Postal Regulatory Commission
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April 3, 2007

VIAFed Ex DELIVERY

Goffstown Postmaster Marc A. Richer
11 Church Street, #1
Goffstown, NH 03045-9998

Consumer Advocate
U.S. Postal Service
475 L'enfant Plaza SW RM 5801
Washington, DC 20260-2200

US POSTAL INSPECTION SERVICE
OPERATIONS SUPPORT GROUP
TWO GATEWAY CTR 9th FL
Newark, NJ 07175-0001

RE: Mr. Michael Hammond
1 Stark Hwy S.
Dumbarton, NH 03046

Dear Postmaster Richer:

I have been retained to represent Mr. Michael Hammond, Esq. as a result of your unilateral and unjustified action in withholding Mr. Hammonds' mail and ruining his Christmas (2006). It is my understanding that, at your direction, the Goffstown Post Office has discontinued mail delivery service to my client Mr. Hammond, Esq. based on the Postal Services unjustified demand that Mr. Hammond move his mailbox from the position it has occupied for decades. Sadly, neither due process nor common courtesy have been provided to Mr. Hammond. Beginning on December 18, 2006 the Goffstown Postal Office has seized and destroyed Mr. Hammond's mail(you have most recently begun to return Mr. Hammond's mail as unclaimed without giving him an opportunity to claim his mail); however, in no instance were proper Postal Service procedures followed.

I am in possession of correspondence dated November 21, 2006 from Sally A. Sutton, Goffstown Post Office Customer Services Supervisor to my client, as well as correspondence from you (Marc A. Richer, Postmaster) dated December 9, 2006, where you provided obviously irrelevant information in non response to, and ignoring the substance of, Mr. Hammond's December 7, 2006 leter to the Goffstown Post Office regarding his mail. Postal Employees represented to Mr. Hammond that "I will be forced to start holding your mail here at the Post Office" "until this transpires" in reference to the Goffstown Post Office's arbitrary and unwarranted demands that Mr. Hammond move his mailbox from the location it has occupied (with the knowledge and even direction by the Goffstown Post Office) for decades. Your letter to Mr. Hammond of December 9, 2006 also stated, "the distance from the bottom of the mailbox to the ground should be 40-42." This is an unduly restrictive and inaccurate representation of the parameters of POM 632.524 requirements regarding mailbox height. As this letter is being written Mr. Hammond's mail is regularly being returned to sender marked "unclaimed", yet Mr. Hammond does not have an opportunity to claim his mail!

In no instance was required United States Postal Procedure followed before the discontinuance of mail service in Mr. Hammond's case, (i.e. form 4506 Your Mailbox Needs Attention . . .). The Postal Service's reference to 623 Suitable Receptacle is not accurate, the unsuitable "receptacle " of Mr. Hammond's has remained unchanged for decades if not a century, and serviced by the Goffstown branch of the United States Postal Service, a receptacle which became, overnight, an "unsuitable receptacle". POM 632.53 requires that non-conforming mailboxes be reported to the postmaster. Postal regulations then provide that "The postmaster sends a Form 4506". Is it reasonable that for the past several decades the mail carrier overlooked Mr. Hammond's "nonconforming" mailbox? Where is the required 4506? Mr. Hammond believes his mailbox has been located in the same location for approximately 100 years. For decades the Goffstown

Postal Service utilized Mr. Hammond's property as a turnaround. The area does not fall within the dictionary or any other definition of a driveway. Why is it that in decades of required inspections by the "postmaster or of a designees while accompanying the carrier on the route" that this nonconforming mailbox was overlooked for the past twenty seven (27) years at a bare minimum, since the adoption of the Management of Rural Delivery Service Handbook M-38?

