

# UNITY

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Warren Fretwell, Editor

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## President's Message

### *A Time To Give Thanks, A Time to Celebrate*

By Witold Skwierczynski

**I**t's that time of year again. The bell-ringers are in the malls. A nip is in the air. And the spirit of the holidays is upon us. Or am I just feeling good because there's positive news out there and a reason to be optimistic?

Well, whatever it is, there's nothing wrong with feeling good and we all should be breathing a lot easier now that the elections are over. We got out the vote, the results are in, and they are very favorable for labor and for AFGE in particular.

Our union sent volunteers to various states around the country to participate in the Labor 2006 initiative. Council 220 activists went to Maryland, Ohio, Pennsylvania, Minnesota, Washington, North Carolina and New Mexico — some as paid political organizers and others who volunteered their annual leave to help get the labor vote out and achieve our ultimate objective: to elect labor-friendly candidates.

We were successful. The congress is back in the hands of the Democrats and now we must hold them accountable. The labor vote put them back in charge and there is good reason to believe that our agenda will be acted upon.

Steny Hoyer, a long time

friend of the federal workforce and 25-year congressional veteran, will become House Majority Leader.

Ted Kennedy will head the Senate Health, Education, Labor and Pensions Committee.

The Bush agenda that consistently attacked working families, undermined labor—especially federal employee unions—and desperately wanted to privatize Social Security is dead in the water.

It may take us a while to clean up the mess that's been made over the last six years—and that means we probably won't see any attitude changes amongst SSA management for a while. But, there is at least some hope of a better future and I expect that to reflect in our own work places.

Shortly after the election we were presented with another gift: Fifty-four senators signed on to the Snowe-

Conrad letter to the Senate Appropriations Committee urging them to restore funding to SSA. This is a major step in the effort to provide sufficient resources to SSA so



Skwierczynski

that employees can do their jobs and not worry about furlough threats in FY 2007. The senators action all but assures us that sufficient funding will be provided to SSA and a furlough of bargaining unit employees will be averted.

The only reason this happened is due to the hard work of AFGE union reps and many of you who

*(Continued on page 2)*

## SEASONS GREETINGS FROM AFGE COUNCIL 220



# Arbitrator Puts Halter on SSA

By Dwight Jenkins

**A**rbitrator Patrick Halter recently stepped into the dusty plains of Oklahoma injustice and gave SSA the back of his sage hand in a case involving a probationary employee terminated for engaging in a protected activity. No, we're not talking safe sex here. We're talking about unionism.

The employee was struggling a bit to learn certain aspects of the job. Management met with the employee to inform her that there'd be no WIGI's and that she was entering a three-week phase of the moon known as *guidelines* in which the newbie's accuracy must be 97-99 percent. She was never told her job was in danger.

The employee contacted her union representative, who called Local 2505 Executive Vice President Ralph de Juliis, a wild man among unionists, a John-the-Baptist-type, living alone on the prophetic edges of society, eating locusts and wild honey, clad in coarse hair garments. At least that's the effect he seems to have in the Oklahoma territory, because when the manager heard that Ralph was inbound like a virtual 155mm artillery shell, she contacted the local rep and asked her to intercede. She didn't want Ralph to "explode" in her office and ruin the perception of competence.

The district manager offered to extend the three-week guidelines in order to make sure (*wink wink*) that the probie met the standards by the time her probationary period was up, but... only if Mr. De Juliis stayed out of it (*carrot*). If the employee insisted on representation then the manager was going to review all of the employees past work via a "work drop" from the Regional office (*stick*). The manager

then contacted her Regional LMR office for guidance, stating "...my concern is that we may be setting ourselves up for a ULP if we don't honor the 3-week plan. If we are certain we don't have to honor the plan, I'd rather not, but sure don't want to jeopardize our case for termination" (*conspiracy*).

The Prophet requested information from management in defense of his client, but management ignored the requests, in violation of U.S. law (*hubris*). This case has all the elements of basic foreign policy, doesn't it?

Within two weeks the deed was done, and the employee had her termination letter. Again, you had a situation in which the DM, the AD, and the RO all had opportunities to see what was happening and to fix it, but too often it's a good 'ole boys

club above GS-11, even among the women.

