

Deputy Chief James P. Woodbury  
Assistant Fire Marshal  
Seattle Fire Department  
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Seattle, WA 98119

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CITY OF SEATTLE  
JAN 10 2009

January 7, 2009

Mayor Greg Nickels  
Seattle City Hall, 7th Floor  
600 Fourth Avenue  
P.O. Box 94749  
Seattle, WA 98124-4749

Dear Mayor Nickels,

Under SMC 4.20.860 I am filing this signed written response seeking relief for having been retaliated against in violation of SMC 4.20.810.

INTRODUCTION

By way of background, I have served nearly 22 years in the City of Seattle Fire Department and currently hold the rank of Deputy Chief. I am assigned as the Assistant Fire Marshal until January 7, 2009. I have a perfect record of employment with the City and have never been the subject of discipline. I have performed my job on behalf of the City as a model public servant, always striving to uphold the honesty and integrity of the Fire Department. Because of my public position and personal beliefs, I have always conducted myself in a moral, ethical and professional manner. I expect other members of the department to conduct themselves in similar ways that reflect positively on the City. I invite you to review my personnel file and will be happy to provide my resume so that you may clearly understand my work history with the City.

BACKGROUND ON THE "WHISTLE BLOWERS" COMPLAINT

On September 30, 2008, acting in good faith and in accordance with the City of Seattle's Whistleblower Protection Code, I filed a signed, written "Whistleblowers Complaint" under SMC 4.16.090 and 4.20.810 in regards to issues surrounding the failure of the Seattle Fire Marshal's Office to invoice First & Goal, Inc. (hereafter F&G, the corporation which operates Quest Field) for "fire guard" services in excess of \$170,000. In my complaint, a copy of which is appended to this letter, I highlight certain actions by members of the Seattle Fire Marshal's Office, which appeared to be

misuse of official position and Seattle Fire Department Management's response to these issues.

Christ Santos, Director of Finance for the Seattle Fire Department, has calculated the total amount due the City from F&G for the period from 2002 through 2007, including six 2004 unpaid invoices, to be in the amount of \$168,681.83. He recently communicated with F&G by email a second time demanding payment for this outstanding balance. Copies of his communications, including copies of the unpaid 2004 invoices, are also appended.

I directed my complaint in accordance with SMC 4.20.850(A) to the Executive Director of the Seattle Ethics and Elections Commission, Mr. Wayne Barnett. Mr. Barnett, through an investigator in his office named Kate Flack, recently provided me with a "summary of where we are in the investigation of your Whistleblower report." A copy of that report is appended to this letter. I know from speaking with Kate that at or before I filed my September 30th complaint, Fire Chief Gregory Dean contacted Mr. Barnett directly and told him in effect that he was aware of "an ethics complaint headed his (Mr. Barnett's) way regarding the failure to collect the monies owed for fire guard activities at F&G and was 'taking care of the problem' and that Mr. Barnett should not 'worry about it.'" Because my source of information on this critical point is second hand, I assume that the investigation of my allegations of retaliation will involve speaking with Mr. Barnett directly about Chief Dean's remarks.

#### ACTS OF RETALIATION

I have been aware of the department's plan to reduce the number of Deputy Chiefs in fiscal year 2009 from eleven to ten. While there was no written statement to that effect, prior to late November 2008 the consensus amongst my peers and statements from Assistant Chief Ken Tipler, Fire Marshal, and Battalion Chief Richard Verlinda, Local 2898 President, indicated that the reduction in force would be based on seniority as measured by "time in grade." In December 2008, statements by Chief Verlinda and Chief Amer (VP LU 2898) clearly indicated that the process had changed and would now not be based on seniority. This change in process clearly coincides with my submittal of the complaint. Of the 11 Deputy Chiefs, I am number 6 in seniority. I am not a logical candidate for a demotion.

On December 11, 2008 at a meeting in his office, Fire Chief Gregory Dean verbally informed me that I will be demoted to Battalion Chief and transferred out of administration to operations effective January 7, 2009. He subsequently confirmed this demotion in a letter dated December 22, 2008, copy enclosed. As a result of these actions I will suffer a significant reduction in pay, compensation and benefits. As one example, my pay is currently at the rate of \$67.93 per hour. The top step hourly pay rate for a Battalion Chief is \$49.69, a 27% decrease in pay.

