or documented before Aryai's allegations against Briskman. Third, information leading to the purported bases was affirmatively gathered after Aryai's allegations about Briskman were made. Fourth, there was no indication that the USMS gathered information regarding other contractor employees about the items presented to FSA as the bases for

dissatisfaction with Aryai. Finally, Morales's expressed displeasure with Aryai, described as "furious" or "angry," upon learning of Aryai's allegations. The OIG concluded that there was a reasonable basis to believe that Morales, Beal, and Bass retaliated against Aryai for reporting his suspicions about Briskman to the AUSA.

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.

ADDITIONAL SUBJECTS

Bass, Pamela (XXX-XX-██████)

Program Manager for Audits and Internal Controls for the Asset Forfeiture Division (GS-00343-15)

U.S. Marshals Service

Arlington, Virginia

Beal, Kimberly (XXX-XX-██████)

Acting Assistant Director for the Asset Forfeiture Division (GS-00343-15)

U.S. Marshals Service

Arlington, Virginia

DETAILS OF THE INVESTIGATION

Predication

On December 20, 2011, the Fraud Detection Office (FDO) received allegations about retaliation by Eben Morales, U.S. Marshals Service (USMS) former Assistant Director of the Asset Forfeiture Division (AFD), currently the Acting Associate Director of Operations, against a Forfeiture Support Associates, LLC (FSA) contract employee, Brian Aryai, after Aryai reported suspected fraud and conflicts of interest related to Leonard Briskman, former Complex Assets Team Supervisor, AFD; currently a Real Estate Manager, Management and Support Division.

On November 30, 2010, Aryai filed a civil lawsuit in the U.S. District Court for Southern District of New York (USDC-SDNY) alleging FSA, the USMS, and Morales violated the whistleblower's provisions of the False Claims Act by taking retaliatory actions against Aryai, including ultimately terminating his employment with FSA after he reported the alleged fraud. On August 27, 2012, the court dismissed all claims against the USMS and Morales on legal grounds. The case against FSA remains pending.

The OIG investigated whether Aryai was terminated as a result of his reporting suspected fraud and conflicts of interest relating to the handling of assets by the USMS AFD, in particular, Leonard Briskman.

Investigative Process

The OIG investigation included the following efforts:

Interviews of USMS Personnel

- Eben Morales, Associate Director of Operations
- Kim Beal, Acting Assistant Director, AFD
- Pam Bass, Supervisory Management and Program Analyst, AFD
- [REDACTED], Assistant Chief Inspector, AFD
- [REDACTED], Assistant Contracting Officer's Technical Representative, AFD
- Bob Walsh, Deputy Assistant Director, AFD
- [REDACTED], Deputy U.S. Marshal (DUSM)
- [REDACTED], Supervisory DUSM
- [REDACTED], Management Program Analyst, AFD
- Lisa Dickinson, Principal Deputy General Counsel, Office of General Counsel (OGC)
- Robert Marcovici, Associate General Counsel, OGC
- [REDACTED], Case Manager
- [REDACTED], DUSM

- [REDACTED] DUSM
- [REDACTED] Management Program Analyst
- [REDACTED] District Asset Forfeiture Coordinator
- Leonard Briskman, Real Estate Manager, Management and Support Division

Interviews of FSA Personnel

- William Wolf, Regional Director
- [REDACTED] Senior Financial Forfeiture Specialist (FFS)
- [REDACTED] Senior FFS
- [REDACTED] FFS
- [REDACTED] Senior FFS
- [REDACTED] Senior FFS
- [REDACTED] FFS
- [REDACTED] FFS

Interviews of Others

- [REDACTED] Contracting Officer, DOJ Justice Management Division (JMD)
- [REDACTED] Contracting Officer's Technical Representative, DOJ JMD
- [REDACTED] Assistant U.S. Attorney, USAO-SDNY
- [REDACTED] Assistant U.S. Attorney, USAO-SDNY
- Brian Arzai, former Senior FFS, FSA
- [REDACTED] former Supervisory FFS, FSA

The OIG investigation also included the examination and analysis of relevant contract documents, memoranda, and e-mail of USMS personnel, FSA personnel, and an AUSA.

Background

The Asset Forfeiture Support Contract Awarded to FSA

The Asset Forfeiture Support contract is a DOJ-wide contract administered by the Justice Management Division (JMD). It is an umbrella contract used by various DOJ components, including the USMS, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, and the Executive Office of the U.S. Attorneys. The contractors used by the DOJ components assist with the review and management of asset forfeiture-related matters. According to the contract, the FFS positions were created to provide USMS districts with a level of financial and auditing expertise not otherwise available. The USMS was the first DOJ component to utilize the FFS positions, and it placed the FFS positions in the AFD and under the control of the Audits and Internal Controls Section. JMD awarded FSA the contract in 2004 and its follow-on contract in March 2011.

Timeline of Events

- **October 13, 2009:** Aryai's FSA hire date.
- **March 4, 2010:** Aryai raised issues about how Briskman valued assets to Pamela Bass, Supervisory Management and Program Analyst and Quality Assurance Evaluator, and his FSA supervisor, [REDACTED] former Supervisory FFS.
- **March 11, 2010:** Aryai raised issues to an AUSA at the USAO-SDNY about Briskman's *LinkedIn* account, which showed that Briskman operated an asset valuation business.
- **March 24, 2010:** Aryai was transferred within AFD from Bass's group, Audits and Internal Controls Section, to Briskman's group, Complex Assets Team.
- **April 6, 2010:** AUSA brought concerns raised about Briskman's asset valuation business to the attention of Morales.
- **April 7, 2010:** At the request of Morales, AUSA identified Aryai as the source of the information leading to the concerns she raised to Morales about Briskman.
- **Week of May 10, 2010:** The AFD National Conference was held in Tampa, Florida.
- **May 18 and 19, 2010:** AFD raised concerns about Aryai to JMD, specifically [REDACTED] Contracting Officer's Technical Representative (COTR) for the asset forfeiture support contract, and [REDACTED] Contracting Officer (CO) for the asset forfeiture support contract.
- **May 21, 2010:** Bass sent an e-mail to William Wolf, FSA Regional Director, Morales, Kim Beal, Acting Assistant Director, AFD, [REDACTED] and [REDACTED] detailing a number of issues AFD had with Aryai.
- **May 21, 2010:** Aryai was re-assigned from the USMS-SDNY to the USMS-District of New Jersey (DNJ). Aryai reported to the USMS-DNJ on May 24, 2010.
- **June 6, 2010:** Aryai sent an e-mail to various individuals making allegations that Morales steered an AFD district assistance contract, which was forwarded to Morales on June 7, 2010, by Donald Rackley, Chief DUSM, USMS-DNJ.
- **June 7, 2010:** Bass sent a memorandum to [REDACTED] detailing the same issues provided in her May 21, 2010 e-mail.

