

May 15, 2018

Mr. Bill Valdez, President
Senior Executives Association
77 K Street N.E., Suite 2600
Washington, DC 20002

Dear Mr. Valdez,

I write to call your attention to a recent Merit Systems Protection Board (MSPB) decision (Docket Number CH-0752-17-0028-I-1)¹. MSPB ruled overwhelmingly in favor of the appellant, Sherry Chen, against the Department of Commerce (DOC), where Ms. Laura Furgione was the proposing official to terminate Ms. Chen's employment at the National Weather Service (NWS).

The stated core value for the Senior Executives Association (SEA) is "a passion for public service leadership exhibiting the highest standards of integrity, professional excellence, and accountability." The independent MSPB decision shows that Ms. Furgione does not meet any of these qualities. She is unbecoming to be a Federal senior executive, much less an esteemed member of the SEA Board of Directors².

I request the SEA to review the facts and the MSPB decision, which I believe justify the removal of Ms. Furgione from the SEA Board of Directors. In addition, other applicable actions such as a public condemnation of Ms. Furgione's egregious conduct and biased actions may be in order.

Historically, the chance of an appellant winning a MSPB appeal is less than 2%. In this case, Judge Michele Szary Schroeder not only ruled in favor of Ms. Chen, but also concluded from her well-reasoned 135-page decision that Ms. Chen was the victim of "gross injustice." Moreover, the cause of this injustice was the mishandling of Ms. Chen's case at multiple levels in DOC, beginning at the top that includes Ms. Furgione.

Specifically, Judge Schroeder opined that Ms. Furgione, the proposing official for DOC, and Vice Admiral Michael Devany, the deciding official for DOC, "seemed more concerned about being right than doing the right thing." Furthermore, "based on the unyielding nature of their testimony, I would not have been surprised if they rejected that $2 + 2 = 4$," the judge said in her decision.

¹ Sherry Chen Legal Defense Fund. Xiafen Chen v. Department of Commerce, MSPB Initial Decision, CH-0752-17-0028-I-1, April 23, 2018.

https://www.sherrychendefensefund.org/uploads/9/9/2/8/99280080/chen_v_dept_of_commerce-ch-0752-17-0028-i-1-initial_decision.pdf.

² Senior Executives Association. Board of Directors. Laura Kay Furgione. <https://seniorexecs.org/about/board-directors/1007-laura-kay-furgione-commerce>.

"It is not my place nor is it necessary for me to ... decide whether Ms. Furgione or Admiral Devany had a blinding desire to save face for the agency in light of the press coverage and the length of time that had passed since Ms. [Deborah] Lee first submitted her concerns to the security office, whether they felt Ms. Chen returning to the agency would embarrass or not reflect well on the agency's initial actions, whether their thought process was tainted by the dismissed criminal charges, or **whether they simply did not have the competence or experience to impartially perform their respective roles as proposing and deciding officials in this matter.**"

The rest of the MSPB decision further describes Ms. Furgione's bias and vengeance, lack of integrity and impartiality, disregard of exculpatory evidence, and conducting or staying silent on scandalous activities under her watch in the NWS.

BACKGROUND

Sherry Chen was an award-winning GS-12 Hydrologist whose work at the NWS included developing river forecast models relating to the Ohio River and its tributaries. She received top performance evaluations for her entire NWS tenure since joining NWS in March 2007. Ms. Chen was repeatedly recognized by awards for her achievements, including the prestigious Larry Johnson Award for her work of national significance during the historic flooding on the lower Ohio and mid-Mississippi Rivers in 2011.

However, Ms. Chen was wrongly arrested and alleged to be collecting confidential data for China in October 2014. Mr. Furgione was complicit in bringing the criminal case against Ms. Chen, which was dismissed by the Department of Justice before trial in March 2015³.

Using some of the same justifications, Ms. Furgione proposed the termination of Ms. Chen's employment twice, the last in December 2015. Despite repeated presentation of facts to the contrary by Ms. Chen's attorneys, DOC terminated her employment in March 2016.

To her credit, an innocent Ms. Chen did not yield to Ms. Furgione's vindictiveness and appealed the DOC termination decision to MSPB. A hearing was held by MSPB in Cincinnati, Ohio in March 2017. The hearing exposed some of the egregious conducts and actions taken by Ms. Furgione and other DOC officials that the dismissed criminal case did not previously reveal. Judge Schroeder issued her decision on April 23, 2018, reinstating Ms. Chen to her position.

Additional information about the Sherry Chen story is available at www.sherrychendefensefund.org, and the latest developments and updates are provided at <https://www.sherrychendefensefund.org/latest-developments.html>.

³ Nicole Perloth, Accused of Spying for China, Until She Wasn't, New York Times, May 9, 2015. <http://www.nytimes.com/2015/05/10/business/accused-of-spying-for-china-until-she-wasnt.html>.

Ms. Chen was an exemplary public servant who worked to protect American lives and properties. There is bitter irony that she was wrongly accused of betraying her country with so much zeal and vengeance from Ms. Furgione and other DOC officials. Their unjust conduct and corrupt actions have caused irreparable damage to the life and family of a dedicated loyal American, as well as violating the public trust in the DOC and the honor of public service and the Senior Executive Service.

Ms. Chen's case has received national attention since 2015. Forty-eight Members of Congress, the U.S. Commission on Civil Rights, Asian American community organizations, scientific organizations and government watchdogs have raised concerns and called for a full investigation into Ms. Chen's case with the Department of Justice and the DOC. Major media - including CBS's 60 Minutes, New York Times, Wall Street Journal, Washington Post, Huffington Post - have covered Ms. Chen's case.

Asian Americans are especially concerned about this case because in recent years, there have been Chinese American scientists, such as Professor Xiaoxing Xi of Temple University, who were similarly charged with espionage related crimes, only to have those charges dropped with their reputation damaged and placed under a cloud of suspicion, or forced to take a plea agreement on minor, unrelated allegations to avoid costly legal expenses and financial ruins.

A press conference about Ms. Chen and the MSPB decision is scheduled for 9:30 am, Wednesday, May 23, in Room 421 of the Cannon House Office Building. You and the SEA are cordially invited to join the event.

Your response to this letter is requested.

Warm regards,



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CC:

James Corbett, Chair, Board of Directors, Senior Executives Association
Dr. Vivian Chen, Chair, Asian American Government Executives Network
Congressional Asian Pacific American Caucus