



United States
Office of Government Ethics
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MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors General

FROM: Amy L. Comstock
Director

SUBJECT: 2002 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. §§ 203, 205, 207, 208, 209) for the period January 1, 2002, through December 31, 2002. Information on 10 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 can be found on our web site at www.usoge.gov under "Laws and Regulations."

2002 Conflict of Interest Prosecution Survey

1. United States v. Jan P. Blanton, United States v. Clifford J. Quinn -- Blanton was the head of the Executive Office of Asset Forfeiture within the Department of the Treasury. Quinn was an attorney in that office.

Blanton and Quinn used the Government procurement process relating to computer automation work in order to funnel money to themselves and their companies. Specifically, Quinn developed and marketed software for the private profit of himself and which was directly related to his assigned duties as a United States Government employee. Blanton assisted him. They used Government property, time, and labor for work related to this software, which they called Equus. They also solicited employment and other financial benefits from third party contractors in exchange for offering to award future potential Government contracts. They used a co-conspirator's company as a straw company, in order to award a Government automation contract on the condition that the third party contractor pay the co-conspirator to perform much of the contract work.

On May 21, 2002, Blanton was convicted on one felony count of violating 18 U.S.C. § 208, which bars taking official action in matters affecting certain personal or organizational financial interests. Blanton was acquitted on another felony count of violating section 208. On May 21, 2002, Quinn was convicted on two felony counts of violating section 208. Blanton and Quinn were also each convicted on one count of violating 18 U.S.C. § 371 (conspiracy); two counts of violating 18 U.S.C. § 201(b)(2) (bribery); and three counts of violating 18 U.S.C. §§ 1343 and 1346 ("honest services" wire fraud). On September 9, 2002, each of them was sentenced to 87 months imprisonment, a \$15,000 fine, and three years supervised release. Blanton and Quinn were also required to pay a special assessment fee in the amount of \$700 and \$800, respectively. The case is currently on appeal.

Prosecution handled by the District of Maryland.

2. United States v. Ricketts -- Ricketts is a former customer service center manager of the General Services Administration (GSA).

In his position as customer service center manager, Ricketts supervised all GSA contractors in the Tampa area. Desmear Systems, Inc., (Desmear) was a GSA mechanical maintenance contractor under Ricketts' direct authority. In late 1998, Ricketts requested Desmear to prepare a quotation, under Desmear's existing contract with GSA, to provide secretarial services to the Tampa GSA office. Once Desmear prepared the information, Ricketts signed work orders for secretarial services to be provided by Desmear, and which Ricketts' wife was hired to fill. Mrs. Ricketts was paid approximately \$4,000. Also, in 1999, Ricketts submitted to GSA false financial disclosure documents related to the additional income.

Ricketts pled guilty on November 20, 2001, to violating 18 U.S.C. § 208, which bars taking official action in matters affecting certain personal or organizational financial interests. On February 22, 2002, Ricketts was sentenced to one year probation and restitution.

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

3. United States v. Ransom -- Ransom, an Internal Revenue Service employee, began an intimate relationship with a taxpayer whose pending tax case Ransom was overseeing. The taxpayer had a tax liability of approximately \$250,000. Ransom filed notices of abatement so that efforts to collect the outstanding tax liability would be impeded. Ransom received numerous benefits from the taxpayer, including those relating to a trip to Las Vegas made with the taxpayer on the taxpayer's airplane.

On November 1, 2002, Ransom pled guilty to a misdemeanor count of violating 18 U.S.C. § 209, which bars the unlawful supplementation of salary. Ransom was sentenced to two years' probation in January 2003.

Prosecution handled by the Central District of California.

4. United States v. Jay Austin -- Austin was an employee of the United States Postal Service.

Austin was employed as a mechanic at a Postal Service Vehicle Maintenance Facility. He was responsible for ensuring that the Vehicle Maintenance Facility had a sufficient supply of engine starters for use in postal vehicles. Austin opened a company, OOD Electric, which rebuilt engine starters. He caused the Vehicle Maintenance Facility to purchase rebuilt starters from OOD Electric. In addition, he misappropriated vehicle parts from the Vehicle Maintenance Facility and sold the parts back to the facility through OOD Electric.

On May 17, 2002, Austin pled guilty to a misdemeanor violation of 18 U.S.C. § 208, which bars taking official action in matters affecting certain personal or organizational financial interests. He also pled guilty to violating 18 U.S.C. § 1707 (theft of property used by Postal Service). On August 8, 2002, Austin was sentenced to five years' probation, a \$500 fine, and \$13,449.50 restitution.

