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| Description of document: | Securities and Exchange Commission (SEC) Selected Inspector General (OIG) Investigation Reports 2013-2019 |
| Requested date: | 01-August-2020 |
| 1st Partial Release date: | 21-September-2020 |
| 2nd Partial Release date: | 23-December-2020 |
| Posted date: | 30-August-2021 |
| Note: | Material released 23-Dec-2020 starts on PDF page 47 |
| Source of document: | FOIA Request<br>100 F Street NE<br>Mail Stop 2465<br>Washington D.C. 20549<br>Fax: 202-772-9337<br><br>Preferred during COVID-9 pandemic:<br>Email: foiapa@sec.gov<br>Online Request Form |


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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

September 21, 2020

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **20-00007-OIG**

This is a partial response to your August 1, 2020 request for copies of the following Office of Inspector General reports:

14-ENF-0098-I, 14-OIT-0021-I, 14-ENF-0011-I, 14-ENF-0175-I
14-ENF-0561-I, 14-DTM-0772-I, 14-ENF-0849-I, 15-ENF-0596-I
16-HR-0437-I, 16-OIT-0366-I, 17-ALJ-0008-I, 17-ENF-0222-I
17-DCF-0412-I, 17-HR-0703-I, 18-OIT-0031-I, 18-OIG-0263-I
18-ZZZ-0345-I, 18-ENF-0611-I, 18-ZZZ-0835-I, 18-ZZZ-0844-I
19-OIG-0142-I, 19-OIT-0304-I, 19-OSO-0018-I, 19-ENF-0027-I

Access is granted in part to 16-HR-0437-I, 17-ALJ-0008-I, 17-DCF-0412-I, 17-HR-0703-I, 18-OIG-0263-I, 18-ZZZ-0835-I, 19-OSO-0018-I and 19-ENF-0027-I. Information within these reports is being withheld under 5 U.S.C. § 552(b)(6) and (7)(C), for the following reasons.

Under Exemption 6, the release of certain information would constitute a clearly unwarranted invasion of personal privacy. Under Exemption 7(C), the release of this information could reasonably be expected to constitute an unwarranted invasion of personal privacy. Further, public identification of SEC staff could conceivably subject them to harassment in the conduct of their official duties and in their private lives.

I am the deciding official with regard to this determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act

Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address.

If you have any questions, you can contact me at sifordm@sec.gov or (202)551-7201. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-7900. For more information about the FOIA Public Service Center and other options available to you, please see the attached addendum.

Sincerely,

Mark P. Siford
Counsel to the Director/Chief FOIA Officer
Office of Support Operations

Attachment

# ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting https://www.sec.gov/oso/help/foia-contact.html.

SEC FOIA Public Liaisons are supervisory staff within the Office of FOIA Services. They can assist FOIA requesters with general questions or concerns about the SEC's FOIA process or about the processing of their specific request.

In addition, you may also 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. OGIS can be reached at 1-877-684-6448 or via e-mail at ogis@nara.gov. Information concerning services offered by OGIS can be found at their website at Archives.gov. Note that contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 16-HR-0437-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated
# Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:**

**SK-Level/Grade:** SK-13
**Office:** Human Resources
**Region:** Washington, DC

**Case #:** 16-HR-0437-I

**Origin:** Anonymous Complaint/Office of Human Resources

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** May 9, 2016

**Investigation Completed:** JUN 2 7 2019

## OVERVIEW

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission (SEC), Office of Inspector General (OIG), Office of Investigations, into allegations that (b)(6);(b)(7)(C) Office of Human Resources (OHR), may have teleworked full-time from South Carolina while her SEC duty station and approved alternate work station were in the Washington-Baltimore-Arlington locality pay area.

## BACKGROUND

On May 9, 2016, the SEC OIG initiated an investigation after receiving an anonymous complaint pertaining to (b)(6);(b)(7)(C) request to telework full-time from South Carolina. It was subsequently reported by OHR staff (b)(6);(b)(7)(C) had a duty station in the Washington-Baltimore-Arlington locality pay area, teleworked full-time, and had an approved alternate work station in (b)(6);(b)(7)(C) MD. (b)(6);(b)(7)(C) requested to telework from South Carolina, and was denied by OHR. It was further reported that in (b)(6);(b)(7)(C) submitted a temporary medical telework request to work from an address in (b)(6);(b)(7)(C) SC, and submitted medical documentation from a South Carolina physician in conjunction with her request. (EXHIBIT 1)

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## INVESTIGATIVE FINDINGS

The OIG investigation revealed (b)(6);(b)(7)(C) was hired by the SEC in (b)(6);(b)(7)(C) and her duty station was in the Washington-Baltimore-Arlington locality pay area. Beginning (b)(6);(b)(7)(C) 2013, following a request for reasonable accommodation under the SEC's Disability Program, (b)(6);(b)(7)(C) approved to telework full-time from her residence listed on her telework agreement, which was in the Washington-Baltimore-Arlington locality pay area.

**[AGENT'S NOTE:** (b)(6);(b)(7)(C) 2013, (b)(6);(b)(7)(C) received approval to telework full-time, her approved alternate work station was an (b)(6);(b)(7)(C) VA, address. In (b)(6);(b)(7)(C) 2015, Ball changed her alternate work station to a (b)(6);(b)(7)(C) MD, address.**]**

The OIG investigation determined that in or about August 2013, (b)(6);(b)(7)(C) began looking for property to purchase in the (b)(6);(b)(7)(C) SC, area; and (b)(6);(b)(7)(C) began living in and teleworking from (b)(6);(b)(7)(C) SC, in or about (b)(6);(b)(7)(C) 2013. (b)(6);(b)(7)(C) to telework full-time from South Carolina through her resignation from the SEC in (b)(6);(b)(7)(C) 2017, and had effectively changed her worksite to South Carolina without SEC authorization.

The OIG investigation also determined that during 2014 to 2017, (b)(6);(b)(7)(C) misleading and/or false statements regarding her residence, alternate work station (telework location), and personal circumstances, in conjunction with her SEC employment. The investigation determined that one such statement (b)(6);(b)(7)(C) Questionnaire for Public Trust Positions (Standard Form 85-P), submitted and (b)(6);(b)(7)(C) on (b)(6);(b)(7)(C) 2014, in (b)(6);(b)(7)(C) falsely stated that she lived in (b)(6);(b)(7)(C) VA, from in or around (b)(6);(b)(7)(C) 2013 to [then] present, when in fact she had been living in (b)(6);(b)(7)(C) SC, since in or around (b)(6);(b)(7)(C) 2013.

During the period (b)(6);(b)(7)(C) worked for the SEC while living in [and teleworking full-time from] South Carolina, she received locality pay based on her purported residence in the Washington-Baltimore-Arlington locality pay area. For the pay period beginning on (b)(6);(b)(7)(C) 1, 2013, through the pay period ending (b)(6);(b)(7)(C) 2017 (b)(6);(b)(7)(C) locality pay was adjusted by the SEC, during the course of the OIG's investigation (b)(6);(b)(7)(C) approximately $30,801.84 more in locality pay than she would have if her pay had been based on her actual residence (worksite) in South Carolina.

On (b)(6);(b)(7)(C) 2018, a Criminal Information was filed in United States District Court for the District of Columbia (USDC-DC), (b)(6);(b)(7)(C) one count of False Statements or Entries, in violation of Title 18, United States Code (USC), Section 1001(a)(3).

On (b)(6);(b)(7)(C) entered a guilty plea in USDC-DC to one count False statements, in violation of 18 USC § 1001(a)(3). (EXHIBITS 2 and 3)

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On (b)(6);(b)(7)(C) was sentenced in USDC-DC to 12 months of probation, 120 hours of community service; and was ordered to pay restitution to the SEC in the amount of $30,801.84 and a $100.00 assessment. (EXHIBIT 4)

**Distribution**

Jay Clayton, Chairman
Lucas Moskowitz, Chief of Staff, Office of the Chairman
Sean Memon, Deputy Chief of Staff, Office of the Chairman
Peter Uhlmann, Managing Executive, Office of the Chairman
Robert J. Jackson Jr., Commissioner
Prashant Yerramalli, Counsel to the Commissioner, Office of Commissioner Jackson
Hester Peirce, Commissioner
Johnathan Carr, Counsel to the Commissioner, Office of Commissioner Peirce
Elad Roisman, Commissioner
Matthew Estabrook, Counsel to the Commissioner, Office of Commissioner Roisman
Robert Stebbins, General Counsel
Kenneth Johnson, Chief Operating Officer
James McNamara, Chief Human Capital Officer

**Signatures**

**Case Agent:**

(b)(6);(b)(7)(C)

05/31/19
Date

(b)(6);(b)(7)(C)

5/31/19
Date

**Approved:**

Nicholas Padilla Jr., Deputy Inspector General
for Investigations

6/24/19
Date

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**Exhibits**

1. Predicating documents, OIG Complaint Intake Form, dated April 13, 2016.

2. Memorandum of Activity regarding the Criminal Information filed, dated (b)(6);(b)(7)(C) 2018.

3. Memorandum of Activity (b)(6);(b)(7)(C) Arraignment and Plea, dated (b)(6);(b)(7)(C) 2019.

4. Memorandum of Activity (b)(6);(b)(7)(C) Sentencing, dated (b)(6);(b)(7)(C) 2019.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

OFFICE OF
INSPECTOR GENERAL

# MEMORANDUM

**October 23, 2018**

TO: FILE

FROM: (b)(6);(b)(7)(C)
Office of Investigations

THROUGH: (b)(6);(b)(7)(C)
Office of Investigations

SUBJECT: Case No. 17-ALJ-0008-I
Alleged Transmission of Nonpublic Information to Personal E-mail Accounts

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The purpose of this memorandum is to document the Office of Inspector General's (OIG) investigative activities and to recommend case closure.

On October 9, 2015, (b)(6);(b)(7)(C) Securities and Exchange Commission (SEC) Office of Inspector General (OIG) Office of Investigations (OI) Digital Forensics and Investigations Unit (DFIU), along with (b)(6);(b)(7)(C) briefed (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) concerning evidence of apparent non-public information sent to non-SEC e-mail accounts. (b)(6);(b)(7)(C) made this discovery while reviewing (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) SEC e-mail during an analysis for OIG case number 15-ALJ-0482-I (case closed on March 31, 2016 without further review of the release of non-public information). On October 7, 2016, a case was opened to investigate the alleged transmission of non-public information to e-mail accounts external to the SEC.

The OIG reviewed (b)(6);(b)(7)(C) e-mails and discovered some e-mails that were sent to (b)(6);(b)(7)(C) personal e-mail addresses and contained (b)(6);(b)(7)(C) When interviewed by the OIG, (b)(6);(b)(7)(C) affirmed that (b)(6);(b)(7)(C) were considered non-public information

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[redacted] The OIG also reviewed the training records pertaining to [redacted] completed Protecting Non-Public Information for Employees training in 2014, 2015, 2016, and 2017. Furthermore, [redacted] completed Privacy and Information Security Awareness training in 2014, 2015, 2016, 2017, and 2018. The information provided to the OIG did not contain training data prior to 2014.

On August 2, 2018, the OIG interviewed [redacted] in regards to the allegations of sending non-public information to non-SEC e-mail accounts [redacted] was an unintentional mistake. [redacted] explained that there was a realization in the office that if a personal e-mail was associated to a user in the SEC's e-mail system, it would appear when typing their first name in the address box. In contrast, an SEC e-mail address would automatically appear when entering a user's last name. [redacted] informed the OIG that this was an issue discussed within the ALJ office at an unrecalled date after a work related e-mail was sent to an ALJ staff member's personal e-mail address. The OIG has verified that the SEC's Microsoft Outlook e-mail system functions as described by [redacted] acknowledged that sending non-public information to a non-SEC e-mail account was a violation of SEC policy. The OIG found that [redacted] did not send any additional e-mails to non-SEC accounts following an e-mail message [redacted] in a matter before the SEC.

In conclusion, the OIG found no evidence that [redacted] intentionally sent non-public information to non-SEC e-mail accounts. All available investigative leads have been exhausted. Accordingly, based on these factors, a report to management is not warranted and administratively closing this case is recommended.

Concurrence:

[redacted]

10-23-2018
Date

Approved:

10-23-18
Date

John R. Hartman, Assistant Inspector General
for Investigations

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# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 17-DCF-0412-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated Report of Investigation

**Subject:** Robert W. Murray
**Title:** Civilian
**SK-Level/Grade:** N/A
**Office:** N/A
**Region:** N/A

**Case #:** 17-DCF-0412-I
**Origin:** U.S. Attorney's Office for the Southern District of New York

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** May 30, 2017

**Investigation Completed:** MAR 2 3 2018

## OVERVIEW

This report summarizes the results of a joint investigation conducted by the U.S. Attorney's Office for the Southern District of New York (USAO-SDNY), the U.S. Postal Inspection Service, and the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG). The investigation focused on allegations that a false filing announcing a bid to takeover Fitbit, Inc. (Fitbit) was submitted in the SEC's Electronic Data Gathering, Analysis, and Retrieval System (EDGAR) and the filing had the effect of manipulating the price of the company's stock.

In summary, the investigation determined that Robert W. Murray of Chesapeake, Virginia, submitted the false Fitbit information to the SEC. The findings resulted in Murray pleading guilty to criminal charges relating to the false EDGAR filing. (EXHIBIT 1)

## INVESTIGATIVE FINDINGS

The investigation determined that EDGAR was accessed from two specific Internet Protocol (IP) addresses to process the Fitbit filing. Murray was determined to be associated with those IP addresses. Specifically, on November 8, 2016, Murray, purporting to be the Chief Financial Officer of ABM LTD (ABM), a Chinese-based company, created an account in the EDGAR system. On November 9, 2016, Murray submitted a filing in the EDGAR system reporting that ABM had offered to purchase Fitbit for a significant premium to the price of Fitbit stock at that time. Specifically, the filing stated that ABM submitted an offer to the board of directors of Fitbit proposing to acquire all outstanding common shares of the company at a premium price. This offering is known as a tender offer, and is required to be filed in EDGAR. In the false filing, Murray provided an international phone number and address in Shanghai, China.

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On November 10, 2016, the filing became publicly accessible in EDGAR, which significantly increased the trading volume of Fitbit and temporarily increased the company's market capitalization. Soon thereafter, on the same date, representatives from Fitbit announced that the tender offer filed with the SEC was entirely fictitious.

The investigation further determined that ABM had been created on November 5, 2016, a few days before the false filing. Murray took multiple steps to conceal his identity in the creation of the company. However, information used to establish ABM and the IP addresses used to access ABM linked Murray to ABM. A review of Murray's browser history revealed searches for: ways to disguise IP addresses, SEC EDGAR filings, and news articles about past false tender offers filed with the SEC.

With respect to financial impact, the investigation determined that Murray profited from his activities. On November 9, 2016, Murray purchased Fitbit stock—prior to the false EDGAR filing—and later sold the stock on November 10, 2016, after the price had increased. Murray's rate of return for his sale of Fitbit stock was approximately 300 percent. Murray admitted that he filed the fictitious tender offer for Fitbit stock in an attempt to increase the value of options that he held in in the company. (EXHIBIT 2)

On May 5, 2017, as the result of the investigation, a criminal complaint was filed in the U.S. District Court for the Southern District of New York (USDC-SDNY) charging Murray with violations of 15 United States Code (U.S.C.) §§ 78j(b) and 78ff, Securities Fraud, Manipulative and Deceptive Devices; 17 Code of Federal Regulations (CFR) § 240.10b-5, Securities and Exchange Act, Employment of Manipulative and Deceptive Devices; and 18 U.S.C. § 1343, Wire Fraud.

