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Description of document: **US Commodity Futures Trading Commission (CFTC)
Office of the Inspector's General (OIG) closing report
on eight selected cases, 1997 - 2003**

Requested date: 04-March-2009

Released date: 06-April-2009

Posted date: 23-March-2010

Source of document: Freedom of Information Act Request
Assistant Secretary of the Commission for FOIA Matters
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581
Fax: 202-418-5124
[Online FOIA request form](#)

Note: Redacted final reports for these cases included:
97-1, 99-2, 99-3, 00-3, 01-01, 02-04, 02-05, 03-01

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U.S. COMMODITY FUTURES TRADING COMMISSION

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www.cftc.gov

Office of the
Inspector General

April 6, 2009

In response to your letter of March 4, 2009, received by the Freedom of Information Office on March 17, 2009 (tracking # 09-0083), and received by me on March 23, 2009. I am providing you with a redacted copy of the Office of the Inspector's General (OIG) closing report on the eight cases that you identified in your letter of March 4, 2009. I am providing you this information by email which is the most efficient means for addressing your request.

The Office of the Inspector's General semiannual reports which can be found at <http://www.cftc.gov/aboutthecftc/oig.html> contains information about our activities should you wish to learn more about this OIG.

Sincerely,

Tony Baptiste
Assistant Inspector General for Auditing

Attachment: Redacted Copy of Closing Reports for Eight Cases

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Job : 166
 Date: 3/25/2009
 Time: 1:26:21 PM




97-1



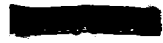



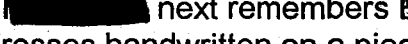
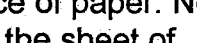




January 17, 1997














TO: File





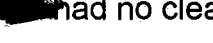

FROM: Peter W. Currall 

SUBJECT: Release of Confidential Information -- 

On January 15, 1997, A. Roy Lavik, Donald G. Smith, and I interviewed  the  about the release of confidential information to a reporter. The confidential information consisted of a draft letter to the  concerning March 1996 wheat futures trading which was on one side of a piece of paper on the other side of which addresses of persons to be officially served were apparently handwritten by a member of the CFTC staff.

 stated that at approximately 6:00 PM on a workday in December,  was asked to serve six individuals in a matter related to March 1996 Wheat trading. Following normal procedures,  insisted that the  provide the names and addresses of persons to be served in writing.  recalls calling  for the required information.  next remembers  coming down and delivering the addresses handwritten on a piece of paper. Not recognizing that confidential information was on the back side of the sheet of paper containing the handwritten addresses,  passed the paper on to a member of the  staff who placed the piece of paper in an official file which was available for public inspection. In accordance with established procedure, the paper was kept in the official file as a record of what  told  to do in the event some question arose in the future about exactly what was done and at whose direction.

In a subsequent interview with  January 15, 1997, we learned that  recalls bringing  down to the  at about 5:30 PM on a workday in December to introduce  to  because they would both be working on serving the six persons concerned in the March 1996 Wheat matter. A short while later that evening,  recalls  calling  for information on who was to be served and at what addresses.  recalls telling  to call  for that information.  recalls no further involvement in the matter.

On January 16, 1997, A. Roy Lavik and I spoke with  stated that  had no precise memory of the incident in question but that  remembers it in general and would reconstruct it for us as best  could given that  had no clear memory of the matter.  recalls that it was late

[REDACTED] was emphatic in saying that [REDACTED] had no personal agenda which would lead [REDACTED] to intentionally release confidential information to a reporter. [REDACTED] stated that [REDACTED] would not take such initiative. [REDACTED] stated that [REDACTED] had no recollection that [REDACTED] ever had a relationship with the press.

In a conversation with [REDACTED] and [REDACTED] we suggested that all CFTC employees requesting service in future be notified in writing that all submitted materials would become part of the official file and be subject to public inspection. The agreed to do so in all cases in the future. Further, they stated that they would no longer accept handwritten notes but would require typewritten or emailed information in the future.

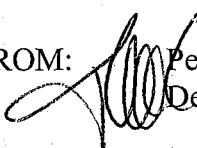
Accordingly, we are closing this case.