- June 15, 2010: Beal sent an e-mail to [REDACTED] copying [REDACTED] that stated, "Based on the prior information [the June 7, 2010, memorandum] and this latest incident [taking sick leave yet claiming time worked], the USMS believes that proper contract services are not being provided by Mr. Aryai and that immediate resolution to this matter is required."
- June 16, 2010: [REDACTED] sent an e-mail to [REDACTED] Chief Operating Officer, FSA, copying [REDACTED] that stated the customer requested Aryai be removed from the contract. Aryai was terminated by FSA on the same date.

The Bass Memorandum

On June 7, 2010, Bass sent a memorandum (hereafter referred to as "the Bass memorandum") to JMD contracting officer [REDACTED] detailing the following issues related to Aryai:

- Misrepresentation of his position
- Exposing a firearm during the AFD National Conference in May 2010
- Multiple instances not working within his chain of command
- A pattern of disruptive and divisive behavior
- A pattern of unresponsiveness and disregard for USMS management's requests and tasks

Aryai's Employment with FSA

Review of FSA records revealed FSA hired Aryai as a Senior FFS on October 13, 2009, and he was terminated June 16, 2010. During his tenure, Aryai was assigned to the USMS- SDNY, but also covered the USDC-Eastern District of New York (EDNY) and USDC-DNJ. In March 2010, Aryai was transferred from the AFD Audits and Internal Controls Section to the AFD Complex Assets Team. On November 30, 2010, Aryai filed a complaint in the USDC-SDNY claiming he had been retaliated against by being terminated by FSA for making fraud allegations against Briskman, which related to Briskman owning and operating an asset valuation business. The OIG completed an investigation into allegations against Briskman in September 2011 and found no evidence of fraud or a financial conflict of interest involving Briskman's ownership of a valuation business.

Aryai Identified as the Source of the Allegations against Briskman

According to interviews with Morales and prosecutors with the USAO-SDNY, an AUSA told Morales on April 6, 2010, about concerns related to Briskman, including his owning and operating an asset valuation business. In addition, the Bass memorandum stated, "[AUSA] alluded to the fact that FFS Brian Aryai brought many of these issues to her." The AUSA told the OIG she reported the allegations to Morales, but did not initially provide him with the name of the source of the allegations. The AUSA also stated she had learned some of the information about Briskman's asset valuation business independently but said she waited a few weeks to report it because she did not know what to do with the

information about Briskman. She told the OIG that she discussed what to do with the information with her supervisor at the USAO-SDNY, [REDACTED]. The OIG interviewed [REDACTED] who confirmed that the AUSA checked with her about providing the information about Briskman to Morales.

The AUSA said she called Morales on April 6 to discuss the information about Briskman's asset valuation business. She said at that time, she did not inform Morales that Aryai was the source of some of her information. The AUSA said Morales contacted her at a later date, by leaving her a voicemail or an e-mail, asking whether Aryai was the source of her information about Briskman. The AUSA again checked with [REDACTED] about providing Aryai's name to Morales. [REDACTED] stated she told the AUSA to tell Morales everything related to the allegations. The AUSA confirmed she provided Aryai as the source of the information to Morales. During a review of the AUSA's e-mails, the OIG discovered an e-mail dated April 7, 2010, from the AUSA to Morales, in which she stated she only provided Aryai's name to Morales because he asked.

When interviewed, Morales confirmed that in a subsequent conversation with the AUSA he asked her how the information about Briskman had come to her attention. When Morales learned of the allegations against Briskman, Morales reported the information to the USMS OGC and the USMS Office of Internal Investigations (OII). Morales told the OIG that he asked about the source of the information because he needed to take action to close the gaps where there were program weaknesses. He said he thought he needed more details to take such action. When the OIG asked Morales why he needed Aryai's identity to take action when the information regarding Briskman had already been reported to the USMS OGC and the USMS OII Morales stated he had to do something because he would have received questions from his leadership as to what had happened. The OIG could not determine the reason Morales could not take action without knowing the source of the information.

Beal stated that shortly after learning about the allegations about Briskman's outside business, she learned that the AUSA told Morales that Aryai was the source of the allegations. Beal did not recall when she learned that Aryai was the source of the allegations against Briskman.

The AUSA stated that when she confirmed to Morales that Aryai was the source of the allegations, he was "furious." Beal told the OIG that Morales was concerned about the situation involving allegations of public corruption within AFD. The OIG asked Morales if he was angry with Aryai about reporting the allegations to the USAO-SDNY. He explained that he was not angry, but frustrated that Aryai had not reported the allegations about Briskman to the USMS, in addition to reporting it to the AUSA. Morales said Aryai was hired to help fix weaknesses in AFD, but Aryai failed to tell AFD about possible public corruption occurring within AFD. Morales stated he was happy Aryai told the AUSA because she reported the issues related to Briskman to AFD. However, Morales said if the AUSA had not reported the issues to AFD, no one in AFD would have known about the problems. When the OIG asked Morales about Aryai reporting the way Briskman valued assets in March 2010, Morales said AFD already knew there were problems with how AFD valued assets. Beal said when Aryai reported problems with the way Briskman valued assets, AFD was working on establishing new procedures for valuing assets. Beal said Aryai raised concerns in March 2010 to her about the types of valuations that Briskman would use.

Bass said she reported Aryai's concerns to Beal and Morales. Bass said Morales told her AFD would follow-up on Aryai's concerns.

Findings

The OIG determined the Morales requested the identity of the USAO-SDNY's source of information about allegations concerning Briskman's handling of USMS assets and a potential conflict of interest with a personal asset valuation business he owned. The AUSA who reported the allegations to Morales had not initially identified her source, but upon receiving the request from Morales and consulting with her supervisor, she identified Aryai to Morales as the source of the allegations against Briskman.