On November 7, 2017, Murray pleaded guilty to one count each of the violations. (EXHIBIT 3)

On March 9, 2018, Murray appeared before U.S. District Court Judge Katherine B. Forrest, USDC-SDNY, and was sentenced to 24 months imprisonment and 24 months of supervised release. He was also ordered to forfeit $3,914.08 and pay a $100.00 Special Assessment. (EXHIBIT 4)

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Adam Glazer, Counsel to the Commissioner, Office of Commissioner Peirce
Robert Stebbins, General Counsel
Kenneth Johnson, Chief Operating Officer
William Hinman, Director, Division of Corporation Finance

**Signatures**

**Case Agent:**

(b)(6);(b)(7)(C)

3/23/18
Date

**Approved:**

3/23/18
Date

John R. Hartman, Deputy Inspector General
for Investigations

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**Exhibits**

1. Predicating document, Complaint Intake Form, dated November 16, 2016.

2. Memorandum of Activity, regarding Criminal Complaint, dated May 30, 2017.

3. Memorandum of Activity, regarding the Plea Agreement, dated March 23, 2018.

4. Memorandum of Activity, regarding Judgment and Conviction, dated March 9, 2018.

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# REPORT OF INVESTIGATION

# CASE# 17-HR-0703-I

Office of Inspector General

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U.S. Securities and Exchange Commission

# U.S. Securities and Exchange Commission
# Office of Inspector General

## Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:**

**Case #:** 17-HR-0703-I

**Origin:** Office of the Ethics Counsel

**SK Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Office of Human Resources
**Region:** Washington, D.C.

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** September 7, 2017

**Investigation Completed:** APR 2 3 2019

### SUMMARY

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG).

The OIG initiated an investigation based on a referral from the SEC's Office of the Ethics Counsel (OEC) regarding (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) Office of Human Resources (OHR). Specifically, it was alleged (b)(6);(b)(7)(C) (1) failed to pre-clear securities since she was hired in (b)(6);(b)(7)(C) (2) failed to upload statements concerning her securities holdings; (3) violated the required holding period; (4) held securities that were prohibited and traded in a security that was on the SEC's "Watch List. (EXHIBIT 1)

The OIG's investigation substantiated the allegations against (b)(6);(b)(7)(C) The investigation determined that between 2011 and 2018, (b)(6);(b)(7)(C) and her spouse executed over one hundred trades in their brokerage accounts that total $594,213.13. In addition, during the investigation, the OIG discovered that between 2012 and 2014 (b)(6);(b)(7)(C) submitted inaccurate Office of Government Ethics Forms 450, *Confidential Financial Disclosure Reports* (OGE Forms 450) which did not report all of the holdings for her spouse.

Accordingly, the OIG referred the facts and evidence developed during this investigation to the U.S. Attorney's Office for the District of Columbia for consideration; however, prosecution of the matter was declined.

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## BACKGROUND

On (b)(6);(b)(7)(C) began employment with the SEC. Since (b)(6);(b)(7)(C) she (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) as such, she is required, annually, to file an OGE Form 450. (EXHIBIT 2)

(b)(6);(b)(7)(C) is married to (b)(6);(b)(7)(C)

The SEC's Supplemental Standards for Ethical Conduct of August 2010 (Supplemental Standards for Ethical Conduct), 5 Code of Federal Regulations (CFR) § 2634 (Confidential Financial Disclosure Reports), and the SEC Ethics Handbook require SEC employees to pre-clear certain securities transactions, make certifications that their holdings are in compliance with these regulations, and annually file financial disclosure forms (OGE Forms 450) to disclose assets held for investment with a value greater than $1,000 or that produced more than $200 in income at the end of the reporting period.[1] The OGE Form 450 includes holdings for the preceding calendar year (January 1 to December 31) and requires employees to certify the statements made are true, complete, and correct. SEC employees must execute pre-cleared transactions within five business days of receiving approval, and must hold and securities for a 6-month period with limited exceptions. The requirements apply to all securities holdings or transactions effected, directly or indirectly, by or on behalf of a member or employee to include the member's or employee's spouse. Employees are also prohibited from holding or purchasing securities or other financial interests in an entity "directly regulated by the commission." In addition, SEC employees cannot purchase or sell any security of an entity that is (1) under investigation by the Commission; (2) a party to a proceeding before the Commission; or (3) a party to a proceeding in which the Commission is a party. Generally, securities falling into the aforementioned categories are on the SEC's "Watch List."

Further, the SEC's Ethics Handbook states that it is impermissible for employees to "Engage in Discretionary/Managed Accounts where the employee has given the broker the authority to make trades without first allowing the employee to seek pre-clearance via the [PTCS]."

[**AGENT'S NOTE**: The SEC implemented PTCS in February 2012. Between August 2010 and October 2011, employees requested pre-clearance through the SEC's Ethics Program

[1] The Supplemental Standards of Ethical Conduct state that all securities transactions must be pre-cleared, except for: (1) transactions in the Thrift Savings Plan, the SEC Supplemental Retirement Plan, or other Federal Government retirement plan. (2) U.S. Government securities (e.g., U.S. Treasury Bonds), and (3) FDIC-insured bank products. In addition, dividend reinvestments do not need to be pre-cleared. Further, the SEC Ethics Handbook states that only the initial purchase and final disposition of 529 Education Plan accounts need to be pre-cleared.

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System (EPS). The SEC phased out EPS in October 2011, and between October 2011 and February 2012, employees requested pre-clearance by sending an e-mail to the OEC.]

The SEC's employees receive training related to the Supplemental Standards for Ethical Conduct, PTCS, and filing OGE Forms 450. Between May 2013 and August 2018, (b)(6);(b)(7)(C) completed six training courses related to the SEC's personal trading rules and three training courses related to filing OGE Forms 450. (EXHIBITS 3 and 4)

## SCOPE

The OIG considered the following potential violations:

- Title 18 United States Code § 1001, Statements or Entries, Generally
- Title 5 CFR § 4401, Supplemental Standards of Ethical Conduct for Members and Employees of the SEC
- Title 5 CFR § 2635.101, Basic Obligation of Public Service
- Title 17 CFR § 200.735-3, General Provisions
- Title 17 CFR § 200.735-5, Securities Transactions
- Title 5 CFR Part 2634, Subpart I, Confidential Financial Disclosure Reports

Additionally, the OIG interviewed the following individuals:

- (b)(6);(b)(7)(C) OEC
- (b)(6);(b)(7)(C) OEC
- (b)(6);(b)(7)(C) OHR
- (b)(6);(b)(7)(C) OEC
- (b)(6);(b)(7)(C) Regulatory Relations, JP Morgan

Finally, the OIG reviewed the following documents:

- (b)(6);(b)(7)(C) brokerage statements
- PTCS records
- OGE Forms 450
- (b)(6);(b)(7)(C) training records and personnel records
- SEC e-mail records

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## RESULTS OF INVESTIGATIVE ACTIVITY

### Document Reviews

### Brokerage Statements and PTCS Records

The OIG reviewed the records (b)(6);(b)(7)(C) filed with the OEC, as well as records obtained from three investment firms. These records revealed that (b)(6);(b)(7)(C) severally maintained five brokerage accounts. (b)(6);(b)(7)(C) held two accounts with Morgan Stanley, in which she had a nondiscretionary agreement and was the only authorized individual to enact trades in her accounts, (b)(6);(b)(7)(C) held three accounts with DOW Wealth Management LLC (DOW), managed on a discretionary basis by his broker.

Specifically, (b)(6);(b)(7)(C) held the following accounts with Morgan Stanley and DOW:

Table 1: (b)(6);(b)(7)(C) Brokerage Accounts

| Broker Name | Type of Account | Account Holder |
|---|---|---|
| Morgan Stanley | Basic Securities Account | (b)(6);(b)(7)(C) |
| Morgan Stanley | Roth Individual Retirement Account (IRA) | |
| DOW*(DOW accounts formerly held with Cantella and Co. Inc.) | Traditional IRA | |
| DOW | Roth IRA | |
| DOW | Basic Securities Account | |

*Source: (b)(6);(b)(7)(C) *Brokerage Account Statements*

The OIG reviewed brokerage statements for each of (b)(6);(b)(7)(C) accounts in conjunction with her PTCS records dated between January 2011 and January 2018. This review revealed the following four issues. First, (b)(6);(b)(7)(C) failed to pre-clear all transactions prior to contact from the OEC in 2017. As the result of her failure to pre-clear these transactions, she was required to obtain retroactive pre-clearance for most of the transactions as requested by the OEC. Second, (b)(6);(b)(7)(C) traded securities prohibited by the SEC. Third, (b)(6);(b)(7)(C) purchased and sold securities within a six-month period violating the SEC's six-month holding period requirement. Fourth, prior to 2017, (b)(6);(b)(7)(C) failed to upload any of the DOW accounts' statements into PTCS. (EXHIBITS 5-10)

**[AGENT'S NOTE:** The review of the brokerage statements determined that between 2011 and 2018, the transactions (buys/sells) executed in the accounts totaled $594,213.13. The majority of the transactions executed were in (b)(6);(b)(7)(C) DOW accounts.]

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*Failure to Pre-Clear Transactions and Retroactive Pre-Clearance*

The records reviewed associated with (b)(6);(b)(7)(C) accounts revealed 117 transactions executed in their Morgan Stanley and DOW accounts. Specifically, there were 16 executed in the Morgan Stanley account, and 101 executed in the DOW account. Of these transactions, 116 were executed after the implementation of the SEC's PTCS system, and the remaining transaction pre-dated the PTCS system. When these 116 transactions were compared to her PTCS records, (b)(6);(b)(7)(C) did not pre-clear any of them.

As the result of her failure to appropriately pre-clear their securities transactions, (b)(6);(b)(7)(C) requested and received waivers from the OEC and made retroactive entries in PTCS. Specifically, in August 2017, (b)(6);(b)(7)(C) requested and received waivers from the OEC for 32 trades involving (b)(6);(b)(7)(C) DOW accounts and made retroactive entries in PTCS for trades in that account executed between April 2016 and December 2016.

Similarly, in September 2018, (b)(6);(b)(7)(C) requested and received waivers from the OEC for nine trades in (b)(6);(b)(7)(C) DOW accounts and made retroactive entries in PTCS for trades that were executed in January 2018. (EXHIBITS 6, 9 - 12)

[**AGENT'S NOTE:** As discussed further below, in August 2017, the OEC contacted (b)(6);(b)(7)(C) and instructed her to pre-clear, retroactively, all transactions. The OEC informed the OIG that, generally, it does not require retroactively reporting transactions older than a previous calendar year. The OEC confirmed that as of September 2018, (b)(6);(b)(7)(C) was current with respect to her reporting requirements in PTCS. (EXHIBITS 12 and 13)]

*Trading Prohibited Securities*

During the OIG's review of (b)(6);(b)(7)(C) DOW accounts, it discovered that he traded two prohibited securities and traded one security on the SEC's "Watch List." Specifically, between August 2014 and April 2016, using his DOW account, (b)(6);(b)(7)(C) purchased JP Morgan Alerian MLP Index ETN (AMJ) and Paychex, Inc. (PAYX). The SEC deemed both AMJ and PAYX prohibited holdings. In April 2016, (b)(6);(b)(7)(C) purchased Google, which, at the time of the transaction, was on the SEC's "Watch List." (b)(6);(b)(7)(C) failed to pre-clear these transactions in PTCS. (EXHIBIT 9)

On August 22, 2017, (b)(6);(b)(7)(C), OEC, sent an e-mail to (b)(6);(b)(7)(C) about the prohibited holdings identified in (b)(6);(b)(7)(C) DOW accounts. (b)(6);(b)(7)(C) instructed (b)(6);(b)(7)(C) to submit a pre-trade request to sell AMJ and PAYX immediately. She further instructed (b)(6);(b)(7)(C) to notify the OEC after the sale was complete. On August 23, 2017, (b)(6);(b)(7)(C) submitted a request in PTCS to sell AMJ and PAYX, and in an e-mail to the OEC on August 28, 2017, she confirmed the sale of both securities. (EXHIBIT 5)

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**[AGENT'S NOTE:** Under the office's current practice regarding securities on the SEC "Watch List," the OEC did not require (b)(6);(b)(7)(C) to divest of Google.**]**

*Six-Month Holding Period Violation*

Also during the OIG's review of (b)(6);(b)(7)(C) DOW accounts, it discovered that he violated the SEC's 6-month holding period requirement. Specifically, on April 25, 2016 (b)(6);(b)(7)(C) purchased LKQ Corporation, Cracker Barrel Old Country Store, Inc., and A.O. Smith Corporation. He sold these three securities on October 11, 2016, 14 days prior to the 6-month period that violated the SEC's holding requirement. (EXHIBIT 9)

*Failure to Report Brokerage Accounts*

The OIG's review of (b)(6);(b)(7)(C) PTCS records also revealed that prior to the SEC's annual certification of holdings capturing 2016 she failed to report the DOW accounts in PTCS. (EXHIBIT 14)

**OGE Forms 450 and Brokerage Statements**

A review of (b)(6);(b)(7)(C) OGE Forms 450 submitted for 2012 through 2014, in comparison with her brokerage statements and (b)(6);(b)(7)(C) brokerage statements for the corresponding years, revealed that (b)(6);(b)(7)(C) did not report all the holdings for (b)(6);(b)(7)(C) investment accounts as required. Specifically, on her 2012 OGE Form 450 filing (b)(6);(b)(7)(C) failed to report 2 securities; 5 securities on her 2013 filing; and 12 securities on her 2014 filing. (EXHIBIT 15)

**[AGENT'S NOTE:** (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) therefore, she is required annually to complete an OGE Form 450.**]**

**E-mails**

The OIG also reviewed e-mails, which revealed that between July 2017 and September 2017, the OEC contacted (b)(6);(b)(7)(C) about her 2016 annual attestation. During its review of (b)(6);(b)(7)(C) attestations, the OEC noted that she had newly reported the DOW accounts, and it noted other issues affecting those accounts. Specifically, the OEC noted that (b)(6);(b)(7)(C) reported no holdings and provided insufficient documentation regarding her accounts. (EXHIBIT 5)

*No Holdings Reported for 2016*

On July 5, 2017, the OEC sent an e-mail to (b)(6);(b)(7)(C) and advised that the OEC completed a random audit of her 2016 Annual Holdings disclosure and identified certain discrepancies from

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prior years. In this e-mail, the OEC questioned why in 2015 (b)(6);(b)(7)(C) certified that she had "No Holdings" when she had reported a Morgan Stanley account in previous years and there was no record of her divesting of the account. Additionally, the OEC asked (b)(6);(b)(7)(C) to explain why she reported additional accounts for 2016 since there were no pre-trade requests for the new securities.

On July 17, 2017, (b)(6);(b)(7)(C) sent an e-mail to the OEC and stated her failure to disclose her husband's DOW Wealth Management account was "a miscommunication" and "not intentional..." (EXHIBIT 5)

*Insufficient Documentation for Annual Attestations for 2016*

Between July 5, 2017, and August 17, 2017, the OEC exchanged several e-mails with (b)(6);(b)(7)(C) informing her that she had uploaded insufficient documentation for her 2016 annual attestation of holdings. In these e-mails, the OEC instructed her to provide full brokerage statements by August 17, 2017, which (b)(6);(b)(7)(C) completed. The OEC also instructed (b)(6);(b)(7)(C) to enter and pre-clear all retroactive transactions, which she completed, and on September 7, 2017, (b)(6);(b)(7)(C) notified the OEC of her last trade confirmation. (EXHIBIT 5)

**Interviews**

The OIG interviewed (b)(6);(b)(7)(C) and certain OEC officials regarding these issues. They provided the following information with respect to each of the issues.

