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LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: Emory A. Rounds, III
Director

SUBJECT: 2020 Conflict of Interest Prosecution Survey

The U.S. 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) and other related statutes for calendar year 2020. The survey highlights how the Department of Justice enforces the criminal conflict of interest laws, and is a useful resource ethics officials can use to educate employees about how these laws apply in real-world situations. Information on 12 new prosecutions by the U.S. Attorneys' offices and the Civil Division of the Department of Justice was provided to OGE with the assistance of the Executive Office for United States Attorneys. Summaries of the prosecutions reported to OGE for past years can be found on OGE's website, www.oge.gov, organized [by year](#) and [by statute](#).

18 U.S.C. §§ 201 (Bribery) & 208 (Conflict of Interest)

1. United States v. Dwayne Nevins et al.

Defendant Dwayne Nevins worked as small business specialist at a Department of Veterans Affairs (VA) Network Contracting office in Colorado. In this role, he interacted with individuals affiliated with small businesses seeking VA contracts, and advised them about how to identify and obtain VA contracting opportunities. He also interacted with employees inside VA, providing contracting personnel with information about VA's small business procedures, including information about whether small businesses qualified for VA contracts.

According to court documents, Mr. Nevins accepted bribes from Robert Revis and Anthony Bueno, the owner and an employee (respectively) of a company that offered consulting services to businesses seeking government contracts, as part of a conspiracy to manipulate the process for bidding on federal projects with the VA. Specifically, Mr. Revis and Mr. Bueno, working together with Mr. Nevins, agreed to submit fraudulent bids from service-disabled-veteran-owned small business (SDVOSB) clients so that VA contracts would be set aside only for SDVOSB companies, greatly increasing the likelihood of their award to clients of Messrs. Revis and Bueno. Messrs. Nevins, Revis and Bueno worked to conceal the bribe payments, including by kicking back a portion of the payments made to their consulting company to Mr.



Nevins, and by asking their clients to pay Mr. Nevins for sham “training classes” related to federal contracting. Mr. Nevins also accepted payments from an undercover Federal Bureau of Investigation agent, who posed as the owner of an SDVOSB and offered to him money in exchange for his assistance in obtaining contracts with the VA, including contracts in which he participated personally and substantially.

Mr. Nevins was charged with conspiracy to commit bribery in violation of 18 U.S.C. § 371, two counts of receipt of a bribe in violation of 18 U.S.C. § 201, attempted extortion under color of right in violation of 18 U.S.C. § 1951, and two counts of conflict of interest in violation of 18 U.S.C. § 208. He pleaded guilty to the charges pursuant to a Plea Agreement dated September 19, 2019. On February 19, 2020, the court sentenced Mr. Nevins to 18 months of imprisonment, three years of supervised release, and an \$800 special assessment. Mr. Bueno pleaded guilty to conspiracy to commit bribery in violation of 18 U.S.C. § 201, and the court sentenced him to 30 months of imprisonment, three years of supervised release, and a \$100 special assessment. Mr. Revis pleaded guilty to supplementing the salary of a federal official, and the court sentenced him to one year of probation and ordered him to pay a \$4,500 fine and \$100 special assessment.

This case was handled by the United States Attorney’s Office for the District of Colorado; for additional information, see the [Indictment](#) for Messrs. Nevins and Bueno, [Information](#) for Mr. Revis, and [Plea Agreement](#) for Mr. Nevins.

2. United States v. Joseph Prince

Defendant Joseph Prince worked for the Department of Veteran’s Affairs (VA) as a Beneficiary/Provider Relationships Specialist for the VA’s Spina Bifida Health Care Benefits Program, which paid for home health services for eligible beneficiaries, including home health aide services and homemaking services.

Mr. Prince defrauded the VA’s Spina Bifida Health Care Benefits Program by signing up family members of the program’s beneficiaries as home health “contractors” with “home health agencies” run by his associates, including his wife, his brother-in-law, and his half-sister. Even though the sham home health entities were not VA authorized providers, Mr. Prince encouraged the family members to submit bills for their services, and also encouraged them to bill for services that were either not provided or were not allowed by the VA. He then accepted payments from the associated home health agencies for the referrals he made to them. Between June 2017 and June 2018, Mr. Prince referred approximately 45 program beneficiaries to the sham home health entities, to which the VA paid approximately \$19 million in fraudulent claims. He received approximately \$1.5 million in kickbacks from those payments.

