



United States
Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005-3917

July 14, 2003

Christopher Hughey
Designated Agency Ethics Official
Federal Maritime Commission
Room 1018
800 North Capitol Street, NW.
Washington, DC 20573

Dear Mr. Hughey:

The Office of Government Ethics (OGE) recently completed its review of the ethics program at the Federal Maritime Commission (FMC). 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 largely by its compliance with applicable statutes and regulations.

HIGHLIGHTS

FMC's ethics program complies with OGE's regulations and appears effective. You exceed requirements by providing verbal annual ethics training for all covered employees at headquarters each year and offering post-employment counseling to all departing employees. The consistent timeliness of filing, reviewing, and certifying financial disclosure reports further testifies to ethics officials' diligence and commitment to the ethics program.

ADMINISTRATION

As the Designated Agency Ethics Official (DAEO), you administer FMC's ethics program with the assistance of the Alternate DAEO (ADAEO). You spend approximately 15 percent of your time on ethics, while the ADAEO spends about 5 percent of her time. Even though the ethics office is housed within the Office of General Counsel, in the capacity of ethics official you and the ADAEO work directly under the Office of the Chairman.

EDUCATION AND TRAINING

FMC's education and training program not only meets, but in some areas exceeds, OGE's requirements. Since training is one of

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the best ways to prevent unethical behavior, OGE considers this a sign of the effectiveness of your program.

Initial Ethics Orientation

In 2002, all 10 new FMC employees received initial ethics orientation. FMC's Office of Human Resources (OHR) provides training to employees when they first report for duty by providing them with a copy of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) and one hour in which to review it. Subsequent to our fieldwork, ethics officials and the OHR Director decided to attach to the Standards a memorandum which refers new employees to FMC's policies on financial disclosure, official travel, and personal use of Government office equipment, as well as listing ethics officials' contact information.

FMC's ethics training program exceeds OGE's requirements in that you and the ADAEO provide verbal in-person initial ethics orientation to new commissioners and Schedule C employees. During these briefings you illustrate the ills of not following ethics rules with a true account of a former commissioner who was investigated by the Department of Justice (DOJ) and reprimanded for his actions. OGE believes your method of training upper-level officials is very effective in preventing violations of the ethics rules, and thus ensuring public trust in FMC's integrity.

Annual Ethics Training

FMC also exceeds the requirements for annual ethics training. At the beginning of each year you create a plan detailing how you will conduct training for covered employees. Every year, all covered headquarters employees receive one hour of verbal training presented by you and the ADAEO. You carefully track attendance and provide a make-up session for those who miss the first three sessions. In 2002, training focused on the 14 Principles, highlighted the major ethics rules, used the OGE's "Gameshow PAL" as a competitive game, and reminded attendees of the "good faith reliance" protections. All 33 headquarters employees required to receive training had attended one of your live sessions by the end of the year. These employees included the commissioners, who you attest also received training in each of the three previous years.

All seven Area Representatives also completed their required training in 2002. Since these confidential filers are located in one- or two-person field offices, they always receive computer-based annual ethics training. Last year, Area Representatives completed eight modules, including one on conflicting financial

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interests, on the U.S Department of Agriculture's ethics Web site. You tracked compliance by requiring them to notify you of the modules they had completed.

ADVICE AND COUNSELING

FMC's ethics advice and counseling program appears to comply with OGE's requirements. We commend you for following the best practice of making post-employment counseling available to all departing employees.

We were unable to assess the quality of your advice, since you and the ADAEO dispense all advice verbally and do not maintain a written record. You clarified that you often offer to provide advice in writing, but that no one has taken you up on the offer. You have not felt that any of the issues you have thus far addressed have been sensitive enough to warrant a written record. Moreover, you receive only approximately one inquiry per month, a sparsity you attribute to the limited potential for conflicts of interest and the fact that the majority of the career staff has been at FMC for many years and is familiar with the ethics rules. Nonetheless, OGE strongly encourages ethics officials at all agencies to keep a written record of advice in order to achieve consistency, provide an idea of relevant annual ethics training topics, and most of all prevent disputes over what was said.

FMC's policies ensure that all employees are offered post-employment counseling upon departing the agency. As part of the check-out process, departing employees must have an ethics official sign off on their clearance form. You use this opportunity to provide relevant post-employment counseling and provide SF 278 forms to those required to file termination reports.

ETHICS AGREEMENT

The only current employee with an ethics agreement has complied with all terms of the agreement. Furthermore, those on his immediate staff act as screeners to ensure he does not inadvertently participate in a matter from which he has recused himself.

FINANCIAL DISCLOSURE SYSTEMS

You and the ADAEO manage effective systems for both public and confidential financial disclosure in accordance with OGE's requirements and FMC's written procedures. We note that you have agreed to update the written financial disclosure procedures to

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reflect recent transfers of authority from OGE to agencies concerning filing extensions and late filing fee waivers. The procedures are otherwise effective, detailing, among other things, the close cooperation between ethics officials and FMC's OHR Director in identifying new entrant and termination filers. Furthermore, you and the ADAEO aggressively track the filing of reports. These practices not only ensure timely filing, but also convey to employees the seriousness with which FMC regards ethics.

Public Financial Disclosure

We examined annual public financial disclosure reports filed in 2003, as well as all new entrant and termination reports filed from 2002 up to the time of our review. These 23 reports consisted of 4 new entrant, 17 annual, and 2 termination reports, 7 of which were filed by commissioners. Since one filer was granted a filing extension and was not yet required to file, we examined the remaining 22 reports. All reports were filed in a timely manner, reviewed both quickly and thoroughly (though at the time of our review you had not yet completed the review of one report), and certified on time.

Confidential Financial Disclosure

In 2002 FMC employees were required to file 26 confidential financial disclosure reports, 25 of which were filed and which we examined.¹ These reports were generally filed timely, were thoroughly reviewed as evidenced by few technical and no substantive deficiencies, and were all certified within 60 days.

ENFORCEMENT

Although the Inspector General (IG) informed us that no ethics violations have occurred at FMC recently, his office and the ethics office have planned for that eventuality. A 1991 memorandum from the IG and the DAEO to the Chairman assigns responsibility for certain aspects associated with handling an ethics violation. For instance, you are responsible for notifying OGE of all referrals to DOJ and of subsequent case developments. Since different people

¹One filer transferred from another agency around the 2002 annual filing deadline. You mistook his forwarded 2001 report for a new entrant report, and consequently did not collect an annual report from him. You intend to rectify the situation by requiring the filer to report information covering the previous two years on his 2003 report.

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now occupy the positions of DAEO and Chairman, issuing a similar memorandum now would serve to solidify the cooperation between you and the IG.

TRAVEL PAYMENTS FROM NON-FEDERAL SOURCES

FMC complies with the requirements of 31 U.S.C. § 1353 in accepting payments for travel-related expenses from non-Federal sources. Its procedures ensure that an ethics official conducts a conflict of interest analysis and approves the acceptance of funds from non-Federal sources before travel occurs.

Over the last two reporting periods, from April 2002 through March 2003, FMC accepted four such payments of greater than \$250. The Alternate DAEO compiled both semiannual reports and submitted them to OGE in a timely manner

In closing, I wish to thank you for all of your efforts on behalf on the ethics program. A brief follow-up review is normally scheduled within six months after an ethics program review. However, as this report contains no formal recommendations, no such follow-up will be necessary. Please contact Christelle Klovers at 202-482-9255, if we may be of further assistance

Sincerely,



Jack Covaleski
Deputy Director
Office of Agency Programs

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