



United States
Office of Government Ethics
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MEMORANDUM

TO: Designated Agency Ethics Officials and Inspectors General

FROM: Robert I. Cusick
Director

SUBJECT: 2009 Conflict of Interest Prosecution Survey

The 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) for the period January 1, 2009 through December 31, 2009. Information on (12) new prosecutions by U.S. Attorneys' offices and the Public Integrity Section of the Department of Justice's Criminal Division was provided to OGE with the assistance of the Executive Office for United States Attorneys at the Department of Justice. Summaries of the prosecutions reported to OGE for past years can be found on its website at www.usoge.gov under "Laws and Regulations."

2009 CONFLICT OF INTEREST PROSECUTION SURVEY

I. Update on Previously Reported Cases

1) United States v. David H. Safavian

The Defendant, David Safavian, served as the Chief of Staff for the Administrator of the General Services Administration (GSA) between 2002 and 2004. Between November of 2004 and September 2005, the Defendant was employed as the Administrator of the Office of Federal Procurement Policy in the Office of Management and Budget, Executive Office of the President. During 2002, Safavian, along with a number of other government officials and lobbyists, was invited to attend a social golf outing in Scotland by lobbyist Jack Abramoff. The Defendant was told that private jet service would be provided.

In response to this offer, the Defendant requested advice from his agency's ethics official on whether attendance was a violation of the criminal or regulatory ethics codes. In the request,

the Defendant made a number of false and misleading statements, which included telling the ethics official that Abramoff was a friend and former colleague who had no business before GSA. At the time Abramoff was preparing to enter into agreements to secure GSA-controlled property—a transaction in which the Defendant was a participant. Basing his determination on the false statements, the ethics official concluded that the Defendant's attendance would not be a conflict of interest. On the trip, attendees, including the Defendant, visited a number of hotels, played a number of rounds of golf, and shared drinks and meals, most of which were paid for by Abramoff.

An investigation was initiated after the Office of the Inspector General at GSA became aware of the Defendant's presence on the trip. A year subsequent to the commencement of the investigation, the Washington Post released a number of articles cataloging Abramoff's illicit dealings with several Indian Tribes. As a result of those articles, the Senate Committee on Indian Affairs began an independent investigation into Abramoff's dealings. During this investigation the Defendant was questioned about his connection to Abramoff, and in particular his involvement in the Scotland trip. The Defendant's answers to these questions included similar false and misleading statements to those the Defendant gave to his ethics official in his request for advice.

In June 2006, a jury found Safavian guilty of one count of obstruction of justice under 18 U.S.C. § 1505, and three counts of making false statements under 18 U.S.C. § 1001 with regard to his communications to his ethics official. In October 2006, he was sentenced to 18 months in prison. He appealed, and two charges against him, including one count of concealment of material facts to a GSA Officer and to the Office of Inspector General at GSA, were reversed because of judicial error in disallowing expert testimony. The court vacated the decision and granted a motion for a new trial.

On December 19, 2008, Safavian was again convicted of four charges, one charge of obstruction and three charges of making false statements under 18 U.S.C. §1001, including false statements made to the Office of the Inspector General at GSA, false statements made to the FBI, and false statements made on his financial disclosure form. On October 16, 2009, Safavian was sentenced to one year in prison and two years of supervised release.

Subsequent to his conviction, Safavian filed a motion for judgment of acquittal and a motion for a new trial. Both motions were denied in their entirety by the District Court on July 21, 2009. The Defendant filed a notice of appeal. Defendant has been released on bond, and his punishment has been stayed until his appeal is heard.

The prosecution of this case has been handled by the Public Integrity Section of the Criminal Division of the Department of Justice.

2) United States v. POGO

The Project on Government Oversight (POGO) is a non-profit organization that investigates and exposes corruption and other misconduct in the Federal Government. Robert Berman was an economist with the Department of the Interior (DOI). He was responsible for analyzing oil-royalty issues. While an employee of DOI, he authored several documents on the issue of oil-royalty payments. POGO's director relied on these documents, and Berman's assistance, through numerous phone calls to develop an investigative report that POGO issued on unpaid oil royalties. POGO subsequently filed two qui tam suits under the False Claims Act against 16 major oil companies. POGO alleged that the Defendants underreported the value of the oil extracted from Federal and Indian lands to reduce the amount of royalties owed to DOI under oil leases with the Government. POGO agreed to share any award it might receive in the oil litigation with Berman. Upon receipt of its first installment share of the qui tam settlement proceeds, POGO issued a "public service award" to Berman in the amount of \$383,600 for his "decades-long public-spirited work" in connection with revealing the supposed fraud perpetrated by the oil companies.