Chief Dean's decision to demote and transfer me is completely unwarranted and is clearly an act of retaliation (defined in RCW 42.41.020(3)) against me for filing my Whistleblower complaint. I find his actions shocking and appalling. They are in direct violation of SMC 4.20.810(C), which provides me with protection for my good faith actions in reporting what I believe to be misconduct by other members of the department to the direct financial detriment of the City of Seattle. Chief Dean's retaliatory actions violate SMC 4.20.810(C) (2) and subject him to discipline by suspension without pay, demotion, or discharge pursuant to SMC 4.20.810(D). He is also subject to a civil penalty under SMC 4.20.840.

Knowledge of the ethics complaint involving the Fire Marshal's Office and F&G is widespread in the department. I and others have been approached by Seattle Fire Department members asking for information. My involvement in the initial investigation and my outspoken comments to Fire Marshal Ken Tipler on the issue have clearly identified me to Chief Dean as the most likely person to have submitted the "Whistleblowers Complaint." This is evidenced in part by Chief Dean's call to Wayne Barnett indicating that he knew there was an ethics complaint "headed his way" regarding the F&G issue.

In accordance with SMC 4.20.860, I request that you forward this complaint of retaliation to either the President of the City Council or the Presiding Judge of the Municipal Court. Because my complaint is against Chief Dean, the head of the Fire Department, it would not be appropriate under SMC 4.20.860(B) to forward the complaint to him for investigation and response.

The relief that I request includes but is not limited to the following:

- Immediate reinstatement to the rank of Deputy Chief in the Seattle Fire Department.
- Assignment to the position of operations deputy chief. This is critical since it is the only deputy chief position with some degree of isolation from Chief Dean, who I am convinced will continue to retaliate against me.
- Repayment of all back wages and compensation at the applicable pay rate of administrative deputy chief.
- Revaluation of all my accrued compensatory time to include merits, vacation hours, saved vacation hours, holiday time and sick leave hours at the applicable pay rate of administrative deputy chief. This is also a critical issue since I currently have over 2,000 hours of accrued

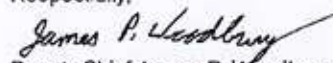
compensatory time, which can be cashed out only at an employee's current rate of pay. Given the substantial decrease in my pay rate as a Battalion Chief, the economic loss associated with this issue is sizable.

- Appropriate compensation for any negative monetary consequences that may impact my LEOFF II pension as a result of these actions.
- Full compensation for any and all legal expenses and attorney's fees that I may incur defending myself from these actions.
- Appropriate compensation for the negative physical and mental conditions that I have been subjected to as a result of these actions. As you can imagine, the emotional impact of having your livelihood impacted for taking good faith actions to report misconduct on behalf of the public that I serve is significant.
- Protection from any and all future negative job actions. The entire purpose of the anti-retaliation provisions in both RCW 42.41 and SMC 4.20 is to protect the loyal employee who is willing to take a personal risk by standing up against unethical conduct within his ranks. I have done just that, and am now bearing the cost of being outspoken and having taken action.

Mayor Nickels, I know you take these matters as seriously as I do. We both serve a public that deserves answers to the serious questions that I have raised in my Whistleblower complaint. As public servants, we must be held accountable for our actions. I am prepared to cooperate fully and completely into the investigations of the serious allegations that I made in my Whistleblower complaint and that I make here. The message that these retaliatory acts send to the employees and citizens of the City of Seattle is chilling, and if not properly acted upon may well invalidate most of the provisions of SMC 4.16 *Code of Ethics* and SMC 4.20 the *Whistleblower Protection* code.

Thank you for your consideration in this matter.

Respectfully,

  
Deputy Chief James P. Woodbury  
Assistant Fire Marshal  
Seattle Fire Department

**Retaliation Complaint Interview Questions from Seattle  
City Attorney and responses by James Woodbury  
Dated March 11, 2009**

1. *What specific acts of retaliation are you complaining about?*

As noted in my January 7, 2009 letter to Mayor Nickels, the specific acts of retaliation I am complaining about are receiving a demotion from Deputy Chief to Battalion Chief and a transfer from administration to operations as a result of filing a "Whistleblowers Complaint" under SMC 4.16.

