

CLARK HILL

Nicholas M. Wiecezorek
Phone: 702. 697.7543
Email: NWiecezorek@ClarkHill.com

Jeremy J. Thompson
Phone: 702. 697.7527
Email: JThompson@ClarkHill.com

Clark Hill PLLC
3800 Howard Hughes Parkway
Suite 500
Las Vegas, NV 89169

T (702) 862-8300
F (702) 862-8400

clarkhill.com

August 4, 2020

Via Email
Michael.Ondocin@tsa.dhs.gov

Mr. Michael Ondocin
Executive Assistant Administrator
Law Enforcement/Federal Air Marshal Service

Re: Philadelphia Supervisory Federal Air Marshal ("SFAM") Robert Cope

Dear Mr. Ondocin:

In our prior correspondence¹ to Supervisory Air Marshal in Charge John Schaal, we requested his clarification of OLE 3426, *Access to Sterile and Secure Areas of Airports*, so that we may inform Philadelphia FAMs whether it is proper to bypass security during off duty travel in the same manner as SFAM Robert Cope did on October 10, 2019. Several FAMs and SFAMs initially brought the policy violation to SAC Schaal's attention, but he dismissed their concerns and concluded that SFAM Cope's circumvention of security while off duty did not violate policy. It was only after significant pressure that SAC Schaal apparently reported the policy violation.

We also requested a formal investigation into SFAM Cope's conduct. An investigation was apparently conducted; however, we have significant concerns about the propriety of that investigation. Specifically, the investigation was led by an employee who was promoted by Assistant Supervisory Air Marshal in Charge Clay Robbins. ASAC Robbins along with SFAMs Cope and Clodfelter are the spearheads of workplace harassment and favoritism in the Philadelphia Field Office. We have received numerous notifications from supervisors and FAMs

¹ Dated February 20, 2020 and December 6, 2020 (attached).

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regarding those three individuals' misbehavior in the workplace. Thus, our trust in the investigation process is low as it would be likely that the investigator would minimize ASAC Robbins' cohorts' conduct.

We are requesting the Incident Tracking Number for the agency's investigation into SFAM Cope's policy violation as well as the submission date. That information is not confidential. Additionally, we are asking the agency to advise us, or alternatively the Philadelphia FAMS, whether the agency-imposed discipline on SFAM Cope. This information is being requested for our follow up with congressional committees, if needed.

We look forward to your response.

Very truly yours,

CLARK HILL PLLC

Nicholas M. Wieczorek

Nicholas M. Wieczorek
Jeremy J. Thompson

cc: Richard Stein
Regional Director
Law Enforcement/Federal Air Marshal Service
VIA EMAIL ONLY: RICHARD.STEIN@TSA.DHS.GOV

Air Marshal Association
VIA EMAIL ONLY: LEGAL@AIRMARSHAL.ORG

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Email: NWieczorek@ClarkHill.com

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clarkhill.com

February 20, 2020

Via Email
John.Schaal@tsa.dhs.gov

Mr. John Schaal
Supervisory Air Marshal in Charge
Philadelphia Field Office
Federal Air Marshal Service

Re: Supervisory Federal Air Marshal ("SFAM") Robert Cope

Dear Mr. Schaal:

In our letter dated December 6, 2019 we requested your clarification of OLE 3426, *Access to Sterile and Secure Areas of Airports*, so that we may inform PFO FAMs whether it is proper to bypass security during off duty travel in the same manner as SFAM Cope did on October 10, 2010. We also requested a formal investigation into SFAM Cope's conduct. It is our understanding that several FAMs and SFAMs brought the policy violation to your attention, but you dismissed their concerns and concluded that SFAM Cope's circumvention of security while off duty did not violate policy.

PFO FAMs currently do not know whether you reported SFAM Cope's circumvention of security as you are required to per agency policy. Consequently, there is an appearance impropriety and the perception that you are treating management officials differently than FAMs. If this appearance continues, we have been directed to report SFAM Cope and your lack of response to the Division of Aviation at the Philadelphia International Airport as well as PerSec.

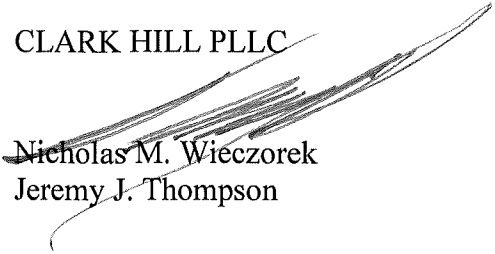
February 20, 2020

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Both our office and your Philadelphia FAM workforce await your response.