In January 2003 the United States filed a civil action against POGO and Berman, alleging the payment from POGO to Berman was an award that contributed to or supplemented Berman's salary as an employee of DOI, in violation of 18 U.S.C. § 209(a). The United States sought a \$383,600 penalty from each, and an injunction against future payments. The United States sought summary judgment on the Section 209 claims, and on August 31, 2004, the district court granted the Government's motion without an opinion, and certified the judgment for appeal.

POGO appealed the ruling. On July 14, 2006, the District of Columbia Circuit reversed and remanded the case, finding that there were disputed issues of fact with regard to whether the payment was in compensation for Berman's Government service. United States v. POGO, 454 F. 3d 306 (D.C. Cir. 2006) (POGO I).

On remand to the district court, POGO moved to dismiss, asserting that the 3-year statute-of-limitations period applicable to tort claims had expired. On April 6, 2007, the court denied POGO's motion and held that the applicable limitations period was 5 years under 28 U.S.C. § 2462. United States v. POGO, 484 F. Supp. 2d 56 (D.D.C. 2007) (POGO II).

Berman then sought summary judgment, asserting that Section 209 prohibits only periodic, salary-like payments, not lump-sum payments, as he asserts were paid in this case. The Government also sought summary judgment on the ground that new evidence existed, showing that the Defendants admitted that POGO paid, and Berman received, the money for the DOI documents authored by Berman. The district court denied both motions. United States v. POGO, 525 F. Supp. 2d 161 (D.D.C. 2007) (POGO III).

A jury trial began on February 6, 2008. At trial, Berman's supervisor testified that Berman was DOI's lead analyst on oil royalty issues for several years. He testified that Berman's responsibilities included analyzing DOI policy in this area, and making suggestions for improvement. Berman prepared various documents advocating the use of a particular method for

oil royalty valuation. The supervisor testified that he reviewed these documents and passed them up the chain to his supervisors for review.

After a trial lasting several days, the jury returned a verdict finding that the Government had proved by a preponderance of the evidence that both POGO and Berman had violated 18 U.S.C. § 209(a). After the verdict was issued, POGO and Berman renewed their motions for judgment as a matter of law. They also moved for a new trial. On April 10, 2008, the district court denied the motions and imposed civil penalties of \$383,600 on Berman and \$120,000 on POGO. United States v. POGO, 543 F. Supp. 2d 55 (D.D.C. 2008).

On August 20, 2008, the Court dismissed post-trial motions by the Government moving for judgment on their claims of breach of fiduciary duty, unjust enrichment, and declaratory and injunctive relief by Berman and POGO. The Court stated that allowing these motions for judgment would provide the Government with a punitive windfall in light of the Court's earlier ruling. United States v. POGO, 572 F. Supp. at 73.

On August 3, 2010, the United States Court of Appeals for the District of Columbia issued an opinion which reversed the lower court's interpretation of § 209. The lower court had stated that a payor's intent to compensate a government employee for acts taken as part of his official duties was irrelevant. The key factor to consider was whether the payment in fact compensated an employee for something that was his official duty. The effect of the lower court's decision was to hold the payor strictly liable. The Appeals Court reversed, stating that a payor must have actual intent to compensate a government employee for his official duties for § 209 to be implicated. The court stated that: "(1) the payor must *intend* its payment to compensate for the employee's government work, and (2) the work at issue must *actually be* his government work." United States v. POGO, 2010 U.S. App. LEXIS 16035 *1, *43 (D.C. Cir. 2010).

II. 2009 Prosecutions

18 U.S.C. § 207

3) United States v. Nick Walters

The Defendant, Nick Walters, was the State Director of the United States Department of Agriculture Rural Development (USDARD). Part of the duties of USDARD included fielding loan and grant applications from community facilities to provide funding to rural communities that would help the overall community.