*Failure to Pre-Clear Transactions; Prohibited Holdings Issue; and Holding Period Violation*

During an interview with the OIG, (b)(6);(b)(7)(C) stated she contacted (b)(6);(b)(7)(C) in July 2017, after reviewing (b)(6);(b)(7)(C) DOW account statements that revealed (b)(6);(b)(7)(C) failed to pre-clear (b)(6);(b)(7)(C) investment account transactions. She also found that (b)(6);(b)(7)(C) held AMJ and traded PAYX in April 2016. The SEC considers both PAYX and AMJ prohibited holdings. (b)(6);(b)(7)(C) stated that on August 22, 2017, she sent an e-mail to (b)(6);(b)(7)(C) and told her to submit a request to divest of both prohibited securities.

(b)(6);(b)(7)(C) stated (b)(6);(b)(7)(C) explained that she did not believe she was required to pre-clear any transactions for her husband because (b)(6);(b)(7)(C) told her that he did not have anything reportable and only mentioned a "retirement account." (b)(6);(b)(7)(C) said she explained to (b)(6);(b)(7)(C) that it was her responsibility to ensure that complete investment statements were uploaded into PTCS and that she was required to pre-clear securities transactions for both she and her husband. (EXHIBIT 13)

During interviews with the OIG, with regard to (b)(6);(b)(7)(C) (1) failure to preclear transactions; (2) prohibited holdings issue; and (3) holding period violation, (b)(6);(b)(7)(C) stated she thought she was only required to pre-clear transactions involving stocks and not mutual funds.

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(b)(6);(b)(7)(C) said sometime that in 2009 or 2010 she had a conversation with her previous supervisor about an SEC employee's reporting requirements concerning securities and stated, "I was like, Oh my God—this is complex." According to (b)(6);(b)(7)(C) her prior supervisor advised her "if you own any stocks, just sell them." (b)(6);(b)(7)(C) said she contacted her broker and stated, "Sell every stock. My stuff has to be all in like, mutual and index funds." (b)(6);(b)(7)(C) stated "…I wasn't clear about the mutual fund thing…" (b)(6);(b)(7)(C) stated, "These actions were not based on any intentional information or disclosure of information from the SEC to my husband or his broker, or any of the conversations about any of the inner workings of the SEC or any things that's happening at my job."

(b)(6);(b)(7)(C) stated she was unaware of her husband's DOW investment accounts until he told her about them in 2017. She further stated she was unaware of the prohibited holdings in the DOW accounts until (b)(6);(b)(7)(C) contacted her in July 2017. (b)(6);(b)(7)(C) stated "…I think my husband was unclear about all of the rules…And we've had that conversation that he was unclear about the rules. For some reason, he thought it was around sales and not purchases or something." With respect to additional trades executed in the DOW accounts in January 2018 after OEC contacted (b)(6);(b)(7)(C) she stated "…I'm surprised that this happened in January, which was after that incident in the summer of 2017." (EXHIBITS 16 and 17)

*Inaccurate OGE Forms 450*

During an interview with the OIG, (b)(6);(b)(7)(C) OEC, stated that at times it could be complicated for SEC employees to determine what mutual funds are required to be reported because employees are required to report sector mutual funds while they are not required to report diversified mutual funds. She also said without reviewing its underlying holdings in a particular fund it is not always transparent whether the security is a sector or diversified mutual fund. (EXHIBIT 18)

**[AGENT'S NOTE:** Following her interview, (b)(6);(b)(7)(C) sent an e-mail to the OIG concerning her review of the OIG's findings uncovered during the investigation related to (b)(6);(b)(7)(C) OGE 450 Forms filings for 2012 through 2014. Attached to the e-mail were the lists of holdings of (b)(6);(b)(7)(C) and her husband, (b)(6);(b)(7)(C) that previously were provided to (b)(6);(b)(7)(C) In her e-mail, (b)(6);(b)(7)(C) identified 13 holdings for (b)(6);(b)(7)(C) that (b)(6);(b)(7)(C) failed to report between 2012 and 2014 during the period she was required to file the forms. (EXHIBIT 15)]

During an interview, (b)(6);(b)(7)(C) said she believed that she reported her holdings correctly on her OGE Forms 450. She stated, "I didn't think I owned individual securities." With respect to the reportable information for (b)(6);(b)(7)(C) investments, (b)(6);(b)(7)(C) said that prior to her reporting them in 2017, she was unaware of her husband's DOW accounts and stated, "…I didn't know it [they] existed."

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## Referral for Prosecution Consideration

The OIG referred the facts and evidence developed during this investigation to the U.S. Attorney's Office for the District of Columbia for consideration; however, prosecution of the matter was declined. (EXHIBIT 19)

## Distribution

Jay Clayton, Chairman
Lucas Moskowitz, Chief of Staff, Office of the Chairman
Sean Memon, Deputy Chief of Staff, Office of the Chairman
Peter Uhlmann, Managing Executive, Office of the Chairman
Robert J. Jackson Jr., Commissioner
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Danae Serrano, Ethics Counsel and Designated Agency Ethics Official

## Signatures

(b)(6);(b)(7)(C)

4/22/19
Date

(b)(6);(b)(7)(C)

4/22/19
Date

**Approved:**

4/22/19
Nicholas Padilla, Jr. Deputy Inspector General for Investigations — Date

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**Exhibits**

1. Predicating document, E-mail from the OEC, dated August 29, 2017.
2. Memorandum of Activity, regarding records review and analysis, dated November 17, 2017, and December 4, 2017.
3. Memorandum of Activity, regarding the review of documents, dated August 23, 2018.
4. Memorandum of Activity, regarding the review of documents, dated November 6, 2018.
5. Memorandum of Activity, regarding the review of documents, dated May 1, 2018.
6. Memorandum of Activity, regarding the review of documents, dated April 30, 2018.
7. Memorandum of Activity, regarding the review of documents, dated August 8, 2018.
8. Memorandum of Activity, regarding the review of documents, dated August 8, 2018.
9. Memorandum of Activity, regarding the review of documents, dated August 8, 2018.
10. Memorandum of Activity, regarding the review of documents, dated January 31, 2019.
11. Memorandum of Activity, regarding records obtained, dated October 1, 2018.
12. Memorandum of Activity, regarding records obtained, dated October 1, 2018.
13. Memorandum of Activity, interview of (b)(6);(b)(7)(C) dated October 4, 2017.
14. Memorandum of Activity, regarding the review of documents, dated February 21, 2018.
15. Memorandum of Activity, regarding records obtained, dated September 11, 2018.
16. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated August 24, 2018.
17. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated October 22, 2018.
18. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated August 27, 2018.

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19. Memorandum of Activity, Judicial Declination, dated November 7, 2018.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

OFFICE OF
INSPECTOR GENERAL

# MEMORANDUM

**September 27, 2018**

TO: FILE

FROM: (b)(6),(b)(7)(C)
Office of Investigations

SUBJECT: Case No. 18-OIG-0263-I
Acquisition Task Force Special Project Initiative

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The purpose of this memorandum is to document the Office of Inspector General's (OIG) investigative activities and to recommend case closure.

This investigation number was opened for the purpose of documenting activities pertaining to the OIG's Acquisition Task Force (ATF). As referenced in the case opening document, this matter is closing in connection with the conclusion of the fiscal year; and, a new investigation number will be opened in the case management system to track the ATF's work performed in the next fiscal year. Accordingly, this project is administratively closed for fiscal year 2018.

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# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 18-ZZZ-0835-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated Report of Investigation

**Subjects:** (b)(6);(b)(7)(C)

**Region:** N/A
**Case #:** 18-ZZZ-0835-I

**Title:** Chairman Jay Clayton Fictitious Twitter Account (Impersonation)

**Origin:** Office of the Chairman

**SK-Level/Grade:** N/A
**Office:** N/A

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** August 27, 2018

**Investigation Completed:** SEP 13 2019

## OVERVIEW

This report is the summary of investigative activities conducted by the U.S. Securities and Exchange Commission (SEC) Office of Inspector General (OIG), Office of Investigations (OI).

On August 25, 2018, the SEC OIG was provided information by the Office of the Chairman concerning Twitter Inc. (Twitter) accounts allegedly impersonating SEC Chairman Jay Clayton. The complaint provided by then SEC Chief of Staff Lucas Moskowitz indicated that unknown individual(s) allegedly impersonated Chairman Clayton using fictitious Twitter accounts open for public viewing. Screenshots of the Twitter posts were provided. A review of the complaint information and the screenshots of the posts revealed three Twitter accounts utilized by the unknown subject(s): *@JayClaytonSEC*; *@jay_claytonsec* and *@DouchebagJaySEC*.

Subsequent to issuance of Inspector General Subpoenas to Twitter, Inc. and Verizon, the OIG determined that the fictitious Chairman Clayton Twitter postings were traced to a Verizon Internet Protocol (IP) address associated with (b)(6);(b)(7)(C) residential address in (b)(6);(b)(7)(C) New Jersey. In attempts to locate and interview (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) was also identified as a resident of the (b)(6);(b)(7)(C) New Jersey address. (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) were contacted by the OIG, but denied their involvement in the postings and declined to make additional statements or cooperate further with the investigation. The case was briefed to the United States Attorney's Office (USAO) in the District of New Jersey and was declined for prosecution.

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## BACKGROUND

Twitter, based in San Francisco, California, is an online news and social networking service where users post and interact with messages referred to as "tweets." Tweets were originally restricted to 140 characters, but were later doubled to 280 characters. Registered users can post, like, and retweet tweets, but unregistered users can only read them. Users access Twitter through its website interface, through Short Message Service (SMS) (commonly referred to as 'texting') or using Twitter's mobile-device application software.

## INVESTIGATIVE FINDINGS

*Suspect Identification*

In conjunction with the OIG investigation, an Inspector General subpoena was served, via the Twitter Law Enforcement Internet Portal, to the Trust & Safety – Legal Policy department at Twitter. The subpoena was served pursuant to Title 18, Section 2703 to collect information regarding the registration of accounts used by the subject(s) to impersonate SEC Chairman Jay Clayton. The information provided by Twitter in response to the subpoena indicated that the posts were made from an Internet Protocol (IP) address assigned to Verizon. (EXHIBIT 3)

As a result of the information provided by Twitter, a subpoena was served to Verizon for the subscriber information associated with the IP address. The resulting information provided by Verizon indicated that the IP address associated with the Twitter accounts at the time the posts were made was assigned to (b)(6);(b)(7)(C) New Jersey. (EXHIBIT 4)

An attempt was made to interview (b)(6);(b)(7)(C) at her residence. While she was not at home, a male individual identifying himself as (b)(6);(b)(7) answered the door. He declined to provide any information and stated that he would retain a lawyer prior to speaking with the OIG. The male individual was later identified as (b)(6);(b)(7)(C) (EXHIBIT 5)

Upon learning (b)(6);(b)(7)(C) had been contacted by the OIG at her residence, (b)(6);(b)(7)(C) contacted the OIG via telephone. She declined to meet with OIG agents, and when the reason for the requested OIG interview was described to her, she related that (b)(6);(b)(7)(C) has any interest in the SEC or in the SEC Chairman. She claimed that her e-mail account had been previously 'hacked' and stated that she would not meet with the OIG nor consent to any additional questions or searches of their personal electronic devices. (EXHIBIT 6)

Searches were conducted of the OIG complaint database as well as the SEC's IRIS and TCR systems, which revealed and no complaints either from or pertaining to (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (EXHIBIT 7)

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*Referral to The United States Attorney's Office*

On May 6, 2019 Assistant United States Attorney (b)(6);(b)(7)(C) District of New Jersey, Trenton, New Jersey was contacted via telephone. The facts of the case were presented, and because the content of the tweets did not appear to be attempting any overt fraud and also did not contain any harmful or threatening language, the USAO declined prosecution in this matter. (EXHIBIT 8)

As a result, the OIG contemplates no further action in regards to the matters reported.

**Distribution**

Jay Clayton, Chairman
Sean Memon, Chief of Staff, Office of the Chairman
Bryan Wood, Deputy Chief of Staff, Office of the Chairman
Peter Uhlmann, Managing Executive, Office of the Chairman
Robert J. Jackson Jr., Commissioner
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Robert Stebbins, General Counsel
Kenneth Johnson, Chief Operating Officer
James McNamara, Chief Human Capital Officer

**Signatures**

(b)(6);(b)(7)(C)

9/13/19
Date

**Concurrence:**

(b)(6);(b)(7)(C)

9/13/2019
Date

**Approved:**

Nicholas Padilla Jr., Deputy Inspector General
for Investigations

9/13/19
Date

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**Exhibits**

1. Complaint intake form, dated August 27, 2018.

2. Screenshots of the Twitter account activity.

3. Memorandum of Activity –Twitter Subpoena Return, dated November 11, 2018.

4. Memorandum of Activity –Verizon Subpoena Return, dated December 13, 2018.

5. Memorandum of Activity – Interview of (b)(6),(b)(7)(C) dated April 3, 2019.

6. Memorandum of Activity – Interview of (b)(6),(b)(7)(C) dated April 3, 2019.

7. Memorandum of Activity – ISB Search of SEC Databases, dated August 26, 2019.

8. Memorandum of Activity – Case Presented for Prosecution – Criminal Declined, dated May 6, 2019.

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# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 19-ENF-0027-I

Office of Inspector General

---

U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:** (b)(6);(b)(7)(C)
Federal Bureau of Investigation
**SK-Level/Grade:** N/A
**Office:** Division of Enforcement
**Region:** San Francisco Regional Office
New York Regional Office

**Case #:** 19-ENF-0027-I
(Formerly – 17-ENF-0132-I)
**Origin:** Division of Enforcement

**Security Clearance:** Y ☒ / N ☐

**Investigation Initiated:** December 20, 2016

**Investigation Completed:** NOV 2 6 2019

## OVERVIEW

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG) regarding the alleged leak of nonpublic information related to an SEC Division of Enforcement (ENF) investigation. Specifically, ENF reported that on May 30, 2014, the *New York Times* published an article titled, "Investor, Bettor, Golfer: Insider Trading Inquiry Includes Mickelson, Icahn and William T. Walters" written by Ben Protess and Matthew Goldstein. The article mentioned that the Federal Bureau of Investigation (FBI) and SEC were conducting an investigation into "well-timed trades" of Clorox conducted by professional golfer Phil Mickelson, professional gambler William Walters and investor Carl Icahn. On June 11, 2014, in a *New York Times* article titled, "Golfer Mickelson's Role Said to Be Overstated in Insider Inquiry," Goldstein and Protess corrected the May 30, 2014, article and stated Mickelson "did not trade in the shares of Clorox." (EXHIBIT 1)

On December 20, 2016, the OIG initiated an investigation to determine whether nonpublic information was included in either *New York Times* article or whether any SEC employees had improperly disclosed the nonpublic information that may have been included in the article.

