



U.S. Department of Justice

Washington, D.C. 20530

Emory A. Rounds, III
Director
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3919

Dear Mr. Rounds:

In accordance with the provisions of Title I of the Ethics in Government Act of 1978 as amended, I am forwarding the financial disclosure report of Delia Smith. President Biden has nominated Ms. Smith to serve as the United States Attorney for the District of the Virgin Islands. We have conducted a thorough review of the nominee's report and have counseled her on the government ethics rules. The purpose of this letter is to describe the steps that Ms. Smith will take to avoid any actual or apparent conflict of interest in the event that she is confirmed for the aforementioned position. Ms. Smith understands that it is her responsibility to understand and comply with commitments outlined in this agreement.

We have conducted a thorough review of the enclosed report and have counseled Ms. Smith on the ethics rules. Although it is not possible to provide for all of the specific circumstances which might give rise to a financial conflict of interest because the work of United States Attorneys involves a wide variety of matters involving specific parties, and it is not possible to predict where conflicts will arise until specific parties are identified, we have counseled Ms. Smith on the applicable conflict of interest laws and regulations and, in particular, on the application of the criminal conflicts of interest law at 18 U.S.C. § 208.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), Ms. Smith will not participate personally and substantially in any particular matter in which she knows that she has a financial interest directly and predictably affected by the matter, or in which she knows that a person whose interests are imputed to her has a financial interest directly and predictably affected by the particular matter, unless she first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). She understands that the interests of the following persons are imputed to her:

- Her spouse or any minor child of hers;
- Any general partner of a partnership in which she is a limited or general partner;
- Any organization in which she serves as officer, director, trustee, general partner or employee; and

- Any person or organization with which she is negotiating or has an arrangement concerning prospective employment.

In determining whether a particular matter has a direct and predictable effect on her financial interests or on those of any other person whose interests are imputed to her, Ms. Smith will consult with the Executive Office for United States Attorneys (EOUSA), General Counsel's Office, and will follow the procedures outlined in the United States Attorneys' Procedures, (USAP) 3-2.170.001, et seq. As stated in the attachment to this Ethics Agreement, Ms. Smith understands and agrees to comply with the conflict of interest laws and regulations, and to follow the procedures set forth in this agreement.

If Ms. Smith has a managed account or otherwise uses the services of an investment professional during her appointment, she will ensure that the account manager or investment professional obtains her prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

Ms. Smith will receive a live ethics briefing from the United States Attorney's Office ethics advisor in connection with her appointment to the position of United States Attorney for the District of the Virgin Islands after her confirmation but not later than 15 days after her appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of her confirmation, Ms. Smith will submit her Certification of Ethics Agreement Compliance to the EOUSA, General Counsel's Office, which documents her compliance with this ethics agreement.

Ms. Smith understands that as an appointee she will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that she will be bound by it. Among other obligations, she will be required to recuse from particular matters involving specific parties involving his or her former employer or former clients for a period of two years after he or she is appointed, with the exception of federal, state and local government.

She will not modify this ethics agreement without my approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – CONFLICTS OF INTEREST REVIEW AND COUNSELING

Ms. Smith has been advised that the duties of the position of United States Attorney may involve particular confidential matters identified by the United States Attorney's Office (USAO) that may affect her financial interests. EOUSA has determined that it is not necessary at this time for Ms. Smith to divest her financial interests because her recusal from particular matters in which these interests pose a conflict of interest will not substantially limit her ability to perform the essential duties of the position of United States Attorney. Immediately upon confirmation, EOUSA will prepare recusals for all particular matters in which Ms. Smith will not be granted a waiver or will not qualify for a regulatory exemption.

The USAO has conducted a conflict review, and has found no additional conflicts of interest.

Should additional conflicts arise, the USAO will seek the necessary waiver(s) or recusal(s) of the nominee immediately upon her confirmation. An appropriate screening mechanism will be identified and immediately upon appointment of the new United States Attorney, all necessary USAO personnel will be advised in writing of all matters in which the new United States Attorney may not participate. The notification will specifically list the matters and identify the Acting United States Attorney for those matters.

SECTION 3 – SPOUSE EMPLOYMENT

Ms. Smith's spouse is employed by The Strategy Group, in a position for which he receives a fixed salary and may be eligible for an annual performance-based bonus. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for as long as her spouse continues to work for The Strategy Group, she will not participate personally and substantially in any particular matter involving specific parties in which she knows The Strategy Group or any client of her spouse, is a party or represents a party, unless she is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 4 – PUBLIC POSTING

Ms. Smith has been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Based on the above agreements and counseling, I am satisfied that the enclosed report presents no conflicts of interest under applicable laws and regulations and that you may so certify to the Senate Judiciary Committee.

Sincerely,

ARTHUR
GARY

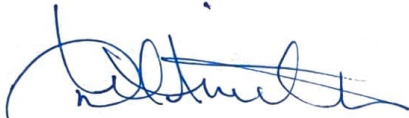
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ARTHUR GARY
Date: 2021.10.18
15:46:51 -04'00'

Lee J. Lofthus
Assistant Attorney General
for Administration and
Designated Agency Ethics Official

Enclosure

NOMINEE STATEMENT

I have read the Ethics Agreement signed by Lee J. Lofthus, Assistant Attorney General for Administration and Designated Agency Ethics Official on October 18, 2021 and I agree to comply with the commitments outlined in this agreement. In addition, in the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Executive Office for United States Attorneys (EOUSA), General Counsel's Office and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset. I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4). I (including my spouse and dependent children if applicable) also will not repurchase any asset I was required to divest without my consultation with the EOUSA, General Counsel's Office and the U.S. Office of Government Ethics. Finally, I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of states and local governments.



Delia Smith

10/18/2021

Date