In March 2006, the Natchez Regional Medical Center in Natchez, Mississippi, contacted USDARD for information on the possibility of receiving a community facilities loan to improve their hospital. On March 21, 2006, the Defendant and his staff met with the Board of Directors of the Medical Center and provided them with information on the community facilities loan program. On March 23, 2006, the CFO of the Medical Center was authorized to apply for a community facilities loan with USDARD. The authorization was executed through a resolution by the Medical Center's Board of Directors, and a copy of the resolution was provided to the Defendant. The Defendant also spoke to the Board about hiring a financial advisor, and

recommended Kidwell and Company (Kidwell). Kidwell was hired by the Board. During the period of time spanning March 2006 through September 2006, the Defendant attended meetings and communicated with the Medical Center's Board of Directors and Kidwell about the loan program as it would apply to the Medical Center.

On August 4, 2006, the Defendant resigned from his position as State Director at USDARD. After his resignation, the Defendant communicated with employees of USDARD on behalf of the Medical Center about the community facilities loan and application. He also assisted the Medical Center with filing a formal application for a community facilities loan with USDARD.

The Defendant was charged with one count of violating 18 U.S.C. § 207(a)(1). On October 27, 2009, the Defendant pleaded guilty. On December 15, 2009, he was sentenced to three years of probation, a \$1,000 fine, and a \$25 special assessment fee.

The United States Attorney's Office for the Southern District of Mississippi handled the investigation and prosecution of this case.

18 U.S.C. § 208

4) United States v. Mark A. O'Hair

Defendant Mark A. O'Hair was a Program Manager for the Air Force Research Laboratory Munitions Directorate. Part of O'Hair's duties required that he evaluate initial proposals submitted by contractors, and participate in awarding contracts to a number of defense contractors, including Schaller Engineering, Inc. ("SEI") and Coherent Systems, Inc. Richard Schaller and Theodore Sumrall were the directors of SEI. O'Hair had been part of the team that awarded the contract to SEI. O'Hair also approved invoices to Coherent Systems, Inc., who was a "strategic partner" with SEI.

During this period of time, O'Hair was also a director for SEI, and received payments from Schaller and Sumrall. Schaller and Sumrall attempted to hide this fact by altering the corporate record books. The Defendants also made a number of false statements in an attempt to cover their tracks. Schaller made false statements to a grand jury about altering the books. O'Hair never disclosed that he was a director at SEI, and omitted any reference to his directorship from his confidential financial disclosure reports. O'Hair and Schaller also made false statements to the United States Air Force about their connections with SEI.

O'Hair was charged with violating 18 U.S.C. § 208, and Sumrall and Schaller were charged with aiding and abetting O'Hair in violating 18 U.S.C. § 208. O'Hair and Schaller were charged with making false statements in violation of 18 U.S.C. § 1001. Schaller and Sumrall were further charged with obstruction of justice, and Schaller was charged with perjury.

Defendant O'Hair entered into a plea agreement on July 20, 2009, agreeing to plead guilty to one count of falsifying his financial disclosure form and one count of violating 18 U.S.C. § 208. On October 13, 2009, he was sentenced to six months of imprisonment, three years of probation,

and a \$2,500 fine. Defendant Sumrall pleaded guilty to aiding and abetting O'Hair, and was sentenced to four years of probation and a \$5,000 fine. After a trial held on July 7, 2009, Defendant Schaller was found guilty of 29 counts of aiding and abetting conflict of interest violations perpetrated by O'Hair. Schaller was sentenced to eighteen months of imprisonment, a \$3,200 special assessment, a \$1,000 fine, and 5 years of probation.

The Air Force Office of Special Investigations and the Defense Criminal Investigative Service investigated the charges. The United States Attorney's Office for the Northern District of Florida handled the prosecution of this case.

5) United States v. Mark Claybrooks

The Defendant, Mark Claybrooks, was an Internal Revenue Service Officer at the Walnut Creek branch of the Internal Revenue Service (IRS). The Defendant had been employed at that branch office since 2003. Part of the Defendant's duties as an officer required that he work personally with individuals and businesses to resolve their outstanding federal income tax delinquencies. During this same period of time, the Defendant received a California real-estate license and was approved by the IRS to work for two mortgage brokers: Faith Mortgage Group (FMG) and Alpha Loans & Omega Realty.