The Government charged Mr. Prince with multiple offenses; specifically, the 45-count Third Superseding Indictment charged him with 11 counts of conflict of interest in violation of 18 U.S.C. § 208; 10 counts of health care fraud in violation of 18 U.S.C. § 1347; one count of conspiracy in violation of 18 U.S.C. § 371; six counts of soliciting and receiving bribes in violation of 18 U.S.C. § 201; six counts of soliciting and receiving kickbacks and bribes in violation of the health care anti-kickback statute, 42 U.S.C. § 1320a-7b(b)(1)(A); eight counts of

unlawful monetary transactions in violation of 18 U.S.C. § 1957; and three counts of money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(1). A jury found Mr. Prince guilty of all counts on March 12, 2020, and on June 11, 2020, the court sentenced him to 192 months of imprisonment and three years of supervised release. The court also ordered him to pay a \$4,500 special assessment and \$18,777,134.68 in restitution. Three of Mr. Prince's co-conspirators pleaded guilty to paying an illegal gratuity in violation of 18 U.S.C. § 201; the court sentenced the first to eight months of imprisonment and one year of supervised release, and ordered him to pay \$1,007,205 in restitution; the court sentenced the second to 48 months of probation and ordered him to pay \$519,572.20 in restitution; and the court sentenced the third to 54 months of probation and ordered her to pay \$519,572.20 in restitution. The United States Court of Appeals for the Tenth Circuit subsequently affirmed his sentence.

This case was handled by the United States Attorney's Office for the District of Colorado; for additional information, see the [Third Superseding Indictment](#).

18 U.S.C. § 207 (Post-Employment Restriction)

3. Civil Settlement

The relevant individual worked as a district director for the Small Business Administration (SBA). In this role, he participated personally and substantially in the SBA's efforts to help Company M restructure its debt, including a large loan that was guaranteed by the SBA under the agency's 504 program that provides approved small business with financing for fixed assets.

At the time the individual left the SBA, Company M's debt restructuring was still unresolved. Approximately a year after his departure from the SBA, the former employee asked an SBA officer for a "favor" in obtaining SBA approval of a debt restructuring plan that would have benefited Company M and its owner, who had become the former employee's friend. A few months later, the former employee asked another SBA employee to help Company M. The former employee's requests to the SBA were unsuccessful, and the agency ultimately recovered the full amount of its loan guarantee.

The parties entered into a settlement pursuant to which the former employee agreed to pay \$15,000 to settle a civil action alleging that, following his departure from the SBA, he attempted to improperly influence the agency in violation of 18 U.S.C. § 207.

This case was handled by the Civil Division of the Department of Justice and the United States Attorney's Office for the District of Colorado

18 U.S.C. §§ 207 (Post-Employment Restriction) & 208 (Conflict of Interest)

4. Civil Settlement

The relevant individual worked as a division chief at U.S. Citizenship and Immigration Services (USCIS). The Government alleged that during her employment at USCIS she engaged

in employment negotiations with Company E, a contractor of USCIS. According to the Government, while negotiating for employment with Company E and after agreeing to an employment arrangement with the company, the individual participated personally and substantially in a modification of Company E's contract with USCIS that added additional funding and positions to the contract. The Government further alleged that, following her departure from USCIS, the individual communicated with USCIS officials with the intent to influence them to approve her and other colleagues to fill the contractor positions added by the contract modifications in which she had participated.

The parties entered into a civil settlement pursuant to which the former employee agreed to pay the Government \$33,000 to resolve allegations that she had an improper conflict of interest.

This case was handled by the United States Attorney's Office for the Eastern District of Virginia.

18 U.S.C. § 208 (Conflict of Interest)

5. United States v. Steven James Graves

Defendant Steven Graves was employed as a contract specialist and senior contracts administrator with the Department of State's Office of Acquisitions Management (AQM), the agency office responsible for operational acquisitions, including acquisition planning, contract negotiations, cost and price analysis, and contract administration. In this position, he was authorized to perform most functions of a contracting officer. Prior to his employment in this position, Mr. Graves worked as a government contractor for AQM, in a position in which he had substantially similar job duties.

