



United States Department of State

Washington, D.C. 20520

September 3, 2013

Waiver Pursuant to Section 3 of Executive Order 13490

After consulting with the Counsel to the President, I hereby grant a waiver of the requirements of paragraph 2 of the Ethics Pledge to Paul D. Frantz with respect to the Washington Post Company and its subsidiaries. Before his service as Assistant Secretary for Public Affairs at the U.S. Department of State, Mr. Frantz was the National Security Editor of the Washington Post, which was then published by The Washington Post Company.

Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," Section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 2 of the Ethics Pledge provides that a covered appointee may not for a period of two years from the date of his appointment participate in any particular matter involving specific parties that is directly and substantially related to his former employer. For purposes of applying this restriction, the term "particular matter" has been interpreted to include "any meeting or other communication relating to the performance of one's duties with a former employer." DO-09-011, OGE Memorandum to Designated Agency Ethics Officials, March 26, 2009.

A waiver of the restriction contained in paragraph 2 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purposes of the restriction or that it is in the public interest to grant the waiver. E.O. 13490, Sec. 3(a). By memorandum dated February 23, 2009, the Office of Government Ethics announced that the Designated Agency Ethics Official of each executive agency was the most appropriate designee to grant such waivers, after consultation with the Counsel to the President. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics Officials, February 23, 2009.

I have determined that the granting of this waiver is in the public interest. In his capacity as Assistant Secretary for Public Affairs, it is expected that Mr. Frantz will be an important point of contact between media outlets and the Department of State. It is in the public interest for Mr. Frantz to be able to communicate readily with a broad variety of news outlets, without preferential access being provided to outlets that were not his former employer. This will not only increase efficiency but also promote equal treatment of members of the press. It is also in the public interest for members of the public to have access to information about the work of the Department, and many Americans receive news through the Washington Post or through media outlets owned or controlled by The Washington Post Company.

Delegating these duties would inhibit Mr. Frantz from being able to communicate in high-level discussions regarding national security and other issues with the press and within his bureau. Given Mr. Frantz' background in national security, he is uniquely qualified for this position

position where it is incumbent that media and government officials have the opportunity to freely engage on these complex issues. The Office of Government Ethics, in discussing the Lobbyist Gift Ban, has provided similar guidance about unnecessary barriers to interaction between appointees and journalists and the unique constitutional role of the press in gathering and disseminating information. See DO-09-007, OGE Memorandum to Designated Agency Ethics Officials, February 11, 2009.

In accordance with 5 C.F.R. § 2635.502(d), I have also determined that, with respect to particular matters in which Mr. Frantz would participate personally and substantially that might involve the Washington Post or the Washington Post Company, the interests of the Government in his participation outweigh the concern that a reasonable person may question his impartiality or the integrity of the Department's programs and operations.

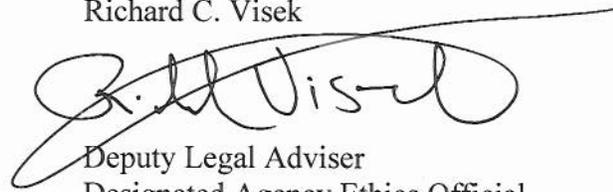
Reasons include:

- Mr. Frantz's continued relationship with the Washington Post and the Washington Post Company will be minimal during his employment. Although he will continue to participate in a 401(k) and a defined benefit pension plan, the benefits provided are pursuant to a contractual obligation and were set long before Mr. Frantz's employment with the Department. They constitute a small percentage of Mr. Frantz's overall wealth;
- In many cases, the decisions made by the Assistant Secretary for Public Affairs impact all media outlets rather than one particular media outlet, so the direct impact of a potential decision on the Washington Post or the Washington Post Company is reduced;
- Many decisions about media access, interviews, and public messages of the Department are made in conjunction with other high-level Department officials, including the Principal Deputy Assistant Secretary and others – so, the likelihood that the Assistant Secretary's sole discretion would be the determining factor is also reduced;
- Decisions about public access to information and Department communications are sensitive and often require high-level engagement: if the Assistant Secretary was not able to participate in these discussions and policy determinations, it would have a negative impact on the Department;
- Mr. Frantz' ability to work on matters involving the Washington Post or the Washington Post Company is of particular importance to the Public Affairs Bureau and to the Department due to his expertise in national security and in journalism and the media industry. It would be difficult to assign another employee to this matter and a detriment to the Department to lose Mr. Frantz' expertise on these issues.

Thus, I grant this waiver with the understanding that Mr. Frantz will comply with the remaining provisions of the Ethics Pledge and with all preexisting government ethics rules. Pursuant to the above determination, this waiver also serves as an authorization pursuant to 5

C.F.R. § 2635.502(d) to participate in particular matters involving the Washington Post or the Washington Post Company as a party.

Richard C. Visek

A handwritten signature in black ink, appearing to read "R. C. Visek", with a long horizontal flourish extending to the right.

Deputy Legal Adviser  
Designated Agency Ethics Official  
U.S. Department of State