



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: 2007 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, 2007 through December 31, 2007. Information on 19 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.usoge.gov under "Laws and Regulations."

2007 Conflict of Interest Prosecution Survey

Follow-up to a case on last year's survey: U.S. v. David Safavian

In June 2008, the Court of Appeals for the District of Columbia reversed and vacated David Safavian's convictions for concealing material facts, making false statements, and obstructing justice. The case has been remanded to the district court for a new trial. United States v. Safavian, 528 F.3d 957 (D.C. Cir. 2008).

18 U.S.C. § 207

Case 1. Less than 1 year after retiring as a Rear Admiral in the U.S. Navy, the defendant represented a defense contractor during the contractor's bid to obtain a multi-million dollar contract with the U.S. Space and Naval Warfare Systems Command ("SPAWAR"). He directly communicated with the SPAWAR contracting officers regarding the contractor's bid. At the time, he was serving as the chairman of the contractor's management board.

The defendant pleaded guilty to 1 misdemeanor count of a violation of 18 U.S.C. § 207(c), which bars any communication by a former senior employee to his former agency. He was sentenced to 1 year's probation, a fine of \$15,000, and a \$25 penalty assessment.

The Southern District of California handled the prosecution.

Case 2. As a Government employee, the defendant managed and directed the Defense Department's Facilities Infrastructure and Engineering Systems ("FIRES") Program. This program involved the scanning and digitizing of various documents, information technology and data processing, and sensitive survey work for the Department of the Army's National Ground Intelligence Center. The defendant's duties included: implementing FIRES contracts; submitting FIRES budget proposals; seeking funding sources for FIRES; developing an operational plan for FIRES; and evaluating the performance of Corporation D, a military contractor that had received over \$10 million for work for FIRES. The defendant also wrote a statement of work on the FIRES contract.

After leaving the Department of Defense, the defendant began employment as a senior vice-president for Corporation D. While serving as an employee of Corporation D, he communicated on behalf of Corporation D with Defense Department employees regarding FIRES matters. He accompanied a Defense Department employee to a briefing of the U.S. Army, in Arlington, Virginia. He had developed the briefing for FIRES. At the briefing, he explained FIRES' views on funding a program. Also on various dates, he provided a Defense Department employee with comments and suggestions regarding the operation of FIRES.

He pleaded guilty to a violation of 18 U.S.C. § 207(a)(1), the life-time post-employment representation ban. He was sentenced to 1 year's probation and a fine of \$2,500.

The United States Attorney's Office for the District of Columbia prosecuted the case.

18 U.S.C. § 208

Case 3. While he served as the general manager of the Electronics Business Group at the Bureau of Prisons/UNICOR, the Government employee was approached by a company that offered him a position as a sales representative. In the following month, the Government employee helped this company win a sole-source contract for metal-locking bars. He did not disclose his relationship with the company to the approving officials on the contract nor to anyone else in his agency.

He pleaded guilty to a misdemeanor violation of 18 U.S.C. § 208, participating personally and substantially in a particular matter in which he had a personal financial interest. He was sentenced to 1 year's probation, a fine of \$5,000, and a special assessment of \$25. As a part of his plea agreement, he agreed not to seek or accept employment with the United States Government for a period of 5 years from the date of his guilty plea.

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

Case 4. During his Government employment, a manager at the National Security Agency (NSA) co-created and directed the Cyber Defense Exercise (CDX), an annual information assurance competition between students at various military service academies. In the CDX, "blue" teams from the participating service academies were graded on their ability to protect computer networks from attacks by "red" teams of "hackers." The red teams were comprised generally of NSA employees and military reservists.

As part of his official duties, the Government employee participated personally and substantially in the CDXs by: (1) providing input as to when and where the exercise would be held; (2) identifying the computer equipment necessary to compete in the exercise; (3) obtaining funding to permit purchase of such equipment to be supplied to the various military service academies competing in the exercise; (4) establishing the level of participation by other Government employees in the exercise; (5) determining which necessary support services would need to be provided by Government employees or by Government contractors; (6) determining the level of support services to be provided; (7) determining the scope of the work to be obtained through Government contracts; (8) recommending whether any Government contracts should be let by competitive bidding or as sole source procurements; (9) providing technical input concerning the reasonable costs of such services; and (10) determining the sources of funding and obtaining funding for Government contracts to support the exercise.

