



United States
Office of Government Ethics
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MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors General

FROM: Robert I. Cusick
Director

SUBJECT: 2005 Conflict of Interest Prosecution Survey

This Office has completed its annual survey of prosecutions involving the conflict of interest criminal statutes (18 U.S.C. §§ 202-209) for the period January 1, 2005, through December 31, 2005. Information on twelve new prosecutions by U.S. Attorneys' offices and the Public Integrity Section of the Department of Justice's Criminal Division was provided to us with the assistance of the Executive Office for United States Attorneys in the Department of Justice. Summaries of the prosecutions reported to this Office for past years can be found on our web site at www.usoge.gov under "Laws and Regulations."

2005 CONFLICT OF INTEREST PROSECUTION SURVEY

1. United States v. Kevin D. Marlowe.

Marlowe was the Chief of Plans, Requirements and Acquisitions for the Defense Information Systems Agency (DISA). He was in charge of the acquisitions and procurements for the Defense Enterprise Computing Center (DECC), a regional data processing center maintained by DISA at the Navy installation at Mechanicsburg, Pennsylvania. While in this position, he steered \$18.1 million in Government contracts to Vector Systems, Inc. (Vector), a small information technology company in which he held a secret partnership interest. Vector was owned and operated by Benjamin D. Share. Share had been the former chief legal counsel for the Navy installation in Mechanicsburg until 1985 when he resigned prior to pleading guilty to receiving illegal gratuities.

Marlowe received approximately \$500,000 in cash and other benefits from Vector at the time he steered contracts to it. The payments included the use of Vector's corporate credit card to purchase expensive jewelry, furniture, and vacations and the creation of a secret trust fund for the benefit of Marlowe and his wife. He concealed the payments using fake names, shell corporations, and cash.

Department of Defense auditors discovered the scheme using data mining software. They discovered that Marlowe had paid Vector over \$11 million using Government credit cards, an amount which represented approximately 31% of all of the DECC's contract awards between 1998 and 2002.

On September 13, 2005, in the middle of their jury trial, Marlowe and Share entered guilty pleas. Marlowe pleaded guilty to one count of violating 18 U.S.C. § 208, participating personally and substantially in a particular matter in which he had a financial interest. He also pleaded guilty to one count of conspiracy to defraud the United States, one count of wire fraud, and one count of subornation of perjury. He was also convicted by jury trials of two other offenses involving false statements to the Social Security Administration and a scheme to defraud a New Jersey environmental remediation firm. For all of these offenses, on March 28, 2006 Marlowe was sentenced to 135 months in prison, two years supervised release, restitution of \$54,871.90, and \$1,500 in fines and assessments. Share pleaded guilty to two counts: conspiracy to defraud the United States and obstruction of justice. He was sentenced to 120 months in prison, two years supervised release, and \$10,200 in fines and assessments.

The Middle District of Pennsylvania handled the prosecution.

2. United States v. Erik B. Blowers.

Blowers began working for the Federal Bureau of Investigation (FBI) in November 1989. At the time of the conduct in question, he worked as a Supervisory Special Agent (SSA) and

Chief Division Counsel (CDC) in the Charlotte, North Carolina field office of the FBI. As CDC, Blowers was required to file the OGE Form 450, the Confidential Financial Disclosure Report. Among other financial information, the form required him to report gifts or travel reimbursements he received from one source totaling more than \$260 for the previous year. He was obligated to certify that the statements he made on the form were true, complete, and correct to the best of his knowledge and belief.

Around April 1996, David Simonini was identified during an investigation into organized gambling and money laundering in the Charlotte-Mecklenburg area, an investigation which was conducted jointly by the FBI and the Internal Revenue Service (IRS). Blowers was the lead case agent in the investigation for the FBI. Over the next 2 years Simonini cooperated with the FBI in the gambling and money laundering investigation. Blowers was Simonini's official handler on behalf of the FBI.

