



**U.S. Department of Justice**

Office of Professional Responsibility

950 Pennsylvania Avenue, N.W., Suite 3266  
Washington, D.C. 20530

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OCT 22 2013

W. William Hodes  
The William Hodes Law Firm  
811 Chapman Loop  
Village of Hemingway  
Lady Lake, FL 32162

Sidney K. Powell  
Sidney Powell P.C.  
3831 Turtle Creek Boulevard, #5B  
Dallas, TX 75219

Dear Mr. Hodes and Ms. Powell:

This letter is in response to your July 31, 2012 complaint to the New York Departmental Disciplinary Committee regarding allegations of professional misconduct against FBI General Counsel Andrew Weissmann concerning his role as a Department of Justice prosecutor in *United States v. Daniel Bayly, et al.*, 4:03-cr-00363 (S.D. Tex.), in which you represented defendant James A. Brown. On September 4, 2013, New York Departmental Disciplinary Committee Chief Counsel Jorge Dopico referred your complaint to the Office of Professional Responsibility (OPR). You alleged that Weissmann and other prosecutors with the Enron Task Force suppressed exculpatory evidence and made material misrepresentations during trial based on the allegedly suppressed evidence. You further alleged that Mr. Weissmann's conduct violated numerous Texas Disciplinary Rules of Professional Conduct.

OPR initiated an inquiry in this matter and reviewed all relevant briefs and court decisions related to *United States v. Bayly*. OPR also has conferred with bar licensing authorities in other jurisdictions to which you made similar allegations. Based on the results of its inquiry, OPR determined that the allegations do not warrant further investigation by OPR.

The allegations that the prosecutors suppressed exculpatory evidence and made material misrepresentations based on that suppressed evidence were raised in the district court and the court of appeals during and following the trial in *United States v. Bayly*. Neither court made a specific finding that any Department of Justice attorney had committed misconduct in the case. To the contrary, in *United States v. Brown (Brown III)*, 650 F.3d 581 (5th Cir. 2011), *cert. denied*, 132 S. Ct. 1969 (2012), the U.S. Court of Appeals for the Fifth Circuit affirmed the district court's holding that the evidence in question was not material to guilt or innocence and, therefore, the government did not violate its obligations under the *Brady* doctrine. Given this procedural posture and the information obtained from bar licensing authorities to which you

made similar allegations, OPR has determined that no further investigation of the allegations is warranted by OPR.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin C. Ashton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robin C. Ashton  
Counsel

cc: Jorge Dopico  
Chief Counsel  
Departmental Disciplinary Committee