

# Claims Of Interference, And Demand For Transfer

## Addendum II



Walter Tuvell

March 9, 2012

## Document History

Rev.	Date	Author	Remarks
1.0	March 9, 2012	Walter Tuvell	First version

## Related Documents

Author	Date	Title
Walter Tuvell	August 18, 2011 (version 1.0)	<i>Claims Of Corporate And Legal Misconduct</i> , in two Parts: <i>Part I (Acts Of Fritz Knabe); Part II (Acts of Dan Feldman, HR, Legal)</i> — Referenced as “Old Complaint”
Walter Tuvell	August 28, 2011 (Version 1.0)	<i>Old Complaint, Addendum I</i>
Walter Tuvell	September 4, 2011 (Version 1.0)	<i>Old Complaint, Addendum II</i>
Walter Tuvell	September 22, 2011 (Version 1.0)	<i>Old Complaint, Addendum III</i>
Walter Tuvell	November 3, 2011 (Version 1.0)	<i>Old Complaint, Addendum IV</i>
Walter Tuvell	January 22, 2012 (Version 1.1)	<i>Claims Of Interference, And Demand For Transfer</i> — Referenced as “New Complaint”
Walter Tuvell	March 2, 2012	<i>New Complaint, Addendum I</i>



add reference to Old Complaint,  
Add. V, Mar. 2, 2012

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## 22 Executive Summary — Addendum II

This document is Addendum II to my New Complaint plus Addendum I.

Hereinafter, the unqualified term “New Complaint” includes the original New Complaint, plus Addenda I-II, unless otherwise specified.

*Note:* The years in which events occurred (2011, 2012) are largely self-explanatory, hence are omitted unless necessary to avoid confusion/ambiguity.

### 22.1 List Of Particulars

- New charge of illegal discrimination-retaliation against Mandel, because of his rescission of my electronic access to Notes and w3, based upon my protected communications.

## 23 Typos, Etc.

- Old Complaint, Addendum V, p. 19: Change “poor-copy-quality” to “poor-quality-copy”.
- Old Complaint, Addendum V, section 60.4: Add the following item to the bullet-list:
  - *Trusting trust* — At a group meeting (in or about February–March, 2011), I mentioned Ken Thompson’s famous Turing award lecture *Reflections on Trusting Trust* (Comm. ACM, Vol. 27, No. 8, August 1984, pp. 761–763). This was a “classic” paper in computer science ever written (right up there with Dijkstra’s *Go To Statement Considered Harmful*, Comm. ACM, March 1968, Vol. 11, No. 3, pp. 147–148), and it never occurred to me Dan hadn’t heard of it, but that turned out to be the case. I worried this might be perceived as my “being too smart, and showing-up Dan”.

## 24 Submission Of Third Open Door ...

On Friday, March 2, I submitted my third Open Door complaint. It is based upon Addendum I to the instant New Complaint. Appendix U.

Moreover, at this point in our saga, it had become quite obvious that the culture of illegal/disability corruption at IBM was too widespread/ingrained/embedded for me to remain “quiet” any longer. I had to get “louder” (more forceful in my opposition), because the “usual channels” (Open Door, Corporate Open Door, Concerns & Appeals, Trust and Compliance Office) weren’t working. Too many employees were potentially/probably affected (in danger of discrimination/retaliation/bullying/etc.). *Sound judgment* (see BCG quotes, below) required that I must now “oppose” IBM’s bad behavior more vigorously.

So, to the end of “spreading the word about opposing IBM’s illegal/discriminatory behavior” more widely, I took the “louder” step of emailing/CC’ing/BCC’ing<sup>22</sup> more people about my complaints than I had done previously, thereby attempting to both (i) *speak up* (see BCG quotes, below) so as to “warn others”, and (ii) recruit *additional help* (see BCG quotes, below) in my opposition. Appendix U.

My actions were fully within the scope envisioned/recommended/required by the BCG (pp. 6–7; emphasis added):

■ **Speaking Up**

Your responsibility to know and follow the Business Conduct Guidelines includes reporting potential violations.