Job : 63
Date: 3/25/2009
Time: 2:09:25 PM


99-2


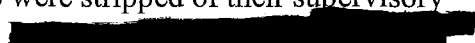
January 8, 1999



TO: File


FROM:  Peter W. Currall
Deputy Inspector General


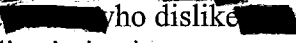

SUBJECT: Anonymous Complaint Re: Age and Gender Discrimination in 



In response to an anonymous complaint (copy attached) passed on to the Office of the Inspector General (OIG) by a third party in November 1998, an investigation was opened. From December 7, 1998 through December 16, 1998, A. Roy Lavik and Peter W. Currall interviewed, in person and by telephone, the 

 The interviews each began with a characterization of the anonymous complaint letter dated October 23, 1998 alleging low morale in the office and discriminatory actions based on age and gender taken against five male employees who were "forced out" and three male supervisory futures trading investigators who were stripped of their supervisory status. The "forced out" employees were enumerated as 

 The three supervisory investigators were identified as 

We asked each person being interviewed to first tell us what he or she knew of the work of the five listed employees and of his or her knowledge of their reasons for leaving. Secondly, we asked the person being interviewed to talk about the organizational changes which have occurred under  and their effects on the efficiency of the office processes, the morale of the division personnel, and the quantity and quality of the work produced by the division.

The principal allegation of wrongdoing concerned discriminatory actions based on age and gender taken against the five mentioned employees and the three supervisory futures trading investigators. As a result of our interviews, we have uncovered no basis for the allegations. Even among those most unlikely to favor  those who feel they have a personal or professional grievance against  who dislike  management style, we found no support for any charges of age or gender discrimination.

The allegation that the morale of the office is not high seems to be born out by the interviews. However, the results are mixed. In general, those employees who have been there the longest and have experienced the more relaxed administration of  have been most upset by the changes in organization and the increased demands for performance being levied by  The newer employees generally came in with this organization and these higher expectations for performance, and they are not bothered by them. But this is not always the case. Some longer term employees are delighted by the changes and the increased challenges, and some newer employees are experiencing low morale.

Also upsetting to morale are the increased number of rewrites of documents coming from Washington and the demand by Washington that at least one negative comment be placed in everyone's performance appraisal. The constant rewriting, sometimes going in excess of 20 versions of the same document, are especially damaging to the morale of the professional staff. These rewrites are not seen as substantive but rather stylistic. There were a number of reports of one Washington reviewer rewriting the rewrites of another Washington reviewer. This potentially destructive pattern should be studied more closely.

We understand that Washington's stated intent was to place constructive criticism in each performance appraisal. Nobody is perfect, and each of us can improve if guided properly. This noble idea went immediately astray when it was interpreted as requiring that everyone have something negative put in their appraisal. The employees view these required negative comments uniformly as gratuitous and unhelpful. They do not seem to be having the desired effect of guiding the employees toward improved performance. This policy should be reviewed.

This investigation of the allegation of actions motivated by age or gender discrimination is accordingly closed. The other matters will be taken up in future reviews.

Job : 85
Date: 3/23/2009
Time: 3:18:37 PM

99-3

June 17, 1999

TO: File

FROM: A. Roy Lavik
Inspector General

SUBJECT: Report on the Inappropriate Release of Confidential Information

In response to a March 15, 1999 request from Chairperson Born that this office look into the inappropriate release of a draft of the Commission staff's foreign terminals proposal to [REDACTED] a reporter with the Bloomberg Business News, A. Roy Lavik and I interviewed the pertinent staff of the [REDACTED] and the Offices of Commissioners Holum, Spears, and Newsome between March 17, 1999 and April 7, 1999. As a result of these interviews and the examination of relevant documentation, the Office of the Inspector General provides the following report.

Information obtained from [REDACTED] and provided to this Office indicates that the leaked document was dated March 11, 1999 and that the document contained no redlining.

CREATION AND DISTRIBUTION

We have determined that there were there were six separate editions of the foreign terminals proposal dated March 11, 1999. The first two (version 1), a clean copy and a redlined copy, were produced just after midnight on the morning of Thursday, March 11, 1999. The second two (version 2), a clean copy and a redlined copy, were produced at approximately 6:00 P.M. on the evening of March 11, 1999. The third two (version 3), a clean copy and a redlined copy, were produced at approximately 8:00 P.M. Thursday, March 11, 1999.

