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Description of document:	Closing documents for twelve (12) Federal Trade Commission (FTC) Office of Inspector General (OIG) investigations, 2008-2015
Requested date:	12-July-2017
Released date:	13-September-2017
Posted date:	08-October-2018
Source of document:	Freedom of Information Act Request Office of General Counsel Federal Trade Commission 600 Pennsylvania Ave., NW Washington, D.C. 20580 Fax: (202) 326-2477 Email: FOIA@FTC.GOV

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

SEP 13 2017

Re: FOIA-2017-01156
IG Final Reports, et. al

This is in response to your request dated July 12, 2017, under the Freedom of Information Act seeking access to final reports from the OIG for the following numbers: I-07-142, I-08-150, I-08-149, I-08-151, I-08-146, I-08-147, I-09-152, I-10-153, I-10-154, I-10-155, I-10-158, and I-10-159. In accordance with the FOIA and agency policy, we have searched our records as of July 12, 2017, the date we received your request in our FOIA office.

We located 53 pages of responsive records. I am granting partial access to the accessible records. Portions of these pages fall within one or more of the exemptions to the FOIA's disclosure requirements, as explained below.

Some responsive records contain staff analyses, opinions, and recommendations. Those portions are deliberative and pre-decisional and are an integral part of the agency's decision making process. They are exempt from the FOIA's disclosure requirements by FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *See NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975) *Co. v. NLRB*, 437 U.S. 214 (1978).

Some of the records contain personal identifying information compiled for law enforcement purposes. This information is exempt for release under FOIA Exemption 7(C), 5 U.S.C. § 552(b)(7)(C), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information.

Some information is exempt from disclosure under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E). Exemption 7(E) protects information that would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. *See Foster v. DOJ*, 933 F. Supp. 687(E.D. Mich. 1996).

Some reports contain personal information including personal contact information. This information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. *See The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. 552(c) (2006 &

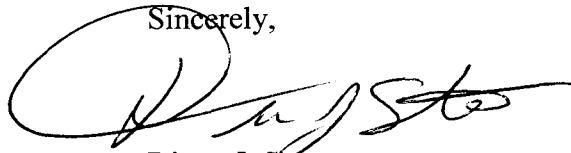
Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given in response to all requests for records within the Office of the Inspector General and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or via e-mail at rgold@ftc.gov; or from the Office of Government Information Services via email at ogis@nara.gov, via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740.

If you have any questions about the way we handled your request or about the FOIA regulations or procedures, please contact Anna Murray at (202) 326-2820.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. J. Stearns', written over a large, loopy initial 'D'.

Dione J. Stearns
Assistant General Counsel

Enc: 53 pages



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

July 1, 2008

MEMORANDUM

TO: John Seeba
Inspector General

FROM: Cynthia Hogue *CH*
Chief Investigator & Counsel to the Inspector General

SUBJECT: Closing Memo (I-07-142)

On June 11, 2007, the OIG received a letter from (b) (6), (b) (7)(C) (b) (6), (b) (7) alleging that an FTC attorney disclosed nonpublic information without Commission authorization. The letter, referred to the OIG via the agency's Office of General Counsel, stated that (b) (6), (b) (7)(C) ValueClick, Inc., a diverse, publicly-traded company that, *inter alia*, has a "lead generation"¹ business, suspected that an individual within the FTC was leaking nonpublic information. The letter alleged that the unnamed FTC source was providing investment analysts and an investment portfolio manager with nonpublic information regarding the FTC's nonpublic investigation of ValueClick's lead generation business activities. Value Click representatives met with the portfolio manager in July 2007 when he reportedly made a number of unsolicited remarks about the FTC's then-current investigation into the lead generation business practices of ValueClick and that he had known of the investigation since "late March" (2007) when he spoke to a "friend" employed by the FTC.

The OIG promptly opened an investigation and obtained email records for the three lead attorneys assigned to the ValueClick investigations in both the agency's Division of Marketing Practices (DMP) and Division of Privacy and Identity Protection (DPIP). In addition to reviewing email records, the OIG interviewed the three lead attorneys assigned to the two investigations. Staff from the Division of Advertising Practices (DAP) were excluded from the scope of the OIG investigation because the focus of the DAP investigation was not germane to the lead generation activities of ValueClick. The statements of the investment portfolio manager explicitly referenced ValueClick's "lead generation" business practices as the focus of the FTC investigation.

¹ Lead generation involves offering consumers a "free" item as an incentive to provide demographic information for further use by advertisers.

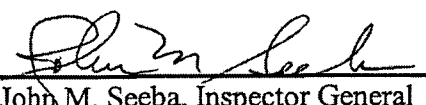
Our investigation revealed no evidence indicating that any of the subjects of the OIG investigation was the source of the alleged leak. Although it was possible that other FTC staff might have been the source of a possible leak (e.g., other attorneys not assigned to the ValueClick investigation but aware of it through conversations among colleagues; support/administrative personnel, etc.), the OIG's limited resources warranted limiting the scope of our investigation to the lead attorneys on the two open ValueClick investigations.

The OIG enlisted the assistance of the Securities and Exchange Commission Division of Enforcement (a non-OIG program office) to conduct further inquiry into the trading activities of the three FTC attorneys who were the focus of the OIG investigation. The SEC has investigatory tools that are not as readily available to the FTC OIG. Because the allegation involved an investment portfolio manager and investment analysts (and possible insider trading based on nonpublic information supplied by an unnamed source at the FTC), the SEC took interest in the FTC OIG investigative referral.

The SEC interviewed the investment portfolio manager and investment analysts who reportedly made statements regarding their unnamed source within the FTC. (The FTC OIG has no authority to compel such third-parties to submit to an investigative interview.) The SEC also obtained trading data for the three individuals who were the subject of the OIG investigation. The SEC concluded that any statements made by the portfolio manager and investment analysts representing that they had an inside source within the FTC were nothing more than puffing in an attempt to convince ValueClick investment relations representatives that the investment analysts/manager knew more about government scrutiny into the lead generation industry than was actually known. In addition, statements by investment analysts advising investors to sell ValueClick stock were based on deductive reasoning (using the FTC's ongoing investigations into the lead generation activities of smaller companies as a basis for deducing that the FTC would eventually investigate the largest player in the lead generation industry, viz., ValueClick). The SEC expressed a high level of confidence that the portfolio manager's statements were nothing more than exaggerating his own knowledge and that he did not have an inside source of information within the FTC.

Based on the foregoing, the OIG closed the investigative case. All OIG investigative activities concluded in June 2008.

APPROVED:


John M. Seeba, Inspector General 7/2/08

Closing Memorandum
I-08-146

On February 19, 2008, the OIG Administrative Assistant received an anonymous call to the OIG Hotline. The caller stated that (b) (6), (b) (7)(C) who works in the FTC's copy center in the Headquarters building was using FTC copy center equipment to make counterfeit DMV decals. The caller reported that she witnessed him making the DMV decals. He reportedly hides them in his eyeglasses case. The female caller stated that (b) (6), (b) (7)(C) tried to sell one to one of her co-workers (she refused to provide the name of the co-worker). He reportedly does this after work hours when everyone else was gone from the copy center.

(b) (7)(E)

The OIG opened an investigation and determined via (b) (6), (b) (7)(C) the use of plastic sheeting in the laminating process that (b) (7)(E) was using the laminator for personal (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

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On September 23, 2009, the OIG met with (b) (6), (b) (7)(C) and his counsel, along with two FTC management representatives (Mark Oemler, ASO and Pat Bak, Deputy Executive Director) and presented the interim OIG investigative findings. In that meeting, the OIG informed (b) (6), and FTC management that (b) (6), (b) (7)(C) and (b) (6), made false statements on their OF306s. (b) (7)(C) FTC management expressed concern about the findings. On the (b) (7)(C)

same date, (b) (6), (b) (7) removed its two employees from the FTC contract. During the meeting, the
OIG issued a subpoena for employment application and corporate screening procedures for
(b) (6), job applicants. The subpoenaed material will be turned over the the OIG on October 1,
(b) (7) 2009 and may be the basis for another OIG investigation relating to false statements by other
(b) (6), contractor employees.
(b) (7)

Because the subject of the OIG investigation (b) (6), (b) (7)(C) has been removed from the copy
center and (b) (6), is currently undertaking an internal investigation into the matter, no further
OIG investigative activity is necessary regarding the initial allegation involving (b) (6), (b) (7) This
investigation may spawn further investigation following an interview of (b) (6), (b) (7)(C)
scheduled for October 1, 2009 (possible other (b) (6), employees who may have made false
statements on OF306s). (b) (7)

APPROVED:



John M. Seeba, Inspector General

9/30/09

Date

Closing Memorandum
I-08-147

(b) (7)(C) (b) (7)(C)

(b) (7)(C) On Feb. 19, 2008, the OIG received an allegation from (b) (7)(C) concerning the disclosure of nonpublic information by a member of Commission staff. Counsel reported that on Feb. 13, 2008, the FTC filed suit against (b) (7)(C), alleging violations of FTC Act Section 5. (b) (7)(C)

(b) (7)(C) FTC staff had informally agreed to file court papers at the end of the day (on Feb. 13), after the stock market closed. That delay would allow the market to "digest" the news of the FTC enforcement action (i.e., complaint and accompanying press release) in full prior to the opening of the stock market on the following morning. This practice is common in antitrust cases. Although FTC staff had represented to (b) (7)(C) that the announcement would occur on Feb. 13 after close of the stock market (at 4:00 p.m.), at approximately 1:00 p.m. (prior to the filing of the FTC's complaint), the Bloomberg news service posted an online news article stating that the FTC intended "as early as today" to file a complaint against (b) (7)(C) for violations that ultimately were included in the complaint. (b) (7)(C) reported that within minutes of the Bloomberg online article, (b) (7)(C)'s stock dropped more than 5% and ultimately lost as much as 10% of its value before the market closed on Feb. 13. When the market opened on Feb. 14, (b) (7)(C) stock was trading at approximately the value at which it was trading prior to the Bloomberg online article. (b) (7)(C) alleges that those shareholders who traded on Feb. 13 between 1pm and close of the market had incomplete information and suffered injury because the share value was negatively affected by incomplete information.

The OIG investigated the matter. Independent of the foregoing allegation, the OIG had received an anonymous contact from a member of Commission staff describing facts that were circumstantially similar to those alleged by (b) (7)(C). For example, the anonymous FTC employee (who desires confidential treatment) worked in an office that had access to information respecting the anticipated Commission vote (b) (7)(C). The anonymous FTC employee was concerned that a colleague in that office may have disclosed nonpublic information respecting the Commission's enforcement action against (b) (7)(C) prior to the public announcement of the complaint and press release at the end of the day on February 13, 2008. Due to personal circumstances involving the anonymous tipster, that individual decided to refrain from providing the OIG with salient information that had already been prepared for delivery to the OIG. With that information, the OIG would have a factual basis for conducting further investigative action, regardless of the anonymous tipster's further cooperation with the OIG. Accordingly, unbeknownst to the anonymous tipster, the OIG obtained that employee's (b) (7)(E)

The focus of the OIG investigation then turned to the employee who allegedly disclosed the nonpublic information to Bloomberg's online reporter, (Rowley). The OIG had the hard (b) (7)(E)

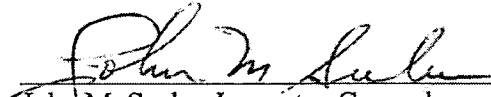
The Inspector General signed the closing memorandum on 3/31/09. During preparation of the

Semiannual Report to Congress, subsequent events, as described below, occurred that led the IG to keep the investigation open in order to determine whether further evidence on the alleged unauthorized disclosure could be obtained.