Aryai's Termination

In an attempt to determine whether or not Aryai's termination was in retaliation for reporting allegations against Briskman, the OIG reviewed the following areas:

- Events immediately following Aryai's reporting allegations against Briskman
- The manner in which Aryai was supervised and given assignments
- Aryai's employment performance
- The matters raised in the Bass memorandum as support for Aryai's removal from the contract and termination by FSA

April 12, 2010 Meeting Between Morales and Aryai

FSA Regional Director Wolf told the OIG that when Morales learned about the allegations Aryai made against Briskman, Morales requested a meeting with Wolf and Aryai. The meeting occurred on April 12, 2010, five days after Morales learned from the USAO-SDNY that Aryai was the source of the allegations. Aryai, Wolf, and Beal attended the meeting with Morales. Wolf described the meeting as polite, but not friendly because Morales appeared to him to be embarrassed by the situation. Wolf said Morales told Aryai that Aryai had overstepped his bounds and that Morales did not believe Aryai's suspicions about Briskman. Furthermore, Wolf said Morales told Aryai he had known Briskman for years and he trusted him. Wolf explained that during this meeting there was no specific conversation related to Aryai's removal.

Aryai told the OIG that Morales was angry during the meeting and wanted to know how Aryai could hurt Briskman and his family by making the allegations. He also said Morales told him that he overstepped his bounds by going outside of the USMS because he was a contractor and had to do what the USMS told him to do. Aryai also said Morales told him that his loyalty should be with the USMS. Morales explained that the USMS hired Aryai to help fix the weaknesses in AFD. Therefore, he should have reported any weaknesses to the USMS.

According to Morales, his account of the meeting was that he told Aryai the reason he was hired was in an internal control function and if Aryai found something wrong, he should have told AFD for immediate action to be taken. Beal described Morales speaking to Aryai during the meeting about his roles and responsibilities and that Aryai went outside the chain of command to the USAO-SDNY instead of reporting his allegations to the USMS or FSA. Beal did not recall Morales threatening Aryai's job during the meeting.

The OIG reviewed the FSA contract, which made no direct reference to a contract employee's obligation to report problems within the chain of command. However, the contract stated the contractor shall appoint a supervisor, who will be the single point of contact through which all contractor/government communications, work, and technical direction shall flow. Aryai said he reported the issues related to Briskman's asset valuation business to his FSA supervisor, [REDACTED]. [REDACTED] told the OIG she could not remember when she had learned about Briskman's asset valuation business. Wolf said he learned from [REDACTED] that Aryai had reported the issues about Briskman's business to the USAO-SDNY.

On April 9, 2010, three days prior to the meeting with Aryai, Morales sent an e-mail to the USAO-SDNY, copying Beal and Bass, stating Aryai was a contractor and he intended to "remind him one time." Morales explained to the OIG that the purpose of the e-mail was that Aryai needed to tell the USMS about the Briskman issues so corrective action could be taken. However, Morales, Beal, and Bass could not tell the OIG how the corrective action would have been different had Aryai come directly to the USMS rather than to the USAO-SDNY.

Findings

The OIG determined that Morales and Bass said they would still have reported the allegations against Briskman to the USMS OGC and the USMS OII if Aryai had reported the allegations related to Briskman's outside business to them. Beal said she did not know what AFD would have done with the allegations related to Briskman's outside business had Aryai reported the allegations to AFD rather than to the USAO-SDNY. The OIG could not determine the actual purpose of the meeting between Morales, Beal, Wolf, and Aryai. However, the OIG noted that the Quality Assurance Evaluator, Assistant COTR, COTR, or CO were not present at the meeting, as would be expected if the purpose of the meeting related to concerns with the contractor's performance.

Supervision of Aryai

The OIG interviewed Wolf and [REDACTED] as the FSA staff who supervised Aryai during his tenure with FSA. Wolf stated [REDACTED] was Aryai's supervisor. [REDACTED] said she was Aryai's supervisor until he was transferred under Briskman. However, [REDACTED] continued to submit his time cards because she was an FSA employee, but did not act as his supervisor.

The OIG also interviewed Briskman, Bass, and [REDACTED], Supervisory Deputy U.S. Marshal

(DUSM), who were the USMS staff assigning Aryai tasks. Briskman said he was Aryai's supervisor for less than a month during March 2010. When interviewed by the OIG, [REDACTED] said he assigned Aryai tasks, but was not his supervisor. [REDACTED] further stated Aryai worked on cases that were not in the USDC-SDNY. Bass said Aryai would have received his assignments in conjunction with Briskman and [REDACTED]. Morales could not specifically provide who Aryai's supervisor was, but said Bass was the USMS point of contact for the FSA contract. [REDACTED] was Aryai's FSA supervisor, and [REDACTED] Assistant COTR, AFD, was the COTR for the USMS. Aryai said he received assignments from many directions, including Briskman, Bass and USMS District Offices.

In the amended complaint Aryai filed in the USDC-SDNY, he claimed that he had been "inexplicably" transferred under Briskman as retaliation for coming forward in March 2010 with issues related to how Briskman valued assets. During his interview, Aryai said [REDACTED] and Bass told him he would be transferred under Briskman because of his expertise. Aryai stated to the OIG that depending on his role it may have made sense to be transferred under Briskman. However, he added that if he was there as a financial specialist to give opinions and write findings, it would not be good to be working under the person that he might have to criticize. Aryai said when he expressed that opinion, [REDACTED] and Bass said the decision to transfer him had already been made. During Briskman's interview, he said he told Beal that the Complex Assets Team was unaware of what Aryai was working on. Therefore, Briskman said Beal and Bass transferred Aryai under him. Morales said Briskman, at some point, worked directly with Aryai because they both worked on complex assets. Morales explained that he did not think Briskman gave Aryai day-to-day tasks, but Briskman should have known what Aryai was working on.

Findings

The OIG determined no single person gave Aryai his work assignments or was responsible for monitoring his performance during his assignment to the USMS as an FSA contractor. In addition, the OIG determined that if Aryai was working on complex cases it would not seem appropriate for him report to the Audits and Internal Controls Section, where Bass was the manager.

Aryai's Performance

In an attempt to determine Aryai's work performance, which was questioned in the Bass memorandum dated June 7, 2010, the OIG reviewed FSA personnel records and interviewed his relevant FSA supervisors.

[REDACTED] and Wolf stated no performance appraisals were completed for Aryai due to the fact he was an FSA employee for less than one year. However, [REDACTED] and Wolf said Aryai was not reprimanded or counseled during his tenure with FSA. [REDACTED] described Aryai's performance as excellent.