For some unknown reason AD's and RC's are loath to overturn the foolish judgments of their managers, choosing instead the expensive paths of injustice. In this case they stepped in their own "work drop" because Arbitrator Halter correctly saw that management terminated the employee only because she got the union involved. He sustained the grievance in its essential elements, ordering the employee retroactively reinstated and made whole with regard to leave, seniority and back pay. He also ordered the agency to cease and desist in its failure or refusal to respond to a request for information from the union.

*AFGE Local 2505 and SSA, DF-2005-R-0055*

## Season's Greetings

(Continued from page 1)

wrote letters, made phone calls to your senators and congresspersons, and who also made personal visits asking elected officials to provide SSA with the money to fulfill its mission. Your voice was heard and the majority of senators recognized that taking money away from SSA was a violation of the public trust. After all, FICA taxpayers already paid for the services we provide. To close us down for two weeks, as Commissioner Barnhart indicated would be necessary due to budget reductions, was simply a taxpayer rip-off!

So we have lots to celebrate and be thankful for. And we should recognize this for what it is: the power of concerted action. You—all of you acting together—helped bring about these necessary changes. By going to the polls and voting your pocketbooks and your conscience, you helped change the face of government that will inevitably make things better for all of us. And, by helping your union get out the message about the need for more funding for SSA, we once again are changing the direction of our government. This time, it also helps keep us fully employed in 2007.

So, in addition to extending seasons greetings to you all, let me also offer my congratulations and thanks for your efforts and also for being members of AFGE.

**HAPPY HOLIDAYS!**

*Witold Skwierczynski is President of AFGE Council 220.*

# From Around The Nation

## *EEOC Raises Money Damages for CR*

(Roslindale, Ma.) A Massachusetts Claims Representative (CR) was awarded \$5,000 in compensatory damages when the EEOC ruled on her appeal. The original decision found that SSA had retaliated against her for filing a previous EEO complaint. The CR had charged that she was given a lower award than others in her unit and the basis of management's decision was her EEO complaint. The ALJ sustained that charge but only awarded \$500 in damages.

Bill Ross, the AFGE union representative who handled the original complaint and subsequent appeal, reports that the EEOC found sufficient justification to raise the damages to \$5,000, post a "Notice to Employees" acknowledging SSA's discriminatory behavior and affirming its compliance with applicable laws and regulations, as well as 20 hours of EEOC training for management and consideration of discipline against the discriminating official.

"Overall, we felt it was a very good result as the EEOC came through with some significant relief," said Ross, "and the manager has been humiliated for his abusive behavior and lack of honesty during the process."

*Request (for Recon) No. 05A61062, Hearing No. 160-2005-00370X, September 27, 2006*

## *Know Your Rights*

### *Discipline for Discourtesy*

(Albuquerque, NM) AFGE Local 4041 President Josie Marrujo reports that she returned to her office after being away for a short while only to find that TSC management had initiated seven suspensions against Tele-Service Representatives for alleged discourtesy as reported during service observations.

Fortunately for the affected em-



ployees, this matter was previously resolved at arbitration and affirmed by the Federal Labor Relations Authority, even if SSA has apparently forgotten.

A 2000 arbitration from Mike Guerriero's Detroit Metro AFGE Local concluded that in order for SSA to discipline an employee for allegedly discourtesy, there must be a pattern of such conduct in accordance with 5 USC 7503(a). The FLRA found that section of the statute limited SSA's ability to impose suspensions based on discourteous conduct. "Fewer than four instances of discourteous conduct in one year does not constitute cause for a suspension unless such instances constitute a pattern of such conduct," the FLRA concluded.

So, if the agency in New Mexico or anywhere else proposes to suspend employees for discourtesy, refer to the Charles A Morgan arbitration and 56 FLRA No. 74 (July 7, 2000), which requires that there be four occurrences in one year to justify the discipline.

## *Holiday Leave Grievance*

(Baltimore, Md.) AFGE Council 220 has filed a grievance over the nationwide decision of Commissioner Jo Anne Barnhart to restrict the percentage of Field Office workers approved for annual leave during the week of December 26, 2006. Barnhart lowered the percentage of employees off from 50% to 40% based on an alleged increase in Medicare work.