On April 27, 2009,¹ the OPA confidential source unexpectedly hand-delivered the detailed memorandum describing the facts that were the basis of his original call to the OIG on February 13, 2008. The confidential source later met at an off-site location for an OIG investigational interview. Although the OIG had already obtained the salient referral document, that fact was never disclosed to the confidential source. The OIG sought greater detail to determine whether there might be stronger evidence to (b) (7)(C) io made the press leak on February 13, 2008 regarding the FTC's action against (b) (7)(C). Further OIG investigative activity, including an investigational interview of (b) (7)(C) led to no conclusive evidence as to the source of the leak. (b) (7)(C) denied during her interview and in a written statement that she was the source of the (b) (7)(C) Bloomberg online article that was posted at 1:02pm on 2/13/08.

In light of the inconclusive evidence that would support any prosecution, the OIG closed the matter on September 30, 2009.

APPROVED:



John M. Seeba, Inspector General

9/30/09

Date

¹ One question that the OIG sought to answer was why the informant re-initiated his contact with the OIG on this date. In his interview, he indicated that his relationship with (b) (7)(C) was chilled following a performance review which the informant felt was unfair. (b) (7) had served as his supervisor for a period of time when (b) (7)(C) was in transition. The informant stated that the performance review was not a precipitating factor in his coming to the OIG. During the intervening weeks, the informant called the OIG Chief Investigator in an attempt to learn the status of the OIG investigation because he felt as though (b) (7) knew about the OIG investigation and that he was the source of the allegation. The call was not returned. With growing concerns that the complainant/confidential informant was attempting to use the allegation to seek whistleblower status in the face of performance issues, the OIG determined to refrain from any contact with (b) (7) until after the period for submitting performance reviews had passed (approximately mid-August). On September 28, 2009, the OIG conducted its interview of (b) (7)(C)

Closing Memorandum
I-08-147

(b) (7)(C)

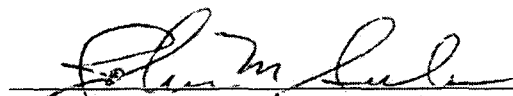
On Feb. 19, 2008, the OIG received an allegation from (b) (7)(C) concerning the disclosure of nonpublic information by a member of Commission staff. (b) (7)(C) reported that on Feb. 13, 2008, the FTC filed suit against Cephalon, alleging violations of FTC Act Section 5. According to (b) (7)(C) FTC staff had informally agreed to file court papers at the end of the day (on Feb. 13), after the stock market closed. That delay would allow the market to "digest" the news of the FTC enforcement action (i.e., complaint and accompanying press release) in full prior to the opening of the stock market on the following morning. This practice is common in antitrust cases. Although FTC staff had represented to (b) (7)(C) that the announcement would occur on Feb. 13 after close of the stock market (at 4:00 p.m.), at approximately 1:00 p.m. (prior to the filing of the FTC's complaint), the Bloomberg news service posted an online news article stating that the FTC intended "as early as today" to file a complaint against (b) (7)(C) for violations that ultimately were included in the complaint. (b) (7)(C) counsel reported that within minutes of the Bloomberg online article, (b) (7)(C) stock dropped more than 5% and ultimately lost as much as 10% of its value before the market closed on Feb. 13. When the market opened on Feb. 14, (b) (7)(C) stock was trading at approximately the value at which it was trading prior to the Bloomberg online article. (b) (7)(C) alleges that those shareholders who traded on Feb. 13 between 1pm and close of the market had incomplete information and suffered injury because the share value was negatively affected by incomplete information.

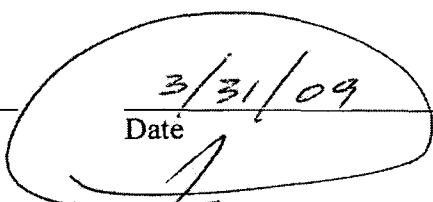
The OIG investigated the matter. Independent of the foregoing allegation, the OIG had received an anonymous contract from a member of Commission staff describing facts that were circumstantially similar to those alleged by (b) (7)(C). For example, the anonymous FTC employee (who desires confidential treatment) worked in an office that had access to information respecting the anticipated Commission vote to sue (b) (7)(C). The anonymous FTC employee was concerned that a colleague in that office may have disclosed nonpublic information respecting the Commission's enforcement action against (b) (7)(C) prior to the public announcement of the complaint and press release at the end of the day on February 13, 2008. Due to personal circumstances involving the anonymous tipster, that individual decided to refrain from providing the OIG with salient information that had already been prepared for delivery to the OIG. With that information, the OIG would have a factual basis for conducting further investigative action, regardless of the anonymous tipster's further cooperation with the (b) (7)(E)

investigation then turned to the employee who allegedly disclosed the nonpublic information to Bloomberg's online reporter, (Rowley). The OIG had the hard drive of FTC Office of Public Affairs employee, (b) (6) imaged and analyzed by (b) (6). That analysis was completed

in January 2009 and revealed no further evidence to link ^{(b) (6)} to the alleged unauthorized disclosure. In light of the significant passage of time and the inconclusive evidence linking ^{(b) (6)} to the unauthorized disclosure, the OIG determined to cease investigative activity on this matter.

APPROVED:


John M. Seeba, Inspector General


Date

(b) (5)

(b) (5)



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

MEMORANDUM

To: File

From: Dena Davis
Lead Investigator


RE: Closing memo (I-08-149)

On September 17, 2008, investigative work concluded in connection with the July 11, 2008 allegation of misusing government resources by (b) (6), (b) (7). The OIG investigation was predicated on information provided by (b) (6).
(b) (6)

The investigation revealed that (b) (6), (b) (7) committed a minor violation of FTC policy when (b) (6) sent and received email to and from her FTC email address related to her home based business, (b) (6), (b) (7)(C) and when (b) (6) used (b) (6) FTC mailing address to receive correspondence related to the same business. (b) (6), also violated the agreement (b) (6) signed with the ethics office that specifically prohibited (b) (6) from using government resources not available to the public.
(6).

This case has been referred to FTC management for appropriate disposition. No further action is required by the OIG.

APPROVED:


John M. Seeba, Inspector General 9/24/08



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

MEMORANDUM

To: (b) (6)

From: John M. Seeba
Inspector General

Re: Investigative referral (I-08-149)

The Office of Inspector General (OIG) has completed its investigation into the July 11, 2008 allegation of misuse of government resources. The investigation indicates that (b) (6), (b) (7)(C) misused government resources when (b) (6) used (b) (6) FTC email to further (b) (6) home based business, (b) (6), (b) (7)(C) and 2) when (b) (6) used (b) (6) FTC mailing address to receive correspondence related to the aforementioned business. The (b) (6) (7)(C) refers this matter to management for further action.

BACKGROUND & FINDINGS

On July 11, 2008, (b) (6) (b) (6) reported allegations that (b) (6), (b) (7) was using FTC resources to conduct (b) (6) home based business.

A review of (b) (6), (b) (7) FTC email account between June 10, 2008 and August 18, 2008, revealed 4 instances where (b) (6), (b) (7) used her FTC email account in relation to (b) (6), (b) (7)(C). Additionally, there were numerous emails that pertained to (b) (6), (b) (7)(C) involvement in a celebrity fan club.

(b) (6), (b) (7) used (b) (6) FTC mailing address to receive a check related to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) stated that (b) (6) used the Commission's address this one time as (b) (6) was experiencing problems receiving mail at (b) (6) home address. (b) (6), (b) (7) has decided to rent a post office box to alleviate future problems.

DISCUSSION

(b) (6),
(b) (7) committed a minor violation of the agreement^{(b) (6)} signed with the ethics office in addition to FTC policy and procedures when^{(b) (6)} used government resources to further^{(b) (6)} home based business.

The agreement^{(b) (6)}, signed with the ethics office specifically prohibits the use of *"government property, resource or facilities not available to the general public in connection with outside employment"*.

The FTC employee handbook, page 5 under Outside Employment and Activities states that *"employees shall protect and conserve federal property and shall not use it for other than authorized activities"*.

The FTC Administrative Manual, chapter 1, section 300.8.2 prohibits *"running a personal business or engaging in other for-profit commercial activities"*.

CONCLUSION

(b) (6),
(b) (7) committed a minor violation of the policy set forth in the FTC employee handbook and Administrative Manual when^{(b) (6)} sent and received 4 emails to and from (b) (6) FTC email address relating to (b) (6), (b) (7)(C) further violated FTC policy when^{(b) (6)} used (b) (6) FTC mailing address to receive correspondence related to the same home based business.

REPORT OF INVESTIGATION

ADMINISTRATIVE DATA

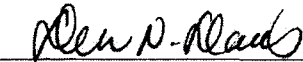
~~Subject~~ (b) (6), (b) (7)(C)
(b) (6)

Allegation: Misuse of Government Resources

OIG Case File: I-08-149

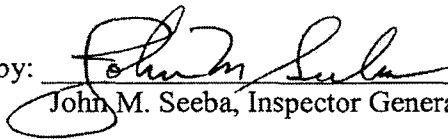
Date of Report: September 17, 2008

Prepared by:



Dena N. Davis, Lead Investigator

Approved by:



John M. Seeba, Inspector General

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Allegation

(b) On July 11, 2008, this office was notified by (b) (6) (b) (6), (b) (7)(C) may be using FTC resources to conduct (b) Commission approved home based business (b) (6), (b) (7)(C) is solely owned and operated by (b) (6), who makes and sells novelties, scented candies and other fragranced items.

Prohibitions

The FTC employee handbook, page 5 under Outside Employment and Activities states that "*employees shall protect and conserve federal property and shall not use it for other than authorized activities*".

The FTC Administrative Manual, chapter 1, section 300.8.2 prohibits "*running a personal business or engaging in other for-profit commercial activities*".

Details

On July 11, 2008, (b) (6) alleged that (b) (6), violated (b) (6) agreements¹ with the Commission to refrain from using FTC resources to conduct (b) (6) home based business by using the Commission's address to receive mail related to (b) (6), (b) (7)(C)

Investigation revealed that while one letter was received at the Commission related to (b) (6), home based business, no other instances of (b) (6), using the Commission address for (b) (6), (b) (7)(C) could be found. While rumors that (b) (6), sells merchandise from (b) (6), (b) (7)(C) during work hours have circulated, none could be substantiated. A review of (b) (6), FTC email account between June 10, 2008 and August 18, 2008, revealed 4 occurrences² of (b) (6), either forwarding email from another email account associated with (b) (6), (b) (7)(C) or discussing products offered for sale by the business.

During an interview with (b) (6), (b) (6), (b) (7)(C) admitted to having a check mailed to (b) (6), using the Commission's address on this one occasion because (b) (6) was experiencing problems receiving mail at (b) (6) home address. (b) (6), was advised that having any correspondence relating to (b) (6) business sent to the Commission's address for any reason was not acceptable. (b) (6), stated that (b) (6) would rent a post office box to alleviate future problems.

