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Description of document: Closing/final Memoranda for Sixteen (16) National Labor Relations Board (NLRB) Office of Inspector General (OIG) Closed Investigations, 2018-2019

Requested date: 11-March-2020

Release date: 23-June-2020

Posted date: 03-May-2021

Source of document: FOIA Officer
NLRB FOIA Branch
1015 Half Street SE
4th Floor
Washington, DC 20570
Fax: (202) 273-FOIA (3642)
[FOIAonline](#) (preferred)

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United States Government
NATIONAL LABOR RELATIONS BOARD
OFFICE OF INSPECTOR GENERAL
Washington, DC 20570-0001

June 23, 2020

This letter is in response to your Freedom of Information Act (FOIA) request received on March 11, 2020, wherein you seek “[a] copy of the final report and closing memo, as applicable, for each of the following closed NLRB OIG investigations: OIG-I-504, OIG-I-519, OIG-I-522, OIG-I-535, OIG-I-536, OIG-I-538, OIG-I-541, OIG-I-543, OIG-I-545, OIG-I-546, OIG-I-547, OIG-I-533, OIG-I-542, OIG-I-544, OIG-I-548, and OIG-I-550.” This request was assigned FOIA tracking number **NLRB-OIG-2020-000609**.

On April 9, 2020, we sent you our initial response to your FOIA request. In our response, we denied your request for Investigative reports. Regarding Closing memoranda, we informed you that, because those records were maintained in our office located at the Headquarters of the National Labor Relations Board (NLRB) which was closed due to the COVID-19 pandemic, we were unable to search for responsive records. Recently, the NLRB’s Headquarters re-opened and we were able to complete our search for and review of records responsive to your FOIA request.

The closing memoranda are provided as an enclosure. Redactions have been made to portions of the closing memoranda to protect the privacy interests of the individuals named in these records. Those redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (7)(C). Additionally, redactions were made pursuant to FOIA Exemption 5, which protects the decision-making processes of government agencies. 5 U.S.C. § 552(b)(5).

Regarding FOIA processing fees, we determined that our review process resulted in what could be considered de minimis chargeable cost, and that the record should be provided without cost. As such, it is not necessary to determine your fee category.

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June 23, 2020

I am responsible for the above determination. Should you have any questions concerning this letter, you may contact me at (202) 273-1961 or by email at james.tatum@nlrb.gov. You may also contact the Agency's FOIA Public Liaison, Patricia A. Weth, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison can further explain responsive and releasable Agency records, suggest Agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency's FOIA Public Liaison is:

Patricia A. Weth
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel through FOIAonline at:
<https://foiaonline.regulations.gov/foia/action/public/home>, or by mail or email at:

Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nlrb.gov

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June 23, 2020

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based. Please be advised that contacting any Agency official (including the FOIA Public Liaison or me) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

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). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Sincerely,

JAMES TATUM

Digitally signed by JAMES
TATUM
Date: 2020.06.23 15:27:12
-04'00'

James E. Tatum, Jr.
Counsel to the Inspector General

Enclosure

ENCLOSURE

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

March 23, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-504

This investigation was initiated on December 11, 2014. The case involved an allegation that the Agency violated the Antideficiency Act by providing support to the National Labor Relations Board Credit Union when the entity did not meet the statutory membership requirements. On October 27, 2016 we requested a Comptroller General decision regarding the use of the Agency's appropriation for support to the credit union. On December 14, 2017, the Government Accountability Office issued a Comptroller General decision with a determination that there was no Antideficiency Act violation. Because no further action is necessary, the case is closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 19, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-519

This investigation was initiated on October 20, 2015. The case involved an allegation that the Hector Martinez, Compliance Officer, Region 21, engaged in wire fraud by directing electronic fund backpay payments to his personal bank account. The case was investigated by the OIG and the FBI. The allegation was substantiated. Exemptions 6 & 7(C), the subject was removed from Federal employment. On August 21, 2017, the subject plead guilty to wire fraud and identity theft. On November 15, 2017, the subject was sentenced to 52 months confinement and to pay restitution in the amount of \$423,531. The case is no closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 19, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-522