However, the union countered by quoting Article 31, Section 2(B) of the national contract that requires that SSA make "every reasonable effort to allow the maximum number of employees to use leave." The un-

ion believes that the agency cannot justify the decrease and, furthermore, that it did not make any reasonable attempt to allow more people off.

The parties were unable to resolve the complaint and AFGE submitted the matter to an arbitrator. A hearing will be scheduled.

At the local level we have seen management deny requests for leave citing an "exigency of business" when there is routine work pending, such as scheduled appointments. In fact, SSA has used this excuse even when the leave was approved in advance, telling employees that they must somehow complete the appointments or the leave will be denied. A similar argument has been raised to restrict union representatives use of official time.

The contract is clear on this matter: the obligation is on management to take steps to ensure that "the maximum number of employees" may use leave. What happens more often than not is that local management has taken NO steps to ensure leave may be used.

There are options. Management may reschedule appointments, ask other employees to take them, reassign workloads, create details. Holding employees hostage to workloads that can be rescheduled should be grieved.

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## Appraisals and Other Methods of Control

The agency's new appraisal system (PACS) reintroduces tiered ratings and promises better, two-way communications between the employer and employees; but, in the final analysis, it is little more than a club to beat workers with in order to get them to perform.

SSA is hoping that PACS provides the motivation that leads to greater efficiencies. But, according to Alfie Kohn, in his book *Punished by Rewards: The Trouble with Gold Stars, Incentive Plans, A's, Praise & Other Bribes*, anything called *making people productive* can safely be ignored because it is wholly misconceived.

"It is possible to get people to do things. That is what rewards and punishments and other instruments of control are all about," Kohn says. "But the *desire* to do something, much less to do it well, simply cannot be imposed; in this sense, it is a mistake to talk about motivating other people. All we can do is set up certain conditions that will maximize the probability of their developing an interest in what they are doing and remove the conditions that function as constraints."

Experts in the field conclude that pay is not the motivator. In fact, it can be a "de-motivator." Kohn recommends instead: Pay people generously and equitably. Do your best to make sure they don't feel exploited. Then do everything in your power to help them put money out of their minds.

This is not the standard used at SSA nor by the majority of organizations in the U.S., but more are moving in this direction as they realize that pay for performance is an inherently flawed concept.

Merit pay is closely associated with the performance appraisal system—a tradition that Kohn believes should have been retired long ago in light of how misleading its results are and how predictably it generates resentment and impedes cooperation.

Some critics have suggested that

the performance evaluation persists because it is "a very effective tool for controlling employees...[that] should not be confused...with motivation of employees." They are most commonly defended, however, on grounds that they are needed to

- Determine how much each employee is paid or who will receive awards and incentives
- Make employees perform better for fear of receiving a negative evaluation or in the hope of receiving a positive one
- Sort employees for promotional purposes
- Provide feedback, discuss problems and identify needs to help employees do a better job.

Kohn says that the first and second justifications make no sense since the carrot-and-stick approach is counterproductive. The third raises a host of complex questions.

We take for granted that an organization must be shaped like a pyramid. We create a climate in which employees are made to feel like failures if they are not upwardly mobile and we arrange the majority of jobs are lower-paying and have little responsibility. Were this to change, we would be obliged to rethink the whole issue of who does what in an organization.

Even within the standard hierarchical arrangement, the use of performance appraisals to decide on promotions is based on three dubious assumptions—all of which are directly applicable to SSA: first, that someone's achievement in his current job is a reliable predictor of how successful he will be in another, very different position; second, that how much someone has achieved is a more important consideration in deciding whether

and how his responsibilities will change than what sort of work he prefers and finds intrinsically motivating; and third, to the extent that performance does matter, that it is best judged by the evaluation of a superior rather than by one's peers or oneself [*note: AFGE Council 220 is currently looking at designing an evaluation form to be used by employees for their OSs*].

According to Kohn, a manager committed to making sure that people are able and willing to do their best needs to attend to three fundamental factors: the *collaboration* that defines the context of the work, the *content* of the tasks, and the extent to which people have some *choice* about what they do and how they do it.

SSA, instead, focuses on a different "C:" *competition*.

But, people are able to do a better job in well-functioning groups than they can on their own. They are also more likely to be excited about their work. Both effects are due to the exchange of talent and resources that occurs as a result of cooperation—and also to the emotional sustenance provided by social support.