In February 1999, the White Collar Crime Squad of the Charlotte Division formally opened a preliminary investigation of Simonini based upon allegations that he was involved in financial institution fraud and fraud by wire. From April 2000 through June 2000, Blowers was the Acting Supervisory Agent and was in charge of the White Collar Crime Squad.

In April 2000, Blowers traveled to Las Vegas, Nevada with Simonini at the latter's invitation. Simonini was responsible for the expenses associated with Blowers' trip to Las Vegas. Blowers did not pay Simonini for the costs of the trip. Some of the costs were paid by Simonini and others were "comped" by the hotel at which they stayed as a result of Simonini's gambling status with the hotel.

In July 2000, after Blowers left the White Collar Crime Squad, the FBI officially closed the preliminary investigation of Simonini. In August 2000, Blowers made a second trip to Las Vegas with Simonini, at the latter's invitation. Once again, Simonini was responsible for the expenses associated with Blowers' trip, and Blowers did not pay Simonini for the costs of the trip. Some of the costs were paid by Simonini and others were "comped" by the hotel at which they stayed as a result of Simonini's gambling status with the hotel. Blowers received benefits that had a market value of \$6,000 in connection with the two trips to Las Vegas.

In October 2000, Blowers filed his confidential financial disclosure report covering the period during which he traveled to Las Vegas. He did not report the trips on the form. In Part V of the form, Blowers placed an "X" in the box marked "none" in response to the question asking him to disclose any "gift or travel reimbursements received from one source totaling more than \$260." He also signed the form certifying the accuracy of the statements he made on the form.

Blowers was indicted on one felony count of violating 18 U.S.C. § 1001(a), knowingly and willfully making a materially false statement. He subsequently pleaded guilty on November 29, 2005 to one misdemeanor count of violating 18 U.S.C. § 1018, making a false writing (the confidential financial disclosure report). As part of the plea agreement, he resigned from the FBI. On June 15, 2006, he was sentenced to two years probation and 400 hours of community service.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

3. United States v. Patricia Raikes.

As Chief Consular Officer, Raikes was responsible for oversight of consular activities at the U.S. Embassy in Lebanon, including the issuance of visas and the enforcement of established embassy regulations. At the time she served as Chief Consular Officer, the Embassy's policy was to deny tourist visas to the general Lebanese public. The only persons who were to receive tourist visas had to be either 60 years of age or older, have received a visa in the past, or have been referred by an American embassy employee due to a professional relationship that was beneficial to the United States Government.

While assigned to Beirut, Raikes became friends with Lebanese-American businesswoman A. In November 1999, businesswoman A asked a friend, Lebanese-American businessman B working in Las Vegas, Nevada, to give Raikes and Raikes' daughter-in-law an all-expense paid trip from the latter's home in Iowa to Las Vegas for four nights. The package included round-trip airfare for two (\$1,500) and a room at the MGM Grand Hotel. Businesswoman A advised Raikes that the hotel accommodations had been "comped." On this trip, Raikes met businessman B who introduced her to Lebanese-American businessman C.

In March 2000, businessman B provided Raikes with first-class round-trip airfare (\$2,400) from Paris, France to Las Vegas to attend a charitable event to raise money for American University in Beirut. The package included two nights at the MGM Grand Hotel. He advised her that the hotel accommodations had been "comped."

In September 2000, Raikes issued tourists visas to 19 Lebanese individuals referred to her by businessman B. The group included 17 individuals who had never previously been granted United States visas and thus were ineligible to receive tourist visas under embassy policy.

In December 2000, businessman C provided Raikes with round-trip airfare (\$1,600) from Mason City, Iowa to Las Vegas for her and her mother. The trip included seven nights at Caesar's Palace, although Raikes stayed only four or five nights. Businessman C advised her that the hotel accommodations were "comped."