At the time he engaged in these activities as a Government employee at NSA, he and his spouse owned and operated companies that obtained over \$770,000 in Government contracts or subcontracts with the U.S. Military Academy, the U.S. Merchant Marine Academy, and the Naval Postgraduate School. He recommended the award of a subcontract and a contract to one of these companies, CDXperts, without competitive bidding. His wife served as the chief executive officer of the company. By recommending that the subcontract and contract be awarded to this company, he was participating personally and substantially in a particular matter in which he and his spouse held a personal financial interest, a violation of 18 U.S.C. § 208.

Additionally, the Government employee did not include CDXperts as a source of income for himself and his spouse on his confidential financial disclosure report for 2004, as required by Federal regulation.

He pleaded guilty to 1 count of violating 18 U.S.C. § 208. He was sentenced to 2 years' probation with the first 6 months to be served in home confinement with electronic monitoring, a fine of \$100,000, 50 hours of community service, and a special assessment of \$100.

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

Case 5. The Government employee was the Programs Director for TV Marti. TV Marti is operated by the Office of Cuba Broadcasting (OCB), a component of the International Broadcasting Bureau (IBB). The IBB provides administrative and engineering support for United States Government-funded, non-military, international broadcast services. The Broadcasting Board of Governors (BBG) is an independent Federal agency responsible for all United States Government and Government-sponsored, non-military, international broadcasting. It supervises the IBB.

The Government employee was responsible for the selection and acquisition of programs for broadcast. He was directly involved in the decision-making process for the approval of payment for programs, features, supporting material, and supplies, as well as the selection of vendors, contractors, and suppliers.

While the Government employee was approving requisitions and invoices for programming services rendered to TV Marti by Company B, he unlawfully received various payments from the company. He and the owner of Company B had an understanding that he would receive a portion of the money the company received from TV Marti.

In February 2007 the Government employee pleaded guilty to violating 18 U.S.C. § 208, participating personally and substantially in particular matters in which he had a financial interest. In April 2007 he was sentenced to 27 months in prison and 3 years' supervised release. He was also ordered to pay a \$5,000 fine. His employment with TV Marti was terminated as a result of this case.

The Southern District of Florida handled the prosecution.

Case 6. The Government employee served in various high-level positions in the Department of Education from 2001 to 2005. At the time of his employment, he owned stock in several financial institutions including Bank of America, a financial institution that participates in and benefits from the Federal Family Education Loan Program (FFELP). Under this program, students receive loans from participating banks to pay their costs of attending college, and banks receive Federal guaranties to insure them from loss. Banks also receive interest subsidies on loans while students are still in school. The Department of Education is responsible for ensuring that banks comply with program requirements and that payments to banks are accurate.

When the Government employee was nominated to one of his many positions, ethics officials in the White House and the Department of Education directed him to sell his bank stock. He agreed to do so, and he did sell all bank stock owned by his family except for the Bank of America stock. While he held the Bank of America stock, he participated in his official capacity in policy matters affecting certain financial institutions, including Bank of America.

The United States and the Government employee reached a civil settlement. Under the terms of the settlement, he admitted that he had failed to divest the Bank of America stock as directed, and he agreed to pay \$50,000.

The United States Attorney's Office for the District of Columbia handled the civil settlement.

Case 7. The defendant was employed at the U.S. Department of Veterans Affairs Medical Center (VAMC) in Tampa, Florida, as a travel clerk. The VAMC provides transportation under certain circumstances to veterans who do not have the ability to get themselves to the VAMC for medical appointments. The arrangements for transportation provided in these cases are handled by the Transportation Benefits Office of the VAMC. In some cases, the travel clerk in the Travel Benefits Office will contact a transportation company not under contract with the VAMC and hire that vendor under a fee-for-service system to provide transportation. During the relevant time period, the defendant was also responsible for validating the invoices submitted by these transportation companies for payment.