The investigation determined that there were parallel civil and criminal investigations. The U.S. Attorney's Office for the Southern District of New York (USAO-SDNY), along with the FBI New York Field Office (NYFO) handled the criminal investigation, and the SEC's San Francisco Regional Office (SFRO) and New York Regional Office (NYRO) handled the civil investigation. When both articles were published, they contained nonpublic information, specifically that the SEC was investigating the matter. However, the OIG did not identify any SEC employee improperly disclosed any nonpublic information that was included in the articles.

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Rather, (b)(6);(b)(7)(C) admitted providing nonpublic information about the criminal and civil investigations to the *New York Times* reporter. The U.S. Department of Justice (DOJ) OIG also investigated the allegation, and DOJ Criminal Division's Public Integrity Section considered prosecution of (b)(6) (b)(6);(b)(7)(C) however, it declined pursuing the matter.

## BACKGROUND

At the time the articles were published, the SEC was conducting an investigation concerning insider trading involving Mickelson, Icahn and Walters. Specifically, on July 18, 2011, the SFRO initiated an investigation of Icahn and Walters related to allegations concerning insider trading involving Clorox stock. The SFRO investigation also included Walters, Mickelson and Thomas Davis, former Chairman, Dean Foods, involving their trading of Dean Food's stock. NYRO joined the investigation after the FBI NYFO opened a parallel criminal investigation involving the same matter. Between July 2011 and September 2011, the USAO-SDNY and the FBI submitted access request letters to the SEC and received approval to obtain information about the SEC's investigation. (EXHIBITS 2 and 3)

On November 17, 2016, the U.S. District Court for the Southern District of New York (the Court) issued an order mandating an investigation into the leak involving the two *New York Times* articles. On December 16, 2016, the former U.S. Attorney, USAO-SDNY, filed an "Ex Parte" letter with the Court regarding his agency's investigative findings in response to the order. In this response, the former U.S. Attorney stated his office's investigation identified that (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) admitted he was a significant source of confidential information regarding the investigation for the *New York Times*. The former U.S. Attorney's letter also mentioned that the articles' authors said they had a source within the SEC. The matter involving (b)(6);(b)(7)(C) was referred to the DOJ OIG and considered for prosecution by DOJ Criminal Division's Public Integrity Section. (EXHIBIT 3 and 4)

## INVESTIGATIVE FINDINGS

In summary, the OIG confirmed that Mickelson, Walters, and Icahn were under investigation by the SEC at the time both articles were published and the investigation was nonpublic. The articles did not mention any specific details related to ENF's on-going investigation; however, it mentioned that the SEC, FBI, and Federal prosecutors were investigating Michelson, Icahn and Walters for "well-timed" trades involving Clorox and Dean Foods securities. The OIG's investigation found no evidence that any SEC employee disclosed any nonpublic information in connection to the Clorox and Dean Foods investigation to the *New York Times*. (EXHIBITS 1 and 2)

The OIG identified and interviewed 12 current and former SEC employees and one contractor who, due to their involvement with or exposure to the Clorox and Dean Foods investigations, had access to the nonpublic information in the investigative files. Each employee denied disclosing or communicating any nonpublic information to the authors of the article.

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Further, the interviews revealed that the May 30, 2014 article contained inaccurate information. Specifically, the article stated that Mickelson was under investigation for trading Clorox stock, and this information was later retracted in the June 11, 2014, article. The OIG reviewed the employees' SEC e-mails, phone, and mobile device records and uncovered no evidence to indicate that they communicated with authors of the *New York Times* article about the details of the Clorox or Dean Foods investigations. (EXHIBITS 3 and 5-21)

The ENF reported that the leak of nonpublic information had no an identifiable adverse effect on the SEC's settlement of its investigations. The OIG found that entities external to the SEC, including the Court and the FBI, had partial access to the nonpublic information mentioned in the article, particularly information related to the SEC's investigation. However, the individuals from those entities who were identified were not interviewed. (EXHIBIT 2)

In conclusion, the OIG's investigation found no evidence that any SEC employee disclosed nonpublic information to the media included in the *New York Times* articles about the SEC's Clorox or Dean Foods investigations. Additionally, the OIG's investigation found that the disclosure of the existence of an investigation, which is nonpublic and contained in the articles had no identifiable adverse effect on ENF's investigations or its ability to resolve the matters. Finally, (b)(6),(b)(7)(C) who had partial access to ENF's nonpublic information admitted leaking information about the investigation to the *New York Times*. (EXHIBITS 3 and 22)

Given the absence of evidence to identify a possible suspect from the SEC, the facts and evidence developed during this investigation were not referred to a U.S. Attorney's Office for consideration of prosecution. However, DOJ's Criminal Division's Public Integrity Section considered prosecution of (b)(6),(b)(7)(C) which it declined.

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## Distribution

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Robert Stebbins, General Counsel
Kenneth Johnson, Chief Operating Officer
Stephanie Avakian, Co-Director, Division of Enforcement
Steven Peikin, Co-Director, Division of Enforcement

## Signatures

(b)(6);(b)(7)(C)

10/31/19
Date

(b)(6);(b)(7)(C)

10/31/19
Date

**Approved:**

11/26/19
Nicholas Padilla, Jr., Deputy Inspector General Date
for Investigations

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**Exhibits**

1. Predicating information, e-mail from (b)(6);(b)(7)(C) Market Abuse Unit, NYRO, dated December 15, 2016
2. Memorandum of Activity, regarding records/information obtained, dated July 30, 2019.
3. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated December 22, 2016.
4. Memorandum of Activity, regarding judicial information, dated October 10, 2019.
5. Memorandum of Activity, regarding the interview of Jina Choi, former Regional Director, SFRO, dated February 7, 2017.
6. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Staff Attorney, SFRO, dated February 7, 2017.
7. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) SFRO, dated February 7, 2017.
8. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) U.S. Attorney's Office for the Northern District of California, dated February 7, 2017.
9. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Fenwick & West, dated February 7, 2017.
10. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Paralegal Specialist, SFRO, dated February 8, 2017.
11. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Contractor, CACI, dated February 8, 2017.
12. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) NYRO, dated February 17, 2017.
13. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Staff Attorney, NYRO, dated February 17, 2017.
14. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) NYRO, dated February 17, 2017.

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15. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) Debovoise & Pimpton, LLP, dated, March 3, 2017.

16. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) Morgan Stanley, Co., dated March 3, 2017.

17. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated March 3, 2017.

18. Memorandum of Activity, regarding records/information reviewed (phone records), dated March 8, 2017.

19. Memorandum of Activity, regarding records/information reviewed (phone records), dated May 10, 2017.

20. Memorandum of Activity, regarding records/information reviewed (phone records), dated June 16, 2017.

21. Memorandum of Activity, regarding records/information reviewed (e-mail), dated June 16, 2017.

22. Memorandum of Activity, regarding records/information reviewed (e-mail), dated July 31, 2017.

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# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 19-OSO-0422-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:** Contractor
**SK-Level/Grade:** N/A
**Office:** Office of Support Operations
**Region:** Washington, D.C.

**Case #:** 19-OSO-0422-I

**Origin:** Confidential

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** March 28, 2019

**Investigation Completed:** SEP 17 2019

## OVERVIEW

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG) into allegations that a staff member in the Badge Office was taking pictures of a computer screen with his personal phone.

On March 11, 2019, an employee who requested confidentiality submitted the following to the Office of Inspector General (OIG) Employee Suggestion Program (ESP): "[o]ne of the badging staff was taking pictures of the computer screens on his personal phone during SEC staff appointments today. Not sure what displayed information he could be capturing." [EXHIBIT 1]

On March 28, 2019, the OIG initiated an investigation, which identified (b)(6);(b)(7)(C) Office of Support Operations (OSO), Office of Security Services (OSS), as the subject of the ESP inquiry. (b)(6);(b)(7)(C) is a contractor employed by (b)(6);(b)(7)(C) The OIG determined that (b)(6);(b)(7)(C) by his own admission, did take pictures of a computer screen in the Badge Office; however, the computer did not contain personally identifiable information (PII).

## BACKGROUND

The Badge Office is responsible for issuing facilities access cards with applicable building access when a favorable interim suitability determination is rendered by Personnel Security Operations. The Badge Office is located in the SEC's home office, room (b)(7)(E) and is staffed with contractors, overseen by the OSS.

On March 14, 2019, the OIG interviewed the confidential employee (CE) who had submitted concerns to the ESP. The OIG showed the CE pictures of the Badge Office staff and the CE identified the individual that was using a cell phone to take pictures of a computer screen.

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The CE further explained that while getting their personal identity verification (PIV) card updated in the SEC's badging office, the CE noticed that an individual was taking pictures of a computer screen while using what looked like a personal cell phone. The CE described the cover of the cell phone as maroon in color and did not think it was an SEC-issued iPhone. Finally, the CE stated that they could not see what the individual was taking pictures of. [EXHIBIT 2]

## INVESTIGATIVE FINDINGS

The OIG provided the CE with a photo line-up of employees in the Badge Office. The CE identified (b)(6);(b)(7)(C) as the individual observed taking a picture of the computer screen with a personal phone. (b)(6);(b)(7)(C) is a contractor employed by (b)(6);(b)(7)(C) assigned to the OSO, OSS, in the SEC's Badge Office.

As a result, on March 14, 2019, the OIG interviewed (b)(6);(b)(7)(C) He acknowledged owning a personal phone with a maroon case. When asked, (b)(6);(b)(7)(C) confirmed that he had taken pictures of computer screens in the Badge Office. He explained that the computers in the Badge Office sometimes display an error message. (b)(6);(b)(7)(C) stated that he usually takes a picture of the error message for when he calls the SEC's Office of Information Technology (OIT). He further explained that he takes a picture of the error message rather than writing it down, because it is easier to read the message off of his phone when he calls OIT. When asked if (b)(6);(b)(7)(C) could show the OIG pictures of the error messages on his phone, (b)(6);(b)(7)(C) stated that he had deleted the screenshots.

(b)(6);(b)(7)(C) added that he does not have access to any personally identifiable information (PII) information in the Badge Office; he only sees the employee's name and their security profile on the screen. Finally, (b)(6);(b)(7)(C) stated that he has never sent any SEC nonpublic information to himself or anyone, and only took occasional pictures of the computer screen to capture the error message. (b)(6);(b)(7)(C) declined the OIG's invitation to provide his personal phone for review. [EXHIBIT 3]

On April 25, 2019, the OIG contacted (b)(6);(b)(7)(C) OSS, concerning which computer systems (b)(6);(b)(7)(C) can access in the Badge Office. The first system was identified as the (b)(6);(b)(7)(C);(b)(7)(E)

(b)(6);(b)(7)(C) informed the OIG that the Badge Office staff also uses a web-based system called (b)(7)(E) present on the computers in public view that was observable by the CE. The computers also have some standard SEC programs such as Microsoft Outlook, Microsoft Word, access to the SEC's Intranet, as well as Internet access. [EXHIBIT 4]

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On June 18, 2019, the OIG requested from OIT reports showing all Help Desk incidents for (b)(6);(b)(7)(C) as the end user. On June 19, 2019, OIT provided data which indicated that from December 19, 2015 until June 12, 2019 there were 47 different incidents or requests to the OIT Help Desk by (b)(6);(b)(7)(C) as the end user. The nature of the incidents include but are not limited to issues with the SEC's LEAP system, password resets, PIV card access exemptions, printer issues, computer boot failure, the "blue screen of death," and Outlook failure to open. There were no incidents listed for March 11, 2019 when the CE observed (b)(6);(b)(7)(C) taking a picture of a computer screen in the Badge Office. [EXHIBIT 5]

In conclusion, the investigation substantiated the allegation that (b)(6);(b)(7)(C) took pictures using his personal phone of SEC computer screens in the Badge Office. (b)(6);(b)(7)(C) claimed that he took pictures of the screen to read back the error message to the OIT Help Desk. (b)(6);(b)(7)(C) contacted the OIT Help Desk 47 times over an approximately three and a half year period, but the records reflected that there were no incidents listed for the date (b)(6) was seen taking the picture. This report is being provided to management for whatever action is deemed necessary.

**Distribution**

Jay Clayton, Chairman
Sean Memon, Chief of Staff, Office of the Chairman
Bryan Wood, Deputy Chief of Staff, Office of the Chairman
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Robert J. Jackson Jr., Commissioner
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## Signatures

**Case Agent:**
(b)(6),(b)(7)(C)

9-13-19
Date

**Concurrence:**
(b)(6),(b)(7)(C)

9-13-2019
Date

**Approved:**

Nicholas Padilla, Jr., Deputy Inspector General
for Investigations

9/13/19
Date

## Exhibits

1. Predicating document, dated March 11, 2019.
2. Memorandum of Activity, Interview of Confidential Employee, dated March 14, 2019.
3. Memorandum of Activity, Interview of (b)(6),(b)(7)(C) dated March 14, 2019.
4. Memorandum of Activity, Records Review, dated April 25, 2019.
5. Memorandum of Activity, Records Review, dated June 19, 2019.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

December 23, 2020

Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. **20-00007-OIG**

This is the 2nd partial response to your August 1, 2020 request for copies of the following Office of Inspector General reports:

14-ENF-0098-I, 14-OIT-0021-I, 14-ENF-0011-I, 14-ENF-0175-I
14-ENF-0561-I, 14-DTM-0772-I, 14-ENF-0849-I, 15-ENF-0596-I
16-HR-0437-I, 16-OIT-0366-I, 17-ALJ-0008-I, 17-ENF-0222-I
17-DCF-0412-I, 17-HR-0703-I, 18-OIT-0031-I, 18-OIG-0263-I
18-ZZZ-0345-I, 18-ENF-0611-I, 18-ZZZ-0835-I, 18-ZZZ-0844-I
19-OIG-0142-I, 19-OIT-0304-I, 19-OSO-0018-I, 19-ENF-0027-I

On September 21, 2020 I issued a partial response and granted access in part to 16-HR-0437-I, 17-ALJ-0008-I, 17-DCF-0412-I, 17-HR-0703-I, 18-OIG-0263-I, 18-ZZZ-0835-I, 19-OSO-0018-I and 19-ENF-0027-I. At this time, access is granted in part to the following reports: 14-DTM-0772-I, 18-ZZZ-0844-I, 14-OIT-0021-I, 16-OIT-0366-I, 18-OIT-0031-I, and 19-OIT-0304-I. Information within these reports is being withheld under 5 U.S.C. § 552(b)(5), (6), (7)(A), (7)(C), (7)(E) and (8), for the following reasons.

Since certain information forms an integral part of the predecisional process, it is protected from release by the deliberative process privilege embodied in FOIA Exemption 5.

Under Exemption 6, the release of certain information would constitute a clearly unwarranted invasion of personal privacy. Under Exemption 7(C), the release of this information could

reasonably be expected to constitute an unwarranted invasion of personal privacy. Further, public identification of SEC staff could conceivably subject them to harassment in the conduct of their official duties and in their private lives.

Exemption 7(A) protects from disclosure information compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities. The assertion of this exemption should not be construed as an indication by the SEC or its staff that any violations of law have occurred with respect to any person, entity, or security.

Certain information is being protected from disclosure under FOIA Exemption 7(E), since release could reasonably be expected to reveal specific investigative techniques, guidelines, and criteria, used in connection with the staff's review of corporate filings and thereby undermine the enforcement of the federal securities laws.

Finally, Exemption 8 protects from disclosure information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

I am the deciding official with regard to this determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(f)(1). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address.

If you have any questions, you can contact me at sifordm@sec.gov or (202)551-7201. You may also contact the SEC's FOIA Public Service Center at foiapa@sec.gov or (202) 551-

December 23, 2020

7900. For more information about the FOIA Public Service Center and other options available to you, please see the attached addendum.

