



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

LA-14-07
November 7, 2014

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Walter M. Shaub, Jr.
Director

SUBJECT: 2013 Conflict of Interest Prosecution Survey

The U.S. 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) and other related statutes for the period January 1, 2013 through December 31, 2013. Information on eight new prosecutions by the 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](#)."

2013 Prosecutions

18 U.S.C. § 201

1. United States v. Hugo Earl White

Defendant Hugo White was a government contracting officer working at Fort Bliss, a United States Army post headquartered in El Paso, Texas. In this position, Mr. White was responsible for awarding sub-contracting work in the El Paso area to companies qualified under the Small Business Administration's 8(a) Business Development Program. Instead of independently performing his job duties, Mr. White passed off certain contracting responsibilities to his friend, co-defendant John A. Villela. Mr. Villela would charge companies a consulting fee, claiming that he had an inside track on securing work at Fort Bliss. Various companies paid Mr. Villela for his services, and Mr. Villela, through Mr. White, secured the companies contracts and work at Fort Bliss. The indictment against the defendants stated that

Mr. Villela compensated Mr. White for his participation in the scheme with a cell phone, an automobile, and an air conditioning unit for his house.

Villela and White were charged with various criminal offenses, including violation of 18 U.S.C. § 201(c)(1).

On October 16, 2013, Mr. White pleaded guilty to one count of violating 18 U.S.C. § 201(c)(1), and on April 17, 2014 the court sentenced him to 15 months in prison, one year of supervised release and a \$2,000 fine. Mr. Villela's trial is currently scheduled on the court's calendar.

This case was handled by the United States Attorney's Office for the Western District of Texas, El Paso Division.

18 U.S.C. § 205

2. United States v. Jeanne L. Gavin

Defendant Jeanne L. Gavin, an Internal Revenue Service ("IRS") employee for over 30 years, was a Supervisory Internal Revenue Agent and Group Manager in the IRS office in Baton Rouge, Louisiana. As part of her duties, she supervised approximately ten revenue agents responsible for determining federal tax liability and collecting taxes owed by individual, partnership and corporate taxpayers. Ms. Gavin's work team was primarily responsible for auditing small business and self-employed taxpayers in Baton Rouge. As a manager, Ms. Gavin was involved in identifying taxpayers to be audited, assigning the auditor and overseeing the audit.

During her time of employment at the IRS, Ms. Gavin established a limited liability corporation called Too Cool Enterprises LLC, which she used to operate a private tax and accounting business. As part of this venture, Ms. Gavin performed tax and accounting services for a fee, including the preparation of IRS tax forms and representation of small businesses and self-employed taxpayers in the Baton Rouge area before the IRS. Ms. Gavin earned over \$70,000 in cash and other payments through her venture.

IRS rules restricted Ms. Gavin – and all IRS employees – from engaging in outside employment without first obtaining a conflict of interest waiver from the IRS. Although Ms. Gavin was familiar with this requirement and the process for obtaining a waiver, she knowingly failed to seek or obtain the waiver for her tax and accounting business. Acting without a waiver from the IRS, she privately represented taxpayers from the Baton Rouge area in connection with their federal taxes from 2005 to 2009, preparing tax returns, appearing before IRS officials on behalf of her clients and otherwise advocating for her clients in connection with their federal tax liability.

In connection with her private business venture, Ms. Gavin also accessed and obtained information from an internal IRS computer system known as the Integrated Data Retrieval

System (“IDRS”), which contained taxpayer account information such as IRS activity, information provided by taxpayers and information obtained from other federal, state and local government agencies. Ms. Gavin, like other IRS employees, was only authorized to access IDRS to carry out her official duties. Notwithstanding this restriction, Ms. Gavin accessed IDRS material on over 2,000 occasions through unsuspecting subordinate IRS coworkers who would access and obtain the information at her direction, based on representations that the information was needed for an official purpose.

On April 29, 2013, the date of Ms. Gavin’s arraignment, a plea agreement was entered into the record. Under the plea agreement, Ms. Gavin pleaded guilty to one count of conflict of interest, in violation of 18 U.S.C. § 205(a)(2) and 18 U.S.C. § 216(a)(1), and one count of exceeding authorized access to a government computer, in violation of 18 U.S.C. § 1030(a)(2)(B) and 1030(c)(2)(A). She was sentenced on September 12, 2013 to 12 months’ imprisonment and one year supervised release.

