A F F I D A V I T

My name is BRENDA LEVENSON. I am on the staff of Senator Robert Dole.

In the early months of 1978 our office became aware through a study conducted by our staff that there was wide dissatisfaction within the university community with the inordinate amount of time the Agencies of the Executive Department were taking in acting on their requests for rights to inventions they had made with some government support. The Department of Health, Education and Welfare was particularly noted for its delay at the time of the study.

The universities contended that since further development of these inventions needed to be undertaken by commercial concerns, the failure to obtain timely decisions on ownership seriously affected the ability to obtain the cooperation of the commercial sector in bringing the inventions into public use. Many of the inventions were potential solutions to serious public health problems.

Review of the complaints by Senator Dole's office, the Subcommittee on the Constitution of the Senate Committee on the Judiciary and subsequently by the General Accounting Office confirmed the seriousness of the problem. Convinced of the need for relief, Senator Dole and Senator Bayh, the Chairman of the above Subcommittee, instructed their staffs to draft remedial legislation. I was assigned primary responsibility within Senator Dole's office for coordinating activities leading to the bill's introduction.

Earlier in the investigation, a number of university officials called our attention to Mr. Norman Latker, the Patent Counsel of the Department of Health, Education and Welfare and described him as an effective Federal program manager who had helped the universities in bringing their inventions into commerical use.

Because of his expertise in this field, we called on Mr. Latker

He provided other information and technical assistance in drafting the remedial legislation, S.3469 which later became S.414. At all times, he acted at our request under the direction of the Committee's leadership, providing us with information which was not confidential nor restricted in any way.

The delay in invention rights processing was viewed as a serious public health matter by Senators Dole and Bayh. They felt that the DHEW policy as developed under Mr. Latker's leadership was supportive of innovation and commercial development of inventions which had been in part supported by Federal funds. When they learned that in a period of eight months, starting in August, 1977, twenty-three patent agreements approved by the DHEW Patent Counsel had disappeared in the Department's General Counsel's office with no action being taken on them, they were concerned that the excellent system that had been developed to support inventions that served the public health and welfare was being dismantled. The inventions funded by DHEW grants involved medical devices which could save thousands of lives and thus impacted the public health of the nation.

Undoubtedly the officials in DHEW who were holding up invention rights processing were dismayed that the information about their actions had become known to Senators Dole and Bayh. Senators Dole and Bayh put out public releases about the delay by DHEW officials which called attention to the mismanagement by DHEW officials of the patent program. This mismanagement came to the attention of Congress through the efforts of Mr. Latker. The officials whose dereliction came to our attention through Mr. Latker are the very same ones who are now proposing to fire Mr. Latker. I believe that the action proposed by DHEW officials against Mr. Latker to remove him from the Federal service is the direct result of his having called to the Subcommittee's attention the delays and mismanagement of the patent program in the DHEW.

Brenda Levenson