2. *Who do you believe has retaliated against you?*

I believe that the Chief of the Seattle Fire Department, Gregory Dean, has retaliated against me. He is the decision-maker on my demotion.

3. *What occurred to make you believe Chief Dean targeted you in the demotion decision?*

A number of events have occurred that make me believe that Chief Dean targeted me in the demotion decision.

In early October 2008 I filed a written, signed "Whistleblowers Complaint" with the Seattle Ethics and Elections Commission (SEEC). This complaint was filed with Executive Director Wayne Barnett and assistant Kate Flack of the SEEC and has been under investigation for over five months at this time.

This complaint raises very serious questions about the failure of the Seattle Fire Department (SFD) to invoice and collect funds in excess of \$170,000 for fire guard activities performed at Qwest Field for the First and Goal Corporation (F&G), which operates Qwest Field and the Qwest Events Center. This corporation is owned by Paul Allen through the Vulcan Corporation.

The complaint also raises questions about a number of actions of Lieutenant Milton Footer, who is the lieutenant assigned to the Fire Inspection Lieutenant position at F&G, as well as management's response to these issues. Lt. Footer reports to the Fire Marshal through the Captain of Special Events. He was not in my direct chain of command.

In mid-2004 I was directed by Fire Marshal John Nelsen to work with Harry Labun of SFD finance and F&G to amend the existing contract with F&G, primarily to capture the overtime costs associated with Lieutenant Milton Footer's work at F&G. In this process, it appeared to me that Lieutenant Milton Footer had

"crossed the line" with F&G and was acting more as a show director/producer than as a Fire Prevention Inspector. In essence, I mean that he was taking on duties (including his apparent involvement in directing the show setup and working on land use issues for F&G), which were beyond the scope of his assigned duties. At that time, I recommended to Fire Marshal John Nelsen that Lieutenant Footer be rotated out of that position and that other inspectors be rotated in on a regular basis to share the knowledge and experience among our inspectors and ensure that the line between the Fire Prevention Inspector and F&G employees not become blurred. Chief Nelsen agreed and brought this idea up to Fire Chief Greg Dean. I was not at the meeting, but Chief Nelsen stated to me that Chief Dean had emphatically told him that Lieutenant Footer was not to be rotated out of this position.

Chief Dean has been closely associated with the management of the Fire Inspection Lieutenant position at F&G since establishment of this position by ordinance in 2000. He has also been closely associated with the administration of the contract from 2001 to the present. He signed the original contract with F&G as the Interim Fire Chief in 2001, managed the contract with F&G as the Fire Marshal from 2001 through 2002, and, in 2004, as the Fire Chief, he actively participated with Fire Marshal John Nelsen, Lieutenant Milton Footer and others to convince Jeff Klein (VP F&G) to not cancel the contract establishing the Fire Inspection Lieutenant position as Klein had intended at that time.

Chief Dean's conduct raises serious questions about a number of issues, including stopping the internal investigation of Lt. Footer in 2008, the apparent protection of Lt. Footer by Chief Dean after questions arose regarding Footer's conduct with F&G, and the failure to rotate Footer out of the position after I repeatedly recommended that between 2004 and 2008.

As I stated in my complaint, additional serious issues arose with Lt. Footer and F&G. During this entire period I and others attempted to manage the situation and continued to recommend that, at a minimum, Lt. Footer be rotated out of his position until the facts of the matter were known. Diane Hansen (a strategic advisor at the Fire Marshal's Office) personally recommended to Chief Dean in a meeting in June 2008 that he ask an outside agency such as the Department of Executive Administration to conduct an investigation. This request was turned down by Chief Dean.

I reviewed SMC 4.16 *"Code of Ethics"* and SMC 4.20 subchapter III *"Reporting and Whistleblower Protection"* and discussed the content with Chief Tipler and left him copies of the codes. I and others repeatedly informed Chief Tipler that these issues clearly violated SMC 4.16 and could be the basis for a *"Whistleblowers Complaint."*

No actions were being taken against Lt. Footer. The investigation had been apparently stopped. Issues continued to arise with Lt. Footer, such as his

demanding "all access passes" for him and his girlfriend and using them to attend concerts and go backstage. In Fall 2008 a civilian employee requested concert tickets from Captain Greene in an email and asked "If he could get them for her or was that a Footer thing?" This was never investigated until the SEEC became involved.