This prosecution was handled by the United States Attorney’s Office for the Middle District of Louisiana. For a copy of the Information filed in connection with this case, *see* [https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Gavin+Information+\(2013\)](https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Gavin+Information+(2013)).

18 U.S.C. § 207

3. United States v. Kenneth W. Kaiser

Defendant Kenneth Kaiser served as an employee of the Federal Bureau of Investigation for 27 years, including as the Special Agent in Charge of the FBI Boston office from April 2003 to December 2006, and as Assistant Director of the FBI’s Inspection Division and then the Criminal Investigative Division in Washington D.C. from January 2007 to July 2009. Mr. Kaiser was considered a “senior employee” for purposes of the post-employment restrictions of 18 U.S.C. § 207.

On July 3, 2009, the same day he retired from the FBI, Mr. Kaiser was hired as a consultant by LocatePlus Holding Corporation (“LocatePlus”) to handle an internal investigation regarding corporate wrongdoing by the company’s former Chief Executive Officer and Chief Financial Officer and to help generate government sales for the company’s products and services. Mr. Kaiser became a full-time employee of LocatePlus in March 2010, serving as its Director of Government Sales, and in June 2010 he was designated LocatePlus’ Executive Vice President in Charge of Risk Management.

Within one month of his retirement from the FBI, Mr. Kaiser began having electronic, telephonic and in-person contacts with FBI employees regarding the then-ongoing FBI investigation involving LocatePlus and the actions of its former executives. In these communications, Mr. Kaiser sought to expedite the FBI’s investigation and encouraged the FBI to investigate potential wrongdoing by a third party; he also asked FBI agents to schedule a meeting with the Assistant United States Attorney involved with the case. Within the first year

after he left government service, Mr. Kaiser also initiated contact with FBI employees in an effort to gauge the FBI's interest in LocatePlus' products and services and generate sales to the FBI.

Unrelated to his activities on behalf of LocatePlus, in August 2009 Mr. Kaiser was hired by a corporate executive who had received a threatening letter in the mail. Working on behalf of the individual, Mr. Kaiser engaged in additional communications with the FBI Boston field office, requesting that the FBI investigate the threat.

On October 3, 2013, Mr. Kaiser pleaded guilty to a misdemeanor charge of making prohibited post-employment contacts in violation of 18 U.S.C. § 207(c). He was sentenced on December 17, 2013 and was ordered to pay a fine of \$10,000.

The handling of this case was supervised by the United States Attorney's Office for the District of Connecticut (the United States Attorney's Office for the District of Massachusetts was recused from the case). For a copy of the Information filed in connection with this case, see [https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Kaiser+Information+\(2013\)](https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Kaiser+Information+(2013)).

18 U.S.C. §§ 203 and 208

4. United States v. [name withheld]

Five years before the defendant retired from a component of the Department of Defense, he was assigned to a headquarters office where he had responsibilities relating to information technology and management. The defendant's duties included writing requirements for information technology services that ultimately were used to award government contracts.

The defendant's spouse owned a company, Spouse Co., that served primarily as a subcontractor on government contracts providing services relating to information technology and management. Spouse Co. was initially started with the plan for the defendant to assume a leadership role following his retirement.

While the defendant was still working for the government, he prepared and submitted a proposal to the headquarters contracting center on behalf of Spouse Co., and the contract was subsequently awarded to Spouse Co. The Government alleged that the defendant's position in the headquarters office allowed the defendant to influence the award of the contract.

Also during the period before the defendant retired, he worked daily with Person A, a contractor who provided support services to the headquarters office in which the defendant worked. Person A formed an information technology business, New Company, in the years prior to the defendant's retirement. The defendant first started talking with Person A about going into business with New Company approximately two months prior to the defendant's retirement. The month before the defendant retired, he became business partners with Person A and acquired an ownership interest in New Company.

In the year prior to his retirement, the defendant prepared a government cost estimate for an information technology contract that was awarded to a third party contractor, and also forwarded a performance work statement that required the third party contractor to hire New Company to perform work on the contract. The defendant also admitted to preparing a bid or proposal package for New Company on several subcontracts that were awarded to New Company by prime contractors doing business with the headquarters office in which the defendant worked.

