



United States
Office of Government Ethics
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September 14, 2012
LA-12-06

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Don W. Fox, General Counsel

SUBJECT: 2011 CONFLICT OF INTEREST PROSECUTION SURVEY

The Office of Government Ethics (OGE) 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, 2011 through December 31, 2011. Information on 12 new prosecutions by U.S. Attorneys' offices and the Public Integrity Section of the Department of Justice's Criminal Division was provided to OGE with the assistance of the Executive Office for United States Attorneys at the Department of Justice. Summaries of the prosecutions reported to OGE for past years can be found on its website at www.oge.gov under the topic of "Enforcement."

I. Updates on Previously Reported Cases

1. United States v. POGO

On March 21, 2012, the U.S. District Court for the District of Columbia ordered Robert A. Berman to disgorge the \$383,600 in payments he received from POGO. The U.S. District Court reserved a ruling on the government's fiduciary duty claim in an earlier proceeding because Berman had been found guilty of violating 18 U.S.C. § 209. After the DC Court of Appeals overturned the jury verdict against Berman, the District Court reviewed the government's breach of fiduciary duty claim. The U.S. District Court found that Berman had breached his fiduciary duty to his employer, the government, due to his undisputed violation of numerous federal regulations. Specifically, Berman's acceptance of an investment interest in POGO's litigation, without any disclosure, and accepting payment from POGO without full disclosure were viewed, collectively, as a breach of his fiduciary duty to the government.

II. 2011 Prosecutions

18 U.S.C. § 203

2. United States v. Jeffrey Williams

Jeffrey Williams was employed as a full-time attorney in the Office of General Counsel of the Consumer Products Safety Commission, an independent agency of the executive branch of the United States Government, between September 2005 and March 2008. Also during this

period, Williams operated a private law firm called The Williams Law Firm, PLLC. As part of his private practice, between May and August 2006, Williams assisted a foreign corporation in connection with its efforts to supply the U.S. Army with batteries for armored personnel carriers. Williams, on at least two occasions, represented the foreign corporation in meetings with U.S. Army officials while he held this dual position. As payment for his services, Williams earned a monthly retainer of \$8,000 per month from the foreign corporation and received reimbursement for various other expenses. In his OGE Form 450 for calendar year 2006, Williams willfully failed to report The Williams Law Firm as a source of income and did not report his position with the firm.

Williams was charged with violating 18 U.S.C. § 203(a)(1) and 18 U.S.C. § 1001. On February 14, 2011, Williams entered a plea of guilty pursuant to a plea agreement fully executed on December 4, 2011. Williams was sentenced to two years probation and a \$3,000 fine on June 13, 2011. An appeal has not been filed in this matter.

This matter was handled by the U.S. Attorney's Office for the District of Maryland.

18 U.S.C. § 207

3. Civil Settlement

The Government employee, between 1998 and April 2005, served as the Head of Enforcement for the Fort Worth Regional Office of the Securities and Exchange Commission (SEC). He was responsible for the review, oversight, and approval of matters under investigation. During his tenure, Stanford Financial Group made false material representations and omissions of material facts to numerous investors that caused significant loss to those investors.

In August 1998, the Government employee ordered an investigation into the activities of Stanford Financial Group to cease. Also, in December 2002, he declined a referral from his examination staff to investigate the activities of Stanford Financial Group. Again in 2003, he declined to open an investigation into the activities of Stanford Financial Group. Subsequently, he left the SEC for private practice in April 2005 and soon thereafter represented Stanford Financial Group in connection with SEC proceedings between September 29, 2006 and December 18, 2006. During this period, he made at least one communication with the SEC, with the intent to influence, though no confidential information was obtained from the SEC. Prior to the end of his employment, the Government employee was verbally informed that he was prohibited from representing Stanford Financial Group due to a permanent conflict of interest, but engaged in the aforementioned acts nevertheless.

The defendant was charged with violating 18 U.S.C. §§ 207(a)(1) and (2), and the parties entered into a civil settlement on December 15, 2011 that required him to pay \$50,000.