This investigation was initiated on February 10, 2016. The case involved an allegation that the [REDACTED], Exemptions 6 & 7(C), [REDACTED] Exemptions 6 & 7(C), used official time to engage in outside employment. Our investigation substantiated the allegation. During the investigation, the subject was reassigned to the Exemptions 6 & 7(C). We issued an investigative report June 29, 2017. Thereafter the Agency did not take any formal action. On September 19, 2018, we confirmed that the subject received counseling, but that the Agency did not intend to initiate a disciplinary proceeding. The case is now closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

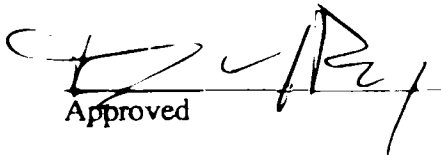
November 2, 2018

To: David Berry
Inspector General

From: James Tatum, Jr.
Counsel

Subject: Completed Investigation OIG-I-535

This investigation was initiated on April 28, 2017. The investigation involved an allegation that [redacted] Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) and Exemptions 6 & 7(C) Exemptions 6 & 7(C) [redacted] mishandled the Official Personnel Folder of a National Labor Relations Board employee. Our investigative efforts substantiated the allegation. On July 14, 2017, we reported our findings to the [redacted]. As of November 2, 2018, no disciplinary action has been taken against either subject. Because of the passage of time since the report was issued by the OIG, I recommend that the case be closed. Exemptious 6 & 7(C)


Approved

2 Nov 2018
Date

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

May 23, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-536

This investigation was initiated on June 30, 2017. The case involved an allegation that employees in the [redacted] Exemptions 6 & 7(C) [redacted] retaliated against a whistle blower and withheld records in responding to the Freedom of Information Act (FOIA) request. Exemptions 6 & 7(C) Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C)

We determined that the allegations were unsubstantiated. With regard to the retaliation, a review of email messages documented that [redacted] Exemptions 6 & 7(C) employee were addressing perceived performance issues with the individual prior to the individual making protected disclosures to the Chairman and General Counsel. With regard to the FOIA request, it appears that 8 email messages were not provided to the individual. Although our investigative efforts did not determine why messages were not provided, our review of the messages found that they were not different from the messages provided and there is no apparent reason why the [redacted] Exemptions 6 & 7(C) employee would withhold the messages. When interviewed, the [redacted] Exemptions 6 & 7(C) employee explained the process the [redacted] used to create PDF copies of the messages, and it appears the messages were likely inadvertently left out of the responsive documents. Additionally, the original search for the messages was not maintained and we can be certain the duplicate search results are identical.

Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) [redacted] Exemptions 6 & 7(C) [redacted]

It does not appear that any further investigative action is necessary, and the case is closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

March 22, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-538

This investigation was initiated on August 2, 2017. The case involved an allegation that a [redacted] Exemptions 6 & 7(C) solicited gifts from prohibited sources. On October 16, 2017, we issued a report substantiating the allegation. [redacted] Exemptions 6 & 7(C) [redacted], the subject was demoted. Because no further action is necessary, the case is closed.

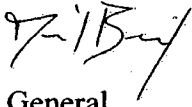
UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 17, 2018

To: File

From: D. Berry 
Inspector General

Subject: Completed Investigation ICO OIG-I-541

This investigation was initiated on January 16, 2018. The case involved an allegation that a Board Member participated in a case in violation of the President's ethics pledge and made a false statement to Congress. On February 9, 2018, we issued a Notification of a Serious and Flagrant Problem and/or Deficiency regarding the Board Member's participation in the case. On March 20, 2017, we issued a report substantiating the allegation that the Board Member engaged in misconduct regarding the President's ethics pledge, but that he did not knowingly provide false information to Congress. Because no further action is necessary, the case is closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 19, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-543

This investigation was initiated on March 12, 2018. The case involved an allegation that the Exemptions 6 & 7(C), Board Member, released nonpublic deliberative information. The allegation was not substantiated. On April 26, 2018, a summary report was provided to the Congressional oversight committees. The case is now closed.


UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 1, 2018

To: David Berry
Inspector General


From: James Tatum, Jr. 
Counsel

Subject: Completed Investigation OIG-I-545

Our investigation was initiated on May 24, 2018. The case involves an allegation that Exemptions 6 & 7(C) (subject), a Exemptions 6 & 7(C) in an unfair labor practice case, engaged in perjury during a hearing before an Administrative Law Judge (ALJ).

