



United States
Office of Government Ethics
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September 7, 2005
DO-05-014

MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors
General

FROM: Marilyn L. Glynn
General Counsel

SUBJECT: 2004 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, 2004, through December 31, 2004. Information on six 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."

2004 CONFLICT OF INTEREST PROSECUTION SURVEY

[Case 1] [The Government employee] was the Principal Deputy Assistant Secretary of the Air Force for Acquisition and Management from 1993 until her retirement in November 2002. She was responsible for supervising, directing, and overseeing the management of the U.S. Air Force acquisition programs and providing advice on acquisition matters. One of her responsibilities in 2002 was overseeing the Air Force negotiations with [Company A] to lease 100 [tanker aircraft]. The total value of the contract was projected to be approximately 20 billion dollars.

In the summer of 2002, [the Government employee] decided to retire from the Air Force and informed her immediate supervisor of her intention. In August 2002, she disqualified herself from working on Air Force matters involving [Company B] and [Company C] so that she would be able to explore employment opportunities with them.

Her daughter, a [Company A] employee, informed a senior executive at the company of her mother's impending retirement. In a series of encrypted e-mails, the daughter encouraged the executive to recruit her mother. On or about October 5, 2002, the senior [Company A] executive contacted [the Government employee] by telephone to schedule a meeting between them to further the employment discussions that had occurred in earlier e-mails. They agreed to meet on October 17 in Orlando, Florida where [the Government employee] would be attending a conference. The senior executive met with her in a private conference room at the airport. [The Government employee] told the senior executive that she had not disqualified herself from matters involving [Company A]. He elected to continue the meeting and discuss the terms of employment. Among the things they discussed were her salary, the amount of a signing bonus, and her start date. He offered her a position at [Company A] as a Deputy in the Missile Defense System in Washington, DC. At the conclusion of the meeting, the senior executive told her, "This meeting really didn't take place." They agreed to keep the meeting to themselves.

The following day, the senior executive informed other [Company A] executives of the "non-meeting" in an e-mail. On November 4, 2002 he contacted [the Government employee] and suggested he meet with her on the following day in her Pentagon

office. On November 5, [the Government employee] submitted a letter to the Air Force stating that she intended to enter into employment discussions with [Company A] and was disqualifying herself from any matters involving [that company]. Between September 23, 2002 and November 5, 2002, [the Government employee] had continued to participate personally and substantially as a Government employee on the [Company A] tanker lease. For example, on October 22, 2002 [the Government employee] participated in a meeting at the Pentagon with Air Force staff and an official of the Office of Management and Budget regarding the terms and conditions of the tanker lease with [Company A].

On November 5, the same day that she told the Air Force she intended to discuss future employment with [Company A], [the Government employee] and the senior [Company A] executive met. They discussed a job and terms of employment that were essentially the same as those discussed on October 17. On November 14, [Company A] sent a formal job offer to [the Government employee]'s home. On November 15, she retired from Government service. She formally accepted the [job with Company A] on December 16.

Several months later press reports raised questions about the tanker contract and [Company A's] hiring of [the Government employee]. [Company A] retained outside counsel to investigate the hiring. Prior to being interviewed by the outside counsel, she and the senior executive exchanged e-mails in which they agreed that the first discussion of potential employment occurred on November 5, 2002. When [the Government employee] was interviewed by the outside counsel in July 2003, she did not reveal the October 17, 2002 employment discussion with the senior executive. Instead, she claimed that her first employment discussions occurred on November 5, 2002.

By October 2003, [the Government employee] knew that she was the subject of a DoD IG investigation. The [Company A] senior executive encouraged her to maintain her story, telling her that any conflicting e-mails reflected "pre-planning" efforts by [Company A] to make an employment offer. [The Government employee] was interviewed again by outside counsel for [Company A] on November 11 and 17, 2003. In that interview she revealed her pre-November 2002 employment negotiations with the [Company A] senior executive.