Based on my observations, it appeared that Chief Dean had a special relationship with Lt. Footer that allowed Footer direct and frequent access to him. On many occasions I observed Footer on his way to headquarters, and after a short time, a call would go from Chief Dean to Assistant Chief Tipler, who would then give me a call with comments or directions regarding Footer. For example, I observed Footer going to headquarters and soon thereafter, I got a call from Chief Tipler accusing me of "picking on" Footer. I observed similar favored treatment by Chief Dean of Fire Department employees [REDACTED] and [REDACTED].

In or about June 2008, at my request, the "Special Hazards Section" performed an investigation of [REDACTED] and discovered that he had been issuing permits without actually inspecting for the permit conditions. This had been going on for some time and amounted to a falsification of documents. My recommendation for discipline was at the high end of the range. I recommended a two-week suspension because of the seriousness of the charges and the fact that the investigation revealed [REDACTED] had done this before. Chief Dean gave [REDACTED] a one-day suspension and let me know at a later meeting that he was not happy with my recommendation.

In Fall 2008 [REDACTED] background check for admission into [REDACTED]. During this investigation [REDACTED] admitted to the interviewing officer that he had [REDACTED]. The background investigation was stopped and [REDACTED]. I was informed by Chief Tipler that this would be handled by [REDACTED] and Chief Dean and that we were not to take any action. [REDACTED]. I understood that [REDACTED] continues to work [REDACTED].

From April 2008 through September 2008 I and others in the FMO struggled with the issues stated in the September whistleblower complaint and were thwarted at every turn. In June 2008, Captain Greene (of the "Special Events Section" of the FMO, where Lt. Footer works) and I were specifically told by Fire Marshal Ken Tipler in his office that, at the direction of Chief Dean, we were not to pursue the First & Goal invoicing issue any further and we would not be allowed to discipline Lt. Footer. Chief Tipler went on to state emphatically that at the direction of Chief Dean: "The financial investigation of the F&G invoicing issue was over and we

were to move forward." When Captain Greene left the room, I closed the door and asked Chief Tipler, "Does this mean that my moral and ethical concerns about these issues are not going to be answered"? Chief Tipler stated, "I can only tell you the financial investigation is over and Chief Dean has directed you to move forward."

In all of these serious issues I and others were either prevented from investigating them, not allowed to take any action, bypassed, and had multiple recommendations ignored by Chief Dean. Throughout this period I consistently informed Chief Tipler of my concerns and advised him that these issues violated SMC 4.16. There is no question on my part that Chief Tipler directly communicated my concerns and statements to Chief Dean on a regular basis. The situation deteriorated so badly that Chief Tipler offered Chief Dean his resignation on September 11, 2008.

Additionally, in early 2008 it became apparent that the Seattle Fire Department would most likely lose one Deputy Chief position in January 2009 due to budget constraints. Prior to early November 2008, the general consensus among the LU 2898 chiefs was that the Deputy Chief to be demoted would be selected on the basis of seniority (time in grade). On my part this was based on statements by Assistant Chief Ken Tipler and LU 2898 President Battalion Chief Rick Verlinda. In conversations I and others had with the other Deputy Chiefs, they stated that they had heard the same thing from a variety of sources. The demotion of the least senior deputy chief (Chief Mike E. Walsh) was generally accepted and understood by the other Deputy Chiefs, including myself. This is the process used by most other work units in the City. As I understand it, prior to my filing the whistleblower complaint, Chief Dean had a one-on-one conversation with Deputy Chief Walsh at which time he informed him that based on seniority he would be the one demoted. I heard this from Deputy Chief Jim Fosse and Deputy Chief Steve Oleson. I rank sixth in seniority among the eleven Deputy Chiefs.

The change in the selection process occurred shortly after my submittal of the "*Whistleblowers Complaint*" in early October 2008. I firmly believe that the change in the selection process was clearly more than just a coincidence. I believe that Chief Dean knew of my complaint and modified the selection process to target me.

In early December 2008 I attended a one-day class on assessing building damage with other firefighters. While at lunch Captain Mike Gagliano of the training division asked me, "What's going on at the FMO with Lt. Footer and that ethics complaint?" I was very surprised at this and stated that I didn't know any details. As we walked back to class, I asked him, "How widespread is that information?" He stated that "it was all over training so most of the department probably knew of it." He did not state the source of his information and I did not press him for fear of implicating myself as being involved with the ethics complaint.

