



United States
Office of Government Ethics
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MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors General

FROM: Stephen D. Potts
Director

SUBJECT: Conflict of Interest Prosecution Survey

This Office has recently completed its annual survey of prosecutions involving the conflict of interest criminal statutes (18 U.S.C. §§ 203, 205, 207, 208, 209) around the country for the period January 1, 1995 to December 31, 1995. Information on 10 new prosecutions by U.S. Attorneys' offices and the Public Integrity Section was provided to us with the assistance of the Executive Office for United States Attorneys in the Department of Justice. The attached reflects the information reported to this Office.

Attachment

1995 Conflict of Interest Prosecution Survey

1. *United States v. Brenda G. Meister* -- Meister, a political appointee, was the Acting Director of the Office for Victims of Crime, a part of the Office of Justice Programs (OJP), within the Department of Justice.

Shortly after the 1992 Presidential election and before the change of administrations on January 20, 1993, Meister became a candidate for the Executive Director position at a private, nonprofit organization. Also during that time, the private organization had a \$209,677 grant application pending with the National Institute of Justice, another component of the OJP.

Although Meister had the employment application pending and she was recused from any official matters dealing with the private organization, she took several steps to ensure that the grant to the private organization was approved just before the change of administrations on January 20, 1993. Meister, in the week prior to her resignation, which occurred upon the change of administrations, personally monitored the completion of the grant paperwork and personally delivered the grant paperwork to the Acting Assistant Attorney General for OJP for "sign off." The written approval of the award by the Assistant Attorney General for OJP was required to ensure that the grant was processed before the change of administrations. Meister also informed the private organization's Vice President of her role in ensuring that the grant was approved. Meister did not subsequently succeed in obtaining the job with the private organization.

The Government charged that Meister participated personally and substantially in processing an application for a grant, by personally monitoring the completion of the grant paperwork prior to the change of administrations in January 1993, knowing that an organization with whom she was negotiating for prospective employment had a financial interest in the grant. On February 22, 1995, Meister pled guilty to a misdemeanor charge of violating 18 U.S.C. § 208. Meister was sentenced in May 1995 to one year probation, 100 hours of community service and a special assessment of \$25.

Prosecution handled by the Public Integrity Section of the Criminal Division of the Department of Justice.

2. *United States v. Gordon A. Pilet, et al.* -- Pilet was a Major in the U.S. Air Force stationed at MacDill Air Force Base under the command of the U.S. Central Command. His co-defendant, Charles Rod Ricciardi was an owner and president of BR-323, Incorporated, doing business as America's Most Wanted Software (AMWS) in Largo, Florida.

Pilet was disgruntled after notification that he would not be promoted and was soon to be discharged without a retirement annuity. He conspired with Ricciardi (while also seeking employment with him) to unlawfully transfer superseded software from the MacDill warehouse he supervised to AMWS for subsequent sale. He arranged with Ricciardi to remove software called Oracle Tools and Database (Oracle). Pilet obtained possession of over 96 boxes of Oracle software by making false statements in writing in an effort to gain authorization from his

superiors to have the software destroyed in place. Destruction of superseded software was the responsibility of the Government according to its agreements with software contractors.

Pilet worked under the pretense that the Oracle software was being turned over to a company called Scientific Applications Instruments for destruction. Instead, Pilet provided the Oracle software to a moving company which transported the boxes from MacDill to a commercial storage facility rented by Ricciardi. Once in possession of the software, Ricciardi searched for buyers of the software.

Originally, Central Command had paid the Government bulk rate of \$79,000 for the Oracle software in 1991. On the gray market, this software was valued between \$35,000 and \$100,000 (depending on whether the software was resold in bulk or in individual units).

After a month-long trial, Pilet was convicted of a violation of 18 U.S.C. § 208 (working on a project that affected a company in which he had a financial interest), while his co-defendant, Ricciardi, was convicted of violations of 18 U.S.C. § 201(b)(1), 18 U.S.C. § 641 (theft of government property) and 18 U.S.C. § 371 (conspiracy). Pilet was sentenced to one year probation and 150 hours community service. Ricciardi was imprisoned for 27 months with supervised release for 3 years.

Prosecution handled by the United States Attorney for the Middle District of Florida.