Beginning in 2003, the Defendant improperly used his IRS position to steer individuals with outstanding tax obligations towards refinancing their homes with FMG. The Defendant received a "finder's fee" from the mortgage company for each individual who refinanced with FMG. From June 2000 until April 2007, the Defendant worked with a delinquent taxpayer known as G.P. to resolve his/her outstanding obligations. During this time, the Defendant referred the taxpayer to FMG for refinancing. The referral resulted in the Defendant receiving \$5,983.20 for the referral. On November 4 and 7, 2005, the Defendant intentionally accessed the personal taxpayer information of an individual known as E.A., without receiving IRS authorization to do so. Further, on June 22, 2005, July 17 and 19, 2005, and August 11, 2006, the Defendant again intentionally accessed the personal taxpayer database, without receiving IRS authorization to do so. Overall, Defendant received approximately \$20,000 for referring individuals with delinquent federal income tax obligations to FMG.

On July 22, 2009, the Defendant was charged with three counts of violating 18 U.S.C. § 208, as well as two counts of violating 18 U.S.C. § 1030(a)(2)(B) (intentionally committing an act of fraud or other related act in connection with computers). The Defendant entered a plea agreement with the federal government on March 23, 2010. Subsequently the Defendant was sentenced to two years of probation, a \$7,000 fine, and a \$75 special assessment fee. No appeal has been filed.

This case was investigated by the Treasury Inspector General for Tax Administration, which acts as the internal affairs arm of the IRS. The case was prosecuted by the United States Attorney's Office of the Northern District of California.

6) United States v. Courtney A. Stadd

The Defendant, Courtney A. Stadd, was the former Chief of Staff and White House Liaison for the National Aeronautical and Space Administration from January 2001 through July 2003. After the Defendant left NASA, he founded, and became president of, Capitol Solutions, a consulting firm with clients in the aerospace industry. During April 28, 2005, through June 25, 2005, Stadd returned to the NASA Office of the Administrator as a Special Government Employee.

Mississippi State University (MSU) was a client of Capitol Solutions, which had a consulting arrangement with MSU's GeoResources Institute (GRI). MSU is part of a four-member coalition of Mississippi research universities called the Mississippi Research Consortium (MRC). During the 2005 fiscal year, \$15 million was earmarked for NASA's Earth Science Applications Program, a portion of which the MRC was attempting to obtain.

Upon entering into government service as an SGE, the Defendant was provided materials explaining his ethical obligations. He notified the current NASA Chief of Staff, White House Liaison, and General Counsel that he would recuse himself from any NASA issues that related to MSU. On April 25, 2005, the Defendant filled out and signed a Confidential Financial Disclosure Report, in which he reported that he received income from MSU. He asserted to his ethics official and the Deputy General Counsel at that time that he would not participate in matters that would directly or indirectly affect his business activities.

In May 2005, Stadd received a phone call from an MSU official who complained because another NASA official had determined that the entire \$15 million earmark was to be placed in a national competition instead of competing it through the MRC. Stadd replied that he would ask about it the next day. When Stadd met with the other NASA official, he explained that the previous administration had determined that the earmark would be spent in Mississippi. Stadd told the other official to spend \$12 million in Mississippi and to provide access to the last \$3 million through a national competition. Following this meeting, the other official allocated the funding as proscribed by Stadd. At this time, he did not tell the other official that he had a covered relationship with MSU. Eventually MSU was awarded \$9,603,428 of the available earmarked funds.

After leaving his position as SGE at NASA, Stadd sent a Capitol Solutions invoice to GRI requesting that they pay \$27,450 for his actions in helping to allocate the earmark for MRC and MSU. He also sent an e-mail to another MSU official asking for a raise in his consultation prices from \$7,000 to \$10,000 per month. Stadd used the allocation of the earmarks as a representation of the importance of his services. As a result of these communications, Capitol Solutions entered into a six-month, \$60,000 dollar consulting contract with GRI.

On August 7, 2009, Stadd was found guilty of one count of violating 18 U.S.C. § 208 and two counts of making false statements in violation of 18 U.S.C. § 1001. On November 6, 2009, he was sentenced to 36 months of probation, six months of home confinement, 100 hours of community service, and a \$2,500 fine. The Defendant has appealed.