This matter was handled by the U.S. Attorney's Office for the Eastern District of Texas.

4. United States v. Douglas Hampton

Douglas Hampton was employed as the administrative assistant, a senior position, for a U.S. Senator from January 2007 to April 30, 2008. At some time during this term, Hampton signed a form acknowledging that he had completed training on the mandates of The Honest Leadership and Open Government Act of 2007, specifically the provisions which prohibit a Senate staffer from knowingly making any communication to or appearance before any Senator or Senate employee, on behalf of another person, with the intent to influence action in the Senator's or Senate employee's official capacity, for a period of one year after termination of employment from the Senate.

On May 1, 2008, Hampton ceased employment with the U.S. Senator. In or around May 2008, Hampton obtained employment as a government affairs consultant for an energy company and airline company. Both companies are headquartered in Las Vegas.

From May 1, 2008 to May 1, 2009, while Hampton was subject to the one-year restriction imposed by The Honest Leadership and Open Government Act of 2007, he knowingly and willfully made, with the intent to influence, communications with staffers of his former employer. On behalf of the airline company, Hampton sought assistance from the U.S. Senator and staffer with convincing the Department of Transportation (DOT) to change its position regarding a fuel surcharge pricing issue. Additionally, Hampton sought assistance from the U.S. Senator and staffer with resolving a possible DOT enforcement action against the airline company.

The energy company made its plans known, in or around 2006, to construct a new coal-fired power plant. The energy company was required by law to acquire an environmental impact assessment (EIS) from the Department of Interior before commencing construction, but the release of the EIS was delayed for two years. The delay prevented the energy company from initiating construction on the new plant. Subsequent to discovering that the executives of the energy company wanted the EIS released promptly, Hampton knowingly and willfully, with the intent to influence, made contact with staffers seeking assistance from the U.S. Senator and staffer with expediting the release of an EIS relating to the energy company's coal-fired power plant on or around December 12, 2008.

Hampton was charged with violating 18 U.S.C. § 207(e)(2) and 18 U.S.C. § 216(a)(2).

This matter was handled by the Department of Justice Criminal Division's Public Integrity Section and the U.S. Attorney's Office for the District of Columbia.

18 U.S.C. § 208

5. United States v. David Balgobin

David Balgobin, beginning in 2001, worked as a purchasing agent for the U.S. Department of Immigration and Customs Enforcement (ICE). In 2006, Balgobin obtained the position of mission support specialist for the Detention and Removal Office (DRO) in New

York, where he authorized the DRO to enter into contracts. Balgobin used his position to cause DRO to enter into contracts for (1) courier services, (2) janitorial and HVAC maintenance services, and (3) detainee clothing supply with companies operated by Balgobin's wife. Balgobin was also an authorized bank account signatory for these companies. The DRO was the sole client of each of these companies. Upon the discovery of Balgobin's relationship with these companies, he acknowledged that he prepared bids for the companies after reviewing quotes from other bidders. Balgobin conceded that he never disclosed his conflict of interest to ICE.

Balgobin was charged with one count of violating 18 U.S.C. § 208 and entered into a plea agreement on June 17, 2010. On January 14, 2011, Balgobin received a sentenced of six months' confinement and two years of supervised release. Further, he was ordered to remit a fine in the amount of \$5,000 and a \$100 mandatory special assessment. As part of his plea agreement, he further agreed to the civil forfeiture of \$150,000 and a residential property in Stroud Township, Pennsylvania. An appeal has not been filed in this matter.

This matter was handled by the U.S. Attorney's Office for the Southern District of New York.

6. United States v. Florence A. White Eagle

Florence A. White Eagle was the Agency Superintendent of Fort Peck, Bureau of Indian Affairs (BIA), U.S. Department of Interior. White Eagle was responsible for insuring that BIA employees, under her supervision, adhered to government regulations, and it was also her responsibility to work diligently to identify and correct deficiencies in BIA operations. During White Eagle's tenure, Toni Greybull served as the Administrative Officer for the BIA at Fort Peck Agency, where she exercised supervisory oversight over the BIA budget and Fort Peck Credit Program. Greybull reported directly to White Eagle.