(b) (6), also used (b) (6), FTC email to communicate with fellow members of a celebrity fan club. (b) (6), was advised that (b) (6) should discontinue the practice of communicating with members of the fan club using (b) (6), FTC email address.

When questioned about performance issues, (b) (6), (b) (7)(C) denied that the difficulties (b) (6), experienced were related to (b) (6) home based business although, (b) (6) stated the problems began around the same time that (b) (6), was granted approval by the Commission's ethics

¹ Exhibit 1 is the agreements from the Ethics office signed by (b) (6),

² Exhibits 2-5 are emails of (b) (6), discussing (b) (6), (b) (7)(C)

office to conduct the business. (b) (6), (b) (7) contends that (b) (6) only sells (b) (6) products on the weekends, at trade shows, flea markets and online.

Findings

For approximately 2 months, (b) (6), (b) (7)(C) operated without the approval of the Commission. When (b) (6), (b) (7) was informed of (b) (6) responsibility to obtain approval from the Commission to conduct a home based business, (b) (6) complied with FTC regulations by requesting and receiving permission to engage in an outside business.

Evidence was found in (b) (6), (b) (7) FTC email to support the allegation that (b) (6) has used FTC resources to conduct (b) (6), (b) (7) home based business. There was no evidence to support that (b) (6), (b) (7) used FTC telephone or fax lines to conduct business for (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) did have a check related to (b) (6), (b) (7)(C) mailed to (b) (6), (b) (7) at the Commission's address. While this action did not cause a monetary loss to the Commission, it was a minor violation of the agreement (b) (6), (b) (7) signed which certified that (b) (6), (b) (7) *"will not use any official duty time or Government property, resource, or facilities not available to the general public in connection with this outside employment"*.

(b) (6), (b) (7) stated that while (b) (6), (b) (7) has heard rumors that (b) (6), (b) (7) will sell (b) (6), (b) (7) products to anyone who asks even during business hours, no one could substantiate that claim. (b) (6), (b) (7) contends that (b) (6), (b) (7) would inform persons with questions about (b) (6), (b) (7) business to discuss the subject with (b) (6), (b) (7) during her lunch break.

Conclusion

(b) (6), (b) (7) initially failed to comply with FTC regulations by operating a home based business without prior approval from the Commission. This was rectified approximately 2 months after (b) (6), (b) (7) began her business when (b) (6), (b) (7) contacted (b) (6), (b) (7) supervisor who instructed (b) (6), (b) (7) to write a memo to the ethics office requesting permission to engage in outside employment. Approval was granted by the ethics office and an agreement was signed granting (b) (6), (b) (7) permission to operate (b) (6), (b) (7)(C).

(b) (6), (b) (7) committed a minor violation of the agreement (b) (6), (b) (7) signed with the ethics office when (b) (6), (b) (7) used FTC resources (mailing address and email address) in a manner not available to the general public in relation to (b) (6), (b) (7)(C); the agreement specifically prohibits this action.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

October 31, 2008

Memorandum

To: File

From: Dena N. Davis
Lead Investigator

RE: Closing memo

On October 23, 2008, investigative work ended in connection with the July 22, 2008 allegation of possible assault, Equal Employment Opportunity Act (EEOA) violations, violations of the Whistleblower Protection Act (WPA), an improper relationship between a contracting officer's technical representative (COTR) and a contractor, and possible fraud in the Records and Filings Office (RFO) of the Commission. (b) (7)(C), (b) (6)

(b) (7)(C), (b) (6) reported to Patricia Bak, Associate Executive Director, Office of Executive Director, the aforementioned allegations. This information was given to Charles Schneider, Executive Director, Office of the Executive Director, who contacted this office.

This investigation revealed that (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6)

(b) (7)(C), (b) (6) This investigation also revealed that
(b) (7)(C), (b) (6), failed to adhere to the Government wide standards of ethical conduct when she participated in a relationship with a representative of the contracting company that may have contributed to the appearance of impropriety and attempted to negotiate a position for a former contract consultant with another FTC contractor; and (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6) A review
(b) (7)(C), (b) (6) to include time and attendance submissions is being conducted in order to make a determination relating to the fraud allegations.

Allegations related to EEOA and WPA violations were investigated by Christine Cooper, Attorney, who was contracted by the Commissions employee relations department.

This case has been referred to FTC management for appropriate disposition; no further investigative action is required from this office.

APPROVED:


John M. Seeba



REPORT OF INVESTIGATION

CASE # 08-150

REPORT DATE: October 27, 2008

ORIGINAL

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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

October 27, 2008

Memorandum

To: Charles Schneider
Executive Director

From: John M. Seeba 
Inspector General

Subject: Case #08-150

This memorandum is a summary of findings of the Office of Inspector General's investigation into allegations of assault and misconduct in the Records and Filings Office (RFO). In this case, it was alleged that (b) (6), (b) (7)(C) (b) (6) physically assaulted (b) (6), (b) (7)(C) kicked (b) (6), (b) (7)(C) the buttocks. The assault occurred on May 1, 2008, outside of normal Commission hours in the office of (b) (6), (b) (7)(C) while (b) (6), (b) (7)(C) and others were in the process of moving (b) (6), s office. Although the assault was corroborated by an eyewitness, (b) (6), denies the allegation. Because the incident occurred after hours, (b) (6), made an immediate report to (b) (6), (b) (7)(C) (b) (6), (b) (7) via email that same evening. Subsequently, (b) (6), reported it the following day to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), also reported the incident to (b) (6), (b) (7)(C) following (b) (6), conversation with (b) (6), (b) (7)(C) (b) (6), also spoke with (b) (6), (b) (7)(C) who is (b) (6), (b) (7)(C) supervisor, regarding the incident upon (b) (6), (b) (7) return to the office.

During this investigation, we discovered that there had been at least two previous occasions on which (b) (6), made comments that were described as "offensive, stereotypical and racist" to minorities working in (b) (6), (b) (7)(C). These comments were also reported to (b) (6), and (b) (6), who took no action to address the problem.

We also discovered a possible fraud while conducting this investigation. (b) (6), (b) (6), was hired by (b) (6), (b) (7)(C) as a part-time training consultant for a fixed (b) (6), (b) (7) dollar amount not to exceed 35 hours per week. Almost immediately upon (b) (6), arrival, (b) (6), began submitting time sheets in excess of 55 hours per week. This was initially done without prior approval from (b) (6), (b) (7)(C) management. (b) (6), was the only person submitting time sheets in excess of her stated hours. (b) (6), was no longer working in the role of trainer but as a primary contributor on the Shared Network Space

initiative where (b) (6), (b) (7)(C) and (b) (6), directed that other team members be removed from the project. A background check of (b) (6), revealed that (b) (6) filed for bankruptcy in October 2007; this may have contributed to her need for additional income. Additionally, (b) (6) currently lives with (b) (6), (b) (7)(C) who provided justification for the additional hours. (b) (6), (b) (7)(C) and (b) (6), are friends and worked together at the Commission prior to (b) (6), 's retirement. If it is determined that (b) (6), submitted false and/or misleading timesheets and (b) (6), and/or (b) (6), knowingly helped facilitate her actions, this could constitute conspiracy to defraud the government. The OIG is initiating a review of the contract to determine if a fraud occurred.

Further, we discovered that (b) (6), the COTR on this contract misused her position when she directed (b) (6), (b) (7)(C) on whom to hire and fire. Additionally, (b) (6), with assistance from (b) (6), (b) (7)(C) allegedly attempted to negotiate a position for (b) (6), (b) (7)(C) with (b) (6), (b) (7)(C) once (b) (6), (b) (7)(C) assisted that (b) (6), (b) (7)(C) could work no more than 35 hours per week as stated in her contract.

It appears that (b) (6), (b) (7)(C) accepted gifts in the form of occasional boat trips on (b) (6), (b) (7)(C) personal boat. While government wide standards of conduct make an exception for gifts based upon personal friendships, because (b) (6), (b) (7)(C) and (b) (6), often held meetings pertaining to the (b) (6), (b) (7)(C) that excluded (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) this behavior added to the appearance of impropriety and may have contributed to the creation of a hostile and/or harassing work environment.

Neither (b) (6), nor (b) (6), (b) (7)(C) took appropriate action when they were informed of the alleged abusive, harassing and disruptive behavior involving (b) (6), (b) (7)(C). Instead of identifying and addressing the specific problem with (b) (6), (b) (7)(C) or contacting either the Human Resources Management Office (HRMO) or the Equal Employment Office (EEO) of the Commission for guidance, (b) (6), (b) (7)(C) opted to allow (b) (6), (b) (7)(C) to handle complaints related to (b) (6), 's behavior. (b) (6), (b) (7)(C) chose to limit (b) (6), (b) (7)(C) 's interaction with others.

This investigation found evidence to support the allegation that (b) (6), (b) (7)(C)¹ engaged in harassing and disruptive behavior that contributed to a hostile and/or harassing work environment; and 2) that (b) (6), (b) (7)(C) assaulted (b) (6), (b) (7)(C) on May 1, 2008, by kicking (b) (6), (b) (7)(C) in the buttocks. We found that (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) contributed to creating and sustaining a hostile and/or harassing work environment when they failed to take appropriate corrective action against (b) (6), (b) (7)(C) following notification of (b) (6), (b) (7)(C) behaviors. Additionally, we found that (b) (6), (b) (7)(C) 1) misused (b) (6), (b) (7)(C) position as (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) directed (b) (6), (b) (7)(C) on whom to hire and fire in relation to his contract with the FTC and when (b) (6), (b) (7)(C) attempted to negotiate a position for (b) (6), (b) (7)(C) with (b) (6), (b) (7)(C) and 2) engaged in a relationship with contract representatives that led to an appearance of impropriety.

¹ (b) (6), is a contracting company that currently holds a contract with the FTC and has some responsibility for the Shared Network Space initiative.

Allegations related to fraud could not be substantiated at this time. The OIG is initiating a review of the (b) contract to determine if allegations of fraud are true.

In light of the foregoing, we request that you promptly take further appropriate action relating to the investigative findings described in this memorandum and accompanying report.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

April 2, 2009

Memorandum

To: File

From: Dena N. Davis
Lead Investigator

RE: Closing memo (I-09-151)

On April 2, 2009, investigative work ended in connection with the March 26, 2009 notification of a missing (b) (3) (A) containing PII and other non-public data. David Shonka, Principal Deputy General Counsel, reported the missing rack and servers to this office.

This investigation revealed that on March 16, 2009, the rack containing the servers was stored in the hallway outside of room H-185 in preparation for demolition that was to occur in the room on March 24, 2009. On the night of March 23, 2009, contractors from Grunley-Walsh and Potomac Abatement removed all items remaining in room H-185 and the adjacent hallway, including the aforementioned rack and servers, for appropriate disposition.


The rack, servers and other debris was loaded into a box truck and taken to the Potomac Abatement shop yard located in Jessup, Maryland, where it was secured for the night. The following morning, the truck containing the items removed from the Commission was driven from the Potomac Abatement shop yard to Maryland Recycle located in Elkridge, Maryland. The contents of the truck were emptied into a transfer trailer on site. Within hours, the transfer trailer was loaded onto a transport truck and taken to United Iron and Metal in Baltimore, Maryland for appropriate destruction.