Bass stated that from the time Aryai was hired in 2009 there was a failure of the AFD to set up a good

reporting structure for the FFSs. USAO-SDNY personnel said losing Aryai upon his reassignment had an impact on their office. ██████ said Aryai did everything he was asked and said Aryai's reports were well-written and his analyses were great. ██████ Case Manager, AFD, said they worked well together, but Aryai was not always timely with his reports.

Aryai was reported as a strong contributor to the FFS program by all personnel interviewed by the OIG, including Morales. However, the Bass memorandum to ██████ categorized Aryai as having a pattern of disruptive and divisive behavior, along with unresponsiveness and disregard to USMS requests. The AUSA in the USAO-SDNY, who initially contacted Morales with Aryai's concerns, told the OIG that her supervisor ██████ told her that Morales informed ██████ that there were serious performance issues with Aryai. ██████ said Morales had called her to inform her Aryai had been reassigned and there had been problems with Aryai for a long time, unrelated to his having reported Briskman's outside business to the USAO-SDNY. ██████ said Morales did not detail the problems to her. Morales said he did not recall the conversation with ██████ about Aryai's performance.

Findings

The OIG found that those who received Aryai's work-product were generally satisfied with its quality. There were what seemed to be a view of one or two individuals that Aryai had minor issues with his communication and timeliness, but those issues do not appear to have warranted termination of his employment with FSA. Aryai received no official counseling related to his work performance. Prior to April 6, 2010, there is no written record of problems with Aryai.

Memorandum from USMS to JMD Preceding Aryai's Termination

The Bass memorandum, dated June 7, 2010, which she authored and sent to ██████ and ██████ through ██████, asked ██████ and ██████ to have FSA investigate the issues related to Aryai and for FSA to take necessary action based on the provisions of the current FSA contract. Beal stated that Bass wrote the memorandum, but did not have the authority to take any action against Aryai. Bass also provided a timeline with the memorandum. However, there was no indication or documentation of any of the performance or conduct issues with Aryai until May 2010, more than one month after Morales first learned from the USAO-SDNY about the allegations Aryai had made about Briskman on April 6, 2010. Morales said he requested Bass to compile the timeline because he realized the allegations Aryai made against Briskman were significant. When first interviewed by the OIG, Morales said he did not read the Bass memorandum, but knew Beal and Bass were writing it with the guidance of the USMS OGC. However, in a later interview with the OIG, Morales said he could not recall if he reviewed the Bass memorandum, but said in all likelihood he would have reviewed it. Beal said she and Morales reviewed the Bass memorandum. Bass said she, Beal, and Morales were part of conversations related to Aryai's behavior with ██████ who asked for a formalized memorandum. Bass also said she talked to "everyone," including Morales, and was told to summarize the issues related to Aryai. The Bass memorandum claimed there were five significant issues related to Aryai:

1. His misrepresentation of his position as a USMS contractor by failing to properly identify himself on his *LinkedIn* page, using retired law enforcement credentials to identify himself, and carrying a firearm as a retired law enforcement officer
2. His wearing an exposed firearm at the AFD national conference held in Tampa, Florida, in May 2010
3. His multiple instances of failure to work within "his chain of command"
4. His pattern of disruptive and divisive behavior
5. His pattern of behavior of unresponsiveness and disregard to the USMS

Purpose of the Memorandum

According to the Bass memorandum, its purpose was to request that FSA investigate the incidents and provide the CO and CO/IR with a necessary plan of action. During an interview with the OIG, Bass said the purpose of the memorandum was to help remedy the problems with Aryai and move forward. Bass said moving forward either meant the AFD staff could fix the working relationship with Aryai or FSA needed to have him removed from the contract. ██████████ told the OIG by the time the issues were brought to his attention there did not seem to be a way to resolve things. Wolf said when the USMS asked for Aryai to be removed, the relationship was already "poisoned." Beal explained that the intent of the memorandum was to raise concerns about an employee and ask FSA to take appropriate action. Morales said the purpose of the Bass memorandum was to pass the information about Aryai to FSA to have it deal with its employee or take corrective action. Morales later said the USMS expected Aryai would be counseled rather than removed from the contract.

Morales said someone in the USMS OGC, either Lisa Dickinson, Principal Deputy General Counsel, or Gerald Auerbach, General Counsel, told AFD to refer the issues to the CO. Morales later identified Dickinson as the OGC person who told Bass to draft the memorandum. Dickinson stated the purpose of the memorandum was to have the allegations investigated. Dickinson said the Bass memorandum was not unusual. The OIG found no basis to conclude that the OGC attorneys participated in the retaliation against Aryai. However, in view of the fact that the OGC was aware Aryai had made allegations about Briskman, the OGC attorneys should have raised questions about the substantive validity of and timing of presenting the information in the Bass memorandum to FSA.

USMS assistant contracting officer ██████████ said he may have seen the Bass memorandum, which was sent to the CO. He said it outlined the issues related to Aryai, but he had provided no input for it. ██████████ said he had never seen a memorandum of this nature relating to the conduct of a contract employee.

Bass told the OIG that everything in her memorandum should be considered together with the other items in her memorandum. However, Morales stated Aryai was not singled out because each item in the memorandum came up separately and were only documented together.

Reports of Misrepresentation of Position

- **Online Networking Site Misrepresentation**

The Bass memorandum stated that Beal reviewed Aryai's *LinkedIn* page on May 6, 2010, and it did not identify him as a USMS contractor and made it appear he was a USMS employee. The *LinkedIn* page attached to the memorandum said Aryai was "appointed to provide specialized expertise in United States governmental law enforcement matters and operations." It also listed Aryai as a Senior Financial Specialist, U.S. Department of Justice, United States Marshals Service, and described that position as "Aryai provides strategic and operational advisory expertise to federal law enforcement matters to the United States Department of Justice and the United States Marshals Service." Bass said other employees' *LinkedIn* pages were not reviewed for content and she did not know who had reviewed Aryai's *LinkedIn* page. Beal did not recall who had brought Aryai's *LinkedIn* page to her attention.