The Fort Peck Credit Program provides short and long term loans to the Assiniboine and Sioux Tribes. White Eagle and Greybull agreed that they would request a loan in Greybull's mother's name, for their own personal use, in the amount of \$15,000. The monies were subsequently used to purchase furniture and to satisfy earlier debts to the Tribes. All other amounts were proceeds.

White Eagle executed a Promissory Note and Request for Modification with the Fort Peck Credit Program to secure the \$15,000 loan. The repayment terms of the loan were limited only to payroll deductions and with no apparent obligation to apply trust income to the debt. After Greybull's mother received notification of loans obtained in her name, White Eagle prepared and issued a statement to Greybull's mother, falsely informing her that the loans did not pertain to her and that they had been repaid.

Between February 1, 2008 and March 17, 2008, Greybull obtained written statements from three of her siblings designed to discredit the claims of their mother that fraudulent loans had been taken out in her name. Prior to this incident, two of Greybull's siblings had received excessive and unauthorized loans from the Fort Peck Credit Program. On March 12, 2008, White Eagle notified the Deputy Regional Director of the BIA that she was obtaining statements

in order to undermine Greybull's mother's allegations that fraudulent loans had been made in her name through the Fort Peck Credit Program. From March 14, 2008 to March 23, 2008, White Eagle forwarded statements from Greybull and her siblings to the Office of Inspector General regarding the complaint made about fraudulent loans created in the Fort Peck Credit Program.

White Eagle was charged with violating 18 U.S.C. §§ 208(a) and 216. She was also charged with engaging in a conspiracy to convert tribal credit program proceeds by federal employees (18 U.S.C. § 371), embezzlement and theft from an Indian tribal organization (18 U.S.C. § 1163), bribery (18 U.S.C. § 201(b)(2)), concealment of public corruption (18 U.S.C. § 1001(a)(1)), and misprision of a felony (18 U.S.C. § 4). After a trial, she was subsequently found guilty of all charges on November 8, 2011. She was sentenced to 51 months imprisonment and 48 months of supervised release. Further, she was ordered to remit restitution in the amount of \$3,810.42, which is subject to interest. No appeal has been filed in this matter.

This matter was handled by the U.S. Attorney's Office for the District of Montana.

7. United States v. Reginald Hayes

Reginald Hayes was the Director of Employee and Career Development at the U.S. Department of Housing and Urban Development (HUD). On March 10, 2007, Hayes incorporated a private business, Innovative Ventures Inc., in Virginia. In July or August of 2007, Hayes agreed to provide services to a company whose primary expertise was establishing call center and communication services ("the company"), while serving in his official capacity as a HUD official. Hayes had previously met the President/CEO of the company in 2004.

The company was seeking contracts from HUD. On or around September 28, 2007, Hayes forwarded, by email, a revised resume for an expert in fair and predatory lending practices relevant to a HUD contract the company was seeking. On or around September 29, 2007, HUD awarded the company a \$100,000 contract to review mortgage lending data.

On October 5, 2007, Hayes sent an invoice from Innovative Ventures Inc., in the amount of \$2,000, to the company requesting payment for "Federal Contracting Technical Assistant." Along with the invoice, Hayes stated that the invoice "represented cost proposal work and research regarding the current contract. I will send a separate invoice for the up-front cost of 2%." The company processed the invoice with no reference to HUD, and the President/CEO of the company ordered employees not to attach client references to invoices. On November 9, 2007, the company sent a check to Innovative Ventures Inc. for \$2,000, and Hayes deposited this check into Innovative's bank account. Hayes, however, contends that this payment was not for his work on the HUD contract.