Upon arrival at United Iron and Metal, the contents of the trailer were dumped onto a pad where a cursory review was performed before being fed through a metal shredder. All contents of the trailer were shredded leaving no piece any larger than a human hand.

While the actual rack and servers were not recovered, this office feels confident that they were effectively destroyed when they were fed through the shredder therefore eliminating any chance for data to be recovered from the servers.

The investigation into this matter is closed however.

APPROVED:


John M. Seeba
Inspector General



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

March 31, 2009

Memorandum

To: Jonathan Leibowitz
Chairman

David Shonka
Principal Deputy General Counsel

Marc Groman
Chief Privacy Officer

From: John M. Seeba
Inspector General

Subject: Report of Investigation – I-09-151

This memorandum summarizes the investigative findings of the Office of Inspector General regarding the reported (b) (3) (A)

(b) (3) (A)
(b) (3) (A)

Our investigation revealed that a subcontractor working on the renovation project in Room 185 of the Headquarters building (Potomac Abatement) removed the storage unit in order to facilitate its demolition work in that room.¹ Potomac Abatement removed the server storage rack with the two FTC servers on the night of March 23, 2009. The Office of Inspector General was first notified of the missing servers mid-day on March 26, 2009 by David Shonka. The FTC's Privacy Officer, Marc Groman, was first notified of the incident at approximately 3:00 p.m. on March 25th.

Our investigation revealed that Information Technology Management Office (ITMO) staff conducted weekly meetings to keep all parties involved in the demolition project apprised of the work progress and to ensure that deadlines were met. Grunley-Walsh superintendant, (b) (6) stated that following a meeting held on March 12, 2009 with FTC management (ITMO representatives, (b) (6) and (b) (6), (b) (7) understood that anything left in room H-185 or in the hallway just outside of that room was to be considered trash and could be removed from the building for proper disposal. (b) (6) stated that he moved the storage rack containing the servers into the hallway on March 16, 2009, where it stayed until it was removed from the building on March 23, 2009. Because the storage rack remained in the hallway and (b) (6) received

¹ Grunley Walsh is the prime contractor on this renovation project.

no specific instruction to preserve it prior to March 23, 2009, (b) (6) believed the unit was stored in the hallway for disposal.

On the night of March 23, 2009, (b) (6) and a team from Potomac Abatement loaded a box truck to capacity with all of the items left in room H-185 and in the hallway just outside of the room. Demolition of the room was to occur on the following day. The driver of the truck, (b) (6) drove the load directly from the FTC Headquarters to the Potomac Abatement office where he secured the truck and its contents in the fenced, locked yard of the facility. (b) (6) backed the truck up to the shop bay and ensured that the cargo door of the truck was latched. This action ensured that there would be no access for anyone to enter the truck from the rear cargo doors. (b) (6) then locked the keys to the truck inside of the Potomac Abatement office.

On the morning of March 24, 2009, (b) (6) of Potomac Abatement picked up the keys to the box truck containing the FTC server rack and two servers and drove it and its contents to Maryland Recycle where the contents were dumped directly into a transfer trailer. The contents of the trailer were then taken to United Iron and Metal for destruction that same morning.

Although the actual storage rack unit is not likely to be located, the OIG concludes that the storage rack containing the two FTC servers was destroyed by a metal grinder at United Iron and Metal located in Baltimore, Maryland.

Closing Memorandum
I-09-152

On Friday, June 26, 2009, the OIG received a call from Pat Costello, AUSA (District of Columbia). He reported that an employee of the FTC, (b) (6), (b) (7)(C) was interfering with his criminal narcotics prosecution. He also had information from Government witnesses in the narcotics case that (b) (6), (b) (6), (b) (7)(C) had given at least three FTC-owned Blackberry devices to (b) (7)(C) alleged drug dealer friends for use in their drug

provides IT support services.] The OIG immediately opened an investigation and commenced investigative activity into the allegations regarding

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7
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¹ That request was precipitated from a separate OIG investigation (I-10-153).

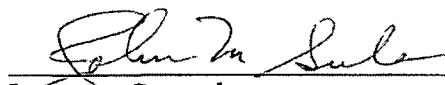
(b) (7)(E)

On April 28, 2010, the IG and Chief Investigator and Counsel met with Acting CIO (b) (6), (b) (7)(C) to report interim findings of widespread misuse of FTC-owned Blackberrys by (b) (6), (b) (7)(C) and to recommend that these individuals be removed from the FTC contract immediately. On April 29, 2010, the IG and Chief Investigator met with FTC Executive (b) (6), (b) (7)(C)

assigned to the FTC contract to inform them of the evidence of alleged misuse of FTC (b) (6), (b) (7)(C).⁴ The FTC Contracting Officer notified (b) (6), (b) (7) three Apptis employees were to be removed from the FTC contract (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) commenced an internal investigation into the allegations regarding its employees. On May 10, 2010, (b) (6), (b) (7)(C) notified the OIG that the three individuals were fired following the company's internal investigation. (b) (7)(C)

Because the FTC's internal inventory records were incomplete, the OIG lacked a sufficient documentary basis to proceed with a referral to DOJ for (b) (6), (b) (7)(C) Investigative work on this matter concluded on May 10, 2010 (10 1/2 months after the investigation commenced). The press of other OIG matters delayed documenting the close of the investigation until September 29, 2010.

APPROVED:


Inspector General

9/29/10
Date

⁴ The misuse of FTC Blackberrys was committed by:
(b) (6), (b) (7)(C) and possibly (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

⁵ FTC Security staff immediately revoked physical access to FTC property for these individuals.



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

September 28, 2011

MEMORANDUM

TO: Investigative File I-10-153

FROM: Cynthia Hogue *CH*

SUBJECT: Investigative Status Update and Closing Memo: I-10-53

The Office of Inspector General (OIG) has completed the administrative and criminal portions of its investigation into allegations that the (b) (7)(C), (b) (6) misappropriated FTC computer equipment. Investigative activity on the administrative investigation concluded in July 2010. The OIG determined that the length of time that has passed since some of the conduct that was the focus of the criminal portion of the investigation.¹ This memorandum memorializes the status of the investigation and explains the basis for closing this investigation. Because (b) (7)(C), (b) (6) resigned from his position a (b) (7)(C), (b) (6) (b) (7)(C), (b) (6) the OIG did not refer the administrative investigation findings to management, as it lacked any authority to take any administrative action against (b) (7)(C), (b) (6) retained (b) (7)(C), (b) (6) status when transferring from th (b) (7)(C), (b) (6)

Our administrative investigation revealed that (b) (7)(C) misused Government equipment by (1) taking possession of two FTC Apple laptops and a demo Panasonic Toughbook laptop (on short-term loan to the FTC) and allowing three family members, in addition to (b) (7)(C) to use the laptops exclusively for personal use; (2) misusing Government equipment by downloading sexually explicit material onto an Apple laptop; (3) continuing to use the FTC-owned Apple iPhone after the iPhone pilot project was terminated (for security reasons); (4) violated the terms of the FTC agreement with Apple when purchasing the Apple iPhones by "unlocking" or "jailbreaking" the iPhone and using it exclusively as (b) (7)(C) own PDA on the T-Mobile wireless network; and (5) took to (b) (7)(C) residence a high end computer that was never tagged with an FTC property tag and included in any IT equipment inventory (computer was used for (b) (7)(C), gaming activities and other purely personal uses and not FTC business). We also have circumstantial evidence that (b) (7)(C) conspired with FTC employee and personal friend, (b) (7)(C) to purchase the high end computer using an FTC purchase card issued to (b) (6), (b) (6) and to (b) (7)(C) (b) (6)

¹ As explained in this memo, the strength of evidence on the criminal allegations was not compelling, sufficient to support seeking a grand jury subpoena from DOJ for the testimony of Tmobile's sales representative, (b) (7)(C), (b) (6). Other competing priorities, viz., I-10-158, constrained the OIG resources that could be devoted to I-10-153.

personally transport the computer to his personal residence without bringing the computer to the FTC so that it could be properly tagged and entered into the ITMO hardware inventory. (b) (7) also made several misrepresentations to the OIG during his investigational interviews.² We conclude that the totality of (b) (7) conduct in misusing Government equipment is tantamount to abuse of (b) position as (b) (7)(C), (b) (6). Because (b) no longer serves as the (b) (7)(C), (b) (6) we are closing this investigation.

(b)
(6)

BACKGROUND AND FINDINGS

(b) (7)(C), (b) (6) working at the FTC on (b) (7)(C), (b) (6) as an (b) (6) in (b) (7)(C), (b) (6). He was promoted to (b) (7)(C), (b) (6) (b) (7) immediate (b) (7)(C), (b) (6) ated as "outstanding" in (b) performance evaluation for the rating period ending 6/30/07. At that time, (b) (6) s grade (b) (6) was (b) (6), rating (b) (6) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) for the rating period ending September 30, 2008 was "Meritorious" (second from highest rating). However, in the subsequent year (rating period ending September 30, 2009), (b) (7)(C), (b) performance plan rating was downgraded to "Commendable" (third from highest and third from lowest) by (b) (7)(C), and (b) (6), (b) (7)(C) See also fn. 3.)

On or about November 20, 2009, (b) (7)(C), (b) (7) informed (b) (7) that it was time for (b) to begin seeking other employment outside of the FTC.³ (b) (7) and (b) (7)(C), entered into a Confidential Settlement Agreement (Agreement) on December 4, 2009 which afforded (b) (7) the opportunity to work on a detail at another agency (at FTC expense) for 90 days.⁴ The agreement provided that (b) (7) would resign from (b) (7)(C), (b) (6) if (b) was unable to secure permanent employment at the conclusion of the detail period (originally set to expire after 90

² In light of the fact that we do not have a criminal case to present to DOJ, it is unlikely that DOJ would prosecute (b) (7) for making false statements to the OIG during his investigational interviews under 18 U.S.C. 1001.

³ See Email from (b) (7)(C), (b) (6) (Nov. 23, 2009):

Last Friday (b) (7)(C), (b) (6) visited my office and expressed (b) desire that I find another job. His main point of contention was that the [(b) (7) (b) (7)(C), (b) analysis draft document re-enforced his opinion that (b) (7) needed a new direction in (b) (7)(C). He then stated that (b) was (b) [sic] to 'educate' me on how the (b) (7)(C) functioned. He said that he could give me an unsat rating and make it stick but he didn't 'want' to do that. * * *

⁴ The Agreement provided that when (b) (7) accepted the detail the FTC agreed that it would issue (b) a "Satisfactory" (b) (7)(C), for the period October 1, 2008- September 30, 2009. This suggests that the (b) (7)(C), (b) (6) contained in (b) Official Personnel File in HRMO reflects a revised rating and that the original rating may have been lower (e.g., Minimally Satisfactory" or Unsatisfactory).

days, but later extended first to 150 days and later to a total of 175 days).⁵ (b) (7)(C) began a detail (b) (7)(C), (b) (6)

(b) (7)(C), (b) (6) (b) received an offer of employment with the (b) in (b) (7)(C), (b) (6)

During the course of another ongoing OIG criminal investigation, the OIG learned that (b) (7)(C), (b) (6) allegedly misappropriated FTC property. The OIG conducted several interviews, including two interviews of (b) (6). Following his OIG interviews. (b) (6), (b) (7)(C) (b) (7)(C)

(b) (6), (b) (7)(C) In addition to conducting (b) (7)(E)

During his February 17, 2010 investigational interview,⁸ (b) (7)(C) admitted that he had two

⁵ See March 30, 2010 and May 5, 2010 amendments to the Agreement.