Beginning approximately one year after the defendant's retirement, the contracts and employees of Spouse Co., the company of the defendant's spouse, were transferred to New Company, the contracting company in which defendant held an ownership interest. Within approximately another year, New Company had absorbed all of Spouse Co.'s employees and business.

The Government maintained that the defendant violated 18 U.S.C. §§ 203 and 208. The defendant ultimately entered into a civil settlement with the Government pursuant to which the defendant agreed to pay to the United States \$200,000. The Government released him from all civil monetary claims based on alleged violations of 18 U.S.C. §§ 203 and 208 involving the contract and/or subcontracts awarded to the third party contractor and Spouse Co.

18 U.S.C. § 208

5. United States v. Harold Broek

Retired Lieutenant Colonel Harold Broek served in Iraq as Chief of Contracting at the Army's Regional Contracting Center in Tikrit, Iraq. In this role, Lt. Col. Broek became friendly with Rohit Goel, the principal of Avalon International Limited ("Avalon"), a government contractor. The two men entered into an agreement whereby Mr. Goel agreed to funnel certain government contracts awarded to Avalon to a company set up by Lt. Col. Broek. To facilitate this plan, Lt. Col. Broek caused his family in Washington state to set up a company called "Global Motion" (to be staffed with members of his immediate family) for the sole purpose of contracting with Avalon. Under the arrangement, Mr. Goel agreed to direct certain government contracts to Global Motion, to pay Global Motion 30% of the profit on such contract and to front necessary funds or finance any contract expenditures the company would incur in purchasing goods to perform under the contracts.

Before leaving Iraq and returning to the United States, Lt. Col. Broek participated personally and substantially in awarding U.S. government contracts to Avalon. Specifically, in July 2007, he signed a waiver shortening the deadline on a contract for the purchase and delivery of "line of sight radios," thereby decreasing the chances that Avalon's competitors might win the contract. The government ultimately awarded the contract (valued at \$162,151) to Avalon, which, in turn, contracted with Global Motion to fill the contract. Global Motion profited from this contract in the amount of \$29,871.90. In tax years 2007 and 2008, Global Motion made a total profit of \$52,400.16.

On July 23, 2013, Lt. Col. Broek pleaded guilty to a violation of 18 U.S.C. § 208. He was sentenced on October 15, 2013 to three years' probation with standard and special conditions, including home detention with curfew for 60 days and 40 hours of community service; restitution in the amount of \$52,400.16; and a \$100 special assessment.

This case was handled by the United States Attorney's Office for the Western District of Washington. For a copy of the Information, see [https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Broek+Information+\(2013\)](https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Broek+Information+(2013)) and for a copy of the Plea Agreement from this case, see [https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Broek+-+Plea+\(2013\)](https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Broek+-+Plea+(2013)).

6. Civil Settlement

The defendant worked for the National Aeronautics and Space Administration ("NASA") for more than 40 years, most recently with a directorate at Langley Research Center. He began working for Company A following his January 2007 retirement from NASA.

While still employed at NASA, the defendant sought a consultant position with Company A, and also inappropriately prepared "possible or suggested tasks" for an employee of the Langley Research Center who was in a position to influence the award of contracts to Company A. The tasks also related specifically to projects that involved the defendant and for which he believed he could ultimately serve as a consultant.

The Government maintained that the defendant violated 18 U.S.C. § 208 when he participated in an official matter that had a direct and predictable effect on the financial interests of Company A, an organization with which he was negotiating employment while still employed by the government at the Langley Research Center. Pursuant to a civil settlement agreement signed by the parties on October 10, 2012, the defendant paid the government \$15,000, and the government released him from all civil monetary claims based on alleged violations of 18 U.S.C. § 208 involving contracts and/or subcontracts awarded to Company A during the period 2006 to 2012.

This case was handled by the United States Attorney's Office for the Eastern District of Virginia.

7. United States v. Edward J. Mango

Defendant Edward Mango was a Senior Executive Service employee who worked for the National Aeronautics and Space Administration ("NASA") as the manager of the commercial crew program ("CCP") at Kennedy Space Center ("KSC") in Brevard County, Florida. NASA assigned an employee ("Employee"), who was paid at a GS-13 level, to assist the CCP program. Mr. Mango did not directly supervise Employee, but Employee worked for Mr. Mango and interacted with him regularly.