Sincerely,

Mark P. Siford
Counsel to the Director/Chief FOIA Officer
Office of Support Operations

Attachment

December 23, 2020

# ADDENDUM

For further assistance you can contact a SEC FOIA Public Liaison by calling (202) 551-7900 or visiting https://www.sec.gov/oso/help/foia-contact.html.

SEC FOIA Public Liaisons are supervisory staff within the Office of FOIA Services. They can assist FOIA requesters with general questions or concerns about the SEC's FOIA process or about the processing of their specific request.

In addition, you may also 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. OGIS can be reached at 1-877-684-6448 or via e-mail at ogis@nara.gov. Information concerning services offered by OGIS can be found at their website at Archives.gov. Note that contacting the FOIA Public Liaison or OGIS does not stop the 90-day appeal clock and is not a substitute for filing an administrative appeal.

# REPORT OF INVESTIGATION

# CASE# 14-DTM-0772-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:**
**SK-Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Division of Trading and Markets
**Region:** Washington, D.C.

**Subject:** (b)(6);(b)(7)(C)
**Title:**
**SK-Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Division of Trading and Markets
**Region:** Washington, D.C.

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** August 12, 2014

**Investigation Completed:** MAR 1 2 2018

**Case #:** 14-DTM-0772-I

**Origin:** Government Accountability Office

## SUMMARY

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG).

The OIG initiated an investigation following the receipt of a referral from the U.S. Government Accountability Office (GAO). The GAO forwarded an anonymous complaint alleging, in summary, that (b)(6);(b)(7)(C) Division of Trading and Markets (TM), obtained "insider information" during the course of her employment with the SEC and disclosed it to her husband, (b)(6);(b)(7)(C) Allegedly, (b)(6);(b)(7)(C) used the information for personal gain, and provided it to his friends or management at his place of employment, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) It was further alleged that (b)(6);(b)(7)(C) TM, provided (b)(6);(b)(7)(C) with "insider information" (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) In addition, it was alleged that (b)(6);(b)(7)(C) "padded" U.S. Government contracts and bought his wife (b)(6);(b)(7)(C) watch that was charged to a contract with (b)(6);(b)(7)(C) (EXHIBIT 1)

The OIG opened an investigation to determine if (b)(6);(b)(7)(C) and/or (b)(6);(b)(7)(C) improperly disclosed material non-public information and to determine if (b)(6);(b)(7)(C) alleged conduct impacted the SEC and/or was appropriate for referral to another Government agency.

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In summary, the OIG investigation did not find evidence that (b)(6);(b)(7)(C) or (b)(6);(b)(7)(C) improperly disclosed material non-public information. However, during the course of the OIG investigation, it was determined that (b)(6);(b)(7)(C)

- Failed to report rental properties on her Office of Government Ethics Confidential Financial Disclosure Report (OGE Forms 450), (b)(6);(b)(7)(C)
- Used SEC office equipment, including e-mail, in conjunction with the management of her rental properties; and,
- Failed to declare holdings, pre-clear transactions and upload statements to the Personal Trading Compliance System (PTCS) despite prior notice from the Office of the Ethics Counsel (OEC).

The investigation did not find evidence that (b)(6);(b)(7)(C) "padded" U.S. Government contracts, or that he bought (b)(6);(b)(7)(C) watch that was charged to a contract with (b)(6);(b)(7)(C)

The United States Attorney's Office for the District of Columbia declined to pursue prosecution of (b)(6);(b)(7)(C)

## BACKGROUND

(b)(6);(b)(7)(C) entered on duty with the SEC in (b)(6);(b)(7)(C) and is presently (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) TM. (EXHIBIT 2)

(b)(6);(b)(7)(C) has been employed with the SEC (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (EXHIBIT 3)

## SCOPE

The OIG investigated the following potential violations:

- Title 18 United States Code (USC) § 1905 – Disclosure of confidential information generally
- Title 18 USC § 1001 – Statements or entries generally
- Title 5 CFR § 2635 – Subpart C – Gifts Between Employees
  - § 2635.302 General standards
- Title 5 Code of Federal Regulations (CFR) § 2635 - Subpart G – Misuse of Position
  - § 2635.703 Use of nonpublic information
  - § 2635.704 Use of Government property

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- Title 5 CFR Part 4401 - SEC Ethics Supplemental Regulation
- SEC Administrative Regulation, SECR 23-2a – Safeguarding Non-Public Information
- SEC Administrative Regulation, SECR 24-4.3 – Use of SEC Office Equipment
- SEC Ethics Handbook

Additionally, the OIG interviewed the following individuals:

- (b)(6);(b)(7)(C) Assistant Compliance Counsel (PTCS), OEC
- (b)(6);(b)(7)(C)
- (b)(6);(b)(7)(C)
- (b)(6);(b)(7)(C) TM
- (b)(6);(b)(7)(C) TM
- (b)(6);(b)(7)(C) TM
- Shira Minton, Ethics Counsel and Designated Agency Ethics Official, OEC

Finally, the OIG reviewed the following records:

- (b)(6);(b)(7)(C) electronic Official Personnel Folder (eOPF)
- (b)(6);(b)(7)(C) eOPF
- Hub records
- Name Relationship Search Index (NRSI) records
- Tips, Complaints, and Referrals (TCR) records
- Tracking Reporting Examination National Documentation (TRENDS) records
- (b)(6);(b)(7)(C) SEC e-mail records
- SEC e-mail provided by (b)(6);(b)(7)(C) (OEC)
- Office of Government Ethics, Forms 450, Confidential Financial Disclosure Report (OGE Forms 450)
- (b)(6);(b)(7)(C) Tax and Revenue records
- Personal Trading Compliance System (PTCS) records, including Certifications of Holdings, related financial statements, and Pre-Trade Requests
- Charles Schwab brokerage statements
- Information Technology Rules of the Road certifications
- Learn, Engage, Achieve, and Perform (LEAP) records
- Office of Acquisitions (OA) records
- Office of Security Services (OSS) records

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## RESULTS OF INVESTIGATIVE ACTIVITY

### Records Reviews

*OGE Forms 450*

The OIG reviewed (b)(6);(b)(7)(C) OGE Forms 450, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) for calendar years (b)(6);(b)(7)(C) The review determined that for (b)(6);(b)(7)(C) through calendar year (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) reported a "Residential Home" in (b)(6);(b)(7)(C) which she noted as a "(Rental)," but did not report (b)(6);(b)(7)(C) rental properties owned by (b)(6);(b)(7)(C) or her spouse during the reporting periods. In February (b)(6);(b)(7)(C) (for calendar year (b)(6);(b)(7)(C), (b)(6);(b)(7)(C) reported (b)(6);(b)(7)(C) rental properties in (b)(6);(b)(7)(C) which each included a notation that read, "failed to report the rental properties in prior years." (EXHIBITS 4-6)

(b)(6);(b)(7)(C) *SEC e-mail records*

An OIG review of (b)(6);(b)(7)(C) SEC e-mail records revealed that (b)(6);(b)(7)(C) used SEC e-mail for communications related to the management of the (b)(6);(b)(7)(C) rental properties. The e-mails included communications regarding property showings, leasing terms, rental payments, and property maintenance; however, none of the e-mails contained a signature block identifying (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) or associating her with the SEC. (EXHIBIT 7)

*SEC e-mail record provided by* (b)(6);(b)(7)(C)

In September 2014, (b)(6);(b)(7)(C) (OEC) e-mailed (b)(6);(b)(7)(C) regarding the review of her annual certification of holdings in PTCS (for calendar year 2013). In summary, he advised (b)(6);(b)(7)(C) that she did not declare any holdings, did not upload financial statements, and she did not submit any pre-trade requests, yet her Form 450 (for calendar year 2013) disclosed two mutual funds and stock in four companies, some of which were reported as no longer held. In addition to notifying her of the inconsistencies, (b)(6);(b)(7)(C) advised (b)(6);(b)(7)(C) that statements for reportable securities must be uploaded as part of the annual certification. In response to (b)(6);(b)(7)(C) e-mail and request for an explanation, (b)(6);(b)(7)(C) advised that she sold the stock in the four companies in (b)(6);(b)(7)(C) but did not provide an explanation regarding why she failed to pre-clear the transactions. (EXHIBIT 8)

*PTCS records, including Certifications of Holdings, related financial statements, and pre-trade requests*

In addition to the conduct addressed by (b)(6);(b)(7)(C) in September 2014, an OIG review of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) PTCS records identified additional failures to declare holdings, upload financial statements, and/or submit pre-trade requests.

The OIG review of (b)(6);(b)(7)(C) PTCS records revealed that for calendar year (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) provided statements that included holdings in Schwab funds (b)(6);(b)(7)(C) however, there were no corresponding statements provided for those funds since (b)(6);(b)(7)(C) for calendar year

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(b)(6);(b)(7)(C) nor were there any pre-trade requests for the those Schwab funds (i.e., indicating that they were sold).

The review further revealed that for calendar year (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) declared "Holdings" and included the following comment: "I spoke with (b)(6);(b)(7)(C) [OEC] on (b)(6);(b)(7)(C) that I did not upload these investment statements to PTCS in the past but the investments were reported in the OGE Form 450. He advised me to just report the investment statements from (b)(6);(b)(7)(C)" For calendar year (b)(6);(b)(7)(C) statements were included for three accounts, including a Schwab account, (b)(6);(b)(7)(C) 401(k) plan account, and an (b)(6);(b)(7)(C) account.

The OIG review revealed that, in addition to not providing financial statements for the (b)(6);(b)(7)(C) or (b)(6);(b)(7)(C) accounts prior to (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) statements for calendar year (b)(6);(b)(7)(C) both reflected purchases of six funds (12 funds total); however, there were no pre-trade or periodic investment plan requests recorded in PTCS for the identified holdings. The SEC's Supplemental Ethics Regulations require employees to pre-clear certain trades, including transactions in underlying securities of 401(k) accounts.

It was not determined when (b)(6);(b)(7)(C) spouse established the (b)(6);(b)(7)(C) 401(k) plan and (b)(6);(b)(7)(C) account and 401(k) plan, but by her own statement in her certification of holdings filing (for calendar year (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) did not upload the investment statements to PTCS "in the past." It was reported that (b)(6);(b)(7)(C) spouse began his employment with (b)(6);(b)(7)(C) in approximately (b)(6);(b)(7)(C) and according to (b)(6);(b)(7)(C) OGE Form 450, her spouse began his employment with (b)(6);(b)(7)(C) (EXHIBITS 9-11)

*Information Technology (IT) Rules of the Road certifications*

The OIG requested IT Rules of the Road certifications and training records (b)(6);(b)(7)(C) the Office of Information Technology (OIT) and the Office of Human Resources (OHR) respectively. The Chief Information Security Officer advised that searches were conducted, but OIT was unable to locate any signed Rules of the Road certifications for (b)(6);(b)(7)(C) OHR provided (b)(6);(b)(7)(C) record, which did not include completion of the IT Rules of the Road training. (EXHIBITS 12 and 13)

*Learn, Engage, Achieve, and Perform (LEAP) records*

The OIG reviewed LEAP records for (b)(6);(b)(7)(C) The review revealed that (b)(6);(b)(7)(C) completed Online Ethics 450 Filer training on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) attended and completed an instructor-led Ethics 450 Filer training on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)

The review further revealed that (b)(6);(b)(7)(C) completed Personal Trading Rules training on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) The Personal Trading Rules (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) included a slide stating, "As an SEC employee, you cannot purchase or sell any security of an entity that is under investigation by the Commission; a party to a proceeding before the

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Commission; a party to a proceeding in which the Commission is a party." Another slide in the training stated, "Employees must pre-clear securities transactions..." (EXHIBIT 14)

*OA records*

The OIG received information from OA indicating there was no record of (b)(6);(b)(7)(C) ever working at the SEC as a contract employee for (b)(6);(b)(7)(C) or any other vendor. (EXHIBIT 15)

*OSS records*

The OIG received information from OSS indicating that there was no record of (b)(6);(b)(7)(C) working at the SEC as a contractor dating back to April 2012. OSS could not provide information for dates prior to April 2012 because they did not maintain those records. (EXHIBIT 16)

**Interviews**

*Minton*

During an interview with the OIG, Minton stated that (b)(6);(b)(7)( should have reported her rental properties on the OGE Forms 450. Minton advised that (b)(6);(b)(7)( did not need to amend her prior filings, but should add the properties to the list of Assets and Income going forward and should indicate (when she initially reported them) that she failed to report them previously. (EXHIBIT 17)

(b)(6);(b)(7)(C)

During interviews with the OIG, (b)(6);(b)(7)(C) advised he was (b)(6);(b)(7)(C) supervisor (b)(6);(b)(7)(C) (b)(6);(b)(7)( (b)(6);(b)(7)(C) in TM's (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) advised he found it difficult to believe (b)(6);(b)(7)(C) would have information from which she could profit, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) said he could not recall any instances of (b)(6);(b)(7)(C) working on matters related to (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) also advised that (b)(6);(b)(7)( did not have any procurement responsibilities in the sense of authorizing spending, and when working on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) related to the work. (EXHIBITS 18 and 19)

(b)(6);(b)(7)(C)

During interviews with the OIG, (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) TM, indicated that he (b)(6);(b)(7)(C) He also stated that he had both a professional and personal relationship with (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)

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(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) stated he had no idea whether (b)(6);(b)(7)(C) passed nonpublic information to her husband, but indicated the information that (b)(6);(b)(7)(C), (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) indicated that due to (b)(6);(b)(7)(C) passed more information to him than he did to her. (b)(6);(b)(7)(C) also stated he and (b)(6);(b)(7)(C) did not discuss business in public places or in front of (b)(6);(b)(7)(C) (EXHIBIT 20 and 21)

(b)(6);(b)(7)(C)

During an interview with the OIG, (b)(6);(b)(7)(C) stated that her husband worked for (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) stated that she did not discuss work with her husband and denied passing any nonpublic information to him. (b)(6);(b)(7)(C) indicated that her husband "… does not do finances," and advised that she and her husband did not actively trade on the market. (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) financial holdings, including mutual funds and stock, that she reported when she entered on duty with the SEC, remained the same until (b)(6);(b)(7)(C) when they sold their holdings. (b)(6);(b)(7)(C) denied accessing SEC databases and sharing information with others outside of the SEC. (b)(6);(b)(7)(C) stated that (b)(6);(b)(7)(C) never passed insider information to her and indicated that they did not talk about work outside of the professional context.

(b)(6);(b)(7)(C) admitted that she did not preclear the (b)(6);(b)(7)(C) transactions and said that she had since cleared up the issue with the OEC. (b)(6);(b)(7)(C) explained that she held the subject stock prior to (b)(6);(b)(7)(C) and she did not engage in any trading activity until (b)(6);(b)(7)(C) when the shares were sold. (b)(6);(b)(7)(C) stated she did not pay attention to the buying and selling activity, and indicated she lacked familiarity with the PTCS because she had not had a need to use it. (b)(6);(b)(7)(C) she always reported the holdings on her OGE Forms 450 and she thought the only remaining holding after the (b)(6);(b)(7)(C) sale(s) was her husband's 401(k) plan with (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) stated that in addition to their (b)(6);(b)(7)(C) residence, which she reported as a rental on her OGE Forms 450, she and her husband owned rental properties in (b)(6);(b)(7)(C) that she forgot to report on her OGE Forms 450. (b)(6);(b)(7)(C) stated that in (b)(6);(b)(7)(C) in addition to their residence, they owned (b)(6);(b)(7)(C) dwelling that they purchased in approximately (b)(6);(b)(7)(C) and a (b)(6);(b)(7)(C) dwelling that they purchased in approximately (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) rented out. (b)(6);(b)(7)(C) indicated that the lack of reporting was an oversight on her part and stated that it was not her intention to hide the rental properties. (b)(6);(b)(7)(C) stated that they did not purchase the rental properties as a business, but more as a long term investment.