We investigated the allegation and concluded it had merit. We discussed this matter with an Assistant U.S. Attorney (AUSA) at the U.S. Attorney's Office for the Northern District of Ohio which declined prosecution.

Because no additional investigation is appropriate, I recommend that the case be closed.


Approved

October 16, 2018
Date

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 19, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-546

This investigation was initiated on June 28, 2018. The case involved an allegation that a Exemptions 6 & 7(C) [redacted] misused [redacted] position by request that a subordinate employee assist [redacted] with [redacted] SES application. On September 11, 2018, we issued a report substantiating the allegation. Exemptions 6 & 7(C) [redacted], the [redacted] Exemptions 6 & 7(C) [redacted] stated that the subject received ethics counseling. Because no further action is necessary, the case is closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

October 19, 2018

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-547

This investigation was initiated on June 27, 2018. The case involved an allegation that a [Exemptions 6 & 7(C)] submitted a request for a hardship transfer that contained a false statement. On July 10, 2018, we issued a report substantiating the allegation. [Exemptions 6 & 7(C)] [REDACTED] the subject received 15-day suspension. Because no further action is necessary, the case is closed.

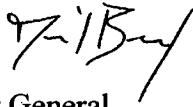
UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 10, 2019

To: File

From: D. Berry 
Inspector General

Subject: Completed Investigation ICO OIG-I-533

This investigation was initiated on March 30, 2017. The case involved an allegation that funds were wasted on the Headquarters move. Because of the staleness of the allegations, the Inspector General determined that the issues in the investigation would be better addressed by an audit that is currently being planned.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

March 19, 2019

To: File

From: David Berry
Inspector General

A handwritten signature in black ink, appearing to read "David Berry".

Subject: Completed Investigation OIG-I-542

This investigation was initiated on February 12, 2018. The case involved an allegation that an employee was improperly reassigned to a detail position with a promise that [REDACTED] would be promoted at the end of the detail. During the investigation, the OIG was provided additional information involving allegations of other improper promotions of Agency employees.

Regarding the detail allegation, the employee was detailed to a position at [REDACTED] current grade and later applied for a competitive promotion to the higher grade. We therefore found that the allegation is unsubstantiated. Regarding the allegations of improper promotions, we observe that the approval authorities for promotions are appropriately questioning the eligibility of employees when they approve the promotion. We also observed that there may be an issue with the coding of positions in the systems that are used by the Budget Branch and the Office of Human Resources. This issue is more appropriately addressed in an audit as it does not appear to involve misconduct.

Because no further action is necessary, the case is closed.

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 10, 2019

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-544

This investigation was initiated on May 7, 2018. The case involved an allegation that there was misconduct in the approval of Senior Executive Service salary adjustments. During the course of a companion audit, it was determined that the salary adjustments were approved by the then General Counsel, but that approval was not documented. The case is closed.


UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

June 17, 2019

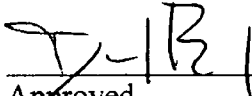
To: David Berry
Inspector General

From: James Tatum, Jr. 
Counsel

Subject: Completed Investigation OIG-I-548

On July 13, 2018, we initiated an investigation involving allegations that a consultant hired by a **Exemptions 6 & 7(C)** to assist in a recertification election in Region 1 **Exemptions 6 & 7(C)** paid \$200 to an employee to provide a statement alleging the employee was bribed by a union official to vote to retain the union. **Exemption 5** **Exemption 5** **Exemption 5** **Exemption 5**. Our investigative efforts substantiated the allegation. On June 5, 2019, the U.S. Attorney's Office for the District of Massachusetts declined prosecution.

Because no additional investigation is appropriate, I recommend that the case be closed.


Approved

17 June 2019
Date

UNITED STATES GOVERNMENT
National Labor Relations Board
Office of Inspector General



Memorandum

September 10, 2019

To: File

From: D. Berry *D. Berry*
Inspector General

Subject: Completed Investigation ICO OIG-I-550

This investigation was initiated on October 30, 2019. The case involved an allegation that a [Exemptions 6 & 7(C)], [Exemptions 6 & 7(C)], participated personally and substantially in a matter that [Exempt] had a financial interest. On March 4, 2014, we issued a report substantiating the allegation. The subject was counseled. On May 30, 2019, the U.S. Attorney's Office declined prosecution. Because no further action is necessary, the case is closed.