This incident establishes that information regarding the *"Whistleblowers Complaint"* had become widespread in the department at that time.

In the past, when Chief Tipler was out of the office for any reason I regularly "acted" in his place and assumed the role of Fire Marshal. For most of 2008 when I acted in this position I had little or no communication with Chief Dean and felt intentionally isolated. It went so far that he would call civilians in the office to answer questions, or would have them ask me a question to get information for him. It was very awkward for everyone in the office.

Chief Dean clearly had knowledge of the probability of a *"Whistleblowers Complaint"* being filed by me with the SEEC. Just prior to my submittal of the complaint to Wayne Barnett and Kate Flack, Chief Dean called Barnett at his office and let him know that he (Barnett) would probably be receiving a *"Whistleblowers Complaint"* regarding the issue of Lt. Footer demanding and receiving "all access passes" to concerts. Chief Dean went on to tell Barnett "not to worry about it because it had been handled." This issue is listed in the complaint I submitted as "Action #2." I heard this information originally from Ms. Flack, and Mr. Barnett confirmed the information.

To somewhat summarize here, through most of 2008, in spite of my position as Assistant Fire Marshal, my relationship with Chief Dean was the poorest of any I have had in my entire working career. He was repeatedly made aware of my considerable concerns regarding these issues and that they violated SMC 4.16. As evidenced by his call to Barnett, he knew of the probability and content of an ethics complaint being filed by me.

The issues being investigated are very serious and Chief Dean may have a close association with them.

The method being discussed by Chief Dean of selecting the person to be demoted changed from using a seniority basis shortly after my submittal of the complaint. Because I am sixth in seniority of the eleven Deputy Chiefs, I would not appear to be logical candidate. Additionally, there are no discipline issues, negative performance issues or poor job reviews in any manner, shape, or form in my personnel records. There have never been any disciplinary issues in my entire career with the Seattle Fire Department.

In late October 2008 my wife and I went on vacation out of country and returned November 12, 2008. Upon my return to work I learned that now the consensus among the LU 2898 chiefs was that the selection of the person to be demoted would not be based on seniority. On my part this was based on direct statements made by Assistant Chief Bill Hepburn, Battalion Chief Rick Verlinda, LU 2898 President, and Battalion Chief Bruce Amer, LU 2898 Vice President. Other Deputy Chiefs also had heard this assertion.

4. *Are there other actions besides the demotion to Battalion Chief that you believe are retaliations? If so please describe them.*

Yes.

The transfer out of the FMO was also retaliatory.

In late December 2008 and early January 2009, on several occasions when I worked in operations, I was locked out of a number of necessary City computer programs such as "GroupWise," "Cadview Paging," "Cad Log On," FDM, staffing sheets, and training calendars, as well as the "O" and "P" drives. Most of the time it was several programs at once. In each instance a message appeared stating either that I had been locked out or I had been denied access and to contact the system administrator. I contacted the City "computer help line" at 386-9770 each time to resolve the issues. Most of the time the IT person could get me back into the programs in about 20 to 40 minutes. On January 7, 2009, while working at Battalion 4 in Ballard, I was locked out of the "Cad Sign On," Staffing sheets, training calendar, and the "O" and "P" drives. In spite of multiple calls to IT there was no resolution for the entire 24 hour shift. I was unable to do my work, or more importantly, log on to the accountability system which was a serious safety issue and violation of department policy. None of the IT persons I spoke with had experienced this type situation where a person was locked out of multiple programs on a regular basis. This finally ended when I called a fire department IT person I know and told them about the problems I had been having. They too had never experienced this. I let them know that this was becoming a serious safety issue and that it needed to stop. It has not happened again. Please see IT ticket numbers 00658779, 00363713, 00664001, 00664003, 00663713, 00664599 and 00664707 for documentation of my computer problems.

In February 2009 I was required to attend a "Haz Mat" class twice in spite of fully completing the first class per the training memo. The second time I went another Chief (Larry Wick) requested to go in my place as he had not yet gone and this was his last opportunity. He was denied and I had to go a second time. He has not had the required training.

5. *When did you decide to file an ethics complaint?*

In mid-September 2008 when it became apparent that these issues would not be resolved.