(b) (7)(C), (b) (6)

c

(b) (7)(E)

(b) (7)

⁸ This was (b) (7)(C)'s first investigational interview. The FTC OIG Chief Investigator and (b) (7)(C), (b) (6) from the VA OIG (Mid-Atlantic Field Office) appeared in (b) (7)(C)'s office at the VA unannounced. (b) (7)(C) was unaware that he was the subject of an OIG investigation prior to that date. (b) (7)(C)

Apple laptops at his residence. He denied that anyone else in his family used the Apple laptops. At the conclusion of this interview, the OIG took (b) (7) to his residence to obtain the FTC-owned property. (b) (7) told the OIG in this interview that he did not know where the Panasonic Toughbook laptop was located and that he was certain that it was not in his residence. That statement to the OIG was false, as explained in the discussion of the Panasonic laptop. (b) (7) told the OIG in this interview that no one else in his family had used either of the Apple laptops (i.e., the MacBook Air or the MacBook Pro). That statement was false, as explained in the discussions of the Apple laptops and the forensic evidence contained on the FTC iPhone retained by (b) (7).

(b) (7),
(C),
(b) (7)(E)

's FTC-issued computer

PME Intel Quad Core computer

On November 3, 2008, Platinum Micro Electronics (PME), a custom computer vendor, prepared an estimate for a custom, high-end computer. The invoice specifies (b) (7)(C), (b) (6) as the customer. The invoice specifies a "(703)" telephone number as the telephone contact number and another Northern Virginia seven-digit telephone number as the fax contact number. The invoice specifies a total cost of \$1,920. The corresponding Purchase Order for the PME computer (Contract No. FTC 09C9059) indicates that the PME computer was paid for with an FTC purchase card by (b) (7)(C), (b) (6) (listed as the COTR on the purchase).

The store manager of PME, (b) (7)(C), stated that he recalled that (b) (7) picked up the Intel quad core computer in person. (b) (7) could not recall whether (b) (7) was accompanied by anyone (e.g., (b) (7)). See Interview Summary of (b) (7)(C), OIG Interview (March 18, 2010).

(b) (7) stated in his February 17, 2010 investigational interview with the FTC OIG and VA OIG that he picked up the PME computer in person in order to save the agency the \$45 shipping charge. (b) (7) later stated that the shipping charge from PME's Manassas, VA location to Washington, DC would be \$30. (b) (7)(C), (b) (6) stated in his investigational interview that it does not make sense that the CIO would go to pick up a computer to save \$45, in light of the high spending levels within ITMO). (b) (7) stated that he brought the PME computer to the FTC to be tagged and that the computer indeed had an FTC property tag. He could not recall the name of any particular individual who he instructed to affix a property tag. The PME computer, when recovered from (b) (7)(C), residence on February 17, 2010, did not have an FTC property tag. During his OIG investigational interview, (b) (7)(C), (b) (6) (b) (7)(C), (b) (6) stated that in February 2010 (more than 15 months after (b) (7) picked up the computer directly from PME), (b) (7) had asked that (b) (7) assist (b) (7) in obtaining a property tag.

tag for the PME computer.)⁹

(b) (7)(E)

(b) (7)
(C), (b) (b) (7)(C), (b) (6)
⁹ (b) (7) s February 2010 request of (b) (7) occurred during
The two were talking on the telephone while (b) (7) was in transit (walking) from one VA
building to another. (b) (7) told (b) (7) during the call that the property that (b) (7)(C), had
previously told (b) (7) to return to the FTC had to be returned. (b) (7) then requested (b) (7) to
assist (b) (7) in obtaining a property tag for the PME computer. (b) (7) advised (b) (7) that there
would be a discrepancy in the Remedy database record (*i.e.*, that the property tag number, if
issued in February 2010, would not be in sequence with those that were issued at the time the
FTC paid for the high end computer). (b) (7) told (b) (7) that he would not assist in obtaining a
property tag for the computer. This information was obtained from (b) (7) OIG investigational
interview and that of (b) (7)(C), (b) (b) (7) in whom (b) (7) confided following (b) (7) request for
assistance. (b) (7)(C), (b) (b) (7)(C), (b) (b)

(b) (7)(C), (b) (6)

he instructed (b) (7)(C), (b) (6) on a technical compatibility issue.¹¹

(b) (7)(E)

¹¹ See Email from (b) (7) (C), to (b) (7) (C), (b) (6) (October 26, 2009):

As I was upgrading one of my computers to windows 7 this weekend, I got a warning about compatibility issues with Symantec endpoint protection and windows 7. Since there will be a lot of folks upgrading and buying new computers fo the holiday season, we need to make sure that the endpoint we furnish is compatible with Windows 7. If you could get back with me and let me know what we will be doing to support Windows 7 (other than the AV it seems to work great with SAFE, I installed the demo AVG for 7).

It is possible that (b) (7) (C)'s use of the possessive pronoun referred to his personal computer, which was also located in his residence. We did not obtain a search warrant for that computer, having no probable cause to believe that his personal computer contained evidence of criminal activity.

¹² The audible.com username was (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6)

(b) (7)(E)

(b) (7)(E)

(b) (7)(C),

Months after (b) (6) delivered the two demo loaner Toughbooks to the FTC, he requested the demos to be returned to him. The demo unit that had been used by (b) (7)(C), (b) (6) to load and test the FTC image was wiped and returned to (b) (7)(C). However, the whereabouts of the first demo Toughbook that was loaned to (b) (7)(C), (b) (6) was reportedly unknown within ITMO. In his OIG interview (b) (7) stated that he did not know where the missing Toughbook was located.

After the missing Panasonic Toughbook was discovered in (b) (7)(C), (b) (6) FTC office desk drawer (despite the fact that the same drawer had previously been searched by (b) (7)(C), (b) (6) in search of the missing Toughbook), the OIG conducted a forensic analysis of the hard drive. Forensic evidence confirms that (b) (7)(C), (b) (6) lied to the OIG during his investigational interview when he stated that he did not know the whereabouts of the missing Toughbook. The toughbook contained a large number of children's software programs and appears to have been used exclusively by (b) (7)(C), (b) (6). It appears that the Toughbook appealed to (b) (7)(C), (b) (6) for use by his (b) (7)(C), (b) (6) because of the computer's rugged durability.

Apple iPhone

Forensic evidence revealed that (b) (7)(C), (b) (6) used the Apple iPhone, purchased by the FTC as part of the "iPhone pilot program" that (b) (7)(C), (b) (6) created, exclusively for personal use. (b) (7)(C), (b) (6) admitted in his February 17, 2010 interview that he altered the iPhone so that he could use it on the FTC's cellular carrier, T-Mobile (so called "jailbreaking" the iPhone). That conduct violates agency policy on appropriate use of Commission IT resources and violated Apple restrictions on the use of the iPhone product. Altering the software on the iPhone most certainly voided the manufacturer's warranty on the device. (b) (7)(C), (b) (6) retained the iPhone at his residence after he left the FTC and began his detail at the VA. In January 2010, after (b) (7)(C), (b) (6) directed (b) (7)(C), (b) (6) to return all FTC IT property, (b) (7)(C), (b) (6) texted (b) (7)(C), (b) (6) and instructed her to "bring the Apple tomorrow."

DISCUSSION

(b) (7)(C), (b) (6) misappropriation of the FTC's IT equipment violated agency policy on *de minimis* use of equipment. In addition, (b) (7)(C), (b) (6) conduct is tantamount to theft of Government property, in violation of 18 U.S.C. § 641 (b) (5).

(b) (6), reportedly told an ITMO staff member that his personal use of FTC equipment was a "perk of position."¹⁷ The multiple misuses of FTC computer and wireless device equipment demonstrated his view that his position (b) (7)(C), (b) (6) entitled him to use IT equipment for personal use far in excess of the agency's stated *de minimis* standard. None of the forensic analysis of the Intel quad core custom computer, two Apple MacBook laptops and

(b) (7)(C), (b) (6)

¹⁷ OIG Investigational Interview of

Panasonic Toughbook indicated that (b) (6), (b) (7)(C) used *any* of this FTC-owned (or on loan to the FTC) equipment for official FTC business. One hundred percent of the use of this equipment was for personal use, either by (b) (6), or (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

In addition to the foregoing administrative policy violation, (b) (6), (b) (7)(C) conduct is tantamount to criminal conduct. Despite the fact that (b) (6), (b) (7)(C) was still an FTC employee at the time the OIG confiscated the FTC equipment in his residence, the evidence is compelling that he violated 18 U.S.C. § 641 when he (1) conspired with his personal friend, (b) (6), (b) (7)(C) to buy the custom gaming computer from (b) (6), (b) (7)(C) (2) transported it directly to his residence by circumventing the FTC's IT inventory system; and (3) retaining possession of the Intel quad core custom computer, two MacBook laptops (MacBook Pro and MacBook Air), Panasonic Toughbook (on loan to the FTC) and Apple iPhone. (b) (6), (b) (7)(C) will be expected to argue that because he was still employed by the FTC, it would be impossible for him to steal this property. Moreover, the FTC has since recovered all of the IT equipment, thereby suffering no harm.

Section 641 of Title 18 states, *inter alia*,:

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted --

Shall be fined under this title or imprisoned not more than ten years, or both; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

The word 'value' means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

18 U.S.C. § 641.

The elements of this offense include: (1) the property at issue belongs to the United States, (2) the defendant fraudulently appropriated the property to his own use, and (3) the defendant did so knowingly and willfully with the intent to permanently or temporarily deprive the owner of the property. *United States v. McRee*, 7 F.3d 976, 980 (11th Cir. 1993) (citations omitted).

Case law instructs that Section 641 is broad enough to punish the misuse or abuse of government property, provided that the defendant acts with criminal intent. *U.S. v. Haranda*,

333 F. Supp. 2nd 618, 623 (E.D. Mich. 2004). The Supreme Court has explained that:

Conversion . . . may be consummated without any intent to keep and without any wrongful taking, where the initial possession by the converter was entirely lawful. Conversion may include misuse or abuse of property. It may reach use in an unauthorized manner or to an unauthorized extent of property placed in one's custody for limited use

Morissette v. United States, 342 U.S. 246, 271-272 (1952).