In December 2009 the Defendant was indicted in the Southern District of Mississippi on additional charges connected with allegedly steering a \$600,000 sole-source contract to GRI. The charges included one count of conspiracy, two counts of making false statements in violation of 18 U.S.C. § 1001, four counts of making false claims in violation of 18 U.S.C. § 287, one count of obstructing a grand jury investigation in violation of 18 U.S.C. § 1503, and one count of major fraud in violation of 18 U.S.C. § 1031. In August 2010, he pleaded guilty to one count of conspiracy. Sentencing is pending on this charge.

The investigation was handled by the United States Attorney's Office for the District of Columbia and NASA's Office of the Inspector General.

7) United States v. Bridgette L. Davidson

The Defendant, Bridgette L. Davidson, is a former Department of Veterans Affairs ("VA") social work associate who was employed at the Atlanta VA Medical Center between September 2000 and September 2002. While she was an employee of the VA, Ms. Davidson rented a residential home in Marietta, Georgia, which she and her boyfriend at the time, Darrick O. Frazier, operated as a privately-owned personal care facility named "Jordan's Elite Personal Care Home."

As part of Ms. Davidson's duties at the VA, she was required to find suitable housing and living arrangements for veterans who were mentally-ill or physically-disabled. Instead of finding independently-owned and licensed assisted-living facilities for those veterans that were entrusted to her, Ms. Davidson placed a number of veterans in the home she rented with Mr. Frazier. As part of the Defendants' scheme, Ms. Davidson would contact the guardians and custodians of the veterans and tell them that the veterans had been placed at Jordan's, and that they should send their checks to Defendant Frazier. Ms. Davidson also held out to her supervisors, fellow workers, and the fiduciaries of the veterans that Jordan's was an independently owned facility which was operated and managed by Mr. Frazier. Ms. Davidson collected monthly room and board checks from these individuals between November 2001 and April 2002. During this time the checks were used to pay for the rent, utilities, and related expenses of the property, and the excess was kept by the Defendants.

On April 15, 2002, one of the veterans placed at Jordan's died, and the facility was immediately closed. The VA launched an investigation into the facility. During that investigation, and while under oath, Ms. Davidson made false statements concerning her financial interest in the facility.

Davidson and Frazier were charged in a six-count indictment on November 14, 2006. On September 2, 2008, Defendant Frazier pleaded guilty to one count of honest services mail fraud. On November 18, 2008, he was sentenced to incarceration for one year and one day, and ordered to pay restitution in the amount of \$20,200.

On March 12, 2009, after a three-day trial, Davidson was convicted of four counts of honest services mail fraud, one count of violating 18 U.S.C. § 208, and one count of making false statements in violation of 18 U.S.C. § 1001(a). On June 29, 2009, Davidson was sentenced to three years in prison, three years of supervised release following her release from prison, and a \$5,000 fine. No appeals are pending.

The investigation of this case was handled by the VA Office of Inspector General. The prosecution was handled by the Public Integrity Section of the Criminal Division of the Department of Justice and the United States Attorney's Office for the Northern District of Georgia.

8) United States v. Robert E. Coughlin II

The Defendant, Robert E. Coughlin II, was a political appointee to the position of Special Assistant to the Assistant Attorney General for Legislative Affairs at the Department of Justice (DOJ) in Washington, DC, from March 2001 to March 2002, when he was promoted to the Deputy Director of the Office of Intergovernmental and Public Liaison at DOJ. His duties included counseling DOJ on matters relating to other government agencies, outside organizations, and local elected officials. He was also a liaison between DOJ and outside groups, including their lobbying components.

During the period between 2001 and October 2003, Coughlin had a number of illegal correspondences with Lobbyist X whom Coughlin had known since 1992 when they worked together on Capitol Hill. Lobbyist X worked for a lobbying firm. As part of the relationship between Coughlin and the lobbyist, Coughlin accepted a number of gifts, many of which were intended to act as rewards for actions Coughlin had taken in his official capacity. Coughlin provided Lobbyist X with internal DOJ deliberations regarding a legislative bill which related to one of Lobbyist X's clients, as well as information regarding the status of certain DOJ officials who were political appointees. He also contacted DOJ officials numerous times to obtain information about projects that would impact Lobbyist X's clients. Coughlin also attended a number of meetings with clients of Lobbyist X.