- Remember, there are no simple shortcuts or automatic answers for the choices we have to make in business today. No single set of guidelines or policies can provide the absolute last word to address all circumstances. Therefore, we expect IBMers to use *sound judgment* in all of their conduct and *ask for help when needed*.

And, of course, as always, my actions/communications/emails were *protected* under law, as “(reasonable)<sup>23</sup> opposition to illegal/discriminatory practices” (EEOC Compliance Manual, Section 8: Retaliation; document number 915.003, dated 5/20/98; sec. 8-II(B)(2–3); available at <http://www.eeoc.gov/policy/docs/retal.html>; emphasis added):

- **Complaining to anyone** about alleged discrimination against oneself or others.
- *Threatening to file a charge* or other formal complaint alleging discrimination.<sup>24</sup>
- *Refusing to obey* an order because of a reasonable belief that it is discriminatory.<sup>25</sup>
- *Public criticism* of alleged discrimination may be a reasonable form of opposition.<sup>26</sup>
- *Requesting reasonable accommodation*.<sup>27</sup>

## 24.1 ... And New Retaliation Thereupon

Naturally, Russell Mandel couldn’t pass up this opportunity to immediately, reflexively and gleefully commit new acts of 100% pure (discrimination-)retaliation:

- He rescinded my electronic access rights to Lotus Notes, based self-avowedly upon his animosity to my emails. He informed me he intended to do so, and he did do so,

22· Generally speaking: direct addresses are people more-or-less directly involved; CC’s are manager-types; BCC’s are employee-types. While I made some attempt to protect employees from retribution by managers, it is realized that Lotus Notes administrators are capable of piecing together all communications, bit-by-bit. (Notwithstanding the exposure caused by the present document.)

23· It is possible for opposition to be “unreasonable,” but examination of case-law shows no precedent indicating anything I’ve done is anywhere near the “unreasonability” standard.

24· I have made no such threats, though Dan falsely, and snidely, accused me of such. Complaint, Part II, Appendix M, email of 06/12/2011 02:44 PM (the “Dear Dr. Tuvell” letter).

25· I have not knowingly disobeyed any orders, though Mandel falsely accuses me of “abuse ... misuse ... of IBM systems”. Appendix U.

26· My emails did not constitute “public criticism”, of course — the emails were all individually targeted, not publicly posted.

27· To which I must plead “guilty, in spades”.

unilaterally (i.e., with no bilateral discussion/negotiation), accompanied with false assertions about his reasons for doing so.

- Also, based upon the same animosity (and accompanied with the same false assertions), he separately (but simultaneously) rescinded my electronic access rights to the whole of IBM's internal network, known as "w3" (short for "WWW" [world-wide web], accessed via VPN [virtual private network] technology). He did this surreptitiously, *without* even informing me of his intent to do so (I discovered it by myself, by happenstance, when I tried to access w3).

#### Appendix U.

Note that denial-of-access to w3 is much more drastic than denial-of-access to Notes. For, email communications can always be achieved outside of Notes (merely by using normal Internet/network email [which connects to Notes email]). But lack of access to w3 means I could not longer access *any* of IBM's internal resources/services — such as the IBM internal web services, employee handbooks, announcements, the employee database, etc. And most especially, I could no longer access GOM. Thus, I could no longer apply for IBM internal transfers, or even discover what positions were available.

Mandel's acts are illegal (because based directly upon his animosity to my protected email communications).

## 25 Books On Workplace Bullying

In Appendix V, I list some books on workplace bullying. I wish at least *one* person in authority at the IBM Executive level (or management, or HR, or Legal, or IHS) would read at least *one* of these books. With understanding.

After all, if only a *single* person in authority (of the *dozens* "in-the-know") had "stood up" during this case, at any of numerous junctures, so much wrongdoing and heartache could have been avoided. But instead, they all "laid down together" — as a *United Band Of IBM Bullies*.

As a result, it's now too late for IBM to avoid anything.

