



United States

Office of Government Ethics

1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

February 28, 2001

Stephen Sharfman
General Counsel
Postal Rate Commission
Suite 300
1333 H Street, NW.
Washington, DC 20268

Dear Mr. Sharfman:

The Office of Government Ethics (OGE) has completed a review of the Postal Rate Commission's (PRC) ethics program. This review was conducted pursuant to section 402 of the Ethics in Government Act of 1978, as amended. Our objective was to determine the ethics program's effectiveness, measured by its compliance with applicable ethics laws and regulations. To achieve our objective, we examined the following program elements: the administration of the ethics program, the public and confidential financial disclosure systems, the ethics education and training program, and the acceptance of travel payments from non-Federal sources. The review was conducted during December 2000. The following is a summary of our findings and conclusions.

ADMINISTRATION OF THE ETHICS PROGRAM

The General Counsel is the Designated Agency Ethics Official (DAEO), and is responsible for PRC's ethics program. The Alternate DAEO assists the DAEO with the administration of the ethics program.

PRIOR OGE REPORT

OGE previously conducted a review of PRC's ethics program in 1995. The report made two recommendations, which were subsequently closed, that focused on the financial disclosure systems.

RESIDUAL STANDARDS OF CONDUCT

PRC's residual standards of conduct are found at 39 C.F.R. part 3000. This regulation was amended in 1993, when PRC's supplemental standards of ethical conduct regulation in 5 C.F.R. part 5601 was issued. At that time, a regulatory waiver provision was left in the PRC's residual standards, at 39 C.F.R. § 3000.735-103(b), because it was covered by a savings provision in

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OGE's regulations at 5 C.F.R. § 2635.402(d)(1). However, in 1996, that savings provision expired and § 3000.735-103(b) of PRC's residual regulation was superceded when OGE issued executive branchwide regulatory waivers in 5 C.F.R. part 2640. Accordingly, PRC published a notice of proposed rulemaking on February 23, 2001, at 66 Fed. Reg. 11242-11243, in which PRC announced its intent to eliminate the superceded waiver provision from its residual standards.

OUTSIDE ACTIVITIES

PRC's supplemental standards of ethical conduct regulation at 5 C.F.R. § 5601.104 requires a PRC employee who wishes to engage in outside employment, either on a paid or unpaid basis, to obtain the prior written approval of the DAEO. However, you advised us that no employees have requested such approval within the last year. Our review of the financial disclosure reports did not reveal any outside activities needing prior approval.

FINANCIAL DISCLOSURE SYSTEMS

PRC has written procedures for the collection, filing, and review of the financial disclosure reports. The current procedures require the collection of termination reports from the confidential filers. Since 5 C.F.R. part 2634 does not require the collection of termination reports from the confidential filers, this requirement will be eliminated.

Public Financial Disclosure System

To determine the effectiveness of the public financial disclosure system we examined the 13 public reports filed in 2000. The public reports were from PRC's five commissioners, six senior executive service equivalents, and two special assistants to the commissioners. However, two other commissioners' special assistants who should have filed a public report filed confidential reports.

Under 5 C.F.R. § 2634.202(e) employees in positions which are excepted from the competitive service by reason of being of a confidential or policy-making character are required to file a public report. PRC commissioners' staff (special assistants and secretaries) are required to file a public financial disclosure report under this provision, unless excluded under 5 C.F.R. § 2634.203. You recently determined to exclude one special assistant and all of the secretaries from the filing requirement since they have no policy-making role with respect to agency

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programs. On December 20, 2000, you filed with OGE the list of those employees excluded from the filing requirement, in accordance with 5 C.F.R. § 2634.203(c). In addition, you will collect public reports from two special assistants who filed confidential reports in 2000.

We examined the 13 public reports filed in 2000, all of which were incumbent reports. Our examination disclosed that the reports were filed timely including the four public reports from filers who had been granted extensions. The reports were also reviewed timely including three public reports that were missing certification signatures. (The three reports were certified on December 4, 2000.) The review of the reports seemed thorough as indicated by the annotations on the reports. In addition, the reports contained no apparent actual or potential conflicts of interest.