[The Government employee] pleaded guilty on April 20, 2004 to one count of violating 18 U.S.C. § 371—conspiring to violate

18 U.S.C. § 208(a), participating personally and substantially in a particular matter in which a company with which she was negotiating employment had a financial interest. On October 1, 2004, she was sentenced to nine months confinement, three years supervised release with seven months in community confinement and 150 hours community service, a \$100 special assessment, and a \$5,000 fine.

The Eastern District of Virginia handled the prosecution.

[Case 2] [The Government employee] was an employee of the U.S. General Services Administration (GSA) as a contract specialist from December 1997 to November 2002. She was responsible for overseeing the proposal, award, administration, modification, renewal, and termination of certain contracts between the U.S. and specified private companies authorized to sell products and services to offices of the Federal Government at previously negotiated prices.

In or about September 2000, [she] was assigned as the designated GSA contract specialist for the [Company D] contract. [Company D] made computer technology professionals available to the Federal Government on a contract basis. The contract was for five years with an expiration date of April 2003. Between September 2000 and November 2002, [the Government employee] personally and substantially participated in the administration and modification of the [Company D] contract, including receiving, reviewing, negotiating, and ultimately recommending approval of an important contract modification proposed by [Company D] in August 2002.

[The Government employee] terminated her employment with GSA in November 2002 and began working for [Company D] in February 2003. Between March and August 2003 [she], on behalf of [Company D], knowingly communicated with GSA multiple times with the intent to influence GSA to extend the term of the [the company's] contract and later, to award [it] a new contract to sell its services to the Federal Government.

On April 7, 2004, [the Government employee] pleaded guilty to one count of violating 18 U.S.C. § 207(a)(1), one of the post-Government employment communication restrictions. On July 23, 2004, she was sentenced to two years supervised probation, substance abuse treatment, and a \$25.00 special assessment.

The Eastern District of Virginia handled the prosecution.

[Case 3] [The Government employee] was employed by the District of Columbia Department of Public Works (DPW) within DPW's Vehicle Immobilization Branch. As a Vehicle Immobilization Branch employee, [he] was periodically responsible for determining whether vehicles throughout the District of Columbia had unpaid parking fines substantial enough to warrant their immobilization and, if so, locking a mechanical device known as a "boot" to a tire of the eligible vehicle so as to prevent the vehicle from being moved.

On or about July 15, 2002, [the Government employee] solicited and accepted \$400 in cash in exchange for removing a lawfully-attached boot on a vehicle parked in an alley.

[The Government employee] pleaded guilty to one count of violating 18 U.S.C. § 209, illegal supplementation of salary, on April 28, 2004. On September 9, 2004, he was sentenced to three years probation, six months home detention, 100 hours community service, a \$100 special assessment, and \$200 restitution.

The U.S. Attorney's Office of the District of Columbia handled the prosecution.

[Case 4] [The Government employee] was employed as a Senior Development Officer, [in a division of the] Broadcasting Board of Governors (BBG), International Broadcasting Bureau (IBB), an independent agency affiliated with the United States Department of State. His position description described his major duties as follows: "Develops innovative and pioneering projects that provide additional funds to further programming initiatives. The position involves negotiating with other Government agencies, foundations and foreign representatives for grants, underwriting, and other forms of support."

[The Government employee] and his wife were principals of an entity called [Company E]. [Company E's] 2000, 2001, and 2002 Annual Reports, as submitted to the Commonwealth of Virginia State Corporation Commission, identified [the Government employee] as a Director of [Company E] and his wife as President and CEO for those three years. In these Annual Reports, the principal office address of [Company E] was the home address of [the Government employee] and his wife.

On or about June 2002, IBB was in the process of determining what entity should be awarded an \$85,000 grant to perform training of affiliate radio stations in Uganda. During this time, [the Government employee] recommended that [Company F] be awarded the grant. [The Government employee] was a friend of the owner of [Company F]. On September 4, 2002, BBG and [Company F] signed a cooperative agreement whereby BBG would pay [Company F] \$85,000. The agreement was eventually amended to \$92,000. On or about October 21, 2002, [Company F] subcontracted with [Company E] to perform services under the cooperative agreement. In particular, [Company E] was retained to put on training workshops for Voice of America (VOA) affiliate radio stations in Uganda.