After the defendant approved an invoice, a request for payment would be sent from the VAMC to the VA's Financial Center in Austin, Texas. The VA would submit a request for payment from the Financial Center to the U.S. Treasury location in Maryland. The payment request would then be forwarded to the Federal Reserve Bank in Dallas, Texas. The Federal Reserve Bank would send the payment to the transportation company's financial institution, where the account would be credited within 1-2 days. Payments to these companies were made by electronic funds transfer.

The defendant and a close personal friend opened an AmSouth Bank checking account under the name of Company C, a fictitious company. The defendant was a signatory for this account, along with his friend. The defendant submitted a payment enrollment form for the fictitious company and listed 2 personal friends as company contact persons. The information

on the form listed the AmSouth Bank checking account as the account into which VA funds were to be deposited.

Later that month the defendant approved a Company C invoice in the amount of \$6,339. He personally received the VA funds that were deposited into the account.

Over several months, the defendant submitted vendor payment enrollment forms and invoices on behalf of 3 other entities in which he had a personal financial interest. None of these entities were businesses licensed to provide commercial transportation services. The defendant approved and certified all the invoices submitted by these entities, an action which caused payment to be made from the VAMC via electronic funds transfer to the entities' accounts at various financial institutions. The total amount of payments made by the Department of Veterans Affairs to Company C and the other fraudulent entities was \$205,512.52.

The defendant pleaded guilty to 1 count of violating 18 U.S.C. § 208, participating personally and substantially as a Government employee in a particular matter affecting a personal financial interest. He was sentenced to 60 months' probation and ordered to pay restitution in the amount of \$205,512.52.

The Middle District of Florida handled the prosecution.

Case 8. The defendant worked as a consular associate at the U.S. Embassy in Addis Ababa, Ethiopia. She adjudicated applications for U.S. non-immigrant visas as part of her regular duties as a consular associate.

While she was living in Ethiopia, she met and befriended a local businessman, Person A. He was the general manager of Company P, a pharmaceutical company based in Addis Ababa. The company was a subsidiary of Company Q, an Ethiopian holding company for some of the largest business concerns in Ethiopia. Person A conducted business on behalf of Company P and other Company Q subsidiaries.

Employees of Company P and Company Q periodically traveled to the U.S. for reasons related to the companies' business. The employees were required to obtain non-immigrant U.S. visas for this business travel.

In June 2002, the defendant and her husband entered into a loan agreement with Person A. Under the terms of the loan agreement, Person A loaned \$750,000 to the defendant and her husband to purchase real estate in Fairfax, Virginia. The loan was to be repaid over 25 years with no interest charged to the defendant and her husband. Using the proceeds from the loan, the defendant and her husband later bought a residence in Fairfax, Virginia. The defendant and Person A verbally agreed to a partnership with respect to the property which required the defendant to repay the money loaned and to pay Person A 60 percent of the appreciation of the property upon the defendant's sale of the property.

The defendant regularly adjudicated U.S. visa applications submitted by employees of Companies P and Q and close associates and relatives of Person A throughout her tenure as a consular associate, including the periods of time during and after which she negotiated and entered into the loan agreement with Person A. The defendant did not disclose her financial relationship with Person A to anyone within the Department of State or to any U.S. official responsible for her appointment as a consular official.

The defendant pleaded guilty to a violation of 18 U.S.C. § 208, participating personally and substantially in particular matters in which she had a personal financial interest. She was sentenced to 12 months' supervised probation and ordered to relinquish the proceeds (\$505,115.41) from the sale of the house.

The Eastern District of Virginia handled the prosecution.