6. *When did you first contact the Ethics and Elections Commission?*

In early October 2008.

7. *Who knew, and how did they know, that you were going to file an ethics complaint?*

As I said before, Chief Dean clearly had knowledge of the probability of a "Whistleblowers Complaint" being filed by me with the SEEC. Just prior to my submittal of the complaint to Wayne Barnett and Kate Flack of the SEEC, Chief Dean called Barnett at his office and let him know that he (Barnett) would probably be receiving a "Whistleblowers Complaint" regarding the issue of Lt. Footer demanding and receiving "all access passes." Chief Dean went on to tell Barnett "not to worry about it because it had been handled." This issue is listed in the complaint I submitted as "Action #2". I heard this information originally from Ms. Flack, and Mr. Barnett confirmed the information.

Diane Hansen, Deputy Chief Gary English, and Captain Chris Greene, all of the FMO, were aware that I was going to file an ethics complaint. They knew this because they were involved in trying to manage the issues mentioned in the complaint and all of them were asked by me to review my draft copy of the complaint for content and accuracy and did so in my presence. When I filed the signed written complaint with the SEEC, I so informed them.

8. *Were there others in the Fire Marshal's office who voiced disagreement with the way the management handled issues related to Milton Footer, First & Goal and/or Key Arena? If so please describe who did so, when and how they made their views known.*

Diane Hansen, Deputy Chief Gary English and Captain Chris Greene all voiced disagreement with the way management handled issues related to Milton Footer, First and Goal and/or Key Arena. We all made our views known to Chief Tipler in the many closed door meetings we had with him on the issues. This was most often done with one or the other of us present in the room. Diane Hansen did meet directly with Chief Dean to voice her opinions of the issues.

9. *If others raised disagreement about the issues described in question 8, were they retaliated against? Please describe.*

No other persons have yet been retaliated against to my knowledge. I was the one to file the signed written complaint regarding the issues.

10. *Please tell us about your working relationship with Chief Dean.*

Prior to 2008 my relationship with Chief Dean seemed to be good. I had worked on several difficult issues in the marshal's office and he seemed satisfied with my efforts. Prior to working in the FMO I had worked for over a year and a half on the successful \$167M Fire Department Levy. Chief Dean worked with us on this for about the last six months of the project. I believe that my promotion to Deputy Chief was due in no small part to my efforts on this project. For most of 2008 to present, my relationship with Chief Dean, as mentioned in question #3, is the poorest of any working relationship I have had in my entire career. Communication with him in 2008 was extremely limited and even when acting in the Fire Marshal's role I was isolated from the relevant issues and limited to the role of a "place holder." At the current time, as could be expected, Chief Dean and I have no viable working relationship what so ever.

11. *Within the last year did you have any direct contact with Chief Dean? Please describe these interactions, including Chief Dean's demeanor, other participants, the tone of the meetings and the topic of each meeting.*

Within the last year (March 2008 – March 2009) I have been present in several meetings in which Chief Dean was present. These were Deputy Chief Meetings, Battalion Chief Meetings, and Management Team meetings in which I was present as the acting Fire Marshal. Other individuals present at the meetings were as described by the type of meeting. The topics were varied depending on the issues to be discussed. In all of these meetings I had little contact with Chief Dean as he was there primarily to brief the specific audience on certain issues. Generally his demeanor, and the tone of the meetings, was professional.

With regard to the [REDACTED] discipline issue, after Chief Dean gave [REDACTED] a [REDACTED] he let me know at a later meeting that he was not happy with my recommendation for a longer suspension. His demeanor was professional.

I had two other meetings with Chief Dean one-on-one in his office in 2008. At the first meeting in mid-2008 he asked if I thought that Lt. Footer should be disciplined at that point because of his perceived actions with regard to First and Goal. I told him that I did not believe Lt. Footer should be disciplined at that point because the investigation was not completed. I also stated that I believed Lt. Footer should be moved from that position until the facts were known and that, in general, I felt that inspectors should be rotated through that position on a regular basis as a good management practice. His demeanor, and the tone of the meeting, was professional.