In December 2012, state authorities arrested Employee. In order to loan Employee money to retain legal counsel for the state charges and pay for other expenses, Mr. Mango took an advance on his credit card and provided the cash to Employee. Employee agreed to repay Mr. Mango the full amount of the loan, including any accrued credit card interest. Mr. Mango and Employee never entered into a written agreement regarding the loan.

As a result of additional state charges, Employee was subjected to the NASA employee disciplinary process. Using official government e-mail, telephones and other government property, Mr. Mango intervened on Employee's behalf and improperly exerted his influence as an SES employee to try to mitigate the disciplinary punishment that NASA would impose on Employee. As part of this effort, Mr. Mango contacted several employees, including human resources employees, the KSC human resources director, the KSC center director, the KSC protective services deputy chief, and other NASA employees in Washington, D.C. Mr. Mango urged that Employee's punishment be mitigated so that it would not have as dire a financial impact on her finances, given that Employee was a single mother. At no point in these communications did Mr. Mango disclose that he had a financial relationship with Employee.

Mr. Mango's activities ultimately mitigated the punishment that Employee received. Several of the NASA employees that Mr. Mango lobbied later stated that they were unaware of Mr. Mango's financial relationship with Employee and that, had they been aware of such facts, they would not have discussed Employee's case with him.

On November 13, 2013, Mr. Mango and the Government entered into a plea agreement pursuant to which he agreed to plead guilty to a felony violation of 18 U.S.C. § 208(a), and Mr. Mango pleaded guilty on December 2, 2013. He was sentenced on March 3, 2014 to pay a \$2,000 fine.

This case was investigated by the NASA Office of Inspector General and was prosecuted by the United States Attorney's Office for the Middle District of Florida. For a copy of the plea agreement, see [https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Mango+-+Plea+\(2013\)](https://www.oge.gov/Web/OGE.nsf/Resources/U.S.+v.+Mango+-+Plea+(2013)).

18 U.S.C. § 209

8. United States v. Susan Pratt

Defendant Susan Pratt was a Supervisory Traffic Management Specialist in the Relocation Services Section of the Bureau of Prisons ("BOP"). In this role, Ms. Pratt was responsible for various aspects of the selection, reimbursement and evaluation of private carriers employed by BOP to transport the household goods of BOP employees who were reassigned to new duty stations. Ms. Pratt provided relocating employees with a list of approved carriers, and after an employee made a selection, Ms. Pratt referred the move to the designated carrier. In her role, she had the ability to steer the move of relocating employees to certain agents of carriers chosen by relocating employees. Selected agents were able to charge a 10% booking fee and to provide and charge fees for all other moving-related services, including packing, hauling, storage

and accessorial services. Ms. Pratt later signed the government bills of lading and approved all amendments to the bills of lading.

In the course of performing her duties, Ms. Pratt accepted items of value from certain moving agents that did business with BOP's Relocation Services. The indictment filed against Ms. Pratt identified six specific occasions on which she allegedly received or solicited something of value from carrier or a carrier's agent and employees; such occasions included Ms. Pratt's acceptance of gift cards (in the amounts of \$1,007 and \$790) and salon services from local moving agents. Ms. Pratt also received two free moves of household goods in December 2007 and May 2010 (one for her and one for a friend) from two moving companies.

Ms. Pratt was initially charged with multiple counts of violating 18 U.S.C. § 201 and 18 U.S.C. § 209(a). A day after her trial began in federal court, on April 23, 2013, Ms. Pratt entered into a plea agreement pursuant to which she pleaded guilty to a misdemeanor violation of 18 U.S.C. § 209(a). She was sentenced on June 25, 2013 to 18 months' probation, a \$25 special assessment and a \$1,500 criminal fine.

This case was handled by the United States Attorney's Office for the District of Maryland. For the District Court's opinion denying the defendant's motion to dismiss the indictment and discussing 18 U.S.C. § 209, *see* <http://www.mdd.uscourts.gov/Opinions/Opinions/Pratt%20MTD%20Indictment.pdf>.