18 U.S.C. § 209

Case 9. The Project on Government Oversight (POGO) is a non-profit organization that investigates and exposes corruption and other misconduct in the Federal Government. Berman was an economist with the Department of the Interior (DOI). He was responsible for analyzing oil royalty issues. While an employee of DOI, he authored several documents on the issue of oil royalty payments. POGO's director relied on these documents and Berman's assistance through numerous phone calls to develop an investigative report that POGO issued on unpaid oil royalties. POGO subsequently filed 2 qui tam suits under the False Claims Act against 16 major oil companies. POGO alleged that the defendants underreported the value of the oil extracted from Federal and Indian lands to reduce the amount of royalties owed to DOI under oil leases with the Government. POGO agreed to share any award it might receive in the oil litigation with Berman. Upon receipt of its first installment share of the qui tam settlement proceeds, POGO issued a "public service award" to Berman in the amount of \$383,600 for his "decades-long public-spirited work" in connection with revealing the supposed fraud perpetrated by the oil companies.

In January 2003 the United States filed a civil action against POGO and Berman, alleging the payment from POGO to Berman was an award that contributed to or supplemented Berman's salary as an employee of DOI in violation of 18 U.S.C. § 209(a). The United States sought a \$383,600 penalty from each and an injunction against future payments.

The United States sought summary judgment on the Section 209 claims. On August 31, 2004, the district court granted the Government's motion without an opinion and certified the judgment for appeal.

POGO appealed the ruling. On July 14, 2006, the District of Columbia Circuit reversed and remanded the case, finding that there were disputed issues of fact with regard to whether the payment was in compensation for Berman's Government service. United States v. POGO, 454 F. 3d 306 (D.C. Cir. 2006 (POGO I)).

On remand to the district court, POGO moved to dismiss, asserting that the 3-year limitations period applicable to tort claims had expired. On April 6, 2007, the court denied POGO's motion and held that the applicable limitations period was 5 years under 28 U.S.C. § 2462. United States v. POGO, 484 F. Supp. 2d 56 (D.D.C. 2007) (POGO II).

Berman sought summary judgment, asserting that Section 209 prohibits only periodic, salary-like payments, not lump-sum payments as he asserts were paid in this case. The Government also sought summary judgment on the ground that there was new evidence showing that the defendants admitted that POGO paid, and Berman received, the money for the DOI documents authored by Berman. The district court denied both motions. United States v. POGO, 525 F. Supp. 2d 161 (D.D.C. 2007) (POGO III).

A jury trial began on February 6, 2008. At trial, Berman's supervisor testified that Berman was DOI's lead analyst on oil royalty issues for several years. He testified that Berman's responsibilities included analyzing DOI policy in this area and making suggestions for improvement. Berman prepared various documents advocating the use of a particular method for oil royalty valuation. The supervisor testified that he reviewed these documents and passed them up the chain to his supervisors for review.

After a trial lasting several days, the jury returned a verdict finding that the Government had proved by a preponderance of the evidence that both POGO and Berman had violated 18 U.S.C. § 209(a). After the verdict was issued, POGO and Berman renewed their motions for judgment as a matter of law. They also moved for a new trial. On April 10, 2008, the district court denied the motions and imposed civil penalties of \$383,600 on Berman and \$120,000 on POGO. United States v. POGO, 543 F. Supp. 2d 55 (D.D.C. 2008).

In denying these motions, the court held that:

1) Section 209(a) is not limited to periodic, salary-like payments but also applies to lump-sum payments such as Berman received.

2) Section 209(a) does not have a mens rea element. The purpose of Section 209(a) is to prevent even the appearance of wrongdoing by Government employees. The argument that neither POGO nor Berman subjectively believed the payment was for work that was part of Berman's Government job is irrelevant. In the words of the court, "[a] party's subjective belief has no bearing on the 'appearance of wrongdoing'; appearance is uniquely focused on how third parties view a transaction."

3) Nothing in the statute or the case law suggests that the payment needed to be made contemporaneously with the employee's services. The fact that POGO paid Berman 3 years after he had authored the documents did not prevent the payment from being compensation for Government services.