At the request of the company's President/CEO, on January 17, 2008, Hayes, in his capacity as a HUD official, reviewed and edited a proposal for a contract the company was trying to acquire that was valued at approximately \$1.7 million. The company was awarded the contract for a Disaster Housing Assistance Program call center to address issues created by Hurricanes Katrina and Rita the following month. Hayes subsequently submitted three invoices, each in the amount of \$11,334, between May and November 2008, on behalf of Innovative

Ventures Inc. for “Federal Contracting Technical Assistant.” The company issued a check to Innovative Ventures Inc. after receiving each invoice, and Hayes deposited each of these checks into Innovative’s bank account. Hayes was paid 2% of the value of the contract awarded to the company.

Hayes was charged with violating 18 U.S.C. § 208(a) and 18 U.S.C. § 216(a)(1). He pled guilty pursuant to a plea agreement and was sentenced to 24 months of probation, in addition to 100 hours of community service. He was also ordered to pay a \$25 special assessment. As part of his plea agreement, Hayes further agreed to resign from the U.S. Department of Housing and Urban Development.

This matter was handled by the U.S. Attorney’s Office for the District of Columbia.

8. United States v. Michael Walker

Michael Walker, a U.S. Mint employee, was employed as an inventory management specialist in the Supply Department. He assumed ancillary employment working for KLH Enterprises, LLC (“KHL”) after his regular work hours. The CEO of KHL was Walker’s close friend, and Walker possessed a financial interest in KHL. The CEO of KLH provided Walker with loans, cash payments, travel reimbursements, and gifts both prior to and during his employment. In his capacity as a U.S. Mint employee, Walker defrauded the government between 1998 and 2006. Walker ordered hundreds of thousands of dollars worth of supplies, through both a government-issued credit card and a requisition process, from KHL on the behalf of the U.S. Mint and circumvented the competitive bidding process. Also, Walker failed to disclose, on his annual reporting forms, his employment with KHL, in addition to the cash payments, travel reimbursements, and gifts he received from KHL.

Absent a plea agreement, Walker pled guilty to five counts of violating 18 U.S.C. § 208 and 18 U.S.C. § 1001, in addition to charges of mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343), on February 24, 2011. Walker was sentenced to twelve months and one day confinement on October 24, 2011. An appeal has not been filed in this matter.

This matter was handled by the U.S. Attorney’s Office for the Eastern District of Pennsylvania.

18 U.S.C. § 209

9. United States v. Nathaniel Anderson

Nathaniel Anderson was employed by the District of Columbia as a Metropolitan Police Department (MPD) officer. On or around November 25, 2006, a liquor store located on Connecticut Avenue, NW, was robbed after closing for the night. In December 2006, Anderson and two other officers made an agreement with the liquor store owners to provide protection for the liquor store in exchange for \$25 cash per night. From in or around December 2006 to in or around May 2009, Anderson and the other officers took turns providing protection to the liquor store at closing time, while on duty and in uniform. Anderson and the other officers drove their

marked MPD vehicles around the liquor store during closing time in an effort to provide protection for the liquor store. Anderson received remuneration of \$25 per night for each night he worked. For his services, Anderson received a total of approximately \$4,000.

Anderson was charged with violating 18 U.S.C. § 209 and 18 U.S.C. § 216(a)(1). He was sentenced to 36 months of probation and 100 hours of community service.

This matter was handled by the U.S. Attorney's Office for the District of Columbia.

10. United States v. Charles A. White

Charles White was a Senior Management and Program Analyst with the grants office of the District of Columbia Public Schools. He was responsible for soliciting bids for a renovation project at J.O. Wilson Elementary School. During his employment with District of Columbia Public schools, he performed work for an outside child care company owned by a friend of his, who also owned a company named Foundations Inc. White did not disclose this ancillary employment to the government. Even though White did not receive any remuneration for the services he performed, he performed services with the expectation that he would receive payment once the outside company became solvent enough to pay him.