Mr. Hammond reasonably relied on the written representations by the Goffstown Post Office that they would hold his mail; Mr. Hammond actually took the Postal Service at its written word and assumed that the Goffstown Post Office would hold his mail as he had been told it would. That did not happen, thousands of dollars of periodicals and other mail belonging to Mr. Hammond has been destroyed by the Goffstown Postal Service. Even as this complaint is being made other mail belonging to Mr. Hammond continues to be returned to the sender marked "unclaimed" after as little as a few days or is destroyed. Most recently, mail *sent to Mr. Hammond from Concord, New Hampshire on March 1, 2007 was returned to the sender and received by the original sender on March 10, 2007 and marked "unclaimed"!*

Mr. Hammond was not notified that his mail would be destroyed or returned to sender (thus causing confusion and alarm to the friends and family that had their Christmas mail returned). POM 681.7 provides "Employees are not permitted to remove undeliverable mail and/or waste or waste receptacles from postal facilities for personal use or for any use not authorized by the Postal Service. A primary intent of Congress in passing Postal Reorganization Act of 1970 was creation of Postal Service that would be more responsible to public need than its predecessor had been. Buchanan v. United States Postal Service, 375 F. Supp. 1014 (N.D. Ala. 1974) affd in part and vacated in part 508 F.2d 259 (5th Cir. Ala. 1975).

What is happening in this instance is a clear case of obstruction of the mails. Elements of the offense under 18 USCS § 1701 are (1) obstructing or retarding (2) passage of mail (3)

willfully and knowingly. United States v. Fleming, 479 F.2d 56 (10th Cir. Okla. 1973). To recap, essential elements of an offense under 18 USCS § 1701 are (1) that letters involved are in passage of mail, (2) that act or acts of defendant obstructed or retarded such passage of mail, and (3) that defendant did such act or acts knowingly or willfully. United States v. Takacs, 344 F.Supp. 947 (W.D. Okla. 1972). When acts which create obstruction of mail were in themselves unlawful, intention to obstruct was imputed to their author, although attainment of other ends was his primary object. U.S. v. Stevens, 2 Haskell C.C. 164, 27 F. Cas 1312, F. Cas. No 16392 (C.C.D. Me. 1877).

Protection of mailed material from obstruction and delay does not end when material passes legitimately out of control of United States Postal Service but extends until mailed material is physically delivered to person to whom it is directed or to his authorized agent; this is proper construction of term "the passage of the mail" in 18 USCS § 1701. U.S. v Johnson, 620 F.2d 413 (4th Cir. N.C. 1980) (Passage of mail does not end when letter cannot be delivered but rather letter is in passage of mail until it is returned to apparent sender. U.S. v Rupert, 510 F. Supp 821 (M.D. Pa. 1981)). In prosecution under 18 USCS § 1701, issue of criminal intent is factual question, seldom provable by direct evidence, but intent may be inferred from all facts and circumstances of case which reasonably tend to show mental attitude. U.S. v Fleming, 479 F.2d 56 (10th Cir. Okla. 1973). Any obstruction of mail, no matter how minor, if done willfully and with improper motives can constitute retardation. U.S. v Austin, 492 F. Supp. 502 (N.D. Ill. 1980).

Obstruction of the U.S. Mails is defined in 18 U.S.C. § 1701 which provides, Obstruction of mails generally “Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined under this title or imprisoned not more than six months, or both.” Mere negligence has been held to satisfy the “knowingly and

willfully" requirement. The "obstructs or retards" element requires "a measurable delay in the mail" to do an illegitimate action of [an actor]. See U.S. v. Upshaw, 895 F.2d 109, 111 (3rd Cir. 1990). To cause even a one day delay in the postal customer's receipt of his mail has satisfy the obstruction requirement. See id. U.S. v. George, 2002 U.S. Dist. LEXIS 13969. I believe the actions of the Goffstown Post Office to be not only unprofessional and discourteous, but to also be criminal in nature, and as such, I have copied the United States Attorney for the District of New Hampshire and will be providing him with information in this matter.