Aryai said he thought he had "contractor" listed on his *LinkedIn* page. When the OIG told him his *LinkedIn* page listed: "appointed to provide specialized expertise in United States governmental law enforcement matters and operations," he said no one spoke to him about the clarity of what he had on his *LinkedIn* page. According to an e-mail sent from Wolf to Aryai on May 25, 2010, Wolf asked him to make it clear that he was an FSA contractor on his *LinkedIn* page. Neither Beal nor Morales could state what preceded the e-mail from Wolf to Aryai.

Neither FSA nor the USMS has a policy regulating or addressing an employee's or contractor's social media page related to USMS employment. The forfeiture support contract also did not address social media pages. The OIG could not locate a DOJ policy which addressed social media issues for employees or contractors other than the policy relating to the Hatch Act. Although not related to social-media sites, the Forfeiture Support contract stated "contractor business cards, letterhead, stationary, etc., shall not in any way imply employment or legal affiliation with the U.S. Government, Department of Justice, or any other Government component." In addition, Federal Acquisition Regulation subpart 37.114 (c) states that contractor personnel, where their contractor status is not obvious to third parties, are required to identify themselves as contractors.

- **Displaying Retired Credentials at a Meeting**

The OIG investigation determined from Aryai that he was a retired law enforcement agent, having worked for the Internal Revenue Service and then the U.S. Customs Service. Aryai said he had retired law enforcement credentials.

According to the Bass memorandum, USMS Case Manager [REDACTED] told Beal on May 14, 2010, that Aryai used his retired agent credentials to identify himself during a meeting that took place six months earlier on November 4, 2009. At the time of the incident, [REDACTED] did not report that Aryai used his retired agent credentials. [REDACTED] said Beal asked her whether she knew anything related to Aryai that

was law enforcement-related, for example carrying a firearm or using a badge. Beal stated [redacted] had approached her unsolicited about the credentials and told her she had seen Aryai show his badge to a third-party. [redacted] said she could not recall whether Bass had also talked to her about it. [redacted] could not recall whether Bass or Beal asked her any follow-up questions about the situation. [redacted] explained to the OIG that Aryai showed his credentials and [redacted] recalled seeing something silver, but did not recall whether Aryai identified himself as a retired agent. [redacted] said he may have said he was a retired agent, but was working as a contractor. At some point, Aryai and [redacted] had a conversation that his credentials were nicer than hers and he explained they were his retired credentials. [redacted] said she could not recall whether that conversation was in front of the third-party. [redacted] said she has been at meetings when contractors show their building pass or wait for the USMS staff members to introduce themselves. However, at the time of the meeting with Aryai, she did not know whether Aryai had a building pass or FSA business cards because he was new.

[redacted] DUSM, [redacted] DUSM, and [redacted] DUSM, who had done field work with Aryai, never saw him using his retired credentials to identify himself. According to [redacted] all of whom were FSA contractors, said FSA contractors had Personal Identity Verification cards, which they used to identify themselves.

Aryai told the OIG he never used his retired credentials during any meetings to identify himself as an FSA employee. He stated he had a building pass from the USMS-SDNY Office, which he used as identification. Aryai could not explain why someone would think he had used his retired agent credentials as identification. He said USMS employees with whom he accompanied to meetings introduced him. Aryai also said [redacted] instructed him to use his building pass as identification.

• DUSM References Aryai Armed while Attending Law Enforcement Operations

The Bass memorandum referenced a comment allegedly made by DUSM [redacted] at the AFD Conference during the week of May 10, 2010, about Aryai carrying a firearm on law enforcement operations. [redacted] told the OIG that he never mentioned to anyone that Aryai had ever carried a weapon during field work because [redacted] did not know whether Aryai did. [redacted] told the OIG he never saw Aryai in possession of a firearm, stating that Aryai always wore a suit jacket, which would hide a firearm if he were carrying one. [redacted] explained he probably joked with his co-workers that he would not mind if an FFS carried a weapon. [redacted] said he knew the Chief DUSM in the USMS-DNJ gave Aryai permission to carry his firearm in the USDC-DNJ. However, [redacted] said [redacted] told him Aryai carried a firearm. [redacted] FFS, and Aryai attended AFD conferences and socialized during those conferences. When interviewed by the OIG, [redacted] said he saw Aryai's firearm once or twice during those times, but they never actually worked together. [redacted] Senior FFS, said Aryai told her he carried a firearm, which she reported to [redacted] [redacted] said she did not know Aryai carried a firearm until May 2010 when she attended the AFD National Conference in Florida.

Between May 25 and 27, 2010, [REDACTED] Assistant Chief Inspector, AFD, obtained statements from [REDACTED] and [REDACTED] related to Aryai carrying a firearm. [REDACTED] said he was at the AFD conference and heard about Aryai carrying a firearm. [REDACTED] said he was not directed to obtain statements from the DUSMs, but thought he had discussed it with others in AFD, who he could not further identify. The statements [REDACTED] obtained from the DUSMs all said they had no knowledge of Aryai carrying a firearm on law enforcement operations. Bass told the OIG she had seen these statements, but did not forward them to the CO despite the fact that they contained information contrary to one of the bases in her memorandum for seeking action against Aryai.

According to Aryai, he did not participate in law enforcement operations as an FFS. He said he would help review records during operations after an area was deemed safe. Aryai said he may have carried his firearm during meetings with non-USMS personnel but he could not recall if he did or not. Aryai told the OIG that he asked for guidance regarding carrying his firearm from [REDACTED] in the USMS office in SDNY. [REDACTED] confirmed with the OIG that he told Aryai to lock his firearm up at the courthouse and told Aryai he could not carry it while doing USMS work. Aryai said he was legally allowed to carry the firearm under "H.R. 218". The OIG determined the law governing a retired or separated law enforcement officer is 18 U.S. Code § 926C *Carrying of Concealed Firearms by Qualified Retired Law Enforcement Officers*. The law defines an individual's status as a qualified retired law enforcement officer, an individual's length of prior law enforcement experience, an individual's firearm qualification requirements, an individual's medical qualifications, whether an individual is under the influence of alcohol or drugs, and whether an individual is prohibited by federal law from receiving a firearm. The OIG determined that Aryai satisfied the requirements set forth in 18 U.S. Code § 926C (before it was amended in October 2010) to be qualified to carry a firearm under the law. No other FFSs, who are former law enforcement officers, interviewed by the OIG carried firearms while working as an FFS.

The USMS did not have a policy related to contractors carrying firearms, except as related to the use of firearms by contract guards. USMS Policy 9.3, *Use of Personal Services-Contract District Security Officers*, governs the use of firearms by contract guards. However, this policy does not apply to FFSs because they are not USMS District Security Officers.