Gary Duff, a close friend of Mr. Graves, was the Chief Executive Officer and co-owner of Honest, Experienced, Reliable, Contracting Solutions LLC (HERC), a construction and engineering firm that claimed to specialize in international construction projects for the Government in developing countries and military zones. Mr. Graves served as the assigned point of contact for State Department contracts with HERC. Starting in 2011, he became a silent *de facto* partner in HERC, assisting in the company's attempts to generate business and raise capital, and making loans and capital contributions to the company. He also became an authorized signer of HERC bank accounts as a partner/managing member, received a HERC debit card, and requested W-2 tax forms. While still working for the Department of State, Mr. Graves sought out contracting opportunities for HERC at the agency, provided advice on the preparation of bid proposals, and disclosed confidential procurement information to HERC and its business partners, while at the same time making decisions and recommendations in his official capacity regarding Department of State procurement matters involving HERC. During this time, he concealed his relationship with HERC and its associates, including by failing to disclose any outside position with HERC on his confidential financial disclosure report, OGE Form 450.

Upon his departure from Government service in 2013, Mr. Graves immediately became

an official company executive at HERC, and the company filed amended corporate paperwork noting his majority ownership. He subsequently represented HERC in communications directly with AQM contracting officials and other agency employees regarding HERC's contract performance and payment on HERC contracts that he previously oversaw while a Government employee.

Mr. Graves was charged on September 20, 2017 with conspiracy to defraud the United States and wire fraud in violation of 18 U.S.C. § 371 and conflict of interest in violation of 18 U.S.C. § 208, and pleaded guilty to the offenses the same day. The court sentenced him on January 19, 2018 to 15 months of imprisonment and three years of supervised release, and ordered him to pay \$1,372,496.61 in restitution and a \$200 special assessment. Mr. Duff pleaded guilty to a one-count criminal Information charging him with conspiracy to defraud the United States and commit wire fraud, and the court sentenced him on July 6, 2018 to 18 months of imprisonment and two years of supervised release, and ordered him to pay \$250,000 in restitution and a \$100 special assessment.

This case was handled by the United States Attorney's Office for the Eastern District of Virginia; for additional information, see the [Information](#) and [Statement of Facts](#) associated with Mr. Graves' Plea Agreement.

6. United States v. Arnold Scott Devous

Defendant Arnold Scott Devous was a Medical Officer for Indian Health Services (IHS) in Browning, Montana, where he was in charge of a diabetes program.

According to the Plea Agreement, Dr. Devous used his position to prescribe patients Farxiga, a Type 2 diabetes medication that was not on the IHS formulary and therefore could not be obtained at the IHS facility. He solicited multiple pharmacies across the state to fill expensive Farxiga prescriptions, in exchange for him receiving a "cut" of the profits, and ultimately found a pharmacy that agreed to his proposal. Over the span of six months, this pharmacy paid Dr. Devous \$45,540.89, which he attempted to hide first by channeling the monies to his wife, and then to a prospective business associate.

Dr. Devous was charged with violating 18 U.S.C. § 208, and pleaded guilty to the charge on September 10, 2020. On January 7, 2021, the Court sentenced him to three months of imprisonment, two years of supervised release, and ordered him to pay a \$10,000 fine and a \$100 special assessment.

This case was handled by the United States Attorney's Office for the District of Montana; for additional information, see the [Indictment](#) and [Offer of Proof](#) associated with the Plea Agreement.

7. Civil Settlement

The relevant individual worked for several years as a Program Manager at the Defense Advanced Research Projects Agency (DARPA), an agency that formulates and executes research

and development projects to expand the frontiers of technology and science. In the course of his Government employment at DARPA, the individual developed technology relating to a certain DARPA research program, and requested permission to patent this technology; the agency determined that the technology was the sole property of the Government and denied his request. Notwithstanding this denial, the former employee filed a patent application covering the same technology with the U.S. Patent and Trademark Office (USPTO), and did not disclose the Government's interest in the technology in the application. Following his departure from DARPA, the former employee filed two follow-on patent applications with the USPTO covering the same technology, and formed his own company (Company X) to market the technology.

The Government filed a civil complaint against the former employee and Company X alleging for conversion and trespass to chattels. The former employee and Company X ultimately agreed to pay the Government \$50,000 to resolve claims including breach of fiduciary duty of a Government employee and violation of 18 U.S.C. § 208; in the parties' settlement agreement, the former employee and Company X also agreed, among other things, to transfer to the Government all rights and interests to the patents and applications at issue.

This case was handled by the United States Attorney's Office for the Eastern District of Virginia.

18 U.S.C. § 209 (Supplementation of Salary)

8. United States v. Gerald F. Luchansky

From 1979 until his retirement in 2017, Defendant Gerald Luchansky was an Archives Specialist with the National Archives and Records Administration (NARA). As part of his NARA job duties, he was responsible for pulling archival aerial photographs of Allied bombing runs in World War II, digitizing them, and making them available to researchers.