In May 2001, businessman C submitted to Raikes applications for visas for four Lebanese individuals. These individuals were ineligible for visas under embassy policy. She also issued tourist visas to 15 Lebanese individuals referred to her by businessman B. Eleven of these individuals were ineligible for visas under embassy policy.

The United States did not identify any terrorist links associated with any of the individuals who received visas in this manner from Raikes.

On April 28, 2005, Raikes pleaded guilty to one count of violating 18 U.S.C. § 209(a), unlawfully accepting supplementation of her Government salary as compensation for services as

an officer and employee of the executive branch from sources other than the United States Government. On August 16, 2005 she was sentenced to one year of probation and a \$3,000 fine.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

4. United States v. Eric G. Andell.

From November 2002 to September 2003, Andell served as the Deputy Under Secretary for Safe and Drug Free Schools at the Department of Education. As part of his official duties, he had the authority to authorize or approve his own official travel. While serving as the Deputy Under Secretary, he approved travel for himself at Government expense to New York, New York; Austin and Houston, Texas; Detroit, Michigan; and Columbus, Ohio on approximately 14 occasions. Each of these trips was motivated at least in part by Andell's interest in private personal and financial matters. As part of several of these trips, he received his Federal Government salary for days on which he requested, received, and was paid for sick leave when in fact he was working as a visiting judge in the State of Texas. These trips also allowed him to accrue service time toward receipt of a pension from the State of Texas. In addition, some of his personal expenses were reimbursed by the Government. Finally, Andell failed to report on his Government financial disclosure forms monies received as salary from the State of Texas.

On March 10, 2005, Andell pleaded guilty to one count of violating 18 U.S.C. § 208(a), participating personally and substantially as a Government employee, through decision and recommendation, in a particular matter (the approval of the trips) in which, to his knowledge, he had a financial interest. On April 29, 2005, he was sentenced to one year of probation and a \$5,000 fine. As part of the plea agreement, he reimbursed the Government \$8,659.85 for his fraudulent expenses.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

5. United States v. Russell Trapp.

Trapp was the Coordinator for the Law Enforcement Coordinating Committee (LECC) Program of the U.S. Attorney's Office for the Middle District of Louisiana (USAO). He was responsible for arranging training seminars on behalf of his office for local and state law enforcement. The purpose of the training was to foster cooperation among various law enforcement agencies. He had the discretion and authority to recommend, select, and hire Government vendors who were paid to conduct the training. He also recommended vendors to other LECC coordinators.

In October 1999, Trapp began negotiating with PHI Investigative Consultants (PHI) to conduct periodic LECC-sponsored training seminars for USAO and other U.S. Attorney's Offices. At the same time, he arranged for PHI to hire his wife to plan and coordinate all

seminars that PHI conducted. With his knowledge, his wife began operating Professional Seminars of Louisiana (PSL), a business through which she was paid for doing seminar planning and coordination work for PHI between 2000 and 2002.

Between January 2000 and June 2002, Trapp recommended, selected, and hired PHI to conduct periodic seminars which his office sponsored. He also recommended to the LECC Coordinator in Western District of Texas that she hire PHI to conduct training sessions for that District. Without her knowledge and before the Government contracts were signed, he then negotiated with PHI about the cost of the work PSL would do in connection with this training. These seminars were subsequently conducted in the Western District of Texas.

As a result of these business dealings, PHI paid Trapp's wife and PSL more than \$55,000, and PSL paid Trapp more than \$20,000 using checks from PSL's bank account. Trapp never disclosed to relevant Government personnel his wife's and PSL's business association with PHI, nor any related financial interest in PHI training seminars that he, his wife, or PSL had.

On May 24, 2005, Trapp pleaded guilty to one count of violating 18 U.S.C. § 208(a), participating personally and substantially as a Government employee, through decision, approval, recommendation, the rendering of advice, and contracting, in a particular matter in which, to his knowledge, he and his spouse had a financial interest. On October 26, 2005, Trapp was sentenced to three years of supervised probation, 200 hours of community service, and a \$5,000 fine.