It is obvious that a bureaucratic edict was issued without the benefit of consultation with the appropriate Postal Regulations or a visit to Mr. Hammond's property. One need only view Mr. Hammond's property to understand the absurdity of this demand by the Goffstown Post Office as embodied in your letters of November 21, 2006 and December 9, 2006. Sadly, Mr. Hammond was not given any information to assist him in disputing this matter, nor was Mr. Hammond even provided the courtesy of a rational explanation for the discontinuance of postal service to his home at Christmas time in 2006.

Despite Mr. Hammond's queries, he obtained a response from Katherine A. Sitterlie of the Postal Service *only after* a complaint from a congressional office. Ms. Sitterlie did not address, or even mention, procedures that could have at a minimum stayed the harsh action of discontinuance of mail service while this matter was further investigated and appealed. At a bare minimum 631.4 Exceptions, 653.1 Extensions could have been invoked. Mr. Hammond's "non conforming" mailbox has been in the same position since at least 1980 if not a century. Ms. Sitterlie's invocation of 507.1.1.1 is clearly untenable to anyone who has even made a cursory reading of the correspondence between Mr. Hammond and the Postal Service. The closest thing Mr. Hammond has received as a justification for the discontinuance of postal service to his home has been under the guise of inaccurate and misleading references to POM Issue 9, July 2002,

Delivery Services, DMM (Domestic Mail Manual) and the Postal Handbook M-38, (which was issued in 1980).

Despite the requirement of Postal Handbook M-38's 433.1 'private driveway' provision (which has been in effect since July 1, 1980), and clearly was never before applied to Mr. Hammond's mail service, and Management of Rural Delivery Service (1980) Chapter 5, 510, and 511 which requires an annual inspection of postal routes, it is clear that the Goffstown Post Office never utilized or applied these provisions to Mr. Hammond's mail delivery service prior to late 2006.

I demand that postal service be restored forthwith to Mr. Hammond's home. Mr. Hammond has had to replace thousands of dollars of newspaper subscriptions that have been destroyed or returned as well as checks, Christmas cards, Christmas presents and other mail wrongfully refused, wrongfully returned or wrongfully destroyed over the past three plus months, all without due process or an opportunity to be heard. Mr. Hammond is demanding a hearing, justification and explanation for these actions by the Goffstown Post Office as well as reimbursement for all of his losses both monetary and incidental in this matter.

Very truly yours,

Penny S. Dean

PSD/jwm

CC: client

United States Attorney's Office for the District of New Hampshire
Thomas P. Colantuono
53 Pleasant Street
Concord, NH 03301

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penny@pennydean.com

June 22, 2007

VIAFed Ex DELIVERY

Goffstown Postmaster Marc A. Richer
11 Church Street, #1
Goffstown, NH 03045-9998

Consumer Advocate
U.S. Postal Service
475 L'enfant Plaza SW RM 5801
Washington, DC 20260-2200

US POSTAL INSPECTION SERVICE
OPERATIONS SUPPORT GROUP
TWO GATEWAY CTR 9th FL
Newark, NJ 07175-0001

RE: Mr. Michael Hammond
1 Stark Hwy S.
Dumbarton, NH 03046

Dear Postmaster Richer:

Please case and deist from your unlawful and malicious conduct in destroying Mr. Hammond's mail. You have been informed that you are violating postal regulations. The letter of May 2, 2007 contained at least six material misrepresentations of facts, as that term is defined in connection with 18 U.S.C. 1341. Obviously, neither you (find name or Mr. Richer feel that you are bound by the law, or even fundamental principles of morality and fairness. The prevailing case law request us to exhaust our administrative remedies prior to suit, and quite frankly, the United States Postal Service has done a very good job of disguising those remedies. OM 632.524 requirements he dictionary or any other definition of a driveway. Why is it that in decades of required inspections by the "postmaster or of a designees while accompanying the

carrier on the route" that this nonconforming mailbox was overlooked for the past twenty seven (27) years at a bare minimum, since the adoption of the Management of Rural Delivery Service Handbook M-38?

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