Prosecution handled by the Eastern District of California.

5. United States v. Ruben Banda -- Banda, the Acting Assistant District Director of the Immigration and Naturalization Service (INS)/San Francisco, was taking money from aliens for purported "services" in relation to their immigration applications. When confronted by the Office of Inspector General, he denied taking any money from aliens who had applications pending before the INS.

The prosecution was undertaken pursuant to 18 U.S.C. § 209, which bars the unlawful supplementation of salary; 18 U.S.C. § 1001; and 18 U.S.C. § 1505. The jury rendered its

verdict on June 3, 2002. Banda was convicted of violating section 209. The jury was hung on sections 1001 and 1505. On September 11, 2002, Banda was sentenced to four years' probation, a \$12,000 fine, \$4,711.60 restitution, and a \$100 special assessment.

Prosecution handled by the Northern District of California.

6. United States v. Donald Anderson -- 18 U.S.C. § 209, which bars the unlawful supplementation of salary, applies to officers and employees of the District of Columbia and non-government sources who compensate any such officers and employees for their government services. Anderson was a Cardiographic Assistant, working for the District of Columbia Surveyor's Office. He received cash payment for making copies of land surveys.

On February 27, 2002, Anderson pled guilty to a felony violation of section 209. He was sentenced on May 31, 2002, to three years' probation, \$1,800 restitution, and a \$100 special assessment.

Prosecution handled by the U.S. Attorney's office, District of Columbia.

7. United States v. Vincent Spino -- Spino was an employee of the Internal Revenue Service (IRS) in New Haven, Connecticut, from approximately 1982 through 1999. He retired, then, from his position as an IRS Revenue Officer.

Among the collection cases assigned to Spino during his IRS tenure were tax liability cases relative to Jamaican Gourmet Products (JGP) (1995-1997 filings) and Christopher Martins, Inc., (CMI) (1993 filing). He actively participated in those matters while at IRS, including visits to JGP's offices and receipt of payments from that company. After retiring from the IRS, Spino started a consulting business, and thereafter appeared before the IRS on behalf of JGP and CMI. He filed a power of attorney on behalf of JGP, indicating that he would be representing JGP regarding, inter alia, tax matters for the tax years 1995-1999. He filed penalty abatement requests on behalf of JGP for filings in 1995-1997. He did not charge JGP for his services. With regard to CMI, the owner of CMI drafted a letter to the IRS, seeking recovery of some penalties and interest that CMI had paid to the IRS. He asked Spino to deliver that letter to the IRS, and Spino personally made that delivery to an IRS Revenue Officer, seeking abatement for tax year 1993. He did not charge CMI for his services.

On September 13, 2002, Spino pled guilty to violating 18 U.S.C. § 207(a)(1), which prohibits a former Government employee from communicating to or appearing before the Government, on behalf of another person or entity other than the United States, in connection with a matter in which he participated personally and substantially as a Government employee. Spino was sentenced on December 4, 2002, to one year probation, a \$1,200 fine, and 50 hours of community service.

Prosecution handled by the District of Connecticut.

8. United States v. James Moore -- Moore was employed as an Inspector with the Federal Aviation Administration (FAA).

While employed as an Inspector with the FAA, Moore negotiated future employment with an air carrier, TIE Aviation, which was the subject of a FAA inspection to upgrade its licensing status. Moore was a member of the FAA inspection team reviewing TIE Aviation's licensing upgrade and simultaneously negotiated a future position with TIE Aviation as its President.

On December 12, 2002, Moore pled guilty to a misdemeanor violation of 18 U.S.C. § 208, which bars taking official action in matters affecting certain personal or organizational financial interests. Moore was sentenced to one year probation and a \$25 special assessment.

Prosecution handled by the Eastern District of New York.

9. United States v. James Kramer-Wilt and Richard Gerry -- Kramer-Wilt was an attorney with the Bureau of Public Debt at the Department of the Treasury. He is a leading authority on high yield/prime bank note schemes. His job requires him to be the point man for the Bureau of Public Debt's program to expose high yield fraud.

Kramer-Wilt accepted "financial assistance" from Gerry in exchange for advice on an illegal gratuity arrangement. The "financial assistance" consisted of \$5,000 cash in two envelopes and a \$5,000 wire transfer for a total of three payments and \$15,000. Gerry, a friend of Kramer-Wilt's, was working for John Wheeler, who was running an estimated \$23 million dollar "Ponzi" scheme in Nacogdoches, Texas.