The clean and redlined copies of the version 1, i.e., that produced shortly after midnight and distributed about 8:00 A.M. on Thursday, March 11, 1999, were distributed by [REDACTED]. Two copies of version 1, at least one clean and either another clean or a redlined copy were left from 1:00 A.M. until approximately 8:00 A.M. on March 11, 1999 on the ledge in front of the [REDACTED] secretary's desk. [REDACTED] personally made copies of the clean version of the foreign terminals proposal. [REDACTED] believes that [REDACTED] made ten copies on the morning of the 11th, but [REDACTED] may have made eleven. The original plus the ten or eleven copies were distributed as follows: one copy on Commissioner Holum's office chair, one on [REDACTED] chair, one on [REDACTED] chair, one on Commissioner Newsome's chair, one on [REDACTED] chair, and three

copies handed to Commissioner Spears. Within the [REDACTED] [REDACTED] retained one copy, and placed one copy on [REDACTED] chair, one on [REDACTED] chair, and possibly one on [REDACTED] chair. [REDACTED] said that [REDACTED] was not sure whether [REDACTED] placed one on [REDACTED] chair, but that, in any event, [REDACTED] was not in that day and did not return to the office until the following Tuesday. The [REDACTED] secretary also remembers making four or five copies of the document early that morning to be reviewed by the [REDACTED] staff.

The redlined copies (redlined by machine) went to those listed on the cover memorandum transmitting the proposed rules, i.e., [REDACTED] [REDACTED] personally distributed the redlined copies at approximately 8:30 A.M. on March 11, 1999. [REDACTED] handed copies to [REDACTED], to [REDACTED] and to [REDACTED]. [REDACTED] also handed a copy to [REDACTED] who was not listed as an addressee or a receiver of a carbon copy. [REDACTED] delivered copies to the rest of the listed persons by placing a copy on each of their office chairs.

During the day on March 11th, [REDACTED] and [REDACTED] made revisions to the document in accordance with comments received, and, in the afternoon, prepared a second version (version 2) of a clean and a redlined copy. The redlining was done by hand by [REDACTED]. At approximately 6:00 P.M., [REDACTED] hand delivered the second set to the Chairperson and [REDACTED] in the Chairperson's office. [REDACTED] waited while the Chairperson made hand corrections to the redlined copy of the second version. [REDACTED] returned the redlined copy to [REDACTED] and retained the clean copy.

Incorporating the comments of the Chairperson, [REDACTED] produced a third and final version (version 3) of the clean document dated March 11, 1999 at about 8:00 P.M. [REDACTED] then went home, and [REDACTED] stayed to prepare a redlined version by hand showing the revisions from version 1 to version 3. [REDACTED] took care of the distribution. [REDACTED] placed a copy of the clean and the original of the redlined on [REDACTED]'s chair and kept the original of the clean and a copy of the redlined for himself. On the morning of March 12th, [REDACTED] walked around for signature of the Divisions a copy of the clean version 3. [REDACTED] hand carried the copy to all signatories and obtained signatures in all but two cases: [REDACTED] in [REDACTED] and [REDACTED] the [REDACTED]. [REDACTED] left the document in [REDACTED] chair and sent [REDACTED] back about a half-hour later to pick up the signed document. [REDACTED] then took the document to [REDACTED] who kept the document because [REDACTED] was considering changes. About a half-hour later [REDACTED] brought the unchanged, signed document to [REDACTED].

[REDACTED] made or had [REDACTED] secretary make up 18 or 20 copies of the signed document and had [REDACTED] secretary deliver the original plus 13 copies to the Secretariat for seriatim and kept 5 to 7 in [REDACTED]. The [REDACTED] copies were distributed approximately as follows: 2 to [REDACTED] 1 to [REDACTED] 1 or 2 to [REDACTED] 1 to [REDACTED] and 1 to [REDACTED]. [REDACTED] also delivered to the Secretariat, 2 copies of the redlined proposal showing the changes from version 1 to version 3.