The Public Integrity Section of the Criminal Division of the Department of Justice handled the prosecution.

6. United States v. Debra Jones.

From February 2000 through May 2001 Jones was a contracting officer for the General Services Administration (GSA) in Fort Worth, Texas. Through blanket purchase agreements (BPAs), Jones directed GSA purchases of food preparation and serving equipment items from Energizer, Ltd., doing business as Global Service Supply. During this time, her husband, Michael Jones, performed work for, and was employed by, Energizer Ltd. He received a regular salary and other compensation through Energizer Ltd. and Truepower, an assumed name of Energizer Ltd. He received raises and a Jaguar as a result of the Government contracts which his wife directed to his employer. There were nine BPAs totaling approximately \$7.5 million and 434 open market purchases totaling approximately \$4 million to Energizer Ltd.

On August 26, 2005, Jones pleaded guilty to one count violating of 18 U.S.C. § 208, participating personally and substantially in a particular matter in which she had a personal financial interest. On December 9, 2005, she was sentenced to 180 days of home confinement and five years probation. She was also ordered to pay \$161,000 in restitution to GSA.

The Northern District of Texas handled the prosecution.

7. United States v. Veronica Hardy-Everette and Charles Daniel Everette.

Veronica Hardy-Everette was an employee of the Financial Management Service, a bureau of the United States Department of the Treasury that manages the disbursement of Federal funds. As an Employee Development Specialist in the training branch, Hardy-Everette determined the training needs of Treasury Department employees and procured training services from private businesses.

Her husband, Charles Daniel Everette, provided computer training services using the business names C&D Training Consultants and Computer Image. From January 1999 through September 2000, Hardy-Everette used her Government position to award 105 training agreements worth more than \$139,600 to her husband's companies.

Veronica Hardy-Everette pleaded guilty to several charges, including violating 18 U.S.C. § 208, participating personally and substantially in a particular matter in which she had a financial interest. She was sentenced to 12 months and 1 day in prison and three years supervised release. She was also ordered to pay restitution of \$54,500. Charles Everette received the same sentence as his wife after pleading guilty to charges including wire fraud and conspiracy.

The District of Maryland handled the prosecution.

8. United States v. Young Lee and United States v. Lorn MacUmbur.

Lee was President and Chief Executive Officer of Information Systems Support, Inc. (ISS), and MacUmbur was an ISS senior vice-president. ISS provided information technology, logistics, and communications support services on Federal Government projects and installations, including U.S. military operations in South Korea. In late 2000, Lee was introduced to U.S. Army Colonel Richard J. Moran, who had responsibility for the solicitation, award, and oversight of more than 17,000 military contracts in Korea, including the planned procurement of the Global Command and Control System-Korea (GCCS-K) and the Korean Battle Simulation Center (KBSC). Moran owned a home in the Washington DC area and advised another ISS employee that he was considering retiring from the Army and going to work in the private sector. In April 2001, that employee introduced MacUmbur to Moran.

Beginning in April 2001, while Moran remained on active duty and did not recuse himself from matters involving ISS, Lee and MacUmbur each had meetings, meals, conversations, and e-mail exchanges with Moran about the possibility of Moran coming to work for ISS. On June 14, 2001, Moran visited ISS headquarters and met with Lee, MacUmbur, and other ISS officials. Lee, MacUmbur, and another ISS official bought dinner for Moran and Moran's wife at a restaurant in Maryland. Over the next few days, MacUmbur bought Moran additional meals at restaurants in northern Virginia. On July 11, 2001, Lee bought Moran dinner in Seoul, Republic of Korea. On July 24, 2001, after ISS and a competing team of contractors

made oral presentations in support of their proposals for the GCCS-K contract, MacUmbler bought Moran dinner at a Seoul restaurant.

