

January 25, 2012

Honorable Mark N. Stempler
Administrative Judge
Acting Chairman
Armed Services Board of Contract Appeals
Skyline 6, Suite 700
5109 Leesburg Pike
Falls Church, VA 22041-3208

VIA CERTIFIED MAIL: 7006 2150 0004 3145 1847

Dear Judge Stempler:

I am a Co-Founder of a small business, Quimba Software, Inc., and we recently had a matter (case # 57636) before ASBCA that was dismissed on jurisdictional grounds. The purpose of this communication is to respectfully request a review of conduct of the DCMA attorney, Ms. Srikanti Schaffner, to ascertain whether she has acted in good faith and in accordance with the Professional Rules of Conduct that apply to ASBCA proceedings, as well as her duties as an Officer of the Court.

It is my opinion that she has not, because:

1. A central issue of the case was the erroneous Government claim that the Government paid Quimba Software \$155,271.77, based on which the Government levied a debt of \$91,992.77 on Quimba Software. The invalidity of this debt was a key component of our ASBCA appeal.
2. On 14 September 2011 we amended our complaint, attaching emails obtained from officials of the Defense Finance and Accounting Services (DFAS), irrefutably proving Quimba's repeated assertions that the Government had only paid us \$30,321.77. This proof, along with the entire amended complaint, was supplied to Ms. Schaffner on 19 September 2011, which she acknowledged via an email on 20 September 2011.
3. On 05 October 2011, Ms. Schaffner requested a 60 day stay to further investigate.
4. On 17 November 2011, Ms. Schaffner wrote the Board to withdraw the Government's request to stay and asked for a ruling on her Motion to Dismiss on Jurisdictional Grounds.

Emphasizing that I do not have any legal training, it nonetheless appears to me that, by doing so, Ms. Schaffner violated the ABA rules of *Candor Toward the Tribunal*¹. This opinion is based on the fact that, at the time of her above decision to explicitly request the

¹http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_3_3_candor_toward_the_tribunal.html

case to proceed, Ms. Schaffner was fully, and indisputably, aware of a significant material error in the Government's case, namely that Quimba Software did not owe the government the monies asserted by the Government. It is therefore clear, at least to a lay person such as myself, that the Government was not in any way harmed by Quimba Software in 2004. Given all this, it is reasonable to expect that, once supplied with definitive proof the factual errors in her case, the Government attorney would notify ASBCA and immediately stop the case from moving further along a judicial trajectory.

Instead, she explicitly asked the Board to continue to consider the Motion to Dismiss. While this may have been a good legal maneuver on her part, it does not change the fact that, from my perspective, she intentionally ignored the proof of material errors in her case and deliberately chose to force the case to the Court of Federal Claims, at great additional expense to Quimba, as well to taxpayers.

Furthermore, Ms. Schaffner knew, or should have known, that Quimba had not asked for debt deferral. As such, she knew, or should have known, that FAR 32.611 and FAR 33.213 would combine to effectively force Quimba out of business. With such grave consequences, the least that a reasonable citizen might expect from a Government attorney, is for her to rescind the debt as soon as she has definitive proof of its invalidity, which we had supplied. Sadly, she did not take any steps towards correcting the mistake in the Government's debt claim either.

From my perspective, Ms. Schaffner, viewed through her actions, has been intentionally derelict of her duties as an Officer of the Court and, further, she has deliberately chosen not to act in good faith.

Hence this request.

Allow me to close with an expression of my gratitude for your time to have read this letter. I look forward to your response. For our mutual convenience, I will assume no reply is forthcoming, and no review of Ms. Schaffner's conduct will be undertaken by either yourself or ASBCA, if I do not hear from your office by February 29, 2012.

Respectfully,

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