

November 5, 2013

Robin C. Ashton, Esq.
Department of Justice
Office of Professional Responsibility
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Re: Professional Misconduct of Andrew Weissmann

Dear Ms. Ashton:

I was surprised to receive your letter of October 22, 2013, dismissing any further inquiry into the misconduct of FBI General Counsel Andrew Weissmann when he was a member of the Enron Task Force.

The reason for my surprise was not that OPR refuses to recognize that the rules of ethics in most jurisdictions require more of prosecutors than that they not violate the constitutional rule set out in *Brady v. Maryland*. Nor was I surprised to learn that OPR continues to refuse to recognize the salience of the McDade Act. You and I and my colleague Sidney Powell have been to that rodeo before, in the case of AUSA John Hemann, also formerly of the Enron Task Force.

I was surprised because I was not even aware that the complaint Ms. Powell and I filed with the New York authorities had been referred by them to you. That is a surprising development indeed, given that the Department of Justice was *defending* respondent Weissmann in the New York proceedings. It must be more than a little unusual for a party in an adjudicatory setting to turn the decisionmaking task over to the opposing party's lawyer!

PLEASE REPLY TO:

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In any event, I think we are all aware that Rule of Professional Conduct 3.8 has been interpreted to include the *Brady* element of materiality *only* in Ohio and in Colorado. (And of course the Department has been in litigation for years with the District of Columbia Office of Bar Counsel on the question of whether the text or an odd-ball Comment controls on this issue in the *Kline* case.) But I am not aware of any suggestion that the courts in either New York or Texas have deviated from the plain meaning of the text—"all evidence" is not the same as "only such evidence as is material."

By copy of this letter, I am requesting Mr. Dopico to reactivate the Weissmann inquiry in New York, now that the somewhat ill-advised detour to OPR has come to an end.

Yours,

A handwritten signature in black ink, appearing to read "W. William Hodes". The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping underline.

W. William Hodes
Attorney at Law

c.c. Jorge Dopico, Esq.
Sidney K. Powell, Esq.