[The Government employee] attended meetings with [Company F] which involved discussions of the role of [Company E] and [the Government employee's] wife. The first of these meetings was September 13, 2002 (9 days after the BBG-[Company F] grant agreement and prior to the October 21, 2002 agreement between [Company F] and [Company E]). The second was on January 21, 2003. The third was on April 29, 2003, after a "stop work" order had been issued by IBB to [Company F]. On December 17, 2002 and April 11, 2003, [Company E] received payment from [Company F] for \$5,574.35 and \$9,489.86, respectively. These two checks were deposited in [a Company E] account.

[Company E] was responsible for planning and holding a workshop for media training in Uganda. [The Government employee] helped prepare the agenda for the training workshop. The draft of the training conference program and the biographies of the presenters, sent via e-mail attachment from [the Government employee's] wife to others, included several presentations at which [the Government employee] was to speak the week of March 24, 2003. On or about March 3, 2003, [the Government employee] prepared and caused to be prepared travel authorization forms for official Government travel to Uganda and other destinations in Africa for March 15 through April 6, 2003. [He] represented as the reason for the travel that he would be making presentations at a training workshop for VOA affiliate stations. He also represented to other IBB personnel that he was to participate in the workshops as part of his "official duties." He did not disclose his association with [Company E].

On January 14, 2004, [the Government employee] pleaded guilty to one count of violating 18 U.S.C. § 208, participating personally and substantially as a Government employee in a particular matter in which, to his knowledge, he, his wife, and an organization ([Company E]) in which he served as a director had a financial interest. On May 6, 2004, he was sentenced to three years probation, 50 hours community service, a \$25 special assessment, a \$1,000 fine, and \$15,064.21 in restitution.

The U.S. Attorney's Office of the District of Columbia handled the prosecution.

[Case 5] From 1998 until 2004 [the Government employee] was employed by the United States Department of Commerce, Office of Public Affairs, as a producer/director. His duties included recommending the award of Department of Commerce contracts in connection with the production of a video presentation about Y2K issues. During this same period, [the Government employee] and his wife owned a video production company known as [Company G]. In or about April 1999 and June 1999, [the Government employee] recommended awarding a Department of Commerce contract to [Company G]. As a result, on June 28, 1999, the Department of Commerce paid [Company G] \$10,183.15 for voice over work on the Y2K contract, from which [Company G] realized a profit of approximately \$1,183.15.

[The Government employee] pleaded guilty to one count of violating 18 U.S.C. § 208(a), participating personally and substantially in a particular matter in which he and his wife had a financial interest. On July 29, 2004, he was sentenced to one year probation, 100 hours of community service, a \$100 special assessment, and a \$900 fine.

The U.S. Attorney's Office of the District of Columbia handled the prosecution.

[Case 6] [The Government employee] was employed by the U.S. Air Force as a Supervisory Acquisition Management Specialist at the Special Projects Office at Wright-Patterson Air Force Base, Ohio. [He] actively participated in a Government contract with a Beavercreek, Ohio entity with which he had entered into an arrangement for future employment. Specifically, he rendered advice and made recommendations in the preparation of contract documents, including a

justification and approval for a sole source assistance and advisory contract with this entity. Following his retirement from the Government, [he] served as a subcontractor for the Beaver creek, Ohio business entity on this contract.

[The Government employee] pleaded guilty to one count of violating 18 U.S.C. § 208(a). On January 30, 2004, he was sentenced to two years probation, a \$100 special assessment, a \$1,000 fine, and \$12,000 in restitution to be paid to Wright-Patterson Air Force Base. He was also administratively debarred as a Government contractor.

The Southern District of Ohio handled the prosecution.