Starting in 2008, a German company hired and began paying Mr. Luchansky to perform these same services. Specifically, Mr. Luchansky would scan NARA's archival photographs and provide the German company with thumb drives or CDs of the images; the German company paid him for these photographs, at the same time he was being paid by NARA to provide those same photographs to members of the public for free. In addition, between 2004 and 2017, a Maryland company paid Mr. Luchansky to research NARA cartographic holdings and obtain rolls of NARA's aerial film. The Maryland company paid him a total of \$27,510 for this work, even though as a NARA employee he was supposed to provide these services to the public for free. Mr. Luchansky engaged in these activities without the knowledge or approval of NARA, which paid him an annual salary during this time period.

Mr. Luchansky was charged with receipt of unauthorized compensation by a Government employee in violation of 18 U.S.C. § 209, and pleaded guilty to the offense on December 15, 2020. On December 18, 2020, the court sentenced him to four months of home detention as part of one year of probation, and ordered him to pay a \$5,000 fine.

This case was handled by the United States Attorney’s Office for the District of Maryland; for additional information, see the [Information](#) and [Plea Agreement](#).

18 U.S.C. § 371 (Conspiracy to Commit Offense Against the United States)

9. United States v. Joseph Young¹

Following his retirement from the military at the rank of colonel, Defendant Joseph Young formed J.Y. & Associates, an IT professional services company. Between 2008 and 2014, Mr. Young conspired with two active-duty colonels and another retired colonel to award millions in U.S. Army contracts to the retired colonel’s company, which used J.Y. & Associates as a subcontractor. During this time period, Mr. Young paid the spouse of one of the active-duty colonels more than \$1.2 million in salary and other compensation for a “no-show” job, and the other retired colonel paid the other active-duty colonel \$200,000 in bribes.

In a Plea Agreement filed with the Court on November 21, 2019, Mr. Young pleaded guilty to an Information that charged him with conspiracy to commit offenses against the United States in violation of 18 U.S.C. § 371, specifically, for conspiring to commit bribery in violation of 18 U.S.C. § 201, and to willfully violate 18 U.S.C. § 208 by agreeing to allow an executive branch employee to participate personally and substantially in a particular matter in which he and his family had a substantial financial interest. On August 6, 2020, the court sentenced him to 60 months of imprisonment and three years of supervised release. The court also ordered him to pay restitution in the amount of \$1,141,861.66, a \$50,000 fine, and a \$100 special assessment. The United States Court of Appeals for the Eleventh Circuit subsequently affirmed Mr. Young’s sentence, rejecting his arguments that the restitution order was unlawful and that district court erred in not ordering the Government to recommend a shorter sentence.

This case was handled by the United States Attorney’s Office for the Southern District of Georgia; for additional information, see the [Information](#), [Plea Agreement](#), and [Eleventh Circuit opinion](#) upholding Mr. Young’s sentence.

18 U.S.C. § 1001 (False Statements)

10. Non-Prosecution Agreement

The relevant individual served as a Cabinet-level official for the United States Government. In this role, he was required to file annual public financial disclosure reports (OGE Form 278) that disclosed, among other things, liabilities of over \$10,000 owed to any one creditor at any time during the reporting period.

During his penultimate year of Government service, the former official received a \$50,000 loan from a private individual, which he used for home repairs. He failed to disclose this loan on both the annual financial disclosure report covering the year he received the loan and the termination financial disclosure report filed the following year. According to the Non-Prosecution Agreement, the former official omitted the loan from his public financial disclosure

¹ Note, this case is related to the *Williams* case reported in the 2019 Prosecution Survey.

forms because he did not want to be publicly associated with the individual he believed to be the ultimate source of the funds, who was reported to have been at one point on the U.S. “No Fly List.”

The former official and the Government entered into a Non-Prosecution Agreement in which the former official accepted responsibility for his actions (as set forth in that agreement’s Statement of Facts), and as a condition of non-prosecution, agreed to pay a \$40,000 fine to the United States and to repay the outstanding \$50,000 loan. As a condition of the agreement, the former official also agreed to participate in an in-person interview with representatives from the United States Attorney’s Office, the Federal Bureau of Investigation, and other Government representatives, and to fully cooperate with the Government officials during the interview.

This case was handled by the United States Attorney’s Office for the Central District of California.