Over the course of two years Coughlin accepted meals and drinks on about twenty-five occasions at upscale bars and restaurants, twenty tickets to sporting events, five tickets to concerts, and a round of golf. None of these items were reported as gifts on his financial disclosure reports for the years 2001 to 2003. These benefits totaled at least \$4,800.

Coughlin was also instrumental in reversing the refusal of a grant submission made by one of Lobbyist X's clients. The client had attempted to obtain \$16.3 million for the creation of a new jail. DOJ only approved \$9 million for the jail. At the behest of Lobbyist X, Coughlin researched the political appointees working on the grant application to determine who would be receptive to his client. Coughlin also worked with Lobbyist X to devise a strategy to obtain the full \$16.3 million. Coughlin then proceeded to set up meetings between Lobbyist X and political appointees who were seen as amicable to the project. Ultimately, on January 31, 2002, DOJ overturned their previous decision and awarded Lobbyist X's client the entire \$16.3 million.

During this same time, Coughlin was in discussions with Lobbyist X regarding future employment at his lobbying firm.

The Defendant was charged with violating 18 U.S.C. §§ 208 & 216(a)(2). He entered into a plea agreement with the government on April 22, 2008. On November 24, 2009, he was sentenced to thirty days in a half-way house, a \$2,000 fine, 200 hours of community service, and three years of supervised release. He was also ordered to pay the costs of his stay in the half-way house. No appeal has been filed.

The United States Attorney's Office for the District of Columbia was recused from investigating this case. The United States Attorney's Office for the District of Maryland handled the prosecution of this case. The Department of Justice's Inspector General, with assistance from the Federal Bureau of Investigation, handled the investigation of this case.

9) United States v. Mark Schoeberl

The Defendant, Mark Schoeberl, held a number of senior positions at NASA's Goddard Space Flight Center (GSFC) between July 2004 and June 2009. These positions included chief scientist of the Earth Sciences Division at GSFC and the project scientist for the AURA project, which studied Earth's atmosphere. During this same period, B.S., the Defendant's spouse, owned and operated Animated Earth LLC, a company which produced movies and manufactured kiosks which displayed up-to-date data on the atmosphere of Earth. During this time, Animated Earth was receiving funding from NASA for various projects.

As an officer of NASA, the Defendant took a number of actions to promote Animated Earth, including the following: Asking a colleague to approve \$20,000 in appropriations for a project to which Animated Earth was connected to, even after other members had voiced objection to the payment; writing up a sole-source contract for Animated Earth to do maintenance on kiosks they had previously placed on NASA grounds; creating a sole-source document to procure software from Animated Earth and pressuring financial personnel at NASA to approve the contract; and obtaining advice on how to invoice NASA for work performed by a contractor from NASA officials and providing that advice to his spouse.

The Defendant also failed to list his connection to Animated Earth on his 2007 public financial disclosure form, even though he had reported his connection in previous years, and Animated Earth had received over \$50,000 in income from NASA during the 2007 reporting period.

The Defendant was charged with one count of violating 18 U.S.C. § 208. He entered a plea agreement with the government on September 18, 2009. On December 1, 2009, the Defendant was sentenced to one year of probation, fifty hours of community service, and was ordered to pay a \$10,000 fine.

NASA's Office of the Inspector General investigated this case. The United States Attorney's Office for the State of Maryland handled the prosecution of this case.

18 U.S.C. § 209

10) United States v. Jeffrey Davis

The Defendant, Jeffrey Davis, was an Archives Technician for the United States National Archives and Records Administration's (NARA) Atlanta Records Center. He was employed in that facility from August 2005 until October 2008. Among other missions, NARA retrieves and reproduces copies of archived court records upon request by a member of the public. NARA and the Administrative Office of the United States Courts (AOUSC) charge members of the public for these reproductions. As part of his duties as an Archives Technician, Defendant was required, upon request, to retrieve and reproduce archived court records from a number of states.

In addition to working at NARA, Defendant operated a private company named Documents Archival Retrieval Transferring Services of Georgia, Inc. (DARTS) from July 2007 through October 2008. DARTS was a document retrieval service which specialized in obtaining and reproducing archived court documents from NARA, including the facility where the Defendant worked, on behalf of customers. DARTS charged a retrieval fee for these documents, as well as the customary NARA and AOUSC fees. While operating DARTS, the Defendant used his official position as Archives Technician to access and reproduce the requested documents. During the period of time in which the Defendant operated DARTS, he received approximately \$5,350. In addition, to conceal the nature of his relationship with DARTS and to increase the amount of profits made by DARTS, the Defendant did not pay the applicable NARA and AOUSC fees, totaling an aggregate of approximately \$4,000 of unpaid fees. During this time the Defendant received payments from DARTS for retrieving said documents.

