

September 8, 2003

Susan M. Dole  
Labor Relations Specialist,  
Bureau of Immigration and Customs Enforcement  
Department of Homeland Security  
800 K Street, Northwest, Suite 5000  
Washington, D. C. 20536

Joe Goldberg, Assistant General-Litigation  
AFGE(AFL-CIO)  
80 F Street, Northwest  
Washington, D. C. 20001

Re: AFGE and NINSC / FLSA Grievance / /Attached Order and letter /  
Other Matters

**(FAXED TO MS. DOLE AT 202-514-4200 AND MR. GOLDBERG AT  
202-639-6441 ON SEPTEMBER 5, 2003 AND FED EXED TO EACH  
OF THEM ON THAT SAME DATE)**

Dear Mr. Goldberg and Ms. Dole:

I am in receipt of the Agency's letter dated September 5, 2003 and the Union's reply dated that same day. In its letter the Agency contends that it did not receive my August 5, 2003 order.

I am not interested in going through procedural exercises so I will assume that the order was not received. It is understandable that things fall through the cracks, such as non receipt of a document. What is not understandable is the Agency's lack of interest in this case (except on its own terms). It is remarkable, as acknowledged by the Agency, that it received Mr. Goldberg's August 6 letter making reference to an August 5 order and yet did not do as much as pick up a phone and telephone this arbitrator to track down that order. This lack of interest is consistent with the Agency's refusal – unprecedented in my nearly 20 years of hearing experience – to attend the San Francisco meeting.

I have attached and enclosed another copy of the order, as well as an August 5, 2003 cover letter. The Agency response and reply dates will run from receipt of this correspondence and order. If the Agency has any questions about this order, it should immediately arrange a conference call with the Union and this arbitrator.

Sincerely

  
Samuel A. Vitaro