4) The issue of whether Berman's work on the oil royalty payments was part of his Government duties was an issue of fact for the jury. The court concluded that the record

contained sufficient evidence on which the jury could base its finding that the oil royalty work Berman performed while at DOI was part of his Government duties.

The Government filed a post-trial motion for judgment on 3 additional counts in its complaint. The Government sought an additional \$383,600 judgment against Berman for allegedly breaching his fiduciary duty to the United States. The Government also sought similar relief because he was allegedly unjustly enriched when he received the payment from POGO. Finally, the Government sought declaratory and injunctive relief against Berman and POGO. In August 2008, the district court denied the motion. United States v. POGO, No. 03-0096, 2008 U.S. Dist. LEXIS 63558 (D.D.C. Aug. 20, 2008).

In rejecting the Government's motion on the first 2 counts, the court stated that the remedy for both breach of fiduciary duty and unjust enrichment is disgorgement. Berman has already been required by the jury verdict to return the gain of \$383,600. The court rejected the Government's request for an injunction because the executive director of POGO had already submitted a sworn declaration that POGO will not issue any future qui tam settlement payments to Government employees. In the court's view, an injunction was unnecessary.

18 U.S.C. § 1001 – Making a False Material Statement (on a Financial Disclosure Form)

18 U.S.C. § 1018 – Making a False Certification (on a Financial Disclosure Form)

5 U.S.C. § 101 – Failure to File a Public Financial Disclosure Form

Case 10. A civilian contracting officer for the U.S. Army Contract Command-Korea (USA-CCK) oversaw a contract to provide security guard services at a USA-CCK installation in Seoul, South Korea. He developed and maintained a personal friendship with Person B, a Korean national. Person B was employed by a Korean company that bid on and won the security guard contract. About 2 months after the contract was awarded, the wife of Person B provided approximately \$4,000 to the contracting officer's wife. A few days later, the wife of Person B made an additional payment of \$3,100 to the contracting officer's wife. The latter used the money to purchase round-trip plane tickets to Bangkok, Thailand. The contracting officer, Person B, and their spouses traveled together to Bangkok.

Because of the nature of his position with the Army, the contracting officer was required to file a Confidential Financial Disclosure Report, an OGE Form 450, each year. On this report, he was required to report, subject to some exceptions, gifts that he and his wife received during the reporting period. The gifts he received from Person B's wife did not fall within any of the exceptions. He did not disclose the cash gifts to his wife from Person B's spouse on the form that covered the time period in which the gifts were received. By signing the report without disclosing these gifts, he represented that neither he nor his wife had received any reportable gifts.

The contracting officer pleaded guilty to violating 18 U.S.C. § 1001, making a materially false statement on the OGE Form 450. Sentencing is pending.

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

Case 11. While serving as the Chief of Staff to a U.S. Senator, the Government employee managed approximately 40 employees and was responsible for all personnel decisions. In particular, she had discretionary authority to determine staff bonuses and to negotiate staff salaries.

The Chief of Staff admitted that in 2002 she engineered a plan to receive \$2,000 in unreported income from her personal assistant. She triggered a larger than normal salary payment to her assistant, and then she directed the assistant to pay her the \$2,000. The Chief of Staff certified and submitted her annual financial disclosure report without disclosing the \$2,000 cash payment, a violation of the requirement to report gifts above the threshold amount.

She pleaded guilty to a violation of 18 U.S.C. § 1018, making a false certification on her financial disclosure statement. She was sentenced to 1 year's probation and a \$2,500 fine. She was ordered to pay \$2,000 in restitution to the U.S. Senate. Finally, she was ordered not to seek employment or accept employment with the U.S. Government for a period of 5 years.

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

Case 12. The defendant was employed as a manager at the Tennessee Valley Authority's Brown's Ferry Nuclear Plant (TVA-BFN). He was required to complete and submit to TVA a Confidential Financial Disclosure Report, an OGE Form 450. He was required to submit an updated form annually. He was permitted to submit an OGE Form 450-A if there was no change in any of the information he had reported on the prior year's form.

