



United States Department of State

Washington, D.C. 20520

March 1, 2011

VIA E-MAIL

MEMORANDUM

TO: S/FSG – E. Charles Ash

FROM: HR/G – Joanne M. Lishman *ML*

SUBJECT: FSGB 2008-051; Joan Wadelton

In its July 14, 2010 Decision, the Board ordered the Department to reconvene six new reconstituted boards to once again consider Ms. Wadelton's file. The Board further asked the Department to provide the Board and the grievant with the rank order of the candidates arrived at by each of the boards (with names redacted) and to identify whether the candidates other than the grievant were actually promoted by the original selection board or recommended but not reached. Redacted board reports are attached (Attachment 1). Ms. Wadelton was not recommended for promotion by any of the reconstituted boards.

The Department objects to identifying whether the candidates other than Ms. Wadelton were actually promoted by the original selection board or recommended but not reached. That is not required by the Standard Operating Procedures agreed to by the Department and AFSA. Nor has it been required by any court of law that has reviewed the Department's reconstituted board process. See, e.g., Harter v. United States of America, 871 F.2d 1140 (D.C. Cir. 1989). Even if this information were to have some relevance in another proceeding, which the Department does not concede, Ms. Wadelton was ranked in last place by five of the boards and next to last place by one board.¹ Thus, information regarding the rankings of the comparator files will not be of relevance to Ms. Wadelton's case. Moreover, any use of this information by the Board could constitute an impermissible intrusion into the judgments of the original and reconstituted boards.

¹ In fact, of the 15 reconstituted boards that have considered Ms. Wadelton for promotion in this case, 13 ranked her last and two ranked her next to last.

Accordingly, the Department declines to provide the requested information in this case.

Process

The Department began the process by providing Ms. Wadelton with a list of all FE-MC level officers and public members eligible to serve on her reconstituted boards and with a proposed timetable. The Department requested Ms. Wadelton to voice any objection she had to any of the potential members and to the timetable. As new potential eligible board members emerged who were not on the original list, the Department provided Ms. Wadelton an opportunity to comment on those potential board members. She declined to comment on anything the Department sent to her.

The boards were convened consistent with the Standard Operating Procedures agreed to by the Department and AFSA. To identify an eligible pool of FE-MC members, the Department excluded, with one exception,² any person who is currently serving or has served in the past two years in HR, S/P, OIG, or S/OCR, any person who had been low-ranked in their career,³ any person who has been in grade for more than five years, all persons who were a rater or reviewer for the grievant while she has been at the 01 level, and persons who served as members of the grievant's original selection boards or who served on any of the grievant's previous reconstituted boards.

All of the reconstituted boards included one woman, one minority member, and one public member. All boards considered eight files: four

² For one of the boards, the Department had secured agreement from all FE-MC members to participate on a reconstituted board, with the exception of an FE-MC public diplomacy officer. The absence of a public diplomacy officer jeopardized the convening of this board. HR/PE did, however, find a public diplomacy officer who was available to serve. This same officer, however, had served in HR/CDA/SL in 2006 and 2007. Without asking him, HR/PE determined that he had only had clients whose last names ended with an A, B, or C and never had Ms. Wadelton as a client. The Department contacted Ms. Wadelton to solicit her objection, if any, to this board member. She did not voice an objection. Accordingly, the reconstituted board proceeded with this member.

³ The Department does not have records of low rankings prior to 1999 for Public Diplomacy officers who became Department employees when the United States Information Agency consolidated with the Department.

persons whose names were immediately above the cut-off line for promotion, three persons whose names were immediately below the cut-off line for promotion (i.e., who were recommended but not reached), and Ms. Wadelton.

Prior to convening each reconstituted board, the Office of Performance Evaluation (HR/PE) gave each board a copy of the core precepts, the procedural precepts, and the voting procedures. HR/PE also orally briefed all reconstituted board members. The name of the grievant was not given to any board member. All boards reviewed the files as a group and deliberated as a group.

The Chairperson collected the individual scores from each board member and prepared a final rank order list. Although it was not required to do so, the Department decided to save the score sheets in case they would be needed to respond to any question regarding these boards. Unfortunately, however, HR/PE accidentally destroyed the score sheets for the 2003 classwide and conal reconstituted boards that it convened on remand in September 2010. Both of these boards had ranked the grievant in last place. Although these boards were conducted in accordance with the Standard Operating Procedures and consistent with the Board's Order, the Department made the exceptional decision to reconstitute yet another round of 2003 classwide and conal boards for Ms. Wadelton so that there would be no question regarding these boards. Redacted copies of the score sheets for six boards on remand are attached (Attachment 2).

All four point spreads and ties were resolved by the reconstituted boards. All board members signed the board report in person prior to dismissal of the board. The board reports were prepared on the same day the boards met and bear that date.

Results

Taking into account that the 2003 classwide and conal boards were reconstituted twice on remand (for a total of 8 boards on remand), Ms. Wadelton was ranked eighth (last place) by 7 boards and seventh (next to last place) by one board. Accordingly, of the 15 reconstituted boards she has had since this case began, 13 ranked her at the very bottom of the list and two ranked her next to last.

Conclusion

The consistency of the results of the 15 reconstituted boards in this case is remarkable. The Department has met its burden of presenting sufficient evidence to establish that Ms. Wadelton is not entitled to a promotion into the Senior Foreign Service.

Attachment 1 – Redacted Board Reports

Attachment 2 – Redacted Score Sheets

cc: S/FSG – Joseph J. Pastic
AFSA – Sharon L. Papp
Joan Wadelton