A board of military technical experts recommended awarding the GCCS-K contract to ISS's competitor. But on July 27, 2001, Moran rejected the recommendation and designated a direct subordinate to serve as the source selection authority for the contract, which was being procured for the military by the General Services Administration. The subordinate recommended that GSA award the GCCS-K contract to ISS. On October 27, 2001, GSA announced the award of the GCCS-K task order to ISS. On November 11, 2001, MacUmbler again bought Moran dinner in Korea. Moran told MacUmbler that he was thinking about retiring in July 2002 and that he was being recruited by other companies. On December 13 and 29, Lee and MacUmbler again bought Moran dinner in Seoul.

On January 3, 2002, MacUmbler and Moran discussed ISS's offer that Moran be hired as director of western corporate support projects, with a starting annual salary of \$110,000 plus additional benefits. MacUmbler subsequently purchased dinner for Moran and Moran's wife. MacUmbler sent an e-mail message to Lee and other ISS officials relating the terms of the job offer to Moran and stating that Moran "was generally pleased with it and wants to work for me" but "wants \$125k" and "a service contract" and "may hit us for some relocation costs but that is not clear." On January 7, 2002, MacUmbler wrote Lee an e-mail stating that Moran had accepted an offer for employment at \$125,000 per year but was working on a proposed employment contract.

Moran never went to work for ISS. As part of an investigation into other contracts not related to this case, Army CID agents executed a search warrant at Moran's residence, discovered evidence of bribery involving those contracts, and arrested Moran.

In June 2003, Colonel Moran was sentenced to 54 months in Federal prison after being convicted of soliciting bribes in exchange for influencing the award of millions of dollars in contracts to two other companies. Mrs. Moran was sentenced to two years of probation after being convicted on one count of making a false statement when she failed to disclose more than \$10,000 in cash she was carrying when the couple traveled from Korea to the U.S. in June 2001. The Central District of California handled the Moran prosecution.

On July 25, 2005, Lee and MacUmbler each pleaded guilty to one count of aiding and abetting a conflict of interest involving Colonel Moran. MacUmbler was sentenced to two years probation, a special assessment of \$100, and a \$3,000 fine. Lee was sentenced to two years probation, a special assessment of \$100, and a \$5,000 fine.

The District of Maryland handled the prosecution.

9. United States v. David A. Clark.

In 2000, Clark was the Manager of Delivery Vehicle Operations for the U.S. Postal Service. On or about July 26, 2000, he traveled to the South Bend, Indiana area. While he was

there, he played golf with a vendor who was involved in a bid on a \$100 million Government contract. Clark accepted payment of his dinner and golf fees by the vendor. Further investigation revealed that between 1999 and 2000 Clark had accepted about \$2,000 in non-cash items (meals, drinks, golf fees) from the vendor. The investigation did not reveal any direct cash payments to Clark.

Clark pleaded guilty to one count of violating 18 U.S.C. § 209(a). On April 26, 2005, he was sentenced to one year unsupervised probation, a special assessment of \$25, and a \$1,000 fine.

The Northern District of Indiana handled the prosecution.

10. United States v. Robert B. Smoot.

Smoot was a communications specialist employed by the National Aeronautics and Space Administration (NASA) at the Langley Research Center (LaRS). He also owned an electrical services business called Bob's Electric, Inc. He was prohibited as a NASA employee from engaging in outside employment with a NASA contractor, subcontractor, or grantee in connection with work performed by such an entity for NASA. He was advised of this prohibition by his immediate supervisor in or about the late 1990s.

In 2002, NASA implemented a plan to install "telecommunications closets" in various buildings at NASA LaRS. The installation was divided into two phases. Phase I involved installation of a prototype to insure viability. If successful, additional closets would be installed in Phase II. The closets were supported by uninterrupted power systems. By virtue of his position at NASA, Smoot had an integral role in the implementation of the telecommunication closet installation project. He reviewed and approved work done on the project by contractors and subcontractors and authorized payment.