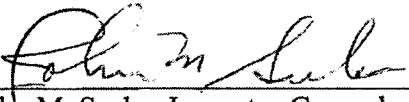
The facts demonstrate (b) (6), intent to misappropriate the property for his personal use and for the use of (b) (6), (b) (7)(C). He personally picked up the (b) (6), gaming computer on a weekend and took it directly to his residence. Although he claimed that he brought it to the FTC for a property tag, the computer did not have a property tag on it when confiscated by the OIG. (b) (6), reportedly asked for (b) (6), to help him obtain a property tag for the computer, which was "off the books" for inventory control purposes. The order for the computer, most likely placed by (b) (6), himself (because (b) (6), lacked technical expertise according to (b) (6), and (b) (6), further evidences (b) (6), (b) (7)(C) intent to convert the computer to his personal use. The PME invoice notably omits any reference to the Federal Trade Commission as a customer in this transaction and no FTC shipping address is provided. Both Deputy CIOs (b) (6), (b) (7)(C) stated that this was highly irregular. Forensic evidence also demonstrates (b) (6), intent to convert Government property to his personal use (and the personal use of (b) (6), (b) (7)(C)). None of the hard drives that were confiscated from his residence contained any official FTC work. One hundred percent of the data was of a personal nature. The equipment was not even utilized for a "mixed" use (i.e., business and personal). Moreover, (b) (6), usage of the MacBook Pro to download sexually explicit images as well as his use of the custom gaming computer for the purchase of gun parts is explicitly in violation of FTC policy on the use of Government IT equipment. Such (b) (5)

The OIG also investigated allegations that (b) (6), directed the contract for the FTC's cellular phone service to a particular vendor, (b) (6), (b) (7)(C) in exchange for the blackberry upgrades that the (b) (6), (b) (7)(C) provided to (b) (6),. We found the evidence on this allegation to be unpersuasive. None of the technical review panel members who evaluated the cellular service proposals stated that (b) (6), directed them to rate (b) (6), (b) (7) bid more favorably than the other bidders. Accordingly, that portion of the case is also closed.

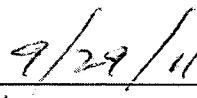
CONCLUSION

Based on the foregoing, I recommend that we close this investigation.

APPROVED:



John M. Seeba, Inspector General



Date



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

June 14, 2010

MEMORANDUM

To: (b) (7)(C), (b) (6)

From: John M. Seeba
Inspector General

Re: Investigative referral (I-10-154)

The Office of Inspector General (OIG) has completed its investigation into the April 7, 2010 allegation of misuse of government resources. The investigation revealed that (b) (7)(C), (b) (6) misused government resources when (b) (7) 1) used (b) (7) FTC email to further her home based business, (b) (7)(C), (b) (6) and 2) when (b) (7) used (b) (7) FTC internet access to browse websites related to the same business. The OIG refers this matter to management for further action.

BACKGROUND & FINDINGS

On April 7, 2010, (b) (7)(C), (b) (6) reported allegations that (b) (7) (C), (b) (6) was using FTC resources to conduct (b) (7) home based business.

A review of (b) (7) FTC email account between February 26, 2010 and April 12, 2010, revealed multiple instances where (b) (7) (C), (b) (6) used her FTC email account in relation to (b) (7)(C), (b) (6)

(b) (7) (C), (b) (6) used (b) (7) FTC internet access to browse websites that sell products related to candles, fragrance and other items that could be associated with (b) (7) home based business. (b) (7) (C), (b) (6) stated that while (b) (7) visited these sites, it was not related to (b) (7) business but that (b) (7) was looking for gifts for family, friends and coworkers. (b) (7) further, (b) (7) (C), (b) (6) stated that as of April 15, 2010, (b) (7) has suspended (b) (7) business. A check of (b) (7) (E) revealed that as of January 31, 2011, (b) (7)(C), (b) (6) is an inactive business. (b) (6)

DISCUSSION

(b) (7)
(C), (b) committed a violation of the agreement (b) (7) signed with the ethics office in addition to FTC policy and procedures when she used government resources to further her home based business.

The agreement (b) (7) signed with the ethics office on April 9, 2008 specifically prohibits the use of "*government property, resource or facilities not available to the general public in connection with outside employment*".

The FTC employee handbook, page 5 under Outside Employment and Activities states that "*employees shall protect and conserve federal property and shall not use it for other than authorized activities*".

The FTC Administrative Manual, chapter 1, section 300.8.2 prohibits "*running a personal business or engaging in other for-profit commercial activities*".

CONCLUSION

(b) (7)
(C), (b) committed a violation of the policy set forth in the FTC employee handbook and Administrative Manual when (b) sent and received emails to and from (b) (7) FTC email account relating to (b) (7)(C), (b) (6) (b) (7) further violated FTC policy when (b) used (b) (7) FTC internet access to browse sites that may have been related to (b) (7) to the same home based business.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

June 14, 2010

MEMORANDUM

To: File

From: Dena Davis
Lead Investigator


RE: Closing memo (I-10-154)

On May 7, 2010, investigative work concluded in connection with the April 7, 2010, allegation of misusing government resources by (b) (7)(C), (b) (7)(D). The OIG investigation was predicated on information provided by (b) (7)(C), (b) (6).

The investigation revealed that (b) (7)(C), (b) (7)(D) committed a violation of FTC policy when (b) (7)(D) sent and received email to and from (b) (7)(C) FTC email account related to (b) (7)(D) home based business, (b) (7)(C), (b) (6) and when (b) (7)(D) used (b) (7)(D) FTC internet access to browse sites related to the same business. (b) (7)(D) also violated the agreement she signed with the ethics office that specifically prohibited (b) (7)(D) from using government resources not available to the public.

This case has been referred to FTC management for appropriate disposition. No further action is required by the OIG.

APPROVED:


John M. Seeba, Inspector General

REPORT OF INVESTIGATION

ADMINISTRATIVE DATA

(b) (7)(C), (b) (6)

Subject:

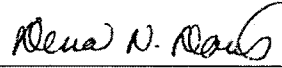
(b) (7)(C), (b) (6)

Allegation: Misuse of Government Resources

OIG Case File: I-10-154

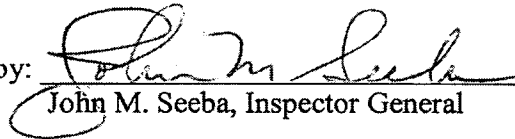
Date of Report: June 14, 2010

Prepared by:



Dena N. Davis, Lead Investigator

Approved by:



John M. Seeba, Inspector General

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Allegation

On April 7, 2010 this office was notified by (b) (7)(C), (b) (6) that (b) (7)(C), (b) (6) may be using FTC resources to conduct her Commission approved home based business, (b) (7)(C), (b) (6) (b) (7)(C), is solely owned and operated by (b) (7) who makes and sells novelties, scented candles and other fragranced items.

Prohibitions

The FTC employee handbook, page 5 under Outside Employment and Activities states that *"employees shall protect and conserve federal property and shall not use it for other than authorized activities"*.

The FTC Administrative Manual, chapter 1, section 300.8.2 prohibits *"running a personal business or engaging in other for-profit commercial activities"*.

Details

On April 7, 2010 (b) (7)(C), relayed the suspicions of (b) (7)(C), (b) (6) that (b) (7) violated her agreements¹ with the Commission to refrain from using FTC resources to conduct (b) home based business by using (b) FTC email account to send and receive email related to (b) (7)(C), (b) (6). Additionally, it is suspected that (b) (7) uses the FTC's internet access to shop for items related to (b) (7) business.

Investigation revealed that (b) (7) has sent and received email related to (b) home based business through (b) FTC email account. A review of (b) (7) FTC email account between February 26, 2010 and April 12, 2010, revealed multiple occurrences of (b) (7) either forwarding email from another email account associated with (b) (7)(C), (b) (6) or discussing products offered for sale by the business. Additionally, a review of (b) (7) internet activity² revealed (b) regularly visited websites that are associated with candles, scents and other items similar to those sold by (b) (7) home based business.

During an interview with (b) (7) on May 7, 2010, (b) (7) admitted to browsing internet sites that sell candles, bath and body products, home décor, etc. to purchase as gifts for friends, family and co-workers, not for (b) business. Further, (b) (7) stated that as of April 15, 2010, (b) has suspended (b) business and it is no longer a legal entity. A check of (b) (7)(C), (b) (6) 's legal status³ (b) (7)(E) revealed that as of January 21, 2010, the business is inactive³.

(b) (7) also stated that while browsing a website approximately a year ago, she responded to a something (possibly a survey) and (b) FTC email address ended up on a

¹ Exhibit 1 is the agreements from the Ethics office signed by (b) (7)(C), (b) (6)

² Exhibit 2 is a sample of (b) (7) internet activity.

³ Exhibit 3 is a (b) (7)(E) printout showing the legal status of (b) (7)(C), (b) (6)

(b) (7)
vendors list. (C), (b) contends that (b) (7) has tried, but has been unsuccessful in getting (b) (7) FTC email address deleted from that vendor list.

(b) (7) denied selling her products when (b) (7) is on FTC time. (b) (7) stated that (C), (b) (7) business (b) (7) purchased a netbook computer and went to Georgetown University Law School on (b) (7) lunch breaks to handle any business related to (b) (7)(C), (b) (6) that arose while (b) (7) was at work. (b) (7) contends that (b) (7) only sold (b) (7) products on the weekends, at trade shows, flea markets and online.

Findings

Evidence was found in (b) (7), (C) FTC email to support the allegation that (b) (7) has used FTC resources to conduct (b) (7) home based business. While (b) (7) denies purchasing products online to support (b) (7) business during working hours at the FTC, there was evidence to suggest that (b) (7) engaged in that activity. There was no evidence to support that (b) (7) used FTC telephone or fax lines to conduct business for (b) (7)(C), (b) (6). While this action did not cause a monetary loss to the Commission, it was a violation of the agreement (b) (7) signed which certified that (b) (7) "will not use any official duty time or Government property, resource, or facilities not available to the general public in connection with this outside employment".

No one could substantiate suspicions that (b) (7) sold (b) (7) products to anyone during FTC business hours. (b) (7) contends that (b) (7) would inform persons with questions about (b) (7) business to discuss the subject with (b) (7) during (b) (7) lunch break.

Conclusion

(b) (7)(C), (b) (6) committed a violation of the agreement signed with the ethics office when (b) (7) used FTC resources (internet activity and email address) in a manner not available to the general public in relation to (b) (7)(C), (b) (6) the agreement specifically prohibits this action. Further, (b) (7) was engaged in running a personal business and engaging in for-profit commercial activities which is prohibited by the FTC Administrative Manual.



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

June 14, 2010

MEMORANDUM

To: File

From: Dena Davis
Lead Investigator

RE: Closing memo (I-10-155)

On May 17, 2010, investigative work concluded in connection with the April 19, 2010, allegation of Misusing Government Resources by (b) (7)(C), (b) (6). The OIG investigation was predicated on information identified during an unrelated investigation.

The investigation revealed that (b) (7) committed a violation of FTC policy when she operated a home based business without obtaining prior approval from the Designated Agency Ethics Official (DAEO), sent and received email to and from (b) (7) FTC email account related to her home based business, (b) (7)(C), (b) (6) and when (b) (7) used (b) (7) FTC internet access to browse sites related to the same business. (7)

This case has been referred to FTC management for appropriate disposition. No further action is required by the OIG.

APPROVED:


John M. Seeba, Inspector General

REPORT OF INVESTIGATION

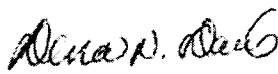
ADMINISTRATIVE DATA

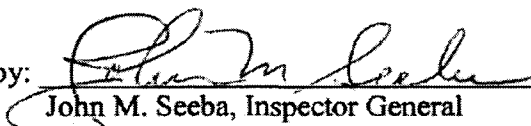
Subject: (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6)

Allegation: Misuse of Government Resources

OIG Case File: I-10-155

Date of Report: June 14, 2010

Prepared by: 
Dena N. Davis, Lead Investigator

Approved by: 
John M. Seeba, Inspector General

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Allegation

On April 19, 2010 while conducting an unrelated investigation, evidence was discovered that led this office to believe that (b) (7)(C), (b) (6) was operating a home based business without the consent of the Federal Trade Commission. A check with the Ethics Office revealed that (b) (7)(C), has not received authorization to operate a home based business. Additionally, evidence to suggest that (b) (7) used (b) (7) FTC computer and email to promote (b) (7) unauthorized home based business was discovered.

