

Social Security whistleblowers say they were sidelined for exposing fines

Two senior attorneys drew attention to a program leveling massive, unprecedented fees on poor and elderly people.

By [Lisa Rein](#)

October 25, 2022 at 6:00 a.m. EDT

Two senior Social Security officials who exposed massive, unprecedented fines imposed on disabled and poor elderly people — prompting [multiple inquiries](#) and halting the practice — now say they’ve faced ongoing backlash from their supervisors for speaking out.

Joscelyn Funnié and Deborah Shaw, veteran attorneys in the Social Security Administration’s inspector general’s office, were removed from their jobs and placed on paid leave after expressing concerns about the fines, then eventually reinstated.

But since returning to work under Inspector General Gail Ennis, they said they have been excluded from meaningful assignments, given tasks below their experience and abilities, shut out of meetings and collaboration with colleagues, and denied opportunities for advancement. Their claims are echoed in contemporaneous emails with management officials and backed up by two senior officials familiar with their work climate, who spoke on the condition of anonymity to discuss internal matters.

“I have literally begged for meaningful, senior-executive-level work,” Funnié wrote in an email to The Washington Post. “My pleas for meaningful work continue to fall on deaf ears, and I have no seat at the table with the Inspector General or her senior staff. They pretend I don’t exist, hoping that eventually I will exhaust my emotional and financial resources and walk away.”

Their colleagues and experts on whistleblowers describe the treatment described by the attorneys as significant evidence of retaliation in a case that’s generated national headlines and is the focus of three ongoing probes.

“They’re all common tactics and they’re all illegal,” said Tom Devine, legal director of the [Government Accountability Project](#), a nonprofit group that represents whistleblowers in Washington.

Rebecca Rose, a spokeswoman for Ennis, declined to comment on a detailed list of allegations from the

whistleblowers, writing in an email that "we are unable to comment on personnel matters."

Funnié, 53, was serving as an assistant inspector general overseeing a staff of 75 in 2019 when she notified Ennis, sworn in as a President Donald Trump appointee that January, of irregularities in her management of the watchdog division charged with oversight of the Social Security Administration.

Among the concerns Funnié raised was the administration of the Civil Monetary Penalty program, which she previously ran. The anti-fraud effort relies on civil penalties to recoup money for the government when a claimant receives improper disability benefits. The sums are considered too small for criminal prosecution.

Funnié learned that the program in 2018 began levying fines that reached hundreds of thousands of dollars against more than 100 people. The penalties were issued without due process and disregarded federal regulations, as The Post reported, deviating from how the government had recovered money since the program's inception in 1995. Attorneys were directed to stop taking into account claimants' financial state, their age, their intentions and level of remorse, among other factors. One of those attorneys was Shaw, who, like Funnié, has spent her career at Social Security.

After Funnié and Shaw repeatedly pressed Ennis and her deputies to have the cases reexamined and the penalties lowered — and were told no changes were planned — they were escorted out of the inspector general's headquarters in Woodlawn, Md., in September 2019 and placed on paid leave.

Funnié was fired by Ennis 11 months later. She filed an administrative claim against Ennis, appealing her firing with the independent Merit Systems Protection Board, a quasi-judicial agency that enforces civil service protections.

Following The Post's reporting in May, the acting Social Security commissioner opened an investigation into Ennis's oversight of the anti-fraud program. Two other inquiries into her conduct were launched, including one by the Council of the Inspectors General on Integrity and Efficiency. The Office of Special Counsel, an independent office that protects federal employees and whistleblowers, also is investigating, according to Funnié and her attorney, who said they met with the special counsel investigator last week. (The special counsel's office declined to confirm whether an investigation is open, citing agency policy). The civil penalty program was suspended amid mounting political pressure from Congress and the White House.

With her legal bills soaring and on the brink of bankruptcy, Funnié settled with Ennis's office and returned to work last December as a special adviser. She kept her senior executive role making \$185,000 a year, but with no staff.

For the first six weeks she was back on the job, her only assignment was to read two books on resilience and spirituality, she said. Her latest assignment, she said, is evaluating the department's administrative functions — a task requiring auditing skills she doesn't have. Her supervisor directed her in writing to seek his permission before speaking with colleagues to complete her assignments, she said.

Funnié was not given a performance plan — a key foundation of year-end appraisals and pay decisions — for more than seven months after repeated requests, she said; the plan she eventually received was not based on senior executive-level work.

Funnié's supervisor at one point told her to join a committee redesigning a logo. emails show — a role for which she

was turned down because she lacked the necessary skills.

“I am merely requesting the opportunity to work for the salary I am earning, at an SES level, free of interference, hostility, and retaliation,” she wrote in an email in September to Ennis and her deputies that detailed her claims she was sidelined. Funnié said she did not receive a response.

Shaw returned to work in early 2020 after four months. She, too, appealed the agency’s action to the Merit Systems Protection Board. She was demoted from a supervisory GS-15, the highest pay grade on the scale that sets salaries for civilian federal employees, lost the staff she supervised, and continued to face a 45-day unpaid suspension the inspector general’s office had proposed when she was marched out of headquarters.

In May, an administrative law judge ruled that Shaw had been the victim of “whistleblower reprisal” by Ennis’s office. Judge Craig A. Berg found “significant evidence” that Ennis and her top staff “had motive to retaliate” against Shaw as she became a “vocal advocate” to reopen close to 100 cases whose penalties she found unconscionable. The judge ordered Ennis’s office to give her back pay, return her to her supervisory role and remove potential for a suspension.

Ennis’s staff has appealed the ruling to the three-member board of the merit systems office, effectively putting the judge’s order on hold, with the exception that Shaw was returned to her GS-15 rank. Ennis’s chief counsel, Michelle Murray — one of the management officials the judge found had retaliated against Shaw — wrote and signed the appeal and is now her second-line supervisor, controlling her work assignments, requests for training and other aspects of her job, according to Shaw.

Murray also serves as coordinator of Social Security’s whistleblower protection program, according to the inspector general’s website. Murray declined to comment for this story.

For 15 months after her return, Shaw, who is paid \$168,000, said she was limited to administrative, nonlegal busywork. Her colleagues were directed to document anything she said about her case or other concerns and report it to management, she said.

She said she continues to be denied assignments in her area of expertise, anti-fraud investigations. This summer, emails show, she was directed to write a legal opinion on the soundness of starting a book club to improve morale on Ennis’s staff. (Ennis’s office came in last of 432 federal departments in the most recent survey of the [Best Places to Work in the Federal Government](#).)

Shaw also was reprimanded for helping colleagues who asked for advice on a fraud case — then scolded for sending two emails after duty hours in response to her supervisors at 6:28 p.m. and 6:51 p.m., emails show.

Recently she was asked to attend a course in federal acquisition regulations for audits and contracts, she said, an area in which she has no previous experience.

“I continue to be marginalized and left out of the loop on work being done in my component,” Shaw wrote in an email to The Post. “Perhaps worst of all, my experience has become a cautionary tale for those who might otherwise speak about mismanagement, abuse of discretion and all sorts of serious wrongdoing within the [inspector general’s]

office.”

The Senate finally confirmed a governing board at the merit systems office this spring after five years without a quorum, and thousands of appeals like Shaw’s are still pending.

“Winning an administrative judge ruling is just a placeholder,” Devine said. “If an agency appeals, the employee is left twisting in the wind until a decision by the full board, which with the current backlog can take years.”