On the issue of the copy of the March 11, 1999 proposal placed by [REDACTED] chair, [REDACTED] says that he believes that [REDACTED] placed a copy of version 1 in [REDACTED] chair on the morning of March 11th and that [REDACTED] replaced it with version 3 on the morning of March 12th. [REDACTED] stated that [REDACTED] probably threw the copy of version 1 that he removed from [REDACTED] chair in the recycle box.

On Friday, March 12, 1999, [REDACTED] the [REDACTED] picked up the foreign terminals proposal (version 3) from the Secretariat's inbox or it was handed to her by another [REDACTED]. [REDACTED] date stamped the document March 12, 1999 at 11:13 A.M. then entered the relevant tracking information into the seriatim log system.

The [REDACTED] then prepared a seriatim package which included an approval slip, a cover sheet, a sign-off sheet, and a clean and redlined copy of version 3. The approval slip, asking if the attached document might be submitted for seriatim consideration by the Commission, was dated March 12th and carried to the Chairperson's office. The approval slip was marked, [REDACTED], which the [REDACTED] indicated was an approval initialed by [REDACTED]. Either [REDACTED] or [REDACTED] returned the document to the Secretariat or one of them called the Secretariat to have the document picked up.

When the [REDACTED] received the document, [REDACTED] took off the approval slip and attached it to the original document while the copy of the document was circulating.

With the Chairperson's office approval, the original and 13 copies of the document provided by [REDACTED] were distributed as follows: Chairperson's office 4 copies, Commissioner Newsome 3 copies, Commissioner Spears 2 copies, Commissioner Holum 2 copies, and 1 copy to the [REDACTED]. The Secretariat retained the original, and the final copy was used to circulate with the sign-off sheet.

The seriatim log system indicates that the document went to Commissioner Newsome on March 12th and was returned by his office on March 15th. Commissioner Spears received and completed the document on March 15th. Commissioner Holum likewise received and dealt with the document on March 15th. Chairperson Born received the document on March 16th and completed it on March 16th. In between all of these offices, the Secretariat was called, the Secretariat picked up the document, entered the appropriate information into the seriatim log system, and took the document to the next commissioner's office. The [REDACTED] did not necessarily hand the document to a person but may have placed it in an inbox.

Once the document was voted upon, the cover was removed and a new top page was prepared by [REDACTED] to replace the one marked with the word, "DRAFT", and the date of preparation. The [REDACTED] attached the new sheet as the top page of the voted upon original. The Secretary of the Commission signed the document on the morning of March 16th and sent it to the Federal Register on the 1:30 P.M. mail run. The [REDACTED] contacted the Federal Register and determined that the document was received after 2:00 P.M. on the 16th.

POTENTIAL SOURCES OF THE LEAKED DOCUMENT

Clean (non-redlined) editions of any version of the foreign terminals proposal dated March 11, 1999 were not made available to divisions other than [REDACTED] or Offices other than the [REDACTED], the Offices of the Commissioners, and the Office of the Chairperson. Versions 1 and 3 in clean form were available to the Division of [REDACTED], the [REDACTED] the Secretariat, the Offices of the Commissioners, and the Office of the Chairperson. Version 2 in clean form was available to the [REDACTED] and the Office of the Chairperson. As noted above, a number of the copies of versions 1 and 3 were left on chairs or in inboxes rather than delivered to individuals.

Other possible sources of clean copies dated March 11th available to be picked up by unauthorized individuals were the one or two left on the ledge in front of the [REDACTED] secretary's desk from 1:00 A.M. until approximately 8:00 A.M. on March 11, 1999, the two versions, 1 and 3, left on the chair of [REDACTED] from Thursday until Tuesday (version 1 ended up in the recycle box), the sign-off copy of version 3 left on the chair of [REDACTED] and the sign-off copy of version 3 left with [REDACTED]. Any excess copies produced by [REDACTED] during the process are reported to have ended up in the recycle boxes.

OUTSIDE CONTACTS

[REDACTED] stated that on either Thursday, March 11th or Friday, March 12th, [REDACTED] had a phone conversation with [REDACTED], an industry attorney, about [REDACTED] SwapClear proposal. During this conversation, [REDACTED] spoke about the foreign terminals proposal of the Commission. [REDACTED] recalls [REDACTED] as saying, "The document is out. People are reading it, and people are upset." [REDACTED] could not recall with certainty if this phone conversation occurred on March 11th or March 12th, but [REDACTED] leans toward Friday, March 12th.