Wolf said an employee carrying a firearm while performing their duties violated FSA's policies. Wolf further stated that when Aryai was first hired, he signed that he read and understood the FSA Human Resources policies, which included the firearms policy. The OIG reviewed FSA's employee handbook, which states the possession of firearms is unacceptable at FSA or at client premises. Aryai acknowledged his receipt of the employee handbook on October 19, 2009. However, when asked by the OIG, Aryai did not recall the policy.

Exposure of Firearm at National Conference

The Bass memorandum stated Aryai was observed dancing with an exposed firearm in the hospitality suite at the AFD National Conference, held during the week of May 10, 2010.

Aryai, Morales, Bass, [REDACTED] AFD Management Program Analyst, [REDACTED] AFD Management Program Analyst, and [REDACTED] stated that the hospitality suite was not a required conference function and alcohol was served. Aryai told the OIG that he wore his firearm and was dancing at the conference hospitality suite. However, he said was not wearing his jacket for part of the dance because Wolf helped him remove his jacket and would not return it. After the dance was completed, Aryai said he put his jacket back on. Wolf stated he helped Aryai remove his jacket, but after the dance gave it back to him. [REDACTED] FFS, confirmed that Wolf took Aryai's jacket and said he thought Wolf offered it back to Aryai. Bass was unaware that Wolf removed Aryai's jacket, and she said if she had known, she would have included that fact in the memorandum provided to the CO. Morales said Aryai's firearm was exposed regardless of who removed his jacket. Wolf stated at the end of the night, he spoke to Aryai about carrying a firearm. He said he told Aryai that Aryai should not leave the conference giving the impression that Aryai was the "lone ranger" and needed to be professional.

Morales, Beal, and Bass were unable to provide the USMS policy which Aryai violated by showing his firearm. However, [REDACTED] provided USMS Policy Code of Professional Responsibility Section 1.3 (E)(7):

Operational employees must conceal all weapons from view when not in use, unless otherwise authorized by management. Weapons will not be inspected, cleaned, handled or exchanged in public areas or in the presence of jury members, prisoners, witnesses, protectees, family members or the general public.

However, the policy provided by [REDACTED] did not apply to Aryai because he was not a USMS employee. Furthermore, Aryai's position description was not that of an operational employee. Bass, Beal, and Morales had different opinions on whether the hospitality suite was located in a public or private area of the hotel. Beal said it was a private area. Bass said a public area was passed to get to the area where the hospitality suite was located. Morales said the area for the hospitality suite was off of the lobby, but had doors. Moreover, Morales stated he considered the area public despite saying that only conference attendees were there. [REDACTED] and Aryai recalled the room was reserved and attended by only conference attendees. [REDACTED] said the public was not allowed in the area where the after-hours event was held.

Wolf stated he did not ask Aryai to cover the firearm or to lock it up. Beal also said she saw Aryai dancing with the firearm at the conference reception, but did not ask him to cover it. When asked, Beal did not have an answer as to why she did not ask him to cover it, but said she is not an "1811" (criminal investigator) and did not think it was her place to tell him to conceal the firearm. When asked by the OIG if anyone else was wearing a firearm in the conference hospitality suite, Wolf stated a couple of the DUSMs either had firearms visible or Wolf could tell they had their firearms because of his experience as a former Drug Enforcement Agency agent and was familiar with how concealed firearms appeared. However, he did not know the names of the DUSMs he saw.

When interviewed, Aryai said he was not aware of any USMS policy prohibiting contractors from carrying a firearm because some USMS contractors specifically carry firearms to safeguard government buildings. Furthermore, he said he told [REDACTED] he carried a firearm as a retired agent and asked her if there was a problem with it. [REDACTED] said she did not know Aryai carried a firearm. Beal explained policies were on the USMS intranet and certain policies pertaining to the FFSs would have been provided during their initial training. However, she could not be more specific. Morales was unaware if contractors were made aware of USMS policies. The USMS Office of Internal Investigations provided the OIG information that there is no USMS policy requiring contractors to be educated on USMS policies.

Multiple Instances of Failure to Work within Chain of Command

The Bass memorandum stated there were multiple instances of Aryai's failure to work within his chain of command. The memorandum also stated all FFSs received "intensive training on the Asset Forfeiture Program, including chain of command training" for two weeks in January 2010 and two weeks in February 2010. The memorandum also included an organizational chart. Bass said they touched on the chart during training. [REDACTED] stated there may have been mention of where to report fraud, but it was not a formal training block. She knew this because she was the FSA employee who put the training together. [REDACTED] provided the training syllabus to the OIG, which did not include anything related to the chain of command. In the training sessions Wolf said he attended, there was not any training related to reporting misconduct or fraud within the chain of command. Wolf further stated he did not recall seeing any training documents related to reporting misconduct or fraud within the chain of command. In an e-mail dated June 16, 2010, from [REDACTED] Senior FFS, to Wolf, she asked about a protocol for reporting when fraud was discovered. There was no e-mail response from Wolf in the documents FSA provided to the OIG.

Briskman, [REDACTED] Morales, Beal, and Bass had vague recollections related to Aryai failing to provide case-related information to USMS Headquarters. Briskman said Aryai was not keeping him informed about complex assets cases, and reported the issue to Beal, who decided to have Aryai report to Briskman. However, when Briskman questioned Aryai on specific issues, Aryai provided him with answers to his questions. [REDACTED] had heard Briskman complain about not receiving information related to complex cases, but did not have direct issues with Aryai reporting within the chain of command. Morales and Beal recalled there were issues with Aryai failing to report what he was working on to USMS Headquarters, but could not provide any further information. Bass said Aryai was working directly with the USAO-SDNY and making recommendations to them about the disposal of certain assets without consulting the Complex Assets Team. Bass said AFD tried a variety of reporting structures because Aryai's knowledge was not suited to working under her in the Audits and Internal Controls Section. Bass stated Aryai did not provide information on what he worked to USMS Headquarters, which is something AFD asked him to do. The contract stated the contractor shall appoint a supervisor, who will be the single point of contact through which all contractor/government communications, work, and technical direction shall flow.