Prohibitions

The FTC employee handbook, page 5 under Outside Employment and Activities states that *"employees shall protect and conserve federal property and shall not use it for other than authorized activities"*.

The FTC employee handbook, page 7 under Outside Employment and Activities states *"before engaging in any outside employment, all employees must obtain the written permission of the General Counsel or designee"*.

The FTC Administrative Manual, chapter 1, section 300.8.2 prohibits the use of computer resources for the purposes of *"running a personal business or engaging in other for-profit commercial activities"*.

Details

On April 19, 2010, while reviewing the email activity of a subject in an unrelated matter, evidence that suggested (b) (7)(C), was operating a home based business was discovered. A check with the agency (b) (6) ethics office revealed no requests from (b) (7)(C), to operate a home based business. A check in (b) (7)(E) identified two (b) (6) businesses registered solely to (b) (7)(C), (b) (6) and (b) (7)(C), (b) (6). Both businesses are registered in the state of Maryland as active legal business entities. (b) (7) (b) (7)(C), has been an active business since of December 3, 2007 and (b) (6) has been an active business since April 12, 2007¹.

A review of (b) (7)(C), (b) (6)'s FTC email account between March 22, 2010 and May 10, 2010, revealed multiple occurrences of (b) (7)(C), either sending or receiving email related to (b) (6) home based business. Additionally, a review of (b) (7) (b) (6)'s internet activity revealed (b) (7) regularly visited websites that are associated with auctions and building a website as well as her own (b) (7)(C), (b) (6) website².

During an interview with (b) (7)(C), (b) (6) on May 17, 2010, (b) (7) admitted to owning one home based business but denied using FTC resources to promote the business. When asked why (b) (6) had not cleared the business through the DAEO, (b) (7) stated that (b) (7) thought (b) (7) did everything (b) (6) was supposed to do since the business was registered with the state of Maryland. (b) (7)(C), (b) (6) stated that she was unaware that she needed to obtain

¹ (b) (7)(E) printout of registered businesses.

² Sample of internet history

(b) (7)(C),
the agency to have a home based business. Further, (b) (6) stated that (b) (7) knows not to
use FTC resources to conduct (b) (7) home based business. (C)

Findings

(b) (7)(C),
Evidence was found to support the allegation that (b) (6) is conducting a home
based business without prior approval of the DAEO. Additionally, evidence was found
to support the allegation that (b) (7)(C), has been using FTC resources to solicit clients for
and conduct business related to (b) (7)(C), (b) (6)

Conclusion

(b) (7)
(C), (b) violated policy set forth in the FTC employee handbook, page 5 under
Outside Employment and Activities states that *"employees shall protect and conserve
federal property and shall not use it for other than authorized activities"*.

The FTC employee handbook, page 7 under Outside Employment and Activities
states *"before engaging in any outside employment, all employees must obtain the written
permission of the General Counsel or designee"*.

(b) (7)
Additionally (C), (b) violated policy set forth in the FTC Administrative Manual,
chapter 1, section 306b.4 prohibits *"running a personal business or engaging in other
for-profit commercial activities"*.



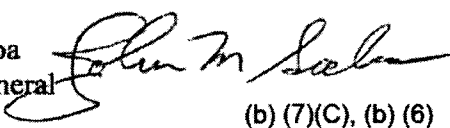
UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Inspector General

March 31, 2011

MEMORANDUM

TO: D. Michael Chappell
Chief Administrative Law Judge

FROM: John M. Seeba 
Inspector General (b) (7)(C), (b) (6)

SUBJECT: Investigative Referral (I-10-158)

During the course of the referenced Office of Inspector General (OIG) investigation we obtained evidence that an agency employee, (b) (7)(C), (b) (6) (1) received two netbooks that were paid for by the FTC and (2) repeatedly lied to federal investigators about (b) (7) receipt of the netbooks. Although (b) (7) may be prosecuted for these offenses, we obtained approval from the District of Columbia United States Attorney's Office to refer the matter to agency management for appropriate administrative action. Any such action is not expected to adversely affect her potential criminal prosecution.

This investigation is ongoing and we anticipate referring additional FTC employees to management in the coming weeks.

Background

(b) (7)(C), (b) (6) December 7, 2010, agency management notified me that (b) (7)(C), (b) (6) appeared to be making unauthorized purchases using his Government purchase card. I immediately initiated an investigation into the allegation. During the intervening months, my staff has obtained evidence that (b) (7) made \$217,000 + in unauthorized purchases that were billed to the FTC.¹ The D.C. United States Attorney's Office is currently prosecuting (b) (7)(C), (b) (6) for this theft of Government property.
(b) (6)

¹ Many of the purchases were for electronics: netbooks, Apple ipods, Apple ipod Touches, DVD players, small televisions, video game consoles (Sony Play Stations), etc. He also used the agency's Federal Express account number and incurred an additional \$1200+ in Fed Ex charges that were paid for by the FTC (at the Government discount rate).

(b) (7)(C), sold most of the merchandise that he purchased without authorization while working as (b) (6) (b) (7)(C), (b) (6) at the FTC.² Our investigation uncovered evidence demonstrating that (b) (6) sold two Hewlett Packard mini netbooks to a fellow FTC employee, who works in the Office of Administrative Law Judge. From January 3, 2011 until March 28, 2011, (b) (7) denied that she ever received the two HP netbooks that (b) (7) had instructed a vendor to ship to (b) (7), residence in Locust Grove, VA. When confronted with the evidence against (b) (7)(C), ultimately confessed to (1) lying to FPS and the OIG and (2) receiving the two netbooks at (b) (6) residence. Because of other evidence available to us at that time, and later confirmed by forensic evidence contained on (b) (7) FTC computer, we did not believe (b) (7) January 3, 2011 denial. Agency management placed (b) (7) on administrative leave (with pay) later that week.³ (C) (b)

Evidence that (b) (7) Received Two HP Mini Netbooks

We learned that (b) (7) had received the two netbooks through our analysis of vendor invoices. (b) (7) ordered more than 412 HP mini netbooks⁴ from two vendors who sold office products to the FTC: Frank Parsons Company and Modern Imaging Solutions, Inc.⁵ Two HP

² On December 14, 2010, Federal Protective Service special agents interviewed (b) (7) in his work area in the FTC supply room. Following that interview, my staff informed (b) (7)(C), (b) (7)(C), (b) (6) of the theft of Government property committed by (b) (7) and to which (b) (7) confessed on that date. Agency management immediately placed (b) (7) on administrative leave (with pay) and escorted (b) (7) from the FTC headquarters building.

³ We informed Judge Chappell on January 4, 2011 that it was our opinion that (b) (7) was lying. We based our opinion on the invoice showing shipment to (b) (7), residence, the Federal Express delivery confirmation record, and the fact that (b) (7)(C), (b) (6), has a significant criminal record involving fraud-related activities and (b) (7) told us that he was home all day "on disability." During the intervening weeks when she was on administrative leave (when contractor employees were being removed for their participation in the theft of Government property ring), (b) (7) contacted my Chief Investigator and Counsel twice to learn the status of our investigation. (C) (b) Her calls were not returned.

⁴ The agency was charged \$430 - \$500 for each HP mini netbook, far in excess of the cost that was available from competing resellers. In addition, the FTC was billed overnight delivery charges of \$40 per shipment. (b) (7) would place orders throughout the work day, including late in the day, and routinely insist that delivery must be the following day. Some items were shipped to the FTC headquarters building. Often, items were shipped to other addresses, including private residence or apartment addresses, with the FTC appearing in the residential address. Many items went to Red Top Cab in Alexandria, where (b) (7) had a co-conspirator. (C) (b)

⁵ Frank Parsons Company is a longstanding supplier of paper products to the FTC. The company also sells office supplies to the agency (e.g., toner cartridges, folders, etc.). After the FTC's account with Frank Parsons fell into arrears, (b) (7) found another supplier, Modern Imaging Solutions, Inc., with a California address and call center operations located in The

(b) (7)
mini netbooks were shipped by Modern Imaging Solutions, at (C), (b) instruction, to the Locust Grove, VA residence of (b) (7)(C), (b) and delivered on Monday, December 13, 2010 at 4:02 p.m.⁶

(b) (7)
Federal Protective Service (FPS) special agents presented (C), (b) with this evidence during her January 3, 2011 interview. (b) (7) adamantly denied that she ever ordered any netbooks from (b) (7)(C), or received any netbooks. In fact, (b) presented the FPS special agent with a typed memo to the file that was dated December 21, 2010 (Appended to Attachment 3). (b) (7) typed a "For the Record" memo that stated that (b) went to the supply room and got into a conversation with (b) (7) regarding being ready for Christmas. (b) (7) purportedly told (b) that (b) wished that (b) had informed (b) that (b) needed netbooks for Christmas before (b) ordered some from China because (b) (7) could have gotten (b) (7) a discount. Although (b) (7) had purportedly ordered two netbooks from China, (b) asked (b) (7)(C), to check on the price and told (b) to check on shipping costs to (b) home address because (b) was still waiting on (b) refund from China. (b) never heard back from (b) (7) regarding a cost, according to (b) (7) prepared written statement that (b) presented in (b) first interview. The statement contained many inconsistencies with the available evidence. We also found (b) coming to the interview with a prepared written statement highly unusual.⁷ (b) stated that (b) had discussed the rumors about the FTC supply clerk with (b) supervisor, (b) (7)(C), (b) (6) and that (b) wrote the memo to the file at his suggestion.⁸ (b) (7) written statement also attempted to explain the contacts that (b) (C), (b)

Philippines. When (b) supply of the unauthorized electronics was cut off by one vendor, (b) (7)(C), simply found another vendor. We are currently discussing possible criminal culpability of Modern Imaging Solutions, Inc. with the Department of Justice.