[REDACTED] reports as hearsay evidence that, at Boca Raton, various people mentioned that [REDACTED] had the document very early on in the previous week. People also mentioned that the pagination of the document that was circulating had different pagination from the approved, official document. The indication is that it is not version 3 (the voted upon document) but rather version 1 or 2.

Early in the morning of Monday, March 15, 1999, [REDACTED] received a call from [REDACTED] of the Bloomberg Business News. [REDACTED] revealed that [REDACTED] had a copy of the draft foreign terminals proposal and asked for comment. [REDACTED] referred [REDACTED] to [REDACTED].

[REDACTED] received a call from [REDACTED] at about 8:45 A.M. on March 15th. [REDACTED] told [REDACTED] that she had a copy of a draft of the staff's foreign terminals proposal, and asked if Chairperson Born wished to comment. [REDACTED] indicated that [REDACTED] had been reading the

proposal over the weekend. It was a very short conversation lasting only a minute or two. [REDACTED] immediately called [REDACTED] and related the substance of the conversation. Within moments, Chairperson Born called [REDACTED] and asked [REDACTED] to come down to her office.

[REDACTED] reported that [REDACTED] had told him on March 16th that [REDACTED] had a clean version of the foreign terminals proposal dated March 11, 1999.

[REDACTED] spoke with [REDACTED] on Tuesday, March 16th and was told by [REDACTED] that she had been in conference calls about the document all day Monday, March 15th, a day before the official release.

CHAIRPERSON BORN

After talking with all relevant Commission personnel, outside of the immediate Office of the Chairperson about their knowledge of the creation, distribution, and approval of the foreign terminals document, the Office of the Inspector General sought interviews with the Chairperson and her staff. The Office of the Inspector General tried repeatedly between the first week in April until the Chairperson's departure on June 1, 1999 to arrange interviews with Chairperson Born and her staff, and, although the Chairperson's staff repeatedly acknowledged our requests for interviews, no interviews occurred.

CONCLUSION

Given the number of available copies of the document dated March 11, 1999, the Office of the Inspector General has not been able to determine the source of the leaked document.

Job : 23
Date: 3/23/2009
Time: 4:31:55 PM

00-3



U.S. COMMODITY FUTURES TRADING COMMISSION

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1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5110
Facsimile: (202) 418-5522

Office of the
Inspector General

MEMORANDUM

TO: A. Roy Lavik

FROM: Tony Baptiste

DATE: January 23, 2007

SUBJECT: Investigation Log--Inadvertent Case Number Request Permission to Adjust Log

Today I noticed an error in our Investigation Log located at:
O:\common\Excel\INV\InvIndex.xls. Two cases listed in the log as I-00-2 (blank, no case name) and I-00-3 (Abusing the Internet) do not have a corresponding case jacket in the OIG safe. Consequently, I sought to determine if the case jackets were misfiled.

I examined all the case jackets in both safes (the White and Yellow) and found no evidence of the existence of any case that can come close to the approximate dates for case #s I-00-2 or I-00-3. I then checked the Semi-Annual Reports:

1. Period ending March 31, 1999--All the investigation cases mentioned are accounted for in the files.
2. Period ending September 30, 1999--All the investigation cases mentioned are accounted for in the files.
3. Period ending March 31, 2000--All the investigation cases mentioned are accounted for in the files.
4. Period ending September 30, 2000--All the investigation cases mentioned are accounted for in the files.
5. Period ending March 31, 2001--All the investigation cases mentioned are accounted for in the files.
6. Period ending September 30, 2001--All the investigation cases mentioned are accounted for in the files.

Based on this research I conclude that the above case name entries were inadvertently placed in the case log. May I correct the error in the investigation log by posting Error next to case #s I-00-2 or I-00-3?