3. *United States v. Wischstadt* -- Wischstadt was an aerospace engineering technician for the Department of the Navy at the Naval Aviation Depot located at North Island in San Diego, California. His responsibilities included procurement related to Navy helicopters.

While working for the Navy, Wischstadt designed and developed an engine waterwash fitting to be used for cleaning the engines of Naval helicopters. Unbeknownst to the Government, Wischstadt provided the design to a company to manufacture for sale to the Government. Wischstadt, acting in his official capacity, was then instrumental in awarding Government contracts to that company. The company paid Wischstadt a portion of the proceeds from each contract.

Wischstadt was charged with and pled guilty to a one count felony information charging him with a violation of 18 U.S.C. § 208. He was sentenced to one year probation, a \$50 special assessment and 40 hours community service as a condition of probation.

Prosecution handled by the United States Attorney for the Southern District of California.

4. *United States v. Charlotte Toney* -- Toney was employed as a Program Analyst, Office of Research and Technical Support, under the Office of Assistant Secretary for Policy, Department of Labor. She was responsible for reviewing small contract proposals as part of a reviewing team.

In July 1991, Toney concurred in recommending the award of a purchase order for support services to an unincorporated entity called TASCOM which was owned and operated by a close friend of Toney. After the award of the contract, Toney worked for her friend in a paid capacity. Toney's name appeared on TASCOM's time sheets and payroll records as a result of this work. Subsequently, the purchase order was increased on two occasions: on August 22, 1991, by \$1600 and on September 19, 1991 by \$2600. According to the company time sheets, Toney was on the payroll at least as of the second extension. The Government also obtained a check from the friend's personal account to Toney in the amount of \$1000.

Ms. Toney was charged with a violation of 18 U.S.C. § 208 for participating personally and substantially as a Government employee, through decision and the rendering of advice, in a matter -- the amendment/increase of a purchase order to TASCOM -- in which a person with which she had an arrangement concerning employment, had a financial interest.

Toney was prosecuted under 18 U.S.C. § 208(a), pled guilty to a misdemeanor and was sentenced under the sentencing guidelines to three years probation.

Prosecution handled by the United States Attorney for the Eastern District of Virginia.

5. United States v. Ronald A. Outlaw -- Outlaw was a research scientist for the National Aeronautics and Space Administration (NASA) at Langley Air Force Base near Norfolk, Virginia and a co-owner of DACO Technologies, Inc.

Outlaw, in his capacity as a NASA research scientist, using NASA facilities, equipment, supplies and personnel, invented a device known as a hyperthermal oxygen atom generator (the "HOAG"). This device produces a directed beam of oxygen atoms which simulates low-earth orbit space environment, thereby permitting ground based laboratory studies of the degradation of spacecraft materials in that environment.

During the device's development, Dr. Mark Davidson, first as a graduate research assistant and then as a post-doctoral associate, contributed to the testing and development of the device at the University of Florida under a NASA research grant.

In December 1992, Dr. Davidson incorporated DACO Technologies, Inc., (DACO) a Florida-based company, for the purpose of continued development and marketing of the HOAG. Dr. Davidson and the defendant each owned fifty percent of the corporation.

Between January 1993 and January 1994, Outlaw, in his capacity as a research scientist at NASA Langley, and knowing full well of his financial interest in DACO Technologies, Inc., requested that NASA pay DACO \$16,000 in advance in connection with a purchase order to DACO for the testing and development of the HOAG. Outlaw had previously initiated this non-competitive purchase order. His request was denied because applicable regulations did not permit advance payments.

Outlaw initiated two additional non-competitive purchase orders to DACO for further testing and development of the HOAG, in the amounts of \$18,000 and \$16,008.

Another proposed contract for further testing and development of the HOAG was in the amount of \$60,000, which required competitive bidding or a justification for a non-competitive award. A market survey to identify interested contractors was conducted by publication of the contract requirements in the Commerce Business Daily. DACO and Boeing Defense and Space Group were the only companies that responded. In a telephone conversation initiated by Outlaw, he told a Boeing representative that the contract was for "small bucks," effectively causing Boeing to withdraw its interest in the contract. In a subsequent statement given to investigators, Outlaw conceded that he was concerned that a bid from Boeing would further delay money going to DACO.