## APPENDICES — Addendum II

### U Email Chain: THIRD Open Door (Mar. 2-6)

■ From: Walter Tuvell  
To: Russell Mandel  
Cc: Al Pfluger, Arvind Krishna, Barbara Brickmeier, Beth Smith, Chris Kime, Daniel Feldman, Diane Adams, Fritz Knabe, Ginni Rometty, John Metzger, Kathleen Dean, Kyu Rhee, Larry Hatter, Lisa Due, Lydia Campbell, Marie Wieck, Mathieu Armand, Pat OMalley, Pratyush Moghe, Randy MacDonald, Richard Kaplan, Robert L Gilliam, Robert LeBlanc, Rose M Trewartha, Samuel J Palmisano, Steve Mills, Tom Fleming, Yvonne Perkins, Zel Hunter  
Bcc: Amalendu Haldar, Andrew Galasso, Andy McKeen, Anthony Hart, Ashish Deb, Brian Doherty, Brian Maly, Daniel Barrett, Daniel Dietterich, Daniel Noe, David Flaxman, Devesh Agrawal, Felix Santiago, Garth Dickie, Gordon Booman, Harvey Harrison, Huamin Chen, Jacob Bast, James Griffin, James L Finnerty, Jason Viehland, Jay Wentworth, Jeffrey Keller, John Yates, Joseph Shkolnik, Kenneth Schwartz, Lawrence Stabile, Lewis Alderton, Michael Sporer, Paul Houlihan, Paul Smith, Richard Title, Ryan Mara, Steve Lubars, Steve McAfee, Thomas Tignor, William Ackerman  
Date: 2012-03-02 11:46 AM  
Subject: THIRD Open Door

Russell -

In your note to me earlier this week (02/28/2012 06:52 AM), you closed the books on my New Complaint. You did so by stating several new "reasons" for IBM's refusal to transfer me (pursuant to my quest for reasonable accommodation under ADA), attempting to replace earlier-stated illegal reasons by Chris Kime and Dan Feldman. Unfortunately, your stated reasons are STILL ILLEGAL.

Therefore, I have no recourse but to continue my opposition to IBM's illegal/discriminatory ways, as required by the BCG. I hereby file my third Open Door (including Corporate Open Door, Concerns & Appeals, Corporate Trust and Compliance Office).

As documentation in support of this third Open Door, I offer Addendum I to my New Complaint document, entitled IbmTransfer-AddI.pdf. It, together with all its companion documents (which now also includes Addendum V to my Old Complaint), is available at <http://www.filedropper.com/wetibmcomplaint>. These documents include a full recounting of everything that's happened.

As required by "IBM Law", the investigation into this matter must be handled by someone other than you, since you are personally involved in serious wrongdoing, contrary to the interests of IBM.

For anyone who wants to communicate with me privately (via non-Notes email), I can be reached at walt.tuvell@gmail.com.

- Walter Tuvell

■ From: Walter Tuvell  
To: Larry Lutz  
Date: 2012-03-03 08:28 AM  
Subject: Fw: THIRD Open Door

I neglected to BCC you on this, sorry.

▶*The above email, 2012-03-02 11:46 AM, was included here.*◀

■ From: Walter Tuvell  
To: Fritz Knabe ▶*At his alumni.princeton.edu email address.*◀  
Date: 03/03/2012 09:03 AM  
Subject: Fw: THIRD Open Door

You should know this.

▶*The above email, 2012-03-02 11:46 AM, was included here.*◀

■ From: Walter Tuvell  
To: Brian Lachance, Leland Phillips, Matthew Rollender, Peter Smith, Phil Francisco, Vincent Fortin, Wendy Wheeler  
Cc: Brian Hess, Clark Warner, Craig Taranto, David Utter, Jeffrey Feinsmith, Prem Yerabothu, Richard Hawkes, William Tsen, William Watts  
Date: 2012-03-03 09:17 AM  
Subject: Fw: THIRD Open Door

I neglected to CC you, but you need to know about this. I'm opposing the illegal/discriminatory behavior at Netezza/IBM, and I urge you (managers) to join me, for the sake of the regular employees.