On June 16, 2009, the Defendant was charged with one count of receiving a supplementation of his salary as a government employee in violation of 18 U.S.C. § 209 and 216(a)(2). Defendant entered into a plea agreement on June 30, 2009. On September 11, 2009, the Defendant was sentenced to three years of probation, a \$1,500 fine, \$3,988 in restitution, and a \$100 special assessment fee. No appeal has been filed.

The Department of Justice Criminal Division's Public Integrity Section handled the prosecution of this case.

18 U.S.C. § 1001- Making a Material False Statement (on a Financial Disclosure Form)

11) United States v. Donald C. Howard

The Defendant, Donald C. Howard, was the Regional Supervisor of the Gulf of Mexico Region ("GOMR") of the Minerals Management Service ("MMS") of the Department of the Interior ("DOI"). Investigations into the Defendant began in 2006 after allegations were made by the Regional Director of GOMR that the Defendant had been attending hunting trips with employees and officials of offshore oil and gas companies who came under the supervision and regulation of MMS.

After the investigation was completed, it was determined that during the two-year span between August 2004 and July 2006, Defendant Howard had attended a number of events with, and accepted a number of gifts from, Rowan Drilling Company, Inc. (“Rowan”). Rowan is an offshore drilling contractor whose business comes under the supervision of MMS. During this time period, it is believed that the Defendant accepted approximately \$6,678 in gifts from Rowan, including two hunting trips, an offshore fishing trip, private air transportation, meals, and other gift items provided by Rowan. The Defendant failed to report the acceptance of one or more of these gifts on his annual 2004 Confidential Financial Disclosure Report in violation of 18 U.S.C. §1001.

The investigation also uncovered that the Defendant, at the behest of Rowan, issued a letter authorizing Rowan to salvage a Rowan-operated offshore rig from the Gulf of Mexico that had been sunk during Hurricane Rita in 2005. Salvaging the wreck was important to Rowan’s ability to collect \$90 million in insurance.

Pursuant to the investigation, MMS fired the Defendant in January 2007, and on October 28, 2008, Information was filed against the Defendant in the U.S. District Court for the Eastern District of Louisiana, charging the Defendant with one count of making false statements on a financial disclosure form. The Defendant pleaded guilty on November 5, 2008. On February 3, 2009, he was sentenced to one year of probation, \$3,000 fine, a \$100 special assessment, and 100 hours of community services at the “Rebuild Homeless Center” in New Orleans.

The Special Agents of DOI, Office of the Inspector General, investigated this matter. The United States Attorney’s Office for the Eastern District of Louisiana handled the prosecution of this case.

Offenses Involving Misuse of Government Property

12) United States v. John Paul Yanez-Camacho

The Defendant was an employee of the Department of Homeland Security’s Customs and Border Protection Office at the Otay Mesa Port of Entry in California. As part of his duties, the Defendant was permitted to use the Treasury Enforcement Communications System (TECS) to help facilitate his official law enforcement duties. Customs and Border Protection Officers were not permitted to use the TECS database for non-official or personal reasons. Each officer is provided with an individualized user-name and password, which enables the agency to track his/her actions.

During an investigation by the Federal Bureau of Investigation, it was uncovered that the Defendant had been utilizing the TECS database improperly. The investigation showed that the Defendant had exceeded his authority a number of times by checking on the status of himself, his family members, and a number of drug traffickers whom the Defendant had known from his previous employment at a restaurant in Mexico.

The Defendant was charged with violating the 18 U.S.C. §§ 1030(a)(2)(B) & (c)(2)(A) restrictions on unauthorized access to a government computer. The parties entered into a plea agreement on July 28, 2009, and on November 2, 2009, the Defendant was sentenced to three years of probation, a \$25 special assessment, and was permanently barred from seeking a position in law enforcement.

The prosecution of this case was handled by the United States Attorney's Office for the Southern District of California.