(b)(6);(b)(7)(C) indicated that her husband primarily managed the rental properties, but admitted that she might have used her SEC e-mail to correspond with some of the renters. (b)(6);(b)(7)(C) stated that she would fix that going forward by using her personal e-mail address and her smartphone,

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from which she could access her personal e-mail account. (b)(6);(b)(7)(C) also acknowledged signing the Information Technology rules of behavior.

(b)(6);(b)(7)(C) recalled that when her husband was with (b)(6);(b)(7)(C) he worked on a government contract with (b)(6);(b)(7)(C) years (b)(6);(b)(7)(C) interview] and she thought he might have worked on (b)(6);(b)(7)(C) contract for a few weeks. (b)(6);(b)(7)(C) stated that her husband moved to commercial contracts approximately five or six years (b)(6);(b)(7)(C) interview] and had not worked on another Government contract. (b)(6);(b)(7)(C) advised that both she and her husband have (b)(6);(b)(7)(C) watches that were given to them as a wedding gift (b)(6);(b)(7)(C) (EXHIBIT 22)

(b)(6);(b)(7)(C)

During a telephone interview with the OIG, (b)(6);(b)(7)(C) stated he was a (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) said he met (b)(6);(b)(7)(C) in approximately (b)(6);(b)(7)(C) when (b)(6);(b)(7)(C) began working for (b)(6);(b)(7)(C) advised that he never received any insider information on the stock market from (b)(6);(b)(7)(C) and that (b)(6);(b)(7)(C) never discussed non-public information with him. (b)(6);(b)(7)(C) also advised that he had not heard from anyone else at (b)(6);(b)(7)(C) that (b)(6);(b)(7)(C) provided insider information to them, nor that there were concerns about an investigation into (b)(6);(b)(7)(C) conduct.

(b)(6);(b)(7)(C) advised that (b)(6);(b)(7)(C) was assigned to (b)(6);(b)(7) contract related to (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) also indicated that (b)(6);(b)(7)(C) worked on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) stated that it would have been impossible for (b)(6);(b)(7)(C) to "pad" contracts because he did not function in such a role; he had no responsibility or ability to affect the contracting process; and he would not be able to "pad" contracts because of (b)(6);(b)(7)(C) internal oversight. (EXHIBIT 23)

**Other Matters**

As noted above, (b)(6);(b)(7)(C) indicated that (b)(6);(b)(7)(C) provided him with occasional transportation home from work at the SEC Headquarters building. During interviews with the OIG, (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) indicated that (b)(6);(b)(7)(C) periodically provided rides home to both (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) The commute was described as being on or near (b)(6);(b)(7)(C) route, and (b)(6);(b)(7)(C) home. (EXHIBITS 20-22, and 24)

The OIG did not identify (b)(6);(b)(7)(C) financial gain (b)(6);(b)(7)(C) as a result of the transportation she provided to (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)

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## Referral for Prosecution Consideration

The OIG presented this case to the United States Attorney's Office for the District of Columbia, which declined criminal prosecution of (b)(6);(b)(7)(C) (EXHIBIT 25)

## Distribution

Jay Clayton, Chairman
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Kenneth Johnson, Chief Operating Officer
Lacey Dingman, Chief Human Capital Officer
Shira Pavis Minton, Ethics Counsel, Office of the Ethics Counsel
Brett Redfearn, Director, Division of Trading and Markets

## Signatures

**Case Agent:**

(b)(6);(b)(7)(C)

03/12/18
Date

**Concurrence:**

(b)(6);(b)(7)(C)

3-12-18
Date

**Approved:**

John R. Hartman

3/12/18
John R. Hartman, Assistant Inspector General for Investigations — Date

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**Exhibits**

1. Predicating document, Referral from GAO, dated July 10, 2014.

2. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) eOPF, dated November 10, 2014.

3. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) OPF, dated September 27, 2017.

4. Memorandum of Activity, Records/Information Review – Forms 450, dated February 5, 2016.

5. Memorandum of Activity, Records/Information Obtained (b)(6);(b)(7)(C) Forms 450, certifications of holdings, and PTCS records, dated April 3, 2017.

6. Memorandum of Activity, Records/Information Review – District of Columbia Tax and Revenue records, dated September 29, 2017.

7. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) e-mail, dated July 1, 2016.

8. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) Dated June 2, 2015.

9. Memorandum of Activity, Records/Information Review – Certifications of Holdings, dated January 2, 2015.

10. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) financial statements, dated January 2, 2015.

11. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) Certifications of Holdings, financial statements, Forms 450, and PTCS records, dated September 21, 2017.

12. Memorandum of Activity, Records/Information Review – IT Rules of the Road records, dated May 24, 2016.

13. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) training records, dated December 14, 2017.

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14. Memorandum of Activity, Records/Information Review (b)(6);(b)(7)(C) LEAP records, dated July 1, 2016.

15. Memorandum of Activity, Records/Information Review – OA contractor records, dated June 7, 2016.

16. Memorandum of Activity, Records/Information Review – OSS contractor records, dated June 7, 2016.

17. Memorandum of Activity, Interview of Shira Minton, dated May 29, 2015.

18. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated February 3, 2015.

19. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated May 26, 2015.

20. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated May 26, 2015.

21. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated October 17, 2016.

22. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated May 29, 2015.

23. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated November 19, 2015.

24. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) dated February 10, 2017.

25. Memorandum of Activity, Judicial – Criminal Declination, dated September 27, 2017.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

OFFICE OF
INSPECTOR GENERAL

# MEMORANDUM

**June 24, 2019**

TO: FILE

FROM: (b)(6),(b)(7)(C)
Office of Investigations

THROUGH: (b)(6),(b)(7)(C)
Office of Investigations

SUBJECT: Case No.18-ZZZ-0844-I
Institute for Wealth Holdings et al

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The purpose of this memorandum is to document the Office of Inspector General's (OIG) investigative activities and to recommend case closure.

(b)(8)

(b)(8)

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(b)(6),(b)(7)(A),(b)(7)(C),(b)(8)

Adviser Registration), filed by IWH in January 2017 and January 2018 with the Financial Industry Regulatory Authority, reported that (b)(6),(b)(7)(C) disciplinary information failed to disclose his "Heightened Supervision" status (b)(6),(b)(7)(C) from the State of Washington-Department of Financial Institutions, for (b)(6),(b)(7)(C) misconduct related to customers' accounts at a prior employer in 2010 and 2012.

On April 24, 2019, (b)(6),(b)(7)(C) Economic Crimes Section, U.S. Attorney's Office for the District of Colorado was advised of the facts and circumstances of this investigation and she declined prosecution of IWH and its affiliated companies.

Based on the above factors, a report to management is not warranted and administratively closing this case is recommended. (b)(8) will be notified of the closure.

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

6/24/19
Date

Approved:

6/24/19
Date

Nicholas Padilla, Jr., Deputy Inspector General
for Investigations

(b)(8)

(b)(6),(b)(7)(C)
By (Initials)

(b)(6),(b)(7)(C)
Person Notified
Via Email

6/24/19
Date

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# REPORT OF INVESTIGATION

# CASE# 14-OIT-0021-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:** (b)(6);(b)(7)(C)
**SK-Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Office of Information Technology
**Region:** Washington, D.C.
**Security Clearance:** Y ☒ / N ☐ (b)(6);(b)(7)(C)

**Case #:** 14-OIT-0021-I

**Origin:** Anonymous

**Subject:** (b)(6);(b)(7)(C)
**Title:** (b)(6);(b)(7)(C)
**SK Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Office of Information Technology
**Region:** Washington, D.C.
**Security Clearance:** Y ☐ / N ☒

**Subject:** (b)(6);(b)(7)(C)
**Title:** (b)(6);(b)(7)(C)
**SK Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Office of Information Technology
**Region:** Washington, D.C.
**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** November 15, 2013

**Investigation Completed:** MAY 1 4 2018

## SUMMARY

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG).

The OIG initiated an investigation based on anonymous allegations regarding (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) Office of Information Technology (OIT); (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT; and (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT. Specifically, it was alleged that (b)(6);(b)(7)(C) provided preferential treatment to (b)(6);(b)(7)(C) because (b)(6);(b)(7)(C) had provided her with personal legal assistance. Additionally, it was alleged that (b)(6);(b)(7)(C) provided preferential treatment to (b)(6);(b)(7)(C) by providing promotions and awards and overlooking his failing projects because he had purchased real estate from her and he had provided her with a loan. One of the project failures named in the allegation was the SEC's (b)(6);(b)(7)(C) It was also alleged

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that (b)(6);(b)(7)(C) had an attendance problem and frequently arrived to work late and left early. Additionally, it was alleged that (b)(6);(b)(7)( inappropriately permitted the OIT's (b)(6);(b)(7)(C) (b)(6);(b)(7)( Team to telework.

The OIG subsequently received an additional anonymous allegation related to (b)(6);(b)(7)( and (b)(6);(b)(7)(C) Specifically, it was alleged that (b)(6);(b)(7)( and (b)(6);(b)(7)( maintained an inappropriate personal relationship. This allegation was incorporated into the OIG's investigation. (EXHIBIT 1)

In summary, evidence collected during the OIG's investigation disclosed that:

- On one occasion (b)(6);(b)(7)( paid (b)(6);(b)(7)(C) for personal legal services related to a real estate transaction. The evidence did not support that as a result of this personal business dealing (b)(6);(b)(7)( provided preferential treatment to (b)(6);(b)(7)(C)

- (b)(6);(b)(7)( 2011, a limited liability company managed by (b)(6);(b)(7)( purchased real estate from (b)(6);(b)(7)( The evidence did not support that as a result of this personal business dealing, (b)(6);(b)(7) provided preferential treatment to (b)(6);(b)(7)(C)

- (b)(6);(b)(7)(C) time and attendance records did not accurately reflect his time spent working in the office or teleworking. Specifically, there were several instances—based on building access records and e-mails—when (b)(6);(b)(7)( did not appear to work the hours that were reflected in the SEC's time and attendance system. The apparent shortfall was 187 hours and 20 minutes.

No evidence was developed that (b)(6);(b)(7)( and (b)(6);(b)(7)( had maintained an inappropriate relationship; that (b)(6);(b)(7)( had loaned her money; or that she overlooked his failed projects. Furthermore, no evidence was developed that (b)(6);(b)(7 inappropriately allowed the (b)(6);(b)(7)(C) (b)(6);(b)(7)( employees to telework.

The facts and evidence developed during this investigation were referred to the U.S. Attorney's Office for the District of Columbia for consideration of prosecution; however, the matter was declined.

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## BACKGROUND

In (b)(6);(b)(7)(C) joined the SEC (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) officially became (b)(6);(b)(7)(C) first-level supervisor in (b)(6);(b)(7)(C) but signed as the "Rating Official" for his final (b)(6);(b)(7)(C) Performance Work Plan. For the subsequent years (b)(6);(b)(7)(C) was both the "Rating Official" and the "Deciding Official" for (b)(6);(b)(7)(C) performance rating. (EXHIBITS 2 – 4)

**[AGENT'S NOTE**: For (b)(6);(b)(7)(C) final performance rating there was no signature contained in the records maintained by the OIT. The OIG contacted the SEC's Office of Human Resources (OHR), which did not have copies of these records.]

From approximately (b)(6);(b)(7)(C) to (b)(6);(b)(7)(C) served as (b)(6);(b)(7)(C) OIT and when (b)(6);(b)(7)(C) reported directly to (b)(6);(b)(7)(C) In (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (EXHIBITS 5 and 6)

(b)(6);(b)(7)(C) (b)(6);(b)(7)(C) reports directly to (b)(6);(b)(7)(C) (EXHIBIT 7)

(b)(6);(b)(7)(C) currently used at the SEC. When it was deployed by the OIT (b)(6);(b)(7)(C) it required the upgrade of all SEC users' workstations which (b)(6);(b)(7)(C) led and managed. (EXHIBITS 1 and 7)

(b)(6);(b)(7)(C) Team is part of OIT's (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and is responsible for (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (EXHIBITS 8 and 9)

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## SCOPE

The OIG considered the following potential violations:

- Title 18 U.S. Code § 1001, Statements or entries generally
- Title 5 Code of Federal Regulations (CFR) § 2635.202, Standards of Ethical Conduct (Subpart B), Gifts from Outside Sources
- Title 5 CFR § 2635.302, Gifts Between Employees
- Title 5 CFR § 2635.702, Use of Public Office for Private Gain
- Title 5 CFR § 2635.705, Official Use of Time
- Title 17 CFR § 200.735-2, Standards of Ethical Conduct

Additionally, the OIG interviewed the following individuals:

- (b)(6),(b)(7)(C) OIT
- (b)(6),(b)(7)(C) Litigation and Administrative Practice, Office of the General Counsel
- (b)(6),(b)(7)(C) OIT
- (b)(6),(b)(7)(C) OIT
- (b)(6),(b)(7)(C) OIT
- (b)(6),(b)(7)(C) OIT

Finally, the OIG also reviewed the following documents:

- SEC e-mail records
- Electronic Official Personnel Folder (eOPF) records
- SEC Headquarters badge access logs
- Time and attendance records
- Office of Government Ethics (OGE) Forms 450, *Confidential Financial Disclosure Reports*

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## RESULTS OF INVESTIGATIVE ACTIVITY

**Allegations Related to (b)(6);(b)(7)(C) Providing Legal Services to (b)(6);(b)(7)(C)**

**Document Reviews**

*Electronic Official Personnel Folder (eOPF)*

An OIG review of (b)(6);(b)(7)(C) eOPF for the period from (b)(6);(b)(7)(C) 2011, near or when she provided personal legal services to (b)(6);(b)(7)(C) revealed (b)(6);(b)(7)(C) received awards and bonuses, as shown in Table 1.

*Table 1: Awards, Bonuses, and Promotions between (b)(6);(b)(7)(C)*

| Date | | Action |
|---|---|---|
| | (b)(6);(b)(7)(C) | individual cash award |
| | | individual cash award |
| | | lump sum performance payment |

*Source: Table created based on Standard Forms-50 in eOPF.*

**[AGENT'S NOTE:** (b)(6);(b)(7)(C) received the (b)(6);(b)(7)(C) performance award (b)(6);(b)(7)(C) (b)(6);(b)(7)(C)

The Standard Form-50 dated (b)(6);(b)(7)(C) for the (b)(6);(b)(7)(C) awarded indicated that the award was related to a "performance based bonus based on (b)(6);(b)(7)(C) performance evaluation period." The forms for the (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) awards did not list a reason for the awards. (EXHIBIT 10)

**[AGENT'S NOTE**: The OHR informed the OIG that it did not maintain information regarding the recommending official for employee awards and bonuses before 2014. As a result, information regarding the recommending official for (b)(6);(b)(7)(C) awards was not available for the period reviewed by the OIG.]