Confidential Financial Disclosure System

To determine the effectiveness of the confidential financial disclosure system we examined the 25 confidential reports filed in 2000 including the 2 confidential reports improperly filed by the commissioners' special assistants. We determined that three reports were termination reports filed earlier in the year. As discussed previously, confidential filers are not required to file termination reports. You have advised us that, in the future, termination reports will not be required from confidential filers. The remaining 22 reports examined were annual reports. Our examination disclosed that the reports were filed timely including the eight reports from filers who had been granted extensions. The reports were reviewed timely and contained no apparent actual or potential conflicts of interest.

ETHICS EDUCATION AND TRAINING

Initial ethics orientation materials are provided, in accordance with C.F.R. § 2638.703, by the Administrative Office when new employees begin employment. (At the same time, covered employees also receive a financial disclosure report to forward to the ethics officials.) In addition, ethics officials meet with new employees to discuss ethical issues relevant to PRC.

Annual ethics training for 2000 was completed by November 27, 2000. All public filers including the commissioners, and all other covered employees received ethics training, in accordance with 5 C.F.R. §§ 2638.704 and 2638.705. Two ethics training sessions were offered. On June 20, 2000, all but two employees attended

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ethics training presented by the OGE desk officer. The presentation consisted of "The Battle for Avery Man" videotape and an overview of the ethics laws and regulations. On November 27, 2000, the remaining two employees attended ethics training presented by the Alternate DAEO. The presentation consisted of the "Guide to the Standards of Ethical Conduct" videotape followed by a question and answer session. The annual ethics training was carried out in accordance with PRC's 2000 written ethics training plan.

ADVICE AND COUNSELING SERVICES

The advice and counseling program seems to be meeting the needs of its employees. Most advice regarding ethical issues is provided verbally. Written advice is always provided when the request is written. Since PRC has had few departing employees, post-employment counseling has been minimal. The commissioners are aware of the potential for conflicts and seek advice from the ethics officials when offered other employment opportunities.

We examined the written advice covering honoraria, seeking employment, travel payments, and widely attended gatherings. We found that the advice appeared to be consistent with applicable ethics laws and regulations.

ACCEPTANCE OF TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

Under the General Services Administration's (GSA) Interim Rule 4 at 41 C.F.R. part 304-1, implementing 31 U.S.C. § 1353, Federal agencies can accept travel, subsistence, and related payments from non-Federal sources in connection with employees' attendance at certain meetings and similar functions related to their official duties. This regulation requires agencies to report to OGE on a semiannual basis the acceptance of those travel expense payments over \$250. PRC reported that it did not receive any payments covered by § 1353 for the periods from October 1, 1999 to March 31, 2000 and from April 1, 2000, to September 30, 2000.

REFERRALS TO THE DEPARTMENT OF JUSTICE

PRC does not have an Inspector General. Nevertheless, ethics officials have not had any occasion to make referrals of alleged criminal conflict of interest violations to the Department of Justice.

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CONCLUSIONS

Since you promptly forwarded to OGE the list of excepted employees to be excluded from the filing requirement, agreed to have the remaining employees in an excepted position file a public report for 2000, and have published in the Federal Register PRC's intent to eliminate the superceded waiver provision from its residual standards, PRC's ethics program is in full compliance with the ethics laws and regulations. We appreciate your cooperation regarding these issues.

The remaining program elements are effective as measured by its compliance with the ethics laws and regulations. The public and confidential financial disclosure reports examined were filed and reviewed timely and appeared to be free of conflicts. The ethics education and training program and the advice and counseling services are in full compliance with regulatory requirements and appear to be meeting the needs of PRC's employees.

In closing, I wish to thank you and your staff for all of your efforts on behalf of the ethics program. Please contact Jean Hoff at 202-208-8000, extension 1214, if we may be of further assistance.

Sincerely,


Jack Covaleski
Deputy Director
Office of Agency Programs

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