Approve:

Dis-approve:

Date:


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Job : 89
 Date: 4/2/2009
 Time: 2:59:19 PM

01-01

January 12, 2001

Memorandum

TO: Files

FROM: A. Roy Lavik

SUBJECT: Reorganization of CFTC

I received the attached letter dated December 23, 2000 on January 2, 2001. The letter alleged that the outgoing Chairman William Rainer planned to reorganize two divisions of the Commodity Futures Trading Commission and to fill certain new slots with his personal assistants.

On January 3 I met with Chairman Rainer and discussed the issues raised by the letter. He told me that the Commission had unanimously approved a proposed staff reorganization on December 22, 2000. He had the Commission's Secretary provide me with a copy of the vote. The Chairman assured me that he would consulting with and be sensitive to Commissioner Newsome who will become the acting Chairman.

Commissioner Newsome confirmed in a January 4 interview that Mr. Rainer had consulted with him about the reorganization and that he had voted for it. He did say he made a distinction between the reorganization and the selection of people to fill the new slots. Mr. Newsome firmly felt that generally only acting persons should be designated now. He said he would keep me informed.

Job : 176
Date: 4/3/2009
Time: 12:46:53 PM

02-04

TO: The Files

FROM: Tony Baptiste

RE: Interview of Audit & Financial Review Staffers

DATE: June 10, 2002 update July 15, 2002, reviewed August 27, 2002
(FINAL)

The [REDACTED] requested the Office of the Inspector General (OIG) investigate a series of unprofessional actions ranging from unsolicited mail deposited in employees' inbox, carpet stains, missing documents from shared computer printers, and general mischief that have occurred within the unit. Due to the frequency of these incidents and their psychological impact on affected parties the [REDACTED] considers these acts an impediment to normal workflow in the office. Consequently, the OIG was asked to ascertain the nature of the offending acts, the parties affected and determine the identity of those who are causing these acts. Thus, the Inspector General Roy Lavik and the Assistant Inspector General for Auditing, Tony Baptiste made a surprise visit to the group for four days starting Monday June 3, 2002 to Thursday June 6, 2002. During this visit all 14 non-managerial staffers were interviewed, individually, the [REDACTED] were also interviewed, as a group.

Prior to discussing the result of our interviews of the staff we were told by the [REDACTED] of the following list of offending acts by individual(s):

1. Sending unsolicited copies of a magazine with articles considered by the recipient to be personally derogatory and racist;
2. Tampering with the printed output of various staffers;
3. Non-accidental spilling of coffee in front of various supervisors' desk.
4. Bickering among some employees about a perception of management favoritism of a certain employee over other employees; and,
5. Creation of dissention among employees by asserting management's unwillingness to promote employees.

However, in our interviews we targeted items one to three since they we considered them to be more likely to represent systemic incidents of fraud, waste or abuse.

The results of our interviews were discussed with the [REDACTED] prior to our leaving the [REDACTED]. Upon returning to headquarters the Inspector General then discussed our findings with the Chairman. Our findings were:

1. We were unable to specifically identify [REDACTED] as having placed the offending documents on [REDACTED]

2. We were unable to specifically identify [REDACTED] as being responsible for the disappearance of output from the shared computer printers.
3. In addition, we were unable to verify that [REDACTED] deliberately spill coffee in front of various supervisors' office.

Although, circumstantial evidence in the form of allegations made by 12 of the 12 independent staffers within the fourteen non-managerial members of the [REDACTED] indicate that [REDACTED] likely committed the infractions. The Inspector General presented these findings to the Chairman in a private meeting. **Subsequently, the Office of the Inspector General closed this investigation.**

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02-05



U.S. COMMODITY FUTURES TRADING COMMISSION

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Office of the
Inspector General

CONFIDENTIAL MEMORANDUM

TO: Chairman James Newsome

FROM: A. Roy Lavik
Inspector General

DATE: September 24, 2002

RE: Informal Inquiry: [REDACTED]

INTRODUCTION

In 2001, the CFTC received several letters that questioned or complained about the conduct of [REDACTED] a former trial attorney in the CFTC's Division [REDACTED] or "Division".¹ Those letters alleged that [REDACTED] may have (i) divulged confidential or non-public information, in violation of CFTC Rule 140.735-5; (ii) participated in matters as a CFTC trial attorney in which he had a financial interest, in violation of 18 U.S.C. § 208; (iii) converted government property for personal use, in violation of 18 U.S.C. § 641; (iv) accepted an illegal bribe or gratuity, in violation of 18 U.S.C. 201; (v) accepted employment in connection with a matter which is the same as, or substantially related to, a matter in which he participated personally and substantially as a public officer or employee, in violation of District of Columbia ("D.C.") Bar Rule 1.11; and/or (vi) revealed a confidence or secret of the CFTC, in violation of D.C. Bar Rule 1.6. In December 2001, you referred these issues to me.

