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August 27, 2013

Peter M. Rivera
Commissioner
New York State Department of Labor
Building 12, State Campus
Albany, New York 12240

RE: NYS IG 1480-023-2012

Dear Commissioner Rivera:

In December 2012, our office received a complaint from the Department of Labor that [REDACTED], a Senior Attorney in DOL's Counsel's Office, may have falsified records related to an administrative hearing.

[REDACTED] is responsible for conducting administrative hearings and collection proceedings related to asbestos projects and violations. The hearings are conducted in Albany by video; the hearing officer and the assigned DOL attorney are located in Albany, while the DOL inspectors and investigators remain in their respective offices across the state.

Our investigation revealed that a document was found on a copy machine in DOL's Albany office that was unsigned but had taped to it the author's signature cut from a different document. We determined that the document found on the copier was created by Senior Attorney [REDACTED] to be used as an exhibit in an administrative hearing.

For the administrative hearing that involved the falsified document, [REDACTED] a Safety and Health Inspector in DOL's Asbestos Control Bureau assigned to the case, was located in DOL's Buffalo office. [REDACTED] the author and signatory of the document, had in his possession a signed copy of the document in the Buffalo office.

[REDACTED] however, did not have a signed version of the document to use during the hearing in Albany. Rather than request the signed version from [REDACTED] [REDACTED] created the false document. During an interview with our office, [REDACTED] admitted to affixing the signature to the document without [REDACTED] permission. [REDACTED] verified that [REDACTED] did not

have permission to alter the document. The falsified document was discovered prior to the hearing and therefore was not submitted as part of the proceeding.

Our office recommends that the Department of Labor take appropriate disciplinary action against [REDACTED]. We are also forwarding our findings to the Committee on Professional Standards for the Third Department.

We request that within 45 days of the date of this letter, you advise us of any actions or decisions taken in response to our recommendation. If you have any questions regarding implementation of the Inspector General's recommendation or DOL's response to this letter, please contact Deputy Inspector General Audrey Maiello Cunningham at (518) 474-1010.

Sincerely,

[REDACTED]
Catherine Leahy Scott
Inspector General

cc: Michael G. Gaynor
Acting Chief Attorney
Committee on Professional Standards
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