NASA awarded the contract to Tri-Star Engineering. Smoot recommended to Tri-Star that they hire Wright Electric, Inc., as a subcontractor, which they did. Wright Electric was an electrical contracting company wholly owned and operated by Byron Wright, a close friend of Smoot.

With the successful operation of the first closet, 184 other systems were ordered. Smoot and Wright had Bob's Electric prepare and submit a bid for the electrical work in Phase II under the name of Wright Electric, knowing that Wright Electric neither had the resources nor expertise to complete the project. It was Bob's Electric that satisfactorily completed the work. Wright Electric was paid \$41,960 who then paid Bob's Electric \$40,030.

The NASA IG received a tip that Bob's Electric was working on the telecommunications closets. During the investigation, they discovered that Bob's Electric had been a subcontractor on other NASA contracts. Smoot lied about these arrangements when interviewed.

On June 23, 2005, Smoot pleaded guilty to violating 18 U.S.C. § 208. On November 21, 2005, he was sentenced to 5 years probation and a \$5,000 fine.

11. United States v. James Burton.

Burton worked as a technical contract manager at the Tennessee Valley Authority's (TVA) Paradise Fossil Plant in Kentucky. As a contract manager, he reviewed and recommended bids submitted by contractors and oversaw the performance of accepted contracts. One of TVA's contractors, McCauliffe Martin, hired Burton as a part-time supervisor. He worked for the contractor in Oklahoma and Indiana during his days off and during his vacations. He never advised the TVA of this employment. The TVA was not able to identify any financial loss caused by Burton's actions.

On October 27, 2005 Burton pleaded guilty to a non-willful violation of 18 U.S.C. § 208. He was sentenced to probation and a \$1,000 fine. In addition, he lost his job with the TVA.

The Western District of Kentucky handled the prosecution.

12. United States v. Andrea Grimsley.

Grimsley was the Chief of the Headquarters Support Branch, U.S. Immigration and Customs Enforcement Division, Department of Homeland Security. The Headquarters Support Branch reviewed, commented upon, and made recommendations regarding Federal contracts to be awarded to support the agency's mission. As the Branch Chief, Grimsley had primary authority for oversight and direction of procurement activities. In November 2003 she was initially assigned and did assume responsibility as the Contracting Officer for the handgun acquisition. In this capacity, she was responsible for overseeing all substantive and technical aspects of the handgun acquisition contract, including the method and manner for the solicitation of bids.

In late November 2003, Grimsley became a candidate for a position at FedBid as an account executive reporting directly to its vice president. FedBid is a private, for-profit business that provides web-based procurement services to public sector entities. FedBid offers an on-line reverse auctioning service that allows Federal agencies to solicit contractors. In exchange for its auction services, FedBid receives a commission (generally 3% of the contract price) from the successful contract award recipient.

In late November 2003 Grimsley sought advice from the ethics counselor at the U.S. Immigration and Customs Enforcement Division about a potential conflict related to her employment negotiations with FedBid. In a December 2003 e-mail to the ethics counselor, she confirmed their discussion and stated that "[a]ny acquisitions that might be considered for FedBid soliciting will be handled by our senior contract specialist. . . [t]his will prevent the appearance that I'm recommending the use of FedBid."

Despite her assurances in the e-mail, Grimsley did participate personally and substantially in the handgun acquisition, a matter in which she knew FedBid had a financial interest. In addition to attending contract meetings and engaging in phone calls regarding the handgun acquisition contract, she directed her subordinate to include a requirement in the Request for Information that all prospective bidders register with and utilize FedBid during the procurement process. She gave this instruction during the time that she negotiated and accepted employment with FedBid.

On September 28, 2005, she pleaded guilty to violating 18 U.S.C. § 208, participating personally and substantially in a particular matter in which an organization with whom she was negotiating for employment had a financial interest known to her. On December 9, 2005, she was sentenced to 1 year of probation, 40 hours of community service, and a fine of \$1,000.

The District of Columbia handled the prosecution.