Pursuant to your referral, the Office of the Inspector General ("OIG") has conducted an informal inquiry into these issues. OIG has met with the Office of Public Integrity, Department of Justice, to discuss these issues and receive advice. OIG also conducted interviews with a number of current and former CFTC employees, including CFTC employees who were involved

¹ The following letters were received concerning the conduct of [REDACTED]: (i) a February 21, 2001 letter from [REDACTED], Esq., [REDACTED] Inc., to [REDACTED], [REDACTED], (ii) a March 16, 2001 letter from [REDACTED], [REDACTED], to [REDACTED], forwarding a Letter dated February 13, 2001 from [REDACTED] and [REDACTED], and (iii) an August 7, 2001 Letter from [REDACTED] Counsel for [REDACTED] to [REDACTED] CFTC.

in the [REDACTED] investigation and cases concerning the [REDACTED] of the [REDACTED] senior management of the Division;³ ethics officials;⁴ employees in the [REDACTED] attorneys from [REDACTED] employees responsible for processing recent FOIA requests and subpoenas for documents collected by the Division in its copper investigation;⁶ and [REDACTED] OIG also has obtained and reviewed relevant documentary evidence, including materials in the possession of the agency ethics official(s); court documents; FOIA requests; [REDACTED]'s notes maintained in the course of the copper investigation; documents obtained by [REDACTED] in the course of the [REDACTED]; and indices concerning the documents collected in the [REDACTED] investigation.⁷

OIG also was contacted by the Office of Bar Counsel for the District of Columbia ("Office of Bar Counsel"). Pursuant to a complaint lodged by [REDACTED] the Office of Bar Counsel has opened its own separate investigation concerning [REDACTED] possible violations of D.C. Bar rules and provided OIG with copies of the [REDACTED] complaint, [REDACTED] response and a reply. The Office of Bar Counsel requested that the CFTC apprise Bar Counsel of its position concerning such allegations.

As explained below, it is my assessment that the Commission should, in response to the request of the Office of Bar Counsel, inform that office that there are reasonable grounds for believing that [REDACTED] has violated D.C. Bar Rule 1.11.⁸

² OIG interviewed [REDACTED] trial attorney for [REDACTED] an Industry Analyst in the [REDACTED] and [REDACTED] a former investigator for [REDACTED]

³ OIG interviewed [REDACTED] the former Acting Director of [REDACTED] and [REDACTED]

⁴ OIG met with [REDACTED] formerly the CFTC's Alternate Designated Agency Ethics Official.

⁵ OIG interviewed [REDACTED] attorneys [REDACTED], [REDACTED] Esq. and [REDACTED]

⁶ OIG met with [REDACTED] and [REDACTED] in the CFTC's [REDACTED]

⁷ Because this was an informal inquiry, I have not issued any administrative subpoenas.

⁸ I do not find that there are reasonable grounds to believe that [REDACTED] violated any other rule, regulation or statute. This memorandum does not include a detailed analysis of such other alleged violations.


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Office of the
Inspector General

MEMORANDUM

TO: Files

FROM: Tony Baptiste

DATE: June 19, 2003

SUBJECT: Review Of Customer Satisfaction With The [REDACTED]

Recently, the Office of the Inspector General (OIG) received several unsolicited complaints regarding dissatisfaction with service rendered by employees in the [REDACTED]. Among the complaints identified were: [REDACTED] employees failed to provide necessary assistance when requested, arbitrary implementation of new acquisitions policies without prior consultation with customers, lack of guidance in structuring official contracting documents, and ineffective support for locating suitable vendors for meeting the immediate needs of requesting organizations.