On the form he submitted in November 2000, he answered "none" to the question that asked him to identify for himself and his spouse (1) any asset with a fair market value greater than \$1,000 at the close of the reporting period or which produced income over \$200 and (2) any non-Federal source of earned income such as salaries and fees over \$200 during the reporting period. He certified that his statements were "true, complete, and correct to the best of [his] knowledge."

In October 2001 and October 2002 he submitted the OGE Form 450-A. On both forms he certified that there were no new reportable assets or sources of income for himself or his spouse and that neither he nor his spouse had any new reportable sources of income from non-Federal employment.

Despite these certifications, in February 2002, during the reporting period for the October 2002 OGE Form 450-A, he co-owned Company D with his former spouse. Company Z issued 2 checks to Company D, one in the amount of \$29,212.77 and the second in the amount of \$25,000. The checks were deposited into Company D's bank account and the proceeds of the checks were used to pay the personal expenses of the defendant and his former spouse. The defendant knew that Company Z had been directed to send the check to

Company D by Company E. The defendant knew that Company E had contracted with the TVA in November 2001 to design and construct a dry cask storage system for spent nuclear fuel rods at TVA-BFN and had contracted with Company Z to fabricate some of the construction materials for the TVA-BFN dry cask storage system.

The defendant knowingly and willfully failed to disclose on his confidential financial disclosure report that he had received, through Company D, either check.

The defendant pleaded guilty to violating 18 U.S.C. § 1001, making a false material statement by executing and submitting an OGE Form 450-A on which he knowingly and willfully failed to disclose his receipt of \$54,212.77 through Company D. He was sentenced to 2 years' probation and a \$5,000 fine.

The Eastern District of Tennessee handled the prosecution.

Case 13. A former DoD SES employee failed to file the termination public financial disclosure report when he left the position. The filer received several reminders but ignored them and never filed the report. The Department of Justice filed a civil action against him. After substantial negotiations, the United States and the filer reached a civil settlement in which he agreed to pay a \$1,000 fine and the \$200 late filing fee. In addition, he agreed to file the termination public financial disclosure report.

The Eastern District of Virginia handled the civil action.

18 U.S.C. § 1505 – Obstruction of an Investigation

Case 14. In 2005 a Senate Committee conducted an investigation into allegations of a lobbyist's undue influence and access at an executive branch department. As part of the investigation, the Committee interviewed the former Deputy Secretary of that department. In addition, the former Deputy Secretary testified before Committee members at a public hearing.

The former Deputy Secretary had a personal and, at times, a romantic relationship with Person A. The relationship began before he became the Deputy Secretary and continued while he served as the Deputy Secretary. Person A established and operated Organization A, a purported tax-exempt organization. A week prior to his nomination, Person A introduced him to the lobbyist. During this meeting, the 3 of them discussed Organization A, the pending nomination, and the lobbyist's interests in the department's issues and his recommendations of colleagues for department positions.

The former Deputy Secretary later learned that the lobbyist personally and through his clients had contributed a total of \$500,000 to Organization A during the first 2 years of his service as the Deputy Secretary. During this time, the lobbyist occasionally sought and received, both directly and through Person A, the advice and intervention of the Deputy

Secretary on issues within the jurisdiction of the department that directly affected the lobbyist and his clients.

During both his Senate interview and his testimony, the former Deputy Secretary did not reveal the true nature and extent of his relationship with Person A; how and why his relationship developed with the lobbyist; and the nature of the lobbyist's access to the Deputy Secretary. He later admitted that he had withheld information from and made materially false and fictitious declarations to Senators and Senate investigators during both the interview and during his testimony at the hearing.

The former Deputy Secretary pleaded guilty to violating 18 U.S.C. § 1505, obstruction of the U.S. Senate's investigation. He was sentenced to 10 months' imprisonment, a \$30,000 fine, and 3 years' supervised release.