Of course, simply putting people in groups does not ensure that cooperation will take place. Considerable effort and commitment are required. Instead, though, many managers simply fall back on the usual gimmick for getting people to do things: bribery.

But, employees will not be motivated if what they are doing all day holds no interest for them. "If you want people motivated to do a good job, give them a good job to do."

For people to care about their work, it is necessary to attend to what that work consists of—the content. Motivation is typically

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# Letters to the Editor

*Selest Dominguez, a union representative who works in the Anchorage, Alaska SSA field office, wrote to her local newspaper, the Anchorage Daily News, explaining the potential harm that would result from an agency furlough if proposed budget cuts took effect. Her letter follows.*

## Cuts in Social Security are going to hurt everyone, not just recipients

The U.S. Senate and the House Appropriations Committees have

approved significant cuts to the proposed fiscal 2007 Social Security Administration budget. Social Security Commissioner Administration Commissioner Jo Anne Barnhart has advised that these cuts would prevent the agency from completing critical workloads and would force it to close its doors for two weeks next year. The equivalent of 6,000 positions would have to be eliminated. Most of these would be lost from local Social Security offices.

Basic services for the elderly and disabled will be denied as Congress



prevents the agency from spending its own payroll tax-financed funds. Instead, this money is being used to pay for tax cuts for the rich, no-bid Halliburton contracts and the war in Iraq.

If you or a family member has ever filed for Social security disability, you understand that it could take months to receive benefits; that wait will now grow to years. When Social Security is not properly funded, it hurts everyone: the elderly, the disabled and most of all you.

I urge you and your readers to contact their congressional representatives and urge them to ask Senate and House appropriators to fully fund the Social Security Administration. After all, we have already paid for Social Security. Shouldn't it be there when you really need it?

employees be able to decide how best to reach them. At SSA, however, Field Employees, including most managers, are deliberately left out of the equation.

But giving people responsibility for, and control of, their own work is tantamount to introducing democracy to the workplace, and democracy in any arena is profoundly threatening to those who exert undemocratic control. Any number of managers and consultants have made it clear that, in their view, the psychological well-being and motivation of the vast majority of people who go to work in the morning are important only insofar as they contribute to higher productivity for the organizations.

*Alfie Kohn is author of numerous books including Punished by Rewards from which this article extensively quotes.*

## The Problem with Ratings

*(Continued from page 4)*

highest when the job offers an opportunity to learn new skills, to experience some variation in tasks, and to acquire and demonstrate competence. The manager's job, then, is not to motivate people to get them to achieve; instead, the manager should provide opportunities for people to achieve so they will become motivated.

These opportunities can be provided by letting people work jobs they find interesting, giving employees a chance to sample various jobs and allowing periodic transfers. Motivation can be enhanced by increasing the levels of responsibility, meaningfulness and feedback built into the work.

Employees are most likely to become enthusiastic about what they do when they are free to make decisions about the way to carry out a task. The loss of autonomy entailed by the use of rewards and punishments helps explain why they sap our motivation. But, at Social Security, we see less and less autonomy and more micro-management. Even managers have little authority to make decisions.

Kohn says that the difference between enthusiasm and apathy, even health and sickness, can often be traced to these issues:

- Why do many employees become burned out and bitter? Burnout is not a function of how much work but of how controlled and powerless they feel.
- What kind of job is associated with high levels of psychological stress and heart disease? The occupations where individuals have insufficient control over their work situation.
- Which organizational characteristic is most likely to kill creativity? The lack of freedom in deciding how to accomplish a task, lack of sense of control over one's own work and ideas.
- What makes workers look for reasons to stay home? There's lower rates of absenteeism in workplaces where employees are able to participate in making substantive decisions.
- Which middle managers are most likely to act in an autocratic fashion? Those who are restricted and controlled themselves.