⁶ The underlying order was placed on Thursday, December 8, 2010. The vendor invoice, dated December 8th, correctly spells (b) (7) street name: (b) (7)(C), (b) (6) (b) (7)(C), (b) (6) (Attachment 1) This was an interesting fact in our investigation, as described more fully in the text. In addition, the Federal Express delivery record is attached. (Attachment 2) No signature was required for this delivery. (b) (7) (b) (7) does not work and is home all day "on disability." (b) (7) took the next day, Tuesday, December 14th, off work (annual leave) [time records were mistakenly recorded on December 15th according to Judge Chappell]. Coincidentally, December 14th was the day that we informed (b) (7) that (b) was under investigation. (C) (b) (7)

⁷ (b) (7) was given a couple of hours' advance notice when we scheduled this interview. The statement (C) appeared to be (b) (7) attempt to create a record of (b) innocence in anticipation of evidence to the contrary. For example, the written statement attempted to explain why (b) (7) address, even the correct spelling of (b) unusually-spelled street name, would be on an invoice. Yet, if (b) had only been seeking the cost of shipping for the netbooks, (b) would need to provide only (b) zip code, not (b) full residential address. (7) (7)

⁸ Judge Chappell confirmed with my staff that (b) had discussed the matter that (b) (7) had raised with (b) on or about December 21, 2010 (regarding the FTC supply clerk and the rumor that (b) (7) might somehow be involved). (b) advised (b) (7) to memorialize the facts in a memo to the file. Forensic evidence shows that (b) (7) drafted (C) the memo to the file on December 21, (C)

received from the vendor (Modern Imaging Solutions' sales representative) to have the netbooks return shipped to the vendor. At the end of (b) (7) written statement, (b) (7) stated, "I never paid for or received any netbooks." (C) (b) (7)

We learned from Judge Chappell that (b) (7) (C), discussed (b) (7) attempts to buy netbooks from China during the December 13, 2010 holiday lunch that (b) (7) had with (b) (7) staff. At that time, (b) (7) told Judge Chappell and (b) (7) colleagues that (b) (7) had ordered a netbook from China and that (b) (7) was never shipped to (b) (7). Because (b) (7) suspected that the China company had "ripped (b) (7) off," (b) (7) was getting a refund. At the luncheon, she said that she was getting another from a computer (b) (7) company online. A week later, during the week of Christmas, (b) (7) told Judge Chappell that (b) (7) wanted to tell him something, in case (b) (7) name comes up. (b) (7) (C) told Judge Chappell that the (b) (7) (C), (b) (7) had been dismissed. (b) (7) also told (b) (7) that the supply clerk had told (b) (7) that (b) (7) would get (b) (7) netbooks and that the supply clerk had asked (b) (7) for (b) (7) credit card number and that (b) (7) would not give it to (b) (7) (C). (b) (7) also told (b) (7) supervisor that (b) (7) had found a better deal on the netbooks, "I found a deal somewhere else." (b) (7) never told Judge Chappell that she might be in trouble and (b) (7) never told (b) (7) that Government money was used to pay for the items that were allegedly purchased by the supply clerk who was dismissed. (b) (7) told (b) (7) supervisor, "I didn't get them, I never got anything from (b) (7)." The entire conversation lasted roughly 45 seconds and occurred in Room 108 while one of them was heating something up the microwave. Judge Chappell told (b) (7) to write a memo to the file. (b) (7) provided no advice. (b) (7)

In addition to the statements of (b) (7) (C), (b) (7) (6) and Modern Imaging Solutions' sales representative in The Philippines,¹⁰ we obtained independent evidence confirming that (b) (7)

2010 and revised it on January 3, 2011, after the OIG called her to schedule her afternoon interview.

⁹ We have conducted two interviews with (b) (7) in the presence of (b) (7) private defense counsel. In each interview, (b) (7) stated that (b) (7) had ordered two netbooks from (b) (7) and that they were delivered to (b) (7) house in Locust Grove, VA. (b) (7) was the person who called (b) (7) at (b) (7) FTC phone on December 14, 2010 while (b) (7) was being interviewed by law enforcement. (b) (7) told (b) (7) "I can't talk right now" and hung up the phone, all in the presence of OIG Chief Investigator and Counsel. After (b) (7) was placed on administrative leave, (b) (7) (C) called (b) (7) to tell (b) (7) that (b) (7) should return the netbooks "to save (b) (7) job." Because (b) (7) (6) was placed on administrative leave on the day after (b) (7) received the netbooks shipment via Federal Express, (b) (7) never paid (b) (7) the \$260 that (b) (7) owed (b) (7) for the two netbooks. (b) (7) (C), (b) (7) (C), (b) (7)

¹⁰ On January 3, 2011, we conducted a telephone interview of (b) (7) (C), (b) (7) (6) (b) (7) (C), (b) (7) (6) call center who took all of (b) (7) orders. (b) (7) (C), recalled the December 8, 2010 telephone conversation with (b) (7) when (b) (7) placed the order and recalled that (b) (7) was on the phone (on speaker) when (b) (7) placed the order. During that call, (b) (7) (C) attempted to negotiate a lower price for the netbooks because they were for a (b) (7) (C), (b) (7) (6). The story (b) (7) fabricated to get the discount was false, but (b) (7) was successful in getting (b) (7) (C) to lower the price to \$463 per netbook, plus \$40 for overnight shipping (total \$960). (b) (7) (6) explained that the regular price should have been \$500 (C), (b) (7)

received the two netbooks on December 13, 2010 and continued to lie about it.

Forensic evidence obtained from (b) (7) (C), (b) (7) (C) FTC computer includes, *inter alia*, several photographs from Christmas 2010. In some of the photographs, (b) (7) (C), (b) (7) (C) is shown holding a mini netbook. For nearly an hour in her March 28, 2011 OIG interview, (b) (7) (C), (b) (7) (C) continued to deny that she had received the two netbooks, despite being presented with independent evidence to the contrary. (b) (7) (C), (b) (7) (C) was first shown some of the Christmas photographs that just showed the netbook, with no one holding it. Again, (b) (7) (C), (b) (7) (C) fabricated a story to explain that it was a Dell netbook that another family member had received for Christmas. Finally, (b) (7) (C), (b) (7) (C) was shown the photo of (b) (7) (C), (b) (7) (C) holding the netbook. (b) (7) (C), (b) (7) (C) continued to contend that it was another netbook that was given to an older family member by (b) (7) (C), (b) (7) (C). When we informed her that we will need the paperwork on that purchase, she suggested that it might be an older netbook that the family member already owned, prior to Christmas. This was despite the fact that the netbook in some of the photos was still in the plastic bubble wrap after it had been removed from the manufacturer's box. After we showed (b) (7) (C), (b) (7) (C) the photo of (b) (7) (C), (b) (7) (C) holding the new netbook, we told her that we could go to (b) (7) (C), (b) (7) (C) house in Fredericksburg, VA and match the serial numbers. Faced with the possibility that (b) (7) (C), (b) (7) (C) would have to face a juvenile criminal charge, (b) (7) (C), (b) (7) (C) paused, and confessed. (b) (7) (C), (b) (7) (C) interview summary is attached (Attachment 3). We have retained the audio recording of (b) (7) (C), (b) (7) (C) March 28, 2011 OIG interview in our office and if management would like to listen to it in our office, it is available. Because there remains the potential criminal prosecution of (b) (7) (C), (b) (7) (C) we will maintain control over this evidence.

Conclusion

(b) (7) (C), (b) (7) (C) repeatedly lied to individuals regarding (b) (7) (C), (b) (7) (C) receipt of Government property, including lying to (b) (7) (C), (b) (7) (C) supervisor and others in law enforcement during investigative interviews. (b) (7) (C), (b) (7) (C) received two netbooks, at a cost of \$966 to the agency.¹¹ Only when presented with forensic evidence to contradict (b) (7) (C), (b) (7) (C) longstanding fabrication did (b) (7) (C), (b) (7) (C) confess to (b) (7) (C), (b) (7) (C) involvement, and even then, (b) (7) (C), (b) (7) (C) cooperation was not immediate. We refer these (b) (7) (C), (b) (7) (C) investigative findings to agency management for appropriate administrative action.

cc: Jonathan Leibowitz
Chairman

Karen Leydon
Director, Human Resources Management Office

per netbook. (b) (7) (C), (b) (7) (C) described (b) (7) (C), (b) (7) (C) as "my best customer." (b) (7) (C), (b) (7) (C) acknowledged that (b) (7) (C), (b) (7) (C) might have been present in the supply room when (b) (7) (C), (b) (7) (C) placed the call to order the two netbooks (the phone was on speaker).

¹¹ Agency management had disputed many of the unpaid, unauthorized charges with the two vendors. At the instruction of law enforcement, (b) (7) (C), (b) (7) (C) returned the netbooks to the OIG on March 29, 2011.



Office of Inspector General

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

September 30, 2011

To: (b) (7)(C), (b) (6)

From: John Seeba

Inspector General

Re: Investigative Referral (I-10-159)

The Office of Inspector General (OIG) has completed an administrative investigation involving allegations that (b) (7)(C), (b) (6) has been using FTC information technology resources in connection with (b) (7) outside for-profit writing/book publishing activities. We obtained evidence to substantiate the allegation, including a sworn statement by (b) (7) acknowledging (b) (7) misuse of FTC computer and printer resources. (b) (7) conduct violates agency policy as stated in the FTC Administrative Manual.

Earlier this month, (b) (7)(C), (b) (6) in H-240 (b) (7)(C), (b) (6) contacted the (b) (7)(C), (b) (6) to describe concerns about (b) (7)(C), (b) (6) explained that some members of (b) (7) team had reported (b) (7)(C), alleged misuse of the CRC printer (to print out pages of a book that (b) (7) is currently writing). The (b) (7)(C), (b) (6) opened an investigation into the allegations. We obtained a forensic image of (b) (7) 's FTC computer. The forensic report (Attachment 1) corroborated the allegations as reported to (b) (7) staff.

On today's date, the (b) (7)(C), (b) (6) interviewed (b) (7) in the (b) (7)(C), (b) (6) (b) (7) admitted that (b) (7) had misused (b) (7) FTC computer to (1) print excerpts from (b) (7) book using the (b) (7) CRC printer; (2) edit her books; (3) research various websites (as listed on Attachment 1, Exhibit D);¹ and (4)

¹ Many of the websites visited by (b) (7) in the past month reflected her research on how to promote (b) (7) books. The websites focused on marketing and how to get into the erotic novels genre. (b) (7) also visited, *inter alia*, the publishamerica website, and another self-publisher (lulu.com) as well as vistaprint.com, the host for (b) (7) own website (b) (7)(C), (b) (6) on which she promotes her books. (b) (7) attempt on August 5, 2011 to visit (b) (7)(E)

(b) writing activities were with the intent to self-publish two books that are currently in draft
(7) form (b) (7)(C), (b) (6). See Attachment 2 (b) (7) sworn statement).
In 2008 and 2010, (b) (7) successfully self-published two books (b) (7)(C), (b) (6) and (b) (7)
(b) (7)(C), (b) (6) using the same self-publisher (b) (7)(C), (b) (6) (b) (7)(C),
earlier published books are currently available for sale on various online venues, including
amazon.com,² walmart.com, and (b) own website. (b) (7)(C), (b) (6) The forensic
analysis confirmed that (b) (7) used (b) (7) FTC computer computer to further (b) for-profit writing
activities. (C), (b) (7) (7)

Agency policy prohibits FTC staff from ever using agency computer resources for, *inter alia*, "running a personal business or engaging in other 'for profit' commercial activities." FTC Administrative Manual, Ch. 1, Sec. 300.8(2). (b) (7)(C), misuse of (b) FTC computer and the CRC's printer violated this policy. (b) (7) acknowledged, "While I am aware that my government computer should not be used for these things . . . but should have done the above mentioned things at home." See Attachment 2.

I am forwarding this information to management for further action.

cc: Karen Leydon
Director, HRMO

² The contract that (b) (7) entered into with (b) (7)(C), (b) (6) provides that the publisher will make (b) books (C) (b) available for sale. The prices of the books on amazon.com are so high that (b) (7) has not sold any of them to date. (b) (7)(C) has purchased roughly \$325 worth of (b) books (C) (b) from the publisher. (b) has been successful in selling some of these books on (b) website and directly to friends and family (at a price lower than that offered by (7) amazon.com).