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

18 U.S.C. §§ 1343, 1346 – Honest Services Wire Fraud

Case 15. The defendant was a Government official for the Commonwealth of Northern Mariana Islands when he met a lobbyist for the Commonwealth. The lobbyist helped the Government employee secure a series of positions with the U.S. House Transportation & Infrastructure Committee. The Government employee admitted that his job search with the lobbyist marked the beginning of a conspiracy that continued for a couple of years, during which the Government employee solicited and received a stream of things of value from the lobbyist in exchange for agreeing to take, and taking, official actions to benefit the lobbyist and his clients.

The Government employee admitted to receiving \$10,000 from an entity controlled by the lobbyist shortly before he started working on Capitol Hill. He also admitted that he intentionally failed to disclose the gifts he had received from the lobbyist, as required in annual financial disclosure reports. In addition, the Government employee was promised a highly paid position at the lobbyist's firm after working for 2 years on Capitol Hill during which time he would make political contacts.

The actions the Government employee took on behalf of the lobbyist included securing for him non-public information, referring potential lobbying clients to the firm, reaching out to administrative agencies on behalf of the firm's clients, using his position to exert "payback" on entities that had retained competing lobbying firms, and actively participating in the strategic planning of a new "maritime lobbying practice" at the firm.

The Government employee pleaded guilty to one count of conspiracy to violate the following Federal law: honest services wire fraud (18 U.S.C. §§ 1343, 1346). Sentencing is pending.

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

Case 16. Defendant A was a DoD employee, serving as the Chief of the Aviation Division for the U.S. Army Test and Evaluation Command (ATEC). Defendant B was the sole owner and operator of Company M. In November 2001, the Government selected Company M to procure and deliver 2 helicopters for use by the U.S. Government. The contract was worth approximately \$4.7 million. Defendant A, in his role as Technical Representative for the contract, took actions that favored the selection of Company M as the eventual contract recipient and misled Government officials about Company M's performance under the contract. Defendant B secretly wired a third party \$61,071.75 from a Company M bank account to satisfy the entire amount of the mortgage on Defendant A's personal residence. This payment occurred 2 weeks after Company M received a payment authorized by Defendant A of approximately \$1.1 million. Defendant A also appeared before the grand jury and falsely testified that Defendant B's \$61,071.75 payment was a loan. Finally, Defendant A failed to disclose his receipt of this payment on his required annual financial disclosure statements.

A Federal jury convicted Defendant A and Defendant B of 2 counts each of violating 18 U.S.C. §§ 1343 and 1346, honest services wire fraud. Additionally, Defendant A was found guilty of obstruction of justice. Defendant A was sentenced to 63 months' confinement, 3 years' supervised release, and a fine of \$61,071.75. Defendant B was sentenced to 27 months' confinement, 3 years' supervised release, and a fine of \$61,071.75.

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

Case 17. The defendant was the former chief of staff to a former U.S. Congressman. The defendant's duties included managing the Congressman's office personnel and approving the staff's receipt and use of tickets to sporting events and entertainment events.

The defendant admitted that he joined a conspiracy with the Congressman and others in which he solicited and accepted a stream of items of value from a lobbyist and a foreign businessman, in exchange for agreeing to take and taking official action to benefit the lobbyist, his clients, and the foreign businessman. The things of value included international and domestic trips, meals and drinks, concert and sporting tickets, and substantial campaign contributions. The defendant admitted that the Congressman, with his assistance, took official actions at the request of the lobbyist, such as supporting legislation and contacting executive branch agencies to influence those agencies.

The defendant also admitted that he and the Congressman accepted thousands of dollars' worth of gambling chips from a foreign businessman who was hoping to sell U.S.-made airplanes and airplane parts in a foreign country. The defendant admitted that he helped the Congressman conceal some of the money he had received.

The defendant cooperated with investigators, and his cooperation was taken into account in his sentencing. He pleaded guilty to conspiracy to commit honest services fraud. He was sentenced to 2 years' probation and a fine of \$5,000.

The Congressman was sentenced in January 2007 to 30 months in prison on corruptions charges. The lobbyist was sentenced in September 2008 to 48 months in prison and ordered to pay restitution in the amount of \$23,134,695, the amount of undisclosed criminal kickbacks and other fraudulently obtained funds.