▶*The above email, 2012-03-02 11:46 AM, was included here.*◀

■ From: Russell Mandel  
To: Walter Tuvell  
Date: 2012-03-06 11:15 AM  
Subject: ▶*Subject-line omitted.*◀

in original

It has come to our attention that you have recently sent multiple emails about your concerns to members of your team outside of the normal HR concern and appeals



channels. As you know, the concerns and appeals program is the clearly defined mechanism which allows you to raise your concerns in an orderly way. You were previously advised not to send emails to unnecessary parties about your concerns. It is considered an abuse of the IBM systems and disruptive to IBM's business.

Given this recent misuse of the systems and the fact that you no longer need notes access for business purposes since you are on an LOA awaiting a determination of your LTD application, we are removing your access to Lotus Notes effective immediately.

You can continue to communicate about any pending HR related concerns with myself at (203) 486-4561 or Diane Adams at (508)-382-8534. You can also contact Metlife or Kathleen Dean at (845) 894-9573 if you have any questions about your LTD application

Russell E. Mandel

Concerns and Appeals Program Manager  
IBM  
MD 266  
150 Kettletown Road  
Southbury, CT 06488-2600  
203-486-4561 (t/l 376-4561)

■ ►*This email was sent in error; the succeeding email corrects it.*◄

From: Walter Tuvell  
To: Russell Mandel  
Date: 2012-03-06 04:51 PM  
Subject: About your letter

This is in response to your email of earlier today (attached).

Concerning your assertion about "You were previously advised not to send email to unnecessary parties about your concerns": That assertion is false. You cannot point to anything on-the-record to that effect (such as any IBM policy document, or any email). As for anything off-the-record, there exists only one such communication, namely the Nov. 17 phone call, and my (very careful/complete) notes on that phone call are recorded in Complaint, Addendum V, Section 56.6, p. 13. Those notes show I specifically asked you about communications with others, and you pointedly refused to inform me that I could/would be disciplined/reprimanded/retaliated upon for doing any kind of communications with anybody (inside or outside IBM). Moreover, I am obviously not now attempting to "manipulate the investigation", because my emails clearly show a complete lack of manipulation (mere "communication" does not imply "manipulation"), and because at this point the "investigation" (third Open Door) is purely about your own misdeeds, and does not involve any of the other people I've communicated with.

Concerning your assertion about "abuse ... misuse ... of IBM systems": Again, that assertion is false. For the same reasons as cited above (in particular, lack of on- or off-the-record communications), I did not abuse any IBM systems. In particular, the Nov. 17 phone call mentioned only use of storage on IBM systems as a potential abuse, but I've stored my archives on FileDropper.com, not on IBM systems. Certainly, you cannot pretend that use of IBM systems to "oppose illegal activity" is "abuse ... misuse"?

Concerning rescission of access to Lotus Notes: You cite my emails as the reason for denial of access. But, as those email themselves clearly show, their only content/purpose is to "communicate my opposition to IBM's illicit/illegal/discriminatory behavior/acts". Such communications are LEGALLY PROTECTED (at the level of discrimination-retaliation). In other words, your very act of rescinding Notes access (which is a retaliatory act), based upon my protected emails, is ITSELF ILLEGAL.

Concerning the Concerns and Appeals process: I've submitted my third complaint, and I await its investigation/resolution.

Concerning LTD: That process continues.

Concerning communications mechanism: I will continue to use email, as always, but now via Internet email, not Notes. In particular, since it is you who have unilaterally rescinded my Notes access, it is incumbent upon YOU to inform the people working on my "reasonable accommodation interactive dialog", and also the people working on LTD, that they must now use Internet email to communicate with me.

►Attachment: the above email, 2012-03-06 11:15 AM.◄

■ ►This email corrects the erroneous one, preceding.◄

From: Walter Tuvell  
To: Russell Mandel  
Date: 2012-03-06 04:59 PM  
Subject: About your letter

This is in response to your email of earlier today (attached).

