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DIGEST

The Honorable Sam Nunn Chairman, Committee on Armed Services United States Senate

Dear Mr. Chairman:

We refer to your letter of May 31, 1994, enclosing correspondence from Mr. John Q. Thompson, a former employee of the Defense Contract Audit Agency (DCAA). In his correspondence, Mr. Thompson insists that he was wrongfully fired from his position as an auditor for DCAA, and he requests an investigation by our Office.

The correspondence indicates that DCAA dismissed Mr. Thompson on November 17, 1972, on the basis that his work performance was unsatisfactory. He appealed, and the Civil Service Commission's Board of Appeals and Review, the predecessor to the Merit Systems Protection Board (MSPB), upheld his dismissal in 1973. His subsequent attempts to be reinstated through appeals to the MSPB have been to no avail.

Mr. Thompson believes two events have occurred that justify an investigation of his dismissal. He reports that his previous supervisor, whom Mr. Thompson blames for his dismissal, was charged in a "whistle blowing" incident in 1985. Mr. Thompson believes that this event shows that his supervisor's testimony before the Board of Appeals and Review in 1973, concerning his work performance was false and that his work was in fact satisfactory. As for the second event, he states that in 1990 he discovered that the accounting method which he had applied on his audit work and which had been a basis for his dismissal later became an acceptable accounting method.

As indicated above, Mr. Thompson has appealed his dismissal to the MSPB on numerous occasions and has been unsuccessful. We do not have the authority to review the merits of MSPB decisions. John H. Kerr, 61 Comp. Gen. 578 (1982); Robert D. Ross, B-230348, Mar. 25, 1988. The only appeal that an employee may make of an MSPB final order or decision is to the United States Court of Appeals for the Federal Circuit. 5 U.S.C. Sec. 7703(b)(1) (1988).

We regret that we cannot be of assistance to Mr. Thompson.