People are most motivated when they are able to participate in making decisions about organizational goals. Even when those goals are determined by others, it is critical that

# More on the New Performance Ratings Plan

**A** FGE has heard many complaints about the new performance appraisal system—from both employees and managers. There aren't enough supervisors to implement it. Managers could not answer questions during staff meetings and expectation discussions—nor were they prepared to. In fact, we are advised managers were instructed by higher-ups NOT to give specific answers! Terms were left undefined. Goals mistakenly presented as performance standards. In the Kansas City region we learned that one supervisor didn't have the TE standards, so she gave TEs the CR standards and claimed they were pretty close! What was promised as a sleek, new management-employee communications highway is little more than a dirt road through the woods, rife with potholes, ruts, wild animals and a precipitous fall off the shoulder if you under- or over-steer one way or another.

Michael Gravinese is a long-time SSA employee and AFGE union representative from North Carolina. His concern about the new performance plan led to this exchange with Deputy Commissioner for Operations Linda McMahon (see italics).

Dear Ms. McMahon;

I listened to your comments on PACS the other day. How ironic that as you sell PACS and pan pass/fail, SESers are complaining that their similar tiered system is unfair/flawed.

*I responded to that survey and have a different view of the system.*

I also think you should have shared with employees the fact that the Management Association lobbied to have management excluded from this new appraisal system. I wonder why? Funny how what is good for the goose is never good enough for the gander.

*The management association expressed some concerns on their behalf and on behalf of the employees about one aspect of the system as it compares to the system for 15s and SESers, but I*

*never felt they were asking not to be covered by the system.*

I do agree that under pass/fail there was minimal communication to employees of agency goals and expectations. You implied that this problem would automatically be corrected under the new system and it is easy to then infer past problems were thus caused by the pass/fail system itself. Of course, those implications are untrue as any appraisal system is only as good as those administering it.

*While you may have interpreted my remarks that way, that was not the intent. We have done a lot of work to prepare managers to operate in the new environment, and we have minimized the need for a lot of extra work on their part in the way we have designed the system. I believe the success of the system lies in the hands of both the appraisers and those being appraised. Working together, we can make the system work and improve where needed.*

Thus, the real problem with pass/fail and the lack of communication was not the system, but management not doing their job.

*Management should have done better, but the system itself was flawed in my view.*

Have you considered that 1st line management ranks are much thinner now than they were at the advent of pass/fail? You are asking fewer front line management to implement a new system that is labor intensive and you are also asking that they do a better job of employee performance communication than they have ever done before. If they can't succeed in communicating expectations under pass/fail, what makes you think things are going to get any better under PACS?

*As I said earlier, I believe we have given managers the right tools to do this and have not approached it in a fashion that needs to be labor intensive. We will be checking back along the way to make sure that is true.*

Many employees are already concerned and lacking trust in the new system. They see it as a way to make sure everyone is labeled a "3" with an occasional "1" thrown in for effect.

*I have actually received very positive feedback about PACS, both from managers and from employees directly.*

*Linda McMahon  
Deputy Commissioner*

Finally, there will be one major benefit to PACS: AFGE recruitment. The union will be back in the business of appraisal grievances and if the past is any indication, they will be very successful. That is unfortunate because both sides will be devoting precious resources to a problem that disappeared under pass/fail.

*We are mindful that our implementation of this system, if not done well, can result in a return to grievances. We plan to work hard to keep that from happening.*

You could point out that this new appraisal system decision was a political one based on the reigning human resource agenda in today's Washington.

*That is actually not the reason we implemented PACS in SSA. From her first day here, Commissioner Barnhart was clear that she believes the performance management system needs to acknowledge the work people do and the level of performance they attain and the pass/fail approach does not do that.*

You will probably not be hearing from me again as I am retiring in January after 32 years of service.

*I appreciate the years you have devoted to the agency and the public we serve. I wish you well in your retirement.*

[We at Council 220 wish you well, too, Mike, and hope you will remain an active retired AFGE member.

—Editor]

## Another Sanctions Suspension Reversed In NJ

**A**FGE Local 2369's Executive Vice President Gian Marco Pastore convinced arbitrator Thomas Phelan to reject SSA's three-day suspension of a New Jersey Service Representative (SR). Pastore argued that there wasn't any just cause for the discipline because the agency failed to meet the equal treatment test.

The grievant had recently gotten married and when she was working speed line one day, her adult step-daughter, whom she had met only twice before, came in to have her name changed on her account number. The SR took the action, thinking that because the step-daughter was not really known to her that it was appropriate to take the action. However, later in the day, she had second thoughts and reported it to her supervisor. SSA suspended her anyway, alleging that obtaining a numident was a separate violation.