Very truly yours,

CLARK HILL PLLC



Nicholas M. Wieczorek
Jeremy J. Thompson

cc:

David Kohl
Executive Assistant Administrator
Law Enforcement/Federal Air Marshal Service
VIA EMAIL ONLY: DAVID.KOHL2@TSA.DHS.GOV

John Busch
Director – Investigations
VIA EMAIL ONLY: JOHN.BUSCH@TSA.DHS.GOV

Air Marshal Association
VIA EMAIL ONLY: LEGAL@AIRMARSHAL.ORG

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December 6, 2019

Via Email
John.Schaal@tsa.dhs.gov

Mr. John Schaal
Supervisory Air Marshal in Charge
Philadelphia Field Office
Federal Air Marshal Service

Re: Supervisory Federal Air Marshal ("SFAM") Robert Cope

Dear Mr. Schaal:

This law firm is the legal representative of the majority of the Federal Air Marshals ("FAM") in the Federal Air Marshal Service's ("FAMS") Philadelphia Field Office. By way of this correspondence, Philadelphia FAMS are seeking clarification to certain specific representations made by you.

On or about October 10, 2019 at approximately 8:40 a.m., SFAM Cope was seen being dropped off by another SFAM outside the Philadelphia International Airport's Terminal E. FAMS assigned to Terminal E witnessed the two SFAMs unloading a set of golf clubs. SFAM Cope was subsequently seen circumventing security with his SIDA badge. It is unknown whether SFAM Cope was flying armed. He did not present any identification to any TSA employee at the checkpoint, he did not recite the UFAN to the assigned airport LEO or STSO, and he did not sign the checkpoint logbook. Those facts were verified by FAMS with the TSA officer directly after SFAM Cope was seen circumventing security. This appeared unusual to the FAMS on duty, so they reported the incident to management. Apparently, the issue was brought to your attention and you concluded that SFAM Cope's circumvention of security while off duty did not violate any policy and therefore no Incident Tracking Report was warranted. We disagree.

Section 8 to OLE 3426 states the following:

- A. Armed access to the sterile or secure area of any domestic airport is restricted to authorized OLE/FAMS personnel who are on-duty and on official business or off-duty and ticketed to fly as a registered, armed Law Enforcement Officer in accordance with 49 CFR Part 1544.219 and applicable OLE/FAMS policies and procedures.
- B. OLE/FAMS personnel (armed or otherwise), who are on or off-duty and not conducting official business, are restricted from entering or attempting to enter the sterile or secure area of any airport through any means other than TSA-approved security screening methods.
- C. OLE/FAMS personnel who circumvent TSA-approved security screening protocols and/or violate screening procedures at any time (on or off-duty) are subject to disciplinary action, up to and including removal.
- D. All OLE/FAMS personnel shall read and sign the required OLC course titled *Access to Sterile and Secure Areas of Airports Acknowledgement*, on an annual basis and initial completion of the course must occur within 60 days of their entrance on duty, or, in the case of FAMS, prior to their first roster period. This shall include acknowledging, in OLC, that the training material was read and understood.

Your conclusion that SFAM Cope did not violate policy when he circumvented security while off duty is in error. OLE 3426 clearly indicates that entering the sterile area of an airport by circumventing security while off duty and not conducting official business is a violation of policy. Indeed, we have represented numerous FAMS, even some Philadelphia FAMS, who were charged with improper use of their SIDA badge by improperly circumventing security. Further, we note that it was not in your purview to decide whether SFAM Pope violated policy. You should have issued an Incident Tracking Report and provided it to IACT for investigation. Professional Responsibility would have then been tasked with evaluating the matter and determining what discipline to propose.¹

We hope that you ensure that the agency's policies and procedures are followed by all employees in your Field Office, not just FAMS. However, in this instance it appears that

¹ According to the Table of Offenses and Penalties, the recommended penalty for misuse of government credentials is a five to 14-day suspension. The recommended penalty for misuse of law enforcement equipment is a five-day suspension to removal. The recommended penalty range for engaging in conduct that undermines security is a Letter of Reprimand to removal.

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management has treated SFAM Cope's situation in a biased fashion, that is, collusion by the management team to protect one of their own. We demand a formal investigation into SFAM Cope's actions. Additionally, we are requesting confirmation of your interpretation of OLE 3426 so that we can inform FAMs whether it is proper to bypass security during off duty travel in the same manner as SFAM Pope.

Both our office and your Philadelphia FAM workforce await your response.

Very truly yours,

CLARK HILL PLLC



Nicholas M. Wieczorek
Jeremy J. Thompson

cc: David Kohl
Executive Assistant Administrator
Law Enforcement/Federal Air Marshal Service
VIA EMAIL ONLY: DAVID.KOHL2@TSA.DHS.GOV

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