Bass, Beal, and Morales stated to the OIG that one example of Aryai failing to follow the chain of command was when he reported the information about Briskman's asset valuation business to the USAO-SDNY. In an interview with the OIG, Morales stated he did not consider this to be a chain of command issue. However, in March 2010, Bass stated Aryai had reported other concerns about how Briskman valued assets to Bass and [REDACTED]. Bass said she provided that information to Beal and Morales. Bass told the OIG she thought Aryai did not think AFD was moving quickly enough to resolve the issues he brought forward in March 2010. [REDACTED] said she did not see the AUSA as being outside of the group because she was working on the assets with them. Morales said he did not care that Aryai reported the issues to the AUSA, but wanted him to report the allegation also to AFD. Morales said one of Aryai's functions was an internal audit function. Therefore, as part of his job description, he should have reported problems directly to AFD.

Bass stated the information about Briskman's asset valuation business should have been reported to AFD so its staff could have taken action. When the OIG asked about how the actions would have been different from those taken when the USAO-SDNY provided the information to Morales, Bass said it would not have differed. Aryai stated Morales told him if he had learned of the allegations against Briskman, Morales would have "quietly forced [Briskman] into retirement." Unrelated to Briskman's asset valuation business, Doherty provided information that she had spoken to Beal about another ethics issue and had originally taken her concerns to a USMS OGC ethics official. Beal told her she should have reported her concerns to the AFD management team and they would have taken care of the issues. Beal said she never told anyone to come to her instead of the ethics official. However, Beal thought she should also be told of situations involving her office in addition to the ethics official.

The OIG interviewed other FSA contractors who expressed varying opinions on where allegations of fraud or misconduct should be reported. Some said the allegations should be reported to their FSA supervisor, while others said they would have reported to the appropriate person either within the USMS or FSA.

A Pattern of Disruptive and Divisive Behavior

The Bass memorandum stated Aryai showed a "pattern of disruptive and divisive behavior, including reporting inaccurate and misleading information to the DOJ OIG." As support for the memorandum, Bass included an e-mail dated May 22, 2010, sent from Aryai to Wolf, copying Auerbach, Marcovici, Morales, Bass, John Clark, former USMS Director, and Paul Weiner, Aryai's attorney, referencing compiling a report for the OIG and the Attorney General. Beal explained Aryai sent a memorandum to the OIG with inaccurate information about Briskman. When the OIG pointed out to Beal that when Aryai sent the information to the OIG, it was prior to the completion of the investigation and he did not know whether it was inaccurate, Beal did not have an answer. Bass said Aryai had provided inaccurate information regarding Briskman and was not able to comment on what Aryai thought was true or not. During a later interview with the OIG, Bass stated Aryai sent e-mails to a variety of places with inaccurate information and working with Aryai did not get easier. Morales stated Aryai made an allegation about Morales steering an AFD district assistance contract that Morales personally knew was

untrue. However, Morales could not provide information as to whether Aryai knew the allegation was true or false when he reported the allegations.

Briskman and [REDACTED] both said they saw no evidence of Aryai exhibiting disruptive or divisive behavior.

A Pattern of Behavior of Unresponsiveness and Disregard to the USMS

The Bass memorandum mentioned "a pattern of behavior of unresponsiveness and disregard to the USMS government management's requests and tasks." Beal and Morales could not provide a distinction between this issue and Aryai's instances of failure to work within his chain of command. However, when asked by the OIG to provide examples of Aryai's unresponsiveness and disregard to the USMS, Beal said she considered Aryai failing to complete tasks assigned in April 2010 as unresponsive. Briskman said he considered not knowing what complex assets Aryai was working on to be unresponsive. Bass said Aryai was unresponsive when she asked him why he would be missing sessions at the AFD National Conference and when he took sick leave, but submitted work hours. [REDACTED] said she saw no evidence of Aryai's pattern of behavior of unresponsiveness.

Related to submitting work hours while on sick leave in June 2010, Aryai said he was sick when he took the sick leave, but helped out because he was needed to complete the work. Aryai said after his re-assignment to New Jersey, he did not know what he was supposed to work on. Wolf also said he was unsure about the assignments given to Aryai. However, an e-mail dated May 25, 2010, from Wolf to Aryai said that the assignments from Bass were attached.

Findings

The OIG determined Aryai was singled-out by the Bass memorandum with reference to the content of his *LinkedIn* page not making clear that he was a contractor because there is no evidence that Bass or the USMS reviewed the *LinkedIn* pages of other FFSs or USMS employees. In addition, the purported issues with Aryai using his retired credentials as identification were not raised until approximately six months after they first appeared. There was no follow up by the USMS to obtain any explanation for the situation.

The OIG's investigation reflected that one person witnessed Aryai use his retired credentials in a single instance to identify himself, which contradicted Aryai's statement.

Related to Aryai's firearm, the OIG determined Aryai had asked [REDACTED] about carrying his firearm when he began his employment in the SDNY. The OIG was unable to determine whether Aryai carried a firearm at work because no one witnessed Aryai carrying a firearm while at work and Aryai said he was unsure if he carried a firearm during meetings. If Aryai had in fact carried a firearm while working, he would have been in violation of FSA's policy.

The OIG determined during the after-hours event at the hospitality suite during the conference in May 2010, Aryai was not in violation of the USMS policy, even if it were applicable to a contractor, because by most accounts, when Aryai had his jacket off he was not in a public place. The OIG could not determine whether Aryai was in violation of 18 U.S. Code § 926C(c)(6), which allows for retired or separated law enforcement officers to carry a concealed firearm, if not under the influence of alcohol, because it is unknown whether Aryai would have been considered to be under the influence of alcohol. It appeared that Aryai was again singled-out by the reference to this alleged conduct in the Bass memorandum because witnesses told the OIG that there were armed DUSMs at the same event who may have been drinking.

There were no documented instances of Aryai's failure to work within his chain of command prior to April 6, 2010, or at all prior to the Bass e-mail and memorandum. The OIG determined Aryai's alleged "disruptive or divisive behavior" as referenced in the Bass memorandum was his providing information to the OIG, in addition to sending e-mails to the former USMS Director. There were no documented instances of Aryai having been "disruptive or divisive" until the Bass e-mail and memorandum.

The OIG determined there were no documented instances of Aryai's unresponsiveness and disregard to the USMS prior to April 6, 2010.