Since October 1998 the [REDACTED] staff has been entirely changed with four new employees, all from outside the agency. The new staff, listed in arrival date order, consists of [REDACTED] Supervisory [REDACTED] Specialist, and three [REDACTED] Specialists; [REDACTED]

PURPOSE and SCOPE

The purpose of this review was to to ascertain the prevalence of the aforementioned assertions and to gauge the level of service rendered to requesting division employees by the [REDACTED]. For this investigation we limited our discussion scope to the period 1998 to 2003. This five calendar year period was chosen because, the prior principal [REDACTED] retired from the agency on June 19, 1997 and the new team joined the agency in the fourth quarter of 1998. Therefore, we wanted to have some overlap so as to capture the change, if any, from the prior contracting officer's administration.

This review relied solely on direct interviews with individuals who interacted with members of the [REDACTED]. At the outset of this review, the OIG sought to speak with all divisions that undertake any tasks which might necessitate the need to initiate a formal contract for

services or products from vendors outside of the Commodity Futures Trading Commission (CFTC, commission).

Our approach was to first identify administrative officers in all divisions at the commission. Next, the OIG team spoke with each administrative officer, individually, to ascertain their use and experience with the procurement/contracting office. As a result of these conversations, we found that several divisions had not directly initiated any outside contracts during the period under review. Nonetheless, we spoke with a member of every operating division at the commission. Next, we proceeded to interview members of management in the smaller number of divisions who were directly exposed to the [REDACTED]. For completeness, we spoke with the [REDACTED] for the agency as well as three out of the four members of the [REDACTED]. The fourth member of the [REDACTED] had been employed less than one month, a period of time we considered inadequate for rendering useful information.

FINDINGS

After interviewing twenty-one employees of the commission that had some exposure to the [REDACTED] we amassed the following information.

1. The [REDACTED], under the pre-1998 administration, developed a high standard of customer focus which correspondingly created a high expectation for service from agency employees who interacted with the pre-1998 [REDACTED]. During the pre-1998 [REDACTED] administration, employees were not required to possess any knowledge of the Federal Acquisition Regulations (FAR). Whereas in the post-1998 [REDACTED] administration, greater responsibility was placed on agency employees to understand their needs for external services and products, structure their requests for services and/or products and monitor their projects acquired under a formal contract.
2. According to interviewed subjects, although the pre-1998 [REDACTED] delivered immediate and complete response to all customers it may not have complied with all of the details FAR. No evidence of lack of compliance was offered.
3. The post-1998 [REDACTED] team, focused on compliance with the FAR which created a conflict between agency customers/employees who were accustomed to receiving complete service from the pre-1998 [REDACTED]. Although the post-1998 [REDACTED] team managed to change the expectations and culture of agency employees, it, nonetheless, created a perception of diminished and, in some cases, inadequate level of service.
4. Communication between the post-1998 [REDACTED] team and relevant agency employees often failed to convey the new agency goals of strict compliance with the FAR and greater involvement of customers in the contracting process. This led to the perception of insufficient service for the needs of agency employees.
5. Employee turnover in certain divisions such as the [REDACTED] as resulted in the hiring of new employees with some familiarity with the FAR. Thus the new [REDACTED] employees require less "hand holding" regarding the FAR and can accomplish their acquisitions without

active interaction with the [REDACTED]. These employees have expressed comparatively less dissatisfaction with the [REDACTED].

6. As a result of our interviews we found that some agency employees had experienced some difficulty with the post-1998 [REDACTED] although this was a minority view. The majority of employees who interact with the post-1998 [REDACTED] find the relationship to be working and improving over time. Also, it does appear that the [REDACTED] now understands there has been some customer dissatisfaction. Recent conversations with agency employees indicate that the [REDACTED] has responded to this displeasure and appears to be improving its customer relationship.

RECOMMENDATIONS

1. The [REDACTED] should communicate with agency employees regarding the extent of research and contract guidance assistance to expect from the [REDACTED].
2. The [REDACTED] should provide more training regarding contracting requirements to all relevant employees to avoid the perception of arbitrary adoption of new acquisition policies.
3. Members of the [REDACTED] should improve their interpersonal skills so as to avoid any perception of unresponsiveness to employee requests.