1. Concerning your assertion that I was "previously advised not to send email to unnecessary parties about your concerns":

That assertion is false. You cannot point to anything on-the-record to that effect (such as any IBM policy document, or any email). As for anything off-the-record, there exists only one such communication, namely the Nov. 17 phone call, and my (very careful/complete) notes on that phone call are recorded in Complaint, Addendum V, Section 56.6, p. 13. Those notes show I specifically asked you about communications with others, and you pointedly refused to inform me that I could/would be disciplined/reprimanded/retaliated upon for doing any kind of communications

with anybody (inside or outside IBM). Moreover, I am obviously not now attempting to "manipulate the investigation", because my emails clearly show a complete lack of manipulation (mere "communication" does not imply "manipulation"), and because at this point the "investigation" (third Open Door) is purely about your own misdeeds, and does not involve any of the other people I've communicated with.

2. Concerning your assertion about "abuse ... misuse ... of IBM systems":

Again, that assertion is false. For the same reasons as cited in the preceding paragraph (in particular, lack of on- or off-the-record communications), I did not abuse any IBM systems. In particular, the Nov. 17 phone call mentioned only use of storage on IBM systems as a potential abuse, but I've stored my archives on FileDropper.com, not on IBM systems. Certainly, you cannot pretend that use of IBM systems to "oppose illegal activity via email" is "abuse ... misuse" (given that I'm still an IBM employee, hence authorized to use Notes)? For example, you'd get laughed out of court if you tried making that argument in court (disclaimer: this is not a "threat" of court action, just an example).

3. Concerning rescission of access to Lotus Notes:

First: You explicitly cite my emails as the reason for denial of access. But, as the contents of those email themselves clearly show, their only content/purpose is to "communicate my opposition to IBM's illicit/illegal/discriminatory behavior/acts". Such communications are LEGALLY PROTECTED (at the level of discrimination-retaliation). In other words, your very act of rescinding my Notes access (which is a retaliatory act), based upon your explicit citation of said protected emails, is IT-SELF ILLEGAL.

Second: You cite lack of business necessity. That is false. For example, I need to communicate with you about ongoing investigation, and with mgmt/HR concerning "reasonable accommodation interactive dialog", and LTD. The truth of said business necessity is verified by you yourself in this very email, because you go on to give me the telephone contact information of certain persons -- which is, however, wholly inadequate, because any sensible person in my position requires all communications to be on-the-record-record (for obvious reasons, and as I have specifically stated many times).

[If, for example, there were some sort of general IBM policy, uniformly enforced, that Notes access is rescinded whenever an employee goes onto unpaid leave, then I'd have no complaint here. But I've found no such policy, and even if there were such a policy, you yourself have just now NOT given it as reason for rescission, rather you've specifically chosen to rely on the illegal noted reason above.]

4. Concerning the Concerns and Appeals process:

My third complaint was duly submitted last Fri (Mar 2), and I now await its investigation/resolution.

But, to that third complaint, I now hereby add: your illegal (discrimination-retalia-

tion) rescission of my access to Notes, as discussed in the preceding paragraph.

5. Concerning LTD:

I continue to pursue that process, per MetLife's direction.

6. Concerning communications mechanism:

I will NOT use telephone. I will continue to use email, as always -- but now it will have to be Internet email, not Notes. Furthermore, since it is you who have unilaterally rescinded my Notes access, it is incumbent upon YOU to inform the people working on my "reasonable accommodation interactive dialog", and also the people working on LTD, that they must now use Internet email to communicate with me.

I hereby authorize you to distribute my email contact information (walt.tuvell@gmail.com) to anybody, any time, for any purpose.

►*Attachment: the above email, 2012-03-06 11:15 AM.*◄

■ From: Walter Tuvell  
To: Russell Mandel  
Date: 2012-03-06 5:02 PM  
Subject: Oops

I think I just now accidentally sent you 2 emails, both entitled "About your letter", but with different contents.

The first one (dated 4:51 PM) was an error, a finger-slip (an early version, accidentally still lurking in my Drafts folder). Please ignore it.

The second one (dated 4:59 PM) was the one I intended to send. Please heed it.

My apologies.

## V Books On Workplace Bullying