On January 30, 2003, Kramer-Wilt pled guilty to violating 18 U.S.C. § 209, which bars the unlawful supplementation of salary. Pursuant to 18 U.S.C. § 216(a)(2), Kramer-Wilt was sentenced on May 15, 2003, to six months' incarceration, two years' supervised release, and a \$100 special assessment. Since his indictment, Kramer-Wilt has been terminated from his Federal employment and is in the process of having his law license revoked. On January 24, 2003, Gerry pled guilty to violating section 209. Pursuant to 18 U.S.C. § 216(a)(1), Gerry was sentenced on May 15, 2003, to three months' incarceration, a \$4,000 fine, \$40,000 restitution, one year supervised release, and a \$25 special assessment. [Wheeler pled guilty on February 10, 2003, to violating 18 U.S.C. § 1343 (wire fraud). On September 23, 2003, Wheeler was sentenced to five years' incarceration, three years' supervised release, and a \$100 special assessment. Wheeler was also ordered to pay restitution to be determined through the court-reviewer process.]

Prosecution handled by the Eastern District of Texas.

10. United States v. Rex Incledon, United States v. Michael Wood -- Incledon and Wood were employed and trained by the U.S. Army as perfusionists (a physician's assistant who operates heart/lung bypass equipment during surgery).

Immediately after military retirement, both Incledon and Wood were employed by a practice group that performed contract perfusion services for the Army at Brooks Army Medical Center (BAMC). In May 1998, Incledon and Wood purchased limited partnership interests in Perfusion Resources Network (PRN). PRN is in the business of distributing perfusion supplies and has an exclusive arrangement with Medtronic, Inc., a major medical products manufacturer, to distribute perfusion supplies that use "Carmeda" coating, a patented Medtronic product. Under the limited partnership, Incledon and Wood were to receive distributions based on the quantity of product sold by PRN.

Incledon and Wood's job responsibilities at BAMC included ordering supplies for the perfusion department. Prior to joining the partnership, they had ordered supplies from Cardiovascular Concepts, Inc., (the predecessor of PRN) and PRN. After joining the partnership, they continued to initiate purchase orders to PRN. All of these orders were designated as "emergency" requests, which bypassed the usual bidding process. Incledon was hired by BAMC as a staff perfusionist, a General Schedule (GS)-13 position, in June 1998. In September 1998, Wood was hired by BAMC as a staff perfusionist, a GS-13 position. Wood is currently the Chief of Perfusion Services.

Around the time the two joined PRN as limited partners, Wood submitted a request to the contracting office that they put out a Request For Quote that would allow BAMC to purchase all perfusion supplies from a sole source without any further bidding or competition. Incledon and Wood together submitted the specifications for the Request For Quote, including "Carmeda" coated items that were only available through PRN. Both Incledon and Wood acted as technical advisors to the contracting office in preparing the Request For Quote and evaluating any bids received. PRN submitted the only bid in response to the Request For Quote, and Incledon advised the contract officer that the price was reasonable.

After the awarding of the contract to PRN, and after both of them were hired directly by BAMC as GS employees, Incledon and Wood initiated purchase requests under the contract, and Incledon continued to serve as the point of contact for BAMC on matters relating to the PRN contract.

Neither Incledon nor Wood ever advised anyone in the contracting office, or anyone with whom they worked at BAMC, about their relationship to PRN.

When questioned by investigators, Incledon and Wood both claimed that Incledon had discussed the proposed limited partnership arrangement with Colonel Littleton of the Army JAG office one month before they joined (i.e., in April 1998). Incledon stated that the conversation happened in the cafeteria and that he showed a copy of the partnership agreement to Colonel Littleton. According to Incledon, Colonel Littleton told him that there was no problem with him joining the partnership so long as he did not take any kickbacks. According to Incledon, he followed up the conversation with an e-mail to Colonel Littleton, asking Colonel

Littleton to call an attorney for the partnership to discuss detail. Colonel Littleton, now retired, was interviewed and states that he never had a cafeteria conversation with anyone about a partnership proposal and that he did not receive any e-mail from Incledon asking him to contact an attorney.

Incledon and Wood pled guilty on May 6, 2002, and May 13, 2002, respectively, to misdemeanor violations of 18 U.S.C. § 208, which bars taking official action in matters affecting certain personal or organizational financial interests. Incledon and Wood were sentenced to probation on August 6, 2002, and August 13, 2002, respectively.

Prosecution handled by the Western District of Texas.