(b)(6);(b)(7)(C) *OGE Forms 450*

An OIG review of (b)(6);(b)(7)(C) OGE Forms 450 for the calendar years ended (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) revealed that (b)(6);(b)(7)(C) reported holding an outside position with (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) did not report any income derived from this outside position. (b)(6);(b)(7)(C) signed each OGE Form 450 as the (b)(6);(b)(7)(C) (EXHIBIT 11)

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**[AGENT'S NOTE:** The OGE Form 450 requires employees to report all sources of earned income greater than $200 and all positions outside the U.S. Government held at any time during the reporting period, regardless if the employee was compensated or not.]

**Interviews**

(b)(6);(b)(7)(C)

During an interview with the OIG, (b)(6);(b)(7)(C) stated that in 2011 or 2012, (b)(6);(b)(7)(C) had helped her with a personal legal matter by helping her write a letter to resolve a payment dispute involving a real estate transaction. (b)(6);(b)(7)(C) said she was discussing the issue at work and could not remember if she asked (b)(6);(b)(7)(C) to help draft a letter or if (b)(6);(b)(7)(C) offered assistance. (b)(6);(b)(7)(C) stated that she paid (b)(6);(b)(7)(C) approximately $350 via a personal check to draft the letter and (b)(6);(b)(7)(C) performed the services outside of her official work time. (b)(6);(b)(7)(C) said she also gave (b)(6);(b)(7)(C) a $100 gift card as a "thank you." (b)(6);(b)(7)(C) said she did not pressure (b)(6);(b)(7)(C) to provide personal legal services to her. She also said (b)(6);(b)(7)(C) did not receive any bonuses, awards, or promotions at the SEC as a result of the personal legal work she had provided. (b)(6);(b)(7)(C) stated she was not aware of any issues regarding the permissibility of paying (b)(6);(b)(7)(C) to perform legal services. (EXHIBIT 2 and 12)

**[AGENT'S NOTE:** (b)(6);(b)(7)(C) reported to the OIG that she attempted to locate the canceled check; however, she did not retain a copy of it and her bank was not able to locate one.]

(b)(6);(b)(7)(C)

The OIG interviewed (b)(6);(b)(7)(C) who said that in either 2012 or 2013, she spent approximately 16 hours working on an "innocuous" personal legal matter for (b)(6);(b)(7)(C) outside of her work at the SEC. (b)(6);(b)(7)(C) would not provide the OIG with any information regarding the nature of the legal matter, citing attorney-client privilege, but she stated that she helped (b)(6);(b)(7)(C) draft a letter. (b)(6);(b)(7)(C) also said (b)(6);(b)(7)(C) paid her for the personal legal work she performed which (b)(6);(b)(7)(C) had asked her to undertake, but did not disclose the amount she was paid.

**[AGENT'S NOTE:** Absent (b)(6);(b)(7)(C) cooperation related to her payment from (b)(6);(b)(7)(C) such as disclosing the amount paid and other details—the OIG was unable to determine whether she should have claimed this payment as income on her OGE Form 450.]

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[redacted] said [redacted] asked her to perform the legal work, but she did not feel pressured by [redacted] to provide assistance, and said she would not have performed the work if she was not comfortable with it. However, she stated that because [redacted] was her supervisor, it was a "fine line" if something went wrong involving the matter. [redacted] stated that as a result of the personal legal work she performed for [redacted] she did not receive preferential treatment, bonuses, or awards. Further, [redacted] SEC. (EXHIBIT 5)

**Allegation Related to Real Estate Purchase and [redacted] Preferential Treatment of [redacted]**

**Document Reviews**

*E-mail*

In an e-mail [redacted] sent to the OIG, he stated that on [redacted] 2011, he and [redacted] purchased [redacted] from [redacted] also said that he and [redacted] paid [redacted] as the gross sales price and [redacted] in settlement charges, for a total of [redacted] (EXHIBIT 13)

*Property Records*

The OIG reviewed the property deed, settlement statement, lien release, and borrower's agreement for [redacted] and determined that [redacted] purchased this property for [redacted] from [redacted] 2011. The OIG confirmed through documents from the [redacted] (EXHIBITS 14 – 16)

**[AGENT'S NOTE:** [redacted] did not report directly to [redacted] at the time the property was purchased by [redacted] (EXHIBIT 3)]

*eOPF*

An OIG review of [redacted] eOPF for the period [redacted] 2011, when [redacted] purchased the property from [redacted] to [redacted] 2015, revealed [redacted] received awards, bonuses, and promotions, as shown in Table 2. (EXHIBITS 3, 17 – 19)

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*Table 2: Awards, Bonuses, and Promotions from (b)(6);(b)(7)(C) 2011 to (b)(6);(b)(7)(C) 2015*

| Date | Action |
|---|---|
| (b)(6);(b)(7)(C) | (b)(6);(b)(7)(C) individual cash award |
| | (b)(6);(b)(7)(C) individual cash award |
| | (b)(6);(b)(7)(C) time off award |
| | (b)(6);(b)(7)(C) time off award |
| | (b)(6);(b)(7)(C) |
| | (b)(6);(b)(7)(C) time off award |
| | (b)(6);(b)(7)(C) individual cash award |
| | individual cash award |
| | (b)(6);(b)(7)(C) |
| | (b)(6);(b)(7)(C) lump sum performance payment |
| | (b)(6);(b)(7)(C) individual cash award |
| | lump sum performance payment |
| | individual cash award |
| | individual cash award |
| | (b)(6);(b)(7)(C) |
| | (b)(6);(b)(7)(C) individual cash award |

*Source: Table created based on Standard Forms-50 in eOPF.*

**[AGENT'S NOTE:** (b)(6);(b)(7)(C) has served as (b)(6);(b)(7)(C) immediate supervisor since (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) As noted above, the OHR informed the OIG that it did not maintain information regarding the recommending official for employee awards and bonuses before 2014. As a result, information regarding the recommending official for (b)(6);(b)(7)(C) awards and bonuses was only available for his awards beginning in (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) The OHR did not have records for the award (b)(6);(b)(7)(C) received in (b)(6);(b)(7)(C) 2015.]

**Interviews**

(b)(6);(b)(7)(C)

During an interview with the OIG, (b)(6);(b)(7)(C) stated she owned (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) that went into short sale and, in approximately (b)(6);(b)(7)(C) it was sold to (b)(6);(b)(7)(C) According to (b)(6);(b)(7)(C) overheard a lunchroom discussion in which she was discussing her need to sell the property and he later approached her inquiring about it. (b)(6);(b)(7)(C) said she provided (b)(6);(b)(7)(C) with the contact information for her real estate agent and had no further discussions with him about the property. In reference to the transaction, (b)(6);(b)(7)(C) stated:

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> "I was still the owner, but the bank made all the decisions. So, they [redacted] and his real estate agent] worked directly with the bank. So, whatever offer was made or any of that was with the bank. And so, once the bank made the agreement, I just had to sign off on the final thing. But I had no involvement with the negotiations with the bank at all."

[redacted] also said [redacted] made no profit from the property sale and they paid [redacted] settlement costs in excess of [redacted] stated, [redacted] did not directly report to me at the time." [redacted] said [redacted] did not receive any preferential treatment to include any bonuses, promotion, or awards as a result of purchasing the property from her. (EXHIBITS 2 and 12)

With respect to alleged preferential treatment, [redacted] said [redacted] bonuses, promotions, and awards were all based on the merit of his work and she stated, "I think I've done a really good job of detailing in his performance ratings, what that – those work accomplishments have been." [redacted] also said the documentation of [redacted] performance "goes in to extensive detail on his accomplishments in his management roles, as well as the projects that he managed effectively." (EXHIBIT 2)

With respect to [redacted] overlooking [redacted] project failures [redacted] stated that [redacted] worked on special projects and "performs very well" and was "one of the [OIT's] [redacted] [redacted] said the [redacted] project was "launched successfully" and "it would not be a true statement" to say the project failed or that she allowed the project to fail as alleged. She stated, "I put a lot of skin in the game to make sure that that didn't fail." She stated:

> "The [redacted] project managed by [redacted] was deployed to over 6000 workstations with little to no impact to the users. We still use [redacted] at the SEC today. When deployed, [redacted]

[redacted] also said [redacted] helped coordinate the OIT's [redacted] She stated it was a successful project, and added:

> [redacted] also worked with me to establish [redacted] As a result of the [redacted] team received the highest [C]ommission award The Chairman's Award for Excellence for the project." (EXHIBITS 2 and 12)

With respect to the alleged loan between [redacted] and [redacted] stated she never requested or received a loan from [redacted] (EXHIBIT 2)

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(b)(6);(b)(7)(C)

During an interview with the OIG, (b)(6);(b)(7)(C) stated he overheard (b)(6);(b)(7)(C) in the lunchroom discussing a property that she owned that was for sale and he asked her to provide the contact information for the real estate agent who had listed it. (b)(6);(b)(7)(C) stated that after he acquired the real estate agent's name, he dealt directly with them and he did not discuss or negotiate any terms of the sale directly with (b)(6);(b)(7)(C) also stated that he and (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) purchasing (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) was not an attempt to conceal the fact that he purchased the property from (b)(6);(b)(7)(C) Furthermore, he stated (b)(6);(b)(7)(C) did not ask him to purchase the property and he felt no pressure to do so. (b)(6);(b)(7)(C) said that he did not receive any preferential treatment from (b)(6);(b)(7)(C) as a result of his purchase of the property from her. (EXHIBITS 7, 13 and 14)

With respect to alleged preferential treatment, (b)(6);(b)(7)(C) said, "I have received all the good comments and some awards because I was able to perform and I was able to show her (b)(6);(b)(7)(C) that I can go beyond my duties to finish my job." He said all of his promotions and awards were based on merit, and stated, "It's completely my performance and my work product, honestly."

With respect to (b)(6);(b)(7)(C) overlooking (b)(6);(b)(7)(C) project failures, (b)(6);(b)(7)(C) stated the (b)(6);(b)(7)(C) project was "a major undertaking" in which the OIT was responsible for (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) He stated he led this project and "took it 75 percent to completion." He stated he had to hand the project over to two other OIT employees to complete (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) stated the (b)(6);(b)(7)(C) "was successful." He stated it was "very hectic. It was a last-minute thing, and I did my best." (b)(6);(b)(7)(C) stated (b)(6);(b)(7)(C) asked him to help with the project, but he was not responsible for leading it.

With respect to the alleged loan between (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) denied that he ever provided a loan to (b)(6);(b)(7)(C) (EXHIBIT 7)

**Allegations Related to (b)(6);(b)(7)(C) Time and Attendance**

**Document Reviews**

*Time and Attendance and SEC Badge Access Records*

The OIG reviewed (b)(6);(b)(7)(C) time and attendance records dated between May 12, 2015 (Pay Period 2015-11) and April 2, 2016 (Pay Period 2016-8). The review revealed that he claimed 1,497 regular hours and 108 telework hours, for a total of 1,872 hours. For each pay period

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reviewed, (b)(6);(b)(7)(C) worked a "standard schedule," meaning he was scheduled to work eight hours per day. For all of the pay periods reviewed, (b)(6);(b)(7)(C) certified (b)(6);(b)(7)(C) time and attendance.

**[AGENT'S NOTE**: The SEC core hours, which are the hours all full-time employees are required to be at work unless on approved leave, are from 10:00 a.m. to 3:00 p.m. However, (b)(6);(b)(7)(C) required (b)(6);(b)(7)(C) to work until 7:30 p.m. to satisfy her commitment to the Commissioners for IT staff coverage.]

(b)(6);(b)(7)(C) SEC Headquarters badge access (in/out) activity was also reviewed for the same timeframe (May 2015 to April 2016). The access logs revealed that (b)(6);(b)(7)(C) was in the SEC building a total of 1,140 hours and 38 minutes, which was 356 hours and 20 minutes less than the 1,497 hours he had claimed in WebTA, the SEC's time and attendance system.

(b)(6);(b)(7)(C) SEC Headquarters badge access records also revealed that he left the building before 7:30 p.m., his scheduled departure time, on 159 of the 170 days (94 percent) in which he was in the office. The building access logs show that the difference between his arrival time and departure time was less than 8 hours on 133 of these 159 days (84 percent).

In addition, for 169 of the 171 days (99 percent) (b)(6);(b)(7)(C) was in the office, he arrived later than 10:00 a.m., which starts the core hours in which employees are required to be at work. (EXHIBITS 20 and 21)

(b)(6);(b)(7)(C) *E-mails*

The OIG analyzed (b)(6);(b)(7)(C) SEC e-mails in connection with his time and attendance and his SEC Headquarters badge access records and subtracted those hours in which he was teleworking, traveling, or in which the office was closed. In addition, during an interview with the OIG, (b)(6);(b)(7)(C) provided additional documentation regarding time spent on official travel or teleworking. Based on an analysis of the e-mails and information obtained during the interview, the OIG was able to document 169 hours of the 356 hours and 20 minutes of (b)(6);(b)(7)(C) time that appeared to be short (per his time and attendance records). However, the OIG was unable to verify a total of 187 hours and 20 minutes of the time (b)(6);(b)(7)(C) claimed and was required to be in the office, as shown in Table 3 below. (EXHIBITS 11, 20 and 21)

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*Table 3: (b)(6);(b)(7)(C) Net Deficit Hours*

| **Net Hours in Office Less Than Shown on Badge Access Records** | **(356:20)** |
|---|---|
| Hours on Business-Related Travel (per e-mail review and Sharma interview) | 80:00 |
| Hours Teleworking (per e-mail review and Sharma interview) | 53:00 |
| Office Closures (per e-mail review) | 16:00 |
| Early Dismissal/Late Arrival (per e-mail review) | 12:00 |
| Incomplete Badge Data | 8:00 |
| **Net Deficit Hours** | **(187:20)** |

*Source: Figures based on information obtained from (b)(6);(b)(7) Time and Attendance Records, Badge Access Records, e-mail review, and OIG interview.*

## Interviews

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) told the OIG that his typical work schedule is 10:00 a.m. to 6:00 p.m., but stated there was a "little weakness there." (b)(6);(b)(7)(C) stated that he runs late, is "not right on time," and his arrival time "[p]ushes towards 11:00." He said when this occurs, he informs (b)(6);(b)(7)(C) that he is running late. (b)(6);(b)(7)(C) stated there is "[n]o question" that he works the required eight hours per day and stated, "I'm normally here until 7:00, 7:30, yeah. I make up my hours."

(b)(6);(b)(7)(C) also said, "I'm always engaged. I'm on BlackBerry. I put lots of hours, honestly, and lot of time…." He said, in general, that he tried to cover the hours he was required to work through an informal tracking process and he would "mentally note" if he needed to stay late to cover his hours, and further stated,

> "…if somebody's claiming that I'm not doing my – and my job performance, never is impacted because I'm engaged….And I'm not going to lie about it. If it's my 10:00, I'm, lot of time, not here exactly at 10:00. I'm very honest about it….And if that's going to be a disciplinary action, I'm ready to take it. It's a mistake I made, yes." (EXHIBITS 5 and 13)

(b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) told the OIG that (b)(6);(b)(7)(C) comes in "later." She stated that "he's supposed to be here at 10:30. He usually gets here somewhere between 10:30 and 11:00," and that "there are days he gets here at 10:30; there's days he's running late, you know." She stated (b)(6);(b)(7)(C) "should be definitely here until 7:30 [p.m.]." According to (b)(6);(b)(7)(C)

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> "I actually have a commitment with the [C]ommissioners that we will have people here until – up until 7:30. [Commissioner] Piwowar specifically has asked for that. Contractors can't go to the [C]ommissioners' sites – offices without being escorted. So, OSO [Office of Support Operations] has given (b)(6);(b)(7)(C) and myself [sic] access to the [C]ommissioners' suites to support them. The other thing is, we also support the 11 regions. And so, it's 8:00 at night here when it's 5:00 there….So, there's been times when issues have come up with the regions that he can run down. I'm honestly here, like, 10 or 11 hours a day. And so, about 6:30, 6:00, 6:30, I leave. He's always here after I leave, so he is here late."