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

Case 18. This case is related to Case 17. The defendant was the former chief of staff to a former U.S. Congressman. This defendant was the predecessor of the chief of staff who is the subject of Case 17. The defendant became the Congressman's chief of staff in 1998. The congressman later named him as the staff director of the House Administration Committee. The defendant admitted that during this time he and the Congressman accepted things of value from a lobbyist in exchange for official action.

In 2002 he left the Congressman to work for the lobbyist. The defendant admitted that during this time he, the lobbyist, and others gave things of value to the Congressman and his staff, including international and domestic trips, meals and drinks, concert and sporting tickets, substantial campaign contributions and in-kind contributions such as free fundraisers, all with the intent to influence and obtain official action benefiting the lobbyist and his clients.

The defendant pleaded guilty to 1 count of conspiracy to commit honest services fraud and to violate his 1-year lobbying ban. The defendant provided substantial assistance to investigations into his successor as chief of staff and the Congressman. His cooperation was taken into account in his sentencing. He was sentenced to 2 years' probation and a fine of \$2,000.

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

Case 19. Over the course of a decade, a U.S. Congressman demanded and received over \$3 million in bribes from Defendant G and Person H, who were defense contractors, and from Defendant I, in exchange for performing official duties on behalf of these 3 individuals. Defendant G gave over \$700,000 in cash and items of value—including jet boats, lavish vacations, and 2 nights with a prostitute in Hawaii—to the Congressman and received over \$80 million in defense contracts for his company.

Defendant I and his nephew, Defendant J, used their mortgage businesses to launder money for the congressman. One of the companies issued 2 mortgages for the congressman's \$2.5 million home. Defendants I and J received payments from Defendant G and Person H and used those payments to cover the Congressman's mortgages.

Defendant G was convicted by a jury trial of honest services wire fraud, in addition to conspiracy, bribery, and concealment of money laundering. He was sentenced to 120 months in custody and 3 years' supervised release. He was ordered to pay restitution in the amount of \$636,116 and a fine of \$500,000 (stayed if the restitution is affirmed on appeal).

Defendant J pleaded guilty to one count of conspiracy and one count of making a false statement. He is awaiting sentencing.

Defendant I pleaded guilty to one count of engaging in an unlawful monetary transaction. He was sentenced to 97 months in custody, a fine of \$1.05 million, and 3 years of supervised release.

The Congressman was sentenced in 2006, and his case was reported in last year's survey. He pleaded guilty to committing tax evasion and to conspiring to commit bribery, honest services fraud, and tax evasion. He was sentenced to 100 months in prison to be followed by 3 years' supervised release. He was also ordered to pay approximately \$1.8 million in restitution for back taxes, penalties and interest owed to the Government and to forfeit an additional \$1.8 million in U.S. currency based upon cash payments he received during the conspiracy.

The Southern District of California handled the prosecutions.

Addendum to DO-08-036
Case Names

Case 1. U.S. Jose Luis Betancourt, Jr.

Case 2. U.S. v. Robert Fromm

Case 3. U.S. v. Steven L. Gurley

Case 4. U.S. v. Wayne J. Schepens

Case 5. U.S. Jose M. Miranda

Case 6. Civil action

Case 7. U.S. Frank Webb

Case 8. U.S. Jacqueline L. Kenny

Case 9. U.S. v. Project on Government Oversight and Robert Berman

Case 10. U.S. v. Yi

Case 11. U.S. V. Virginia M. Kontnik

Case 12. U.S. v. John L. Symonds

Case 13. Civil action

Case 14. U.S v. Griles

Case 15. U.S. v. Mark Dennis Zachares

Case 16. U.S. v. Jeffrey H. Stayton and William C. Childree

Case 17. U.S. v. William J. Heaton

Case 18. U.S. Neil G. Volz

Case 19. U.S. v. Brent Roger Wilkes and John T. Michael, U.S. v. Thomas Kontogiannis