Transfer to the USMS-DNJ

According to an e-mail dated May 21, 2010, the USMS requested Aryai be transferred from the USMS-SDNY to the USMS-DNJ. According to the Bass memorandum, Aryai reported to the USMS-DNJ on May 24, 2010. Morales stated while FSA was reviewing the issues with Aryai, Bass thought it would be a good idea to have him go somewhere and assign him a specific set of duties. Bass said there were concerns that Aryai continued to report to the USAO-SDNY rather than in the USMS chain of command because the USMS-SDNY did not know what Aryai was working on. Therefore, they transferred Aryai to the USMS-DNJ. Beal initially said Aryai had said his office space in the USMS-SDNY was not conducive for the type of work he had to do, but she later said Aryai was transferred to the USMS-DNJ because he was not spending enough time on the USMS-DNJ or the USMS-EDNY cases. During a later interview of Morales, he could not remember if Aryai was transferred to USMS-DNJ because Aryai would be out of the USMS-SDNY while FSA reviewed the issues or whether it was so Aryai could shift his focus to the USMS-DNJ or USMS-EDNY cases. Wolf said it was unclear to him why Aryai was transferred by the USMS. Wolf said Aryai took sick leave when he was re-assigned to the USMS-DNJ because of the commute. Bass said when she learned of the long commute, she approved Aryai working from home.

According to Dickinson, Aryai was moved to the USMS-DNJ while the issues identified in the Bass memorandum were investigated. ██████████ said when Aryai was transferred, it greatly impacted USDC-SDNY because of the work Aryai completed for that district.

Findings

The OIG determined the purpose for Aryai's transfer to the USMS-DNJ was related to the Bass memorandum. It was not clear that the purpose was to allow FSA to investigate the issues raised in the memorandum, or to enable Aryai to work on issues relating to districts other than SDNY, as asserted by the USMS. It appears that work on items other than SDNY complex assets matters could have been accomplished without the transfer and were already part of his duties. The transfer could reasonably be viewed as an action against Aryai in response to his making allegations against Briskman to the USAO-SDNY.

Aryai's Removal from the Contract

According to [REDACTED] a female from the USMS, whom he could not identify further told him that Aryai needed to be removed from the FSA contract. The USMS provided [REDACTED] with written documentation of Aryai's removal, which appeared to him to be "above-board." The contract removal clause related to employee conduct (C.1.5.3 *Employee Qualifications and Conduct*) stated the following:

(a) The Government reserves the right to require the Contractor to reassign from this contract any Contractor employee(s) who is deemed incompetent, careless, unsuitable or otherwise objectionable, or whose continued use under the contract is deemed contrary to the best interests of the Government.

(b) The Contractor shall remove any employee from performance of contract work within five (5) working days of receiving notice from the Contracting Officer that the employee's performance is unsatisfactory. The Contractor shall immediately remove any Contractor employee found to represent a threat to the safety of government records, government employees, or other Contractor employees; if this occurs the Contractor shall reimburse the Government for the cost of any Government-provided or funded training given to this Contractor employee who ceases to perform Contract duties within six (6) months after receiving that training. In instances where the removal of an employee is for substandard performance or behavior negatively impacting delivery of services, the Contractor will be given an opportunity to address the situation prior to removing the employee.

Robert Marcovici, Associate General Counsel for the USMS, informed the OIG that he heard from Morales, Beal, Dickinson, or Auerbach that AFD was going to ask FSA to investigate what occurred at the May 2010 AFD National Conference and have Aryai removed if FSA concurred with what AFD learned. Marcovici never heard from anyone, except Aryai, that his removal was retaliatory. Dickinson stated Morales was upset that he had to learn about the allegations about Briskman through the USAO-

SDNY, but did not express to her that he wanted to remove Aryai.

██████████ said on or about April 9, 2010, Beal expressed that AFD did not know what to do about Aryai. She expressed frustration with Aryai's alleged insolence. Beal also expressed to ██████████ concerns about Aryai's relationship with the AUSA in SDNY and that Aryai was "feeding" her information about Briskman. ██████████ told Beal if Aryai was being insubordinate, she had no option except to have his relationship with the USMS terminated. Beal said she could not recall the conversation with ██████████. Morales said he was unaware of the conversation between Beal and ██████████.

On April 9, 2010, Morales sent an e-mail to the USAO-SDNY, copying Beal and Bass, that Aryai "[reporting information outside the USMS] is not sitting well with me. [Aryai] is a contractor of the USMS-I intend to remind him just one time." When the OIG asked, Morales stated he meant that Aryai should have come to the USMS, but did not mean that Aryai should be removed from the contract. Morales further stated he could not have him removed from the contract because only the contracting officer can remove contractors.

On May 21, 2010, Bass sent an e-mail to Wolf, Morales, Beal, ██████████, and ██████████ with the same issues addressed as in the Bass's memorandum. Bass said she did not know why the memorandum was sent later than the e-mail, but thought it might be because JMD requested a formal document. An e-mail dated June 6, 2010 from Aryai to various individuals, making allegations about Morales steering an AFD district assistance contract, was forwarded to Morales on June 7, 2010, by Rackley. Bass and Beal said they were not aware Morales learned that information on the same date the memorandum was issued.

Wolf recounted in June 2010, ██████████ directed ██████████ FSA Chief Operating Officer, to complete an investigation related to the memorandum submitted by Bass, which ██████████ delegated to Wolf. Wolf drafted an outline for the steps needed to complete the investigation, but never completed this investigation because John Farrell, FSA president, did not want to run into a conflict with the OIG Washington Field Office's investigation. Wolf stated that later in June 2010, he learned from ██████████ that the USMS requested Aryai be removed from the contract. Aryai was not transferred to another DOJ component because there were no other FFS positions or positions at that level available in the foreseeable future. Therefore, FSA terminated Aryai. Wolf stated Morales, Beal, or Bass did not say their intent was to have Aryai terminated, but he said he viewed the USMS as being careful in the language they used related to Aryai.

On June 15, 2010, Beal sent an e-mail to ██████████ copying ██████████ that stated, "...the USMS believes that proper contract services are not being provided by Mr. Aryai and that immediate resolution to this matter is required." Following that e-mail, ██████████ sent FSA an e-mail, also dated June 15, 2010, that stated, "per the customer's request below and Contract Section C.1.5.3 we request you remove your employee, Brian Aryai, from the contract."

Findings

The OIG determined the purpose of the Bass memorandum was to support Aryai's removal from the contract after he made allegations against Morales rather than have FSA investigate Aryai's behavior.

The OIG has completed its investigation and is providing this report to the USMS for appropriate action.