White assisted Foundations Inc. with securing a contract for renovation services at J.O. Wilson Elementary by first making his friend aware of the project and then by subsequently selecting the bid placed by Foundations Inc. Foundations Inc. was awarded the contract for the renovation project. In August 2008, White received a check in the amount of \$20,300 from his friend's wife, which he believed was compensation for selecting Foundations Inc. for the renovation project and for work previously completed.

White was charged with violating 18 U.S.C. § 209. In 2011, he pled guilty to one count of supplementation of government salary. He was sentenced to 24 months of probation.

This matter was handled by the U.S. Attorney's Office for the District of Columbia.

18 U.S.C. § 1001

11. United States v. Robert Barry Adcock

The defendant, Robert Barry Adcock, served as the contracting officer's representative on a waste removal contract for the National Security Agency (NSA). Adcock arranged to receive payments from "SRK," a metal recycling business belonging to his father, in exchange for directing NSA's metal recycling business to the recycler. Adcock received approximately \$109,000 from this agreement, both in cash and by check. Adcock did not report these payments on his OGE Form 450.

Adcock accepted a plea deal and pled guilty to violating 18 U.S.C. § 1001 and conspiracy to defraud the United States government (18 U.S.C. § 371) on December 21, 2010. On June 3, 2011, Adcock was sentenced to eighteen months in custody for each count, three years of

supervised release, and 100 hours of community service. A \$15,000 criminal fine was also imposed and restitution was paid by a different party. An appeal has not been filed in this matter.

This matter was handled by the U.S. Attorney's Office for the District of Maryland.

12. United States v. Win Aung

Win Aung was an employee of the National Science Foundation (NSF) for more than 35 years, until his resignation on September 1, 2010. In or about 2000, Aung founded and began operating the International Network for Engineering Education and Research (iNEER). iNEER sponsored international conferences pertaining to engineering education, published and sold books, and solicited and received donations from corporate sponsors.

Between 2002 and 2007, iNEER received income totaling \$800,000. During the same period, Aung wrote checks to himself from iNEER's bank account amounting to \$388,000. Aung used these funds to pay for family vacations, gifts, a gym membership, and daily parking at a garage located near the NSF, in addition to other items. On his public financial disclosure form for calendar year 2007, Aung falsely characterized \$96,000 in payments from iNEER as reimbursements for office supplies and expenses and other related expenses. On the form, Aung failed to report that he had received compensation in excess of \$5,000 for the calendar year, in spite of having knowledge of the fact that he had received more than \$5,000.

Pursuant to a fully executed plea agreement, Aung entered his plea on January 25, 2011 and pled guilty to violating 18 U.S.C. § 1001, in addition to a tax charge. On May 17, 2011, Aung was sentenced to two years of probation and was ordered to remit a fine of \$100,000. An appeal has not been filed in this matter.

This matter was handled by the U.S. Attorney's Office for the District of Maryland.

III. Offenses Involving the Misuse of Government Property

13. United States v. Thomas Drake

Thomas A. Drake, a former National Security Agency (NSA) Manager, was employed by the NSA from August 2001 through April 2008. Due to his position, Drake was granted access to classified computer systems, including NSAnet, which is NSA's internal intranet. During the period of February 2006 through March 2007, Drake accessed NSAnet and obtained NSA information, which he then provided to an individual who had no authority to receive it. Drake was informed, after receiving various security briefings regarding how to handle NSA information, that NSA's classified computer systems were to be used for official use only. Therefore, Drake had knowledge beforehand that sharing information located on NSAnet with unauthorized persons was not in conformity with the NSA's rules.

Drake was initially charged with violating the Espionage Act, but accepted a plea to a lesser offense after declining two prior plea offers. On June 10, 2011, Drake pled guilty to the

misdemeanor offense of intentionally exceeding the authorized use of a computer (18 U.S.C. § 1030). He was sentenced to one year of probation and 240 hours of community service.

This matter was handled by the Department of Justice Criminal Division's Public Integrity Section and the U.S. Attorney's Office for the District of Maryland.