The second one-on-one meeting I had with him was in December 2008 when he informed me that I would be demoted and transferred out of the FMO. His demeanor in this meeting was very cold and matter-of-fact. The tone was tense

and uncomfortable. He did not elaborate on the reasons for my demotion; he just informed me that was the way it was going to happen. When I asked him if I would be afforded the opportunity to return to a Deputy Chief position, should an opening occur, he stated, "That's not the way the rules are written," or something to that effect.

12. *Please describe your working relationship with each of the Assistant Chiefs. If you feel that your relationship with an Assistant Chief is particularly positive or negative, please discuss why you feel that way and provide examples that illustrate your view.*

Chief Hepburn - I believe that our relationship has been good. We have had no negative interactions on issues.

Chief Vickery - Same as above.

Chief Nelsen - I believe that our working relationship has been particularly positive. Chief Nelsen and I worked together very closely on some very difficult issues at the FMO. He was the Fire Marshal and I was the Assistant Fire Marshal. Some examples of the types of issues we worked together on were the Retroactive Marina Ordinance, the conversion of Pier 91 to a cruise terminal by the Port of Seattle, the 2003 and 2006 Seattle Fire Code cycles and public assembly venues in non conforming buildings. These are only a very few of the many complex and difficult issues we successfully worked on together. Chief was a good boss to work for and I consider John a friend and mentor.

Chief Tipler - I believe that my working relationship with Chief Tipler also has been particularly positive. As with Chief Nelsen, we worked together on many difficult issues. In this case, Chief Tipler had no experience in the FMO when he took over as Fire Marshal from Chief Nelsen in January 2007. I worked closely with him to get him up to speed on the many issues, policies, and responsibilities of the FMO. He brought tremendous HR experience to the FMO which was a great help. As HR issues arose he gave us excellent advice and assisted us in managing the problem. His demeanor always seemed positive and calm. He mentored me in many ways and I also consider him a good boss to work for and a friend.

13. *Are there any others, in addition to the Assistant Chiefs, who you believe influenced or affected the selection of who would be demoted to a Battalion Chief?*

I am not aware of any others who influenced or affected the selection of who would be demoted. As I said earlier, the initial understanding by everyone was

that it would be based on seniority as measured by "time in grade."

14. *Did you inform any of the Assistant Chiefs or anyone on the leadership team that you were planning to file an ethics complaint?*

No, I did not inform any of the Assistant Chiefs or anyone on the leadership team that I was planning to file an ethics complaint. I informed Hansen, English, and Greene that I was planning to file a complaint.

Also, my conduct may have led members of the team to believe I would file a complaint. I believe that Chief Tipler regularly communicated the content of our meetings on the issues to Chief Dean. These meetings were very intense and persons including myself spoke very frankly and bluntly about the seriousness of the issues involved. The issues of violations of SMC 4.16, SMC 4.20, the perceived protection of Lt. Footer by Chief Dean, the stopping of our investigation, the prohibition of moving or disciplining Lt. Footer and the perceived cover up of the issues were all discussed at these meetings. I stated very clearly that these issues violated SMC 4.16 and could very likely result in a "Whistleblowers Complaint" by someone and that we would all look bad. As the situation continued to deteriorate, I let Chief Tipler know in front of witnesses that it was crossing my "moral and ethical" boundaries. Of the four individuals involved in the FMO besides Chief Tipler, I was probably the most outspoken. I was the most likely candidate to have filed the "Whistleblowers Complaint."

15. *Please tell us about any conversations or meetings you had where the selection process for the demotion decision was discussed. Please provide detailed information about discussions you had with Battalion Chief Verlinda, Assistant Chief Tipler and your peers. ( These discussions were mentioned in your January 7th, 2009 letter to Mayor Nichols.)*

At LU 2898 meetings prior to November 2008, Union President Battalion Chief Rick Verlinda stated that he felt the demotion decision would be based on seniority. Prior to November 2008, Chief Tipler told Chief English and myself in his office that the demotion would be based on seniority. In conversations with the other Deputy Chiefs, and at Deputy Chief meetings, all of the members felt that the demotion would be based on seniority. This was the only criteria that made sense as there were no disqualifiers amongst any of the Deputy Chiefs. By this I mean no negative disciplinary actions, performance issues, or personal issues. Nothing that would have singled out one Chief over another for demotion.

16. *Please list any witnesses you believe have helpful knowledge about your retaliation claim and briefly summarize the type of information they possess.*