11. United States v. Shawn Whitecotton

Defendant Shawn Whitecotton worked for the Bureau of Prisons (BOP) as the factory manager of the UNICOR facility at the United States Penitentiary at Marion, Illinois (USP-Marion). UNICOR, also known as Federal Prison Industries, is a wholly-owned Government corporation administered by the BOP that operates manufacturing facilities in certain BOP facilities with the goal of preparing inmates for successful reentry into society by providing them with job training and work skills. As part of this mission, UNICOR sometimes contracts with private entities to provide product manufacturing services.

In August 2014, UNICOR entered into a contract to manufacture wire clothes hangers for Company P; the UNICOR factory at USP-Marion was one of the sites designated to manufacture hangers under this contract. In October 2014, Mr. Whitecotton formed TRCB LLC, which in February 2015 entered into an agreement with Company P to be the company’s “non-exclusive sales representative” in the United States for Company P’s products, which consisted solely of the wire clothes hangers manufactured at USP-Marion. Between March 2015 and January 2016, Mr. Whitecotton received over \$20,000 in compensation from Company P and its owners, either directly or through TRCB.

By virtue of his supervisory position, Mr. Whitecotton was required to annually file a Confidential Financial Disclosure Report (OGE Form 450), which required disclosure of his financial interests and outside employment activities and positions. In his OGE Form 450 covering calendar year 2015, Mr. Whitecotton failed to disclose either Company P or TRCB as a source of outside income of greater than \$200, and also failed to identify TRCB as an outside entity in which he held a position during the reporting period. When it appeared that his activities would be discovered, Mr. Whitecotton took steps intended to suppress or interfere with investigators, including instructing a witness to lie about his involvement with TRCB and receipt of payments from Company P.

On December 10, 2020, Mr. Whitecotton pleaded guilty to an Information charging him with two counts of false statements in violation of 18 U.S.C. § 1001. On March 11, 2021, the

court sentenced him to eight months of imprisonment, eight months of home detention, and 18 months of supervised release. The court also ordered him to pay restitution in the amount of \$23,475.25 and a special assessment of \$200.

This case was handled by the United States Attorney's Office for the Southern District of Illinois; for additional information, see the [Information](#) and [Stipulation of Facts](#) associated with the Plea Agreement.

5 U.S.C. app. 4 § 101 (Ethics in Government Act)

12. United States v. Durwin Lairy

Defendant Durwin Lairy worked for the Department of Energy (DOE) Office of Economic Impact and Diversity from October 17, 2016 to September 20, 2017. As an employee subject to the public financial disclosure requirements, Mr. Lairy was required to submit a termination financial disclosure report within 30 days of his departure.

On October 20, 2017, DOE contacted Mr. Lairy by email to remind him of his obligation to file a termination report; Mr. Lairy requested an extension of time to file the report, which DOE granted until November 20, 2017. On November 15, 2017, DOE sent Mr. Lairy a reminder of the November 20th deadline, and also advised him of the \$200 late filing fee incurred for late filing. Mr. Lairy did not respond to the November 15th email or file his report by November 20th. DOE thereafter made multiple attempts to contact Mr. Lairy by email and certified mail, informing him that his failure to file the termination report had incurred a late filing fee and could result in a civil penalty; those communications included instructions for filing the overdue termination report and for mailing the late filing fee. Mr. Lairy finally responded to DOE by email in December 2018, and advised that he was experiencing difficulty with logging into the system to file his report. DOE remedied the account access issues, and in February 2019 advised Mr. Lairy that his access to the electronic filing system had been restored and that he should file the report as soon as possible. He failed to respond to this email, and in April 2019, DOE sent another email to Mr. Lairy giving him a "final opportunity" to complete the report. Mr. Lairy never filed the termination report, and in August 2019, the Government filed a civil action seeking a civil penalty for his failure to file the report as required by 5 U.S.C. app. 4 § 101.

Mr. Lairy failed to respond to the civil action; the Clerk of the Court entered default judgment in December 2019, and the Government filed a motion for entry of default judgment in April 2020. On July 17, 2020, the court granted the Governments' motion, noting that "the Government's evidence of Mr. Lairy's flagrant and ongoing nonfulfillment of the EIGA filing requirements demonstrate[d] Mr. Lairy's indifference to the requirements of the statute." Stating its belief "that the maximum penalty should be reserved for the most egregious of cases and applied only in situations where the non-filant has the greatest incentive to avoid public reporting," the court declined to impose the maximum penalty of \$60,517, and instead assessed a civil penalty in the amount of \$10,200.

This case was handled by the Civil Division of the Department of Justice; for additional information, see the [Complaint](#) and the Court's July 17, 2020 [opinion](#).