Outlaw also recommended to NASA's Technology Applications Group and to the NASA Patent Counsel that an exclusive license to market the HOAG be issued to DACO.

Outlaw pled guilty on September 22, 1995, to a violation of 18 U.S.C. § 208. He was sentenced on December 8, 1995, to one year probation, 48 hours home detention and a \$2,500 fine.

Prosecution handled by the United States Attorney for the Eastern District of Virginia.

6. United States v. Thomas Yi -- Yi was audited by the Internal Revenue Service (IRS) and found to have a tax liability of approximately \$1800. Yi attempted to pay a \$400 bribe to the IRS auditor.

Yi pled guilty on October 12, 1995, to a violation of 18 U.S.C. § 209. He was sentenced to one year probation and a \$250.00 fine.

Prosecution handled by the United States Attorney for the Eastern District of Virginia.

7. United States v. Bernard L. Johnson -- Johnson, who was not a Federal employee, was recruited by a Federal employee named Nathaniel Jetter to assist in the concealment of bribes that Jetter was receiving from a Richmond construction company. Jetter was a construction project manager at a DOD supply center. Jetter was also, in effect, on a retainer from the construction company to provide illegal assistance to it in the monitoring of the company's compliance with certain Government contracts, the approval of claims based upon false statements of contract modifications, in recommending the company for future contracts, and advising Government contracting officers on the performance of the company. Johnson, a longtime friend of Jetter, assisted Jetter by cashing checks made out to Johnson by the construction company and giving Jetter the proceeds, less 10% of the amount of the checks.

On February 8, 1996, Johnson pled guilty pursuant to a plea agreement to two misdemeanor counts of violations of 18 U.S.C. §§ 2 and 208, aiding and abetting a conflict of interest. Jetter,

meanwhile pled guilty to bribery charges (for which he was sentenced to jail). Johnson was sentenced to 12 months supervised release on each count, to run concurrently, and a \$25 special assessment as to each count.

Prosecution handled by the United States Attorney for the Eastern District of Virginia.

8. United States v. Donald Lund -- Lund was employed by the Federal Deposit Insurance Company (FDIC) to manage a condominium development that was an asset of a failed bank. Lund used confidential information to purchase a unit in the development through a third party. Lund gave the "straw" party a cashier's check to permit that party to purchase the property and then transfer it to one of the members of Lund's family.

Lund pled guilty to violating 18 U.S.C. § 208 and was sentenced on March 28, 1995 to two years probation, 2 months home confinement, and a \$2550 fine.

Prosecution handled by the United States Attorney for the District of Massachusetts.

9. United States v. William K. Reed -- Reed was an administrative assistant to Congresswoman and Senator Barbara Boxer. In 1992, Reed solicited \$650 from a citizen who was seeking relief from the state's Office of Workman's Compensation. Reed told the citizen that the \$650 would help "grease the skids" in getting her claim approved. Reed specifically requested that the money be provided in cash and arranged for it to be delivered outside of the Congresswoman's office.

The citizen later reported the matter to the FBI who introduced an undercover FBI agent who purported to have a worker's compensation claim. In tape-recorded conversations with the under-cover agent, Reed solicited \$650 from the agent. The pay-off was videotaped.

When interviewed several days later, Reed initially stated he never accepted money from a constituent. When shown a photo of the FBI agent, he stated that he had been offered money by her but had turned her down. When told that the person in the photo was an FBI agent, Reed stated "I guess I'm in a lot of trouble, aren't I?"

Reed was charged with violations of 18 U.S.C. §§ 201 and 203 and pled guilty to one count of violating 18 U.S.C. § 203. He received a sentence of probation, community service and was ordered to pay restitution.

Prosecution handled by the United States Attorney for the Northern District of California.

10. United States v. Larry Dale Brown -- Brown was an employee of the General Services Administration with responsibilities relating to the maintenance of Government vehicles. In his personal capacity, Brown operated a private business that subleased storage units. Brown subleased storage units to independent contractors and arranged for the independent contractors

to receive hundreds of GSA vehicles for detailing work for which the contractors were paid by the Government. Brown was paid above market rents on the storage units he leased to the independent contractors. Brown pled guilty to a violation of 18 U.S.C. § 208 and was sentenced to six months confinement.

Prosecution handled by the United States Attorney for the Western District of Washington.