Arbitrator Phelan agreed that the employee violated agency policy, but took exception with the agency's contention that the seriousness of the action outweighed any mitigating circumstances. The SR had 14 years of unblemished performance with SSA. In addition, the union presented an exhibit consisting of 178 disciplinary actions involving computer access between 1999 and 2005. The record showed that other employees who committed similar violations but who did not come forward to notify management and who even provided false information to management were nevertheless treated the same or even better than the grievant.

In one case, an employee was charged with obtaining 140 queries on 13 individuals. This employee also received a three-day suspension. The union concluded

that "to equate the seriousness of that employee's actions with that of [the grievant] defied logic, was totally incomprehensible and was the very antithesis of fair and equitable treatment.

Furthermore, several of the cases made references to employees prior violations where *no discipline was imposed*. These employees were counseled or given a written warning, but there was no suspension.

Arbitrator Phelan found that the issue of whether or not the numident was automatically or manually generated was irrelevant since the numident was normally obtained when processing a name change. As such, the agency could not use it as a separate violation.

In his decision, Phelan noted that the agency's sanctions policy was not the only consideration used to determine an appropriate disciplinary action. Under the national agreement,

"just cause" is the standard necessary to assess any discipline and after consideration of all mitigating factors, even a two-day suspension could not be justified.

"The object of discipline is to correct and improve employee behavior so as to promote the efficiency of the service, and that simply is not needed here," Phelan said.

The agency was directed to rescind the 3-day suspension and substitute any necessary counseling and an oral warning. Back pay of earnings and benefits were also ordered.

*AFGE Local 2369 and SSA, PH-2006-R-0002, November 15, 2006*



Pastore



Darlene Tinsley

*SSA management wouldn't approve leave for Tommy's mom at the Teleservice Center to go to the school holiday program. So, they brought the program to her!*



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## Just Say No to Andrew Biggs

**D**o you remember Andrew Biggs? He's the Associate Commissioner of Social Security who formerly was the senior SS analyst at the CATO Institute, which according to the *Executive Intelligence Review (EIR)* is more responsible for the *forced-march drive to privatize Social Security—stealing trillions of dollars of its funds for Wall Street accounts—*than any other organization.

Biggs is also the guy who is responsible for a policy brief that required all agency managers to present the idea that SSA faces dire financial problems requiring immediate action. As *EIR* concludes, "It would make Social Security managers spread Wall Street lies in every public forum....Biggs is illegally using money from the Social Security Trust for this campaign."

Mr. Biggs support for private accounts should come as no surprise. After all, if CATO received over a quarter of a billion dollars from powerful banks during the past 20 years, as *EIR* reports, then we can see where his allegiances lie—and thus we can understand why he was a political appointee to SSA in the first place.

Despite Biggs' controversial background, President Bush just nominated him to be the agency's Dep-

uty Commissioner. The website *Social Security News* ([socialsecuritynews.blogspot.com/](http://socialsecuritynews.blogspot.com/)) says "It would be hard to imagine a more inflammatory nomination that Bush could have sent to a Senate soon to be controlled by Democrats than that of Andrew Biggs."

Rep. Sander Levin, who is in line to chair a House subcommittee on Social Security said, "The president is sending signals that what he's really after is privatization. And, that's just a non-starter."

The *New York Times* responds: *With the nomination of Mr. Biggs, Mr. Bush is signaling that he doesn't want new ideas. [His choice] of Mr. Biggs is also no favor to the man he has nominated to be the next commissioner of Social Security, Michael Astrue. In a public exchange of letters before the election, Mr. Astrue told Senators Harry Reid and Max Baucus that he would follow the practice of the current commissioner, Jo Anne Barnhart, who has steered clear of the privatization debate.*

*With Mr. Biggs on his staff, Mr. Astrue may find that a difficult commitment to keep. In 2005, Mr. Bush campaigned for privatization with another deputy commissioner by his side — diminishing the authority of Ms. Barnhart. If Mr. Bush truly wants to empower [Treas. Secretary] Paulson and Mr. Astrue, he should withdraw the ill-advised nomination of Mr. Biggs.*