(b)(6);(b)(7)(C) said that she has discussed with (b)(6);(b)(7)(C) his lack of adhering to his proper scheduled time and he "always receives the criticism and coaching." She stated, "like, with a lot of people you'll see a pattern of it gets better and then maybe it slips a little bit." She also stated that because she leaves the office before (b)(6);(b)(7)(C) "I have to trust that he's putting in his time."

She stated, "it's not impacting his ability to produce. But…I've said to him before, 'You need to make sure you're conforming to whatever is in the book.'" (b)(6);(b)(7)(C) stated (b)(6);(b)(7)(C) has worked this schedule since prior to her employment with the SEC and said she thought the SEC core hours started at 10:30 a.m. (EXHIBIT 2)

**Allegation Related to (b)(6);(b)(7)(C) Inappropriately Allowing the (b)(6);(b)(7)(C) Team to Telework**

**Interviews**

The OIG interviewed the OIT staff responsible for the SEC's (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) Each one stated the (b)(6);(b)(7)(C) Team frequently teleworked, but the allegations of the team's employees inappropriately teleworking were untrue. (b)(6);(b)(7)(C) explained that the team's employees answered (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) Additionally, (b)(6);(b)(7)(C) stated the team's employees had enough work to fill their day and the team's jobs were conducive to teleworking. (b)(6);(b)(7)(C) said she had no involvement with directly supervising the team's employees or approving their schedules. (EXHIBITS 2, 8 and 9)

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**Allegation Related to (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) Had an Inappropriate Personal Relationship**

Both (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) denied that they have or had an inappropriate personal relationship. During an interview with the OIG, (b)(6);(b)(7)(C) stated she and (b)(6);(b)(7)(C) have a "friendship" and "do talk outside of the office about various things," but stated she would not call it a "personal relationship." She stated they do not see each other outside of work and she has "no inappropriate relationship" with (b)(6);(b)(7)(C) stated, "We are professional. She is my manager." He stated he goes to lunch with (b)(6);(b)(7)(C) but does not socialize with her outside of work. (EXHIBITS 2 and 5)

No other information came to the OIG's attention that would contradict the statements from (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C)

**Referral for Prosecution Consideration**

The facts and evidence developed during this investigation were referred to the U.S. Attorney's Office for the District of Columbia for consideration of prosecution; however, the matter was declined. (EXHIBIT 22)

**Distribution**

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**Signatures**

(b)(6);(b)(7)(C)

5/10/18
Date

(b)(6);(b)(7)(C)

5/10/18
Date

**Approved:**

John R. Hartman, Deputy Inspector General
for Investigations

5/10/18
Date

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**Exhibits**

1. Predicating Information, dated November 14, 2013; March 4, 2014; March 10, 2014; and February 22, 2016.
2. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated August 25, 2016.
3. Memorandum of Activity, Records Obtained and Reviewed, dated February 13, 2018.
4. Memorandum of Activity, Records Review, dated January 9, 2018.
5. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated July 19, 2016.
6. Memorandum of Activity, Records Obtained and Reviewed, dated May 10, 2018.
7. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated August 25, 2016.
8. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT, dated March 16, 2016.
9. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT, dated March 18, 2016.
10. Memorandum of Activity, Records/Information Obtained and Reviewed, dated March 19, 2018.
11. Memorandum of Activity, Form 450 Review, dated January 24, 2017.
12. Memorandum of Activity, Records Obtained, dated September 19, 2016.
13. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated August 26, 2016, and September 12, 2016.
14. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated September 27, 2017
15. Memorandum of Activity, Interview of (b)(6);(b)(7)(C) OIT, dated October 2, 2017.

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16. Memorandum of Activity, Records Obtained, dated September 20, 2017.

17. Memorandum of Activity, eOPF Review, dated December 1, 2015.

18. Memorandum of Activity, eOPF Review, dated October 11, 2017.

19. Memorandum of Activity, Records Review, dated January 4, 2018.

20. Memorandum of Activity, Badge Access and Time and Attendance Analysis, dated December 9, 2015.

21. Memorandum of Activity, Badge Access and Time and Attendance Analysis, dated July 18, 2016.

22. Memorandum of Activity, Judicial Declination, dated August 19, 2016.

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# ABBREVIATED

# REPORT OF INVESTIGATION

# CASE# 16-OIT-0366-I

Office of Inspector General

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U.S. Securities and Exchange Commission

U.S. Securities and Exchange Commission
Office of Inspector General

# Abbreviated Report of Investigation

**Subject:** (b)(6);(b)(7)(C)
**Title:**

**SK-Level/Grade:** (b)(6);(b)(7)(C)
**Office:** Office of Information Technology
**Region:** Washington, D.C.

**Case #:** 16-OIT-0366-I

**Origin:** Office of Human Resources

**Security Clearance:** Y ☐ / N ☒

**Investigation Initiated:** May 9, 2016

**Investigation Completed:** MAR 0 1 2018

## OVERVIEW

This report summarizes the results of an investigation conducted by the U.S. Securities and Exchange Commission's (SEC) Office of Inspector General (OIG) into allegations involving (b)(6);(b)(7)(C) Office of Information Technology (OIT). Specifically, it was alleged that while (b)(6);(b)(7)(C) served as the chair of a technical evaluation panel for a task order under SEC contract number (b)(6);(b)(7)(C) she exerted significant influence over other panel members to recommend (b)(6);(b)(7)(C) for the award. It was also alleged (b)(6);(b)(7)(C) had a conflict of interest because she had worked previously with two of (b)(6);(b)(7)(C) senior managers while they were employed together at another company.

During the investigation, the OIG received an additional allegation that (b)(6);(b)(7)(C) manipulated the results of a separate evaluation of a (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) tool used by the OIT, which resulted in the OIT's selection of a product named (b)(6);(b)(7)(C) (EXHIBIT 1)

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## BACKGROUND

(b)(6);(b)(7)(C)

Since (b)(6);(b)(7)(C) has been employed by the SEC as a (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) From (b)(6);(b)(7)(C) to (b)(6);(b)(7)(C) served as a (b)(6);(b)(7)(C) for OIT's (b)(6);(b)(7)(C) In (b)(6);(b)(7)(C) 2016, (b)(6);(b)(7)(C) was reassigned to the OIT (b)(6);(b)(7)(C) Branch, where she (b)(6);(b)(7)(C) however, she (b)(6);(b)(7)(C) (EXHIBITS 2 and 3)

*OIT (b)(6);(b)(7)(C) Tool Replacement*

In (b)(6);(b)(7)(C), the SEC OIT decided to procure a tool to replace (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) tool used by the OIT at the time. According to information collected during the investigation (b)(6);(b)(7)(C) was the OIT's system (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) It was being replaced because (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT, assigned the task of finding the replacement product to (b)(6);(b)(7)(C) then assigned her staff to evaluate (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) as possible replacements for (b)(6);(b)(7)(C) staff included (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) (referred to collectively as the (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) (EXHIBITS 4 - 9)

*OIT (b)(6);(b)(7)(C)*

Separately, in (b)(6);(b)(7)(C) the SEC issued a solicitation for a multi-award Indefinite-Delivery, Indefinite-Quantity (IDIQ) contract for OIT (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) The intended purpose of the contract was to (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) contracts to be consolidated under one vehicle. The IDIQ contract (Contract number (b)(6);(b)(7)(C) was awarded in (b)(6);(b)(7)(C) to (b)(6);(b)(7)(C) vendors, one of which was (b)(6);(b)(7)(C) After the IDIQ contract was awarded, individual task orders were issued under it and each of the nine vendors had an opportunity to bid on each of the task orders.

SEC contract (b)(6);(b)(7)(C) also known as Task Order #1) under the IDIQ contract was solicited for OIT (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) to develop (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) vendors of the original eligible (b)(6);(b)(7)(C) vendors, including (b)(6);(b)(7)(C) submitted proposals for Task Order #1. In response to the solicitation, the OIT formed a panel to evaluate the proposals received for (b)(6);(b)(7)(C) The panel consisted of (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) OIT; and (b)(6);(b)(7)(C) OIT. (b)(6);(b)(7)(C) served as the Chair of the panel. The panel was responsible for determining evaluation criteria for Task Order #1, reviewing the proposals submitted, and recommending a vendor. (b)(6);(b)(7)(C) served as

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the awarding contracting officer and, as the result of the recommendation from the panel, he awarded Task Order #1 to (b)(6);(b)(7)(C) (EXHIBITS 4, 5, 10, and 11)

## INVESTIGATIVE FINDINGS

In summary, with respect to the original allegation regarding the selection of (b)(6);(b)(7)(C) the OIG investigation did not identify evidence (b)(6);(b)(7)(C) improperly exerted significant influence over the members of the panel during the selection process. While (b)(6);(b)(7)(C) served as the chair of the panel for the task order awarded to (b)(6);(b)(7)(C) the other panel members signed a consensus memorandum which indicated their unanimous recommendation of (b)(6);(b)(7)(C) The other panel members did not identify any specific actions by (b)(6);(b)(7)(C) that constituted pressure or influence on them to recommend (b)(6);(b)(7)(C) for the award. Additionally, each member of the panel was afforded an opportunity to provide their input on the consensus memorandum which supported the recommendation of (b)(6);(b)(7)(C) and one of the panel members provided refinements to the memorandum which were incorporated into the panel's final recommendation.

The investigation confirmed that (b)(6);(b)(7)(C) had worked previously with two of (b)(6);(b)(7)(C) senior managers at another company. However, the investigation did not find that (b)(6);(b)(7)(C) received or is receiving any financial benefit while employed at the SEC as the result of (b)(6);(b)(7)(C) selection or her previous working relationships with employees of (b)(6);(b)(7)(C)

Finally, with respect to the allegation about the (b)(6);(b)(7)(C) replacement, the OIG investigation did not identify evidence that (b)(6);(b)(7)(C) manipulated the results of the evaluation relating to (b)(6);(b)(7)(C)

### Allegations Related to the (b)(6);(b)(7)(C) Task Order

(b)(6);(b)(7)(C) *Exerted Significant Influence for the (b)(6);(b)(7)(C) Recommendation*

The OIG reviewed documents related to the technical evaluation panel and found that on (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) signed a consensus memorandum which recommended the award of the task order to (b)(6);(b)(7)(C) The memorandum included a narrative of the strengths and weaknesses of each proposal they reviewed and stated that the panel "unanimously concurs that (b)(6);(b)(7)(C) clearly provided the most superior proposal." The OIG learned that (b)(6);(b)(7)(C) offered both (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) an opportunity to provide comments about the consensus memorandum. (b)(6);(b)(7)(C) provided comments that included the addition of strengths relating to the technical abilities for three of the proposals. (b)(6);(b)(7)(C) made revisions to the memorandum based on (b)(6);(b)(7)(C) input. (b)(6);(b)(7)(C) did not provide any comments. (EXHIBITS 1, 6, and 12)

(b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) informed the OIG that (b)(6);(b)(7)(C) was qualified for the project, but was not their first choice. They stated that they signed the consensus memorandum recommending (b)(6);(b)(7)(C) primarily because (b)(6);(b)(7)(C) was their supervisor and she stated she preferred (b)(6);(b)(7)(C) They stated they agreed to the selection of (b)(6);(b)(7)(C) because they "got tired" of the panel discussions and "didn't want tension" with (b)(6);(b)(7)(C) Neither (b)(6);(b)(7)(C) nor (b)(6);(b)(7)(C) identified any specific actions by (b)(6);(b)(7)(C) that constituted pressure or influence on them to recommend (b)(6);(b)(7)(C) for the award, and both stated

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(b)(6);(b)(7)(C) did not use her position as a branch chief to "threaten" or "force" them to select (b)(6);(b)(7)(C) When interviewed by the OIG, (b)(6);(b)(7)(C) stated she did not force or otherwise exert influence over (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) to sign the consensus memorandum or to recommend (b)(6);(b)(7)(C) for the award. (EXHIBITS 3 – 5)

(b)(6);(b)(7)(C) *Conflict of Interest Relating to Previous Work Relationships*

The OIG reviewed Certificates of Non-Disclosure and Financial Interest which (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) each signed stating neither they nor any member of their immediate family had a direct or indirect interest in any firm that submitted a response to the proposal which included (b)(6);(b)(7)(C) The OIG interviewed (b)(6);(b)(7)(C) who confirmed that she had previously worked with (b)(6);(b)(7)(C), and (b)(6);(b)(7)(C) who also worked for (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) worked together in the (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) stated neither (b)(6);(b)(7)(C) nor (b)(6);(b)(7)(C) hired her or served as her direct supervisor during the time they worked at (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) During her interview with the OIG, (b)(6);(b)(7)(C) stated she maintained a primarily professional relationship with (b)(6);(b)(7)(C) after she left (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) but socialized with him and his family on occasion. She stated she neither had a financial interest in (b)(6);(b)(7)(C) nor did she receive anything of value as a result of (b)(6);(b)(7)(C) award for Task Order #1. (EXHIBITS 3 and 11)

**Allegation Related to the (b)(6);(b)(7)(C) Selection**

Through the review of documents and interviews, the OIG learned that the (b)(6);(b)(7)(C) developed a requirements list for the (b)(6);(b)(7)(C) tool replacement for (b)(6);(b)(7)(C) and, per (b)(6);(b)(7)(C) instruction, analyzed and evaluated (b)(6);(b)(7)(C) and (b)(6);(b)(7)(C) based on these requirements. (b)(6);(b)(7)(C) was also evaluated for comparison based on the same requirements. The (b)(6);(b)(7)(C) attended product demonstrations and each member prepared an individual evaluation that included a list of pros and cons for each product. Based on the evaluations, the (b)(6);(b)(7)(C) recommended (b)(6);(b)(7)(C) over (b)(6);(b)(7)(C) then consolidated these evaluations into a single evaluation that reflected the individual (b)(6);(b)(7)(C) member evaluations. He sent this consolidated evaluation to (b)(6);(b)(7)(C) on (b)(6);(b)(7)(C)

During interviews with the OIG, members of the (b)(6);(b)(7)(C) stated that (b)(6);(b)(7)(C) told them she preferred (b)(6);(b)(7)(C) but they did not know why. In his interview with the OIG, (b)(6);(b)(7)(C) stated (b)(6);(b)(7)(C) previously used (b)(6);(b)(7)(C) and was more familiar with it. However, when interviewed by the OIG (b)(6);(b)(7)(C) could not recall which product she preferred, but stated that (b)(6);(b)(7)(C) was known to her as "the government standard" for (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) was not the deciding official for the selection, but rather was tasked by Jeffrey Stagnitti to Associate Director, OIT, to make a product recommendation. (EXHIBITS 3 – 5, 7, 8, 10, 12, and 13)

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In (b)(6),(b)(7)(C) met with Pamela Dyson, Director/Chief Information Officer, OIT, and Stagnitti to discuss the replacement for (b)(6),(b)(7)(C) informed the OIG that she did not recommend or select (b)(6),(b)(7)(C) but rather Dyson and Stagnitti chose (b)(6),(b)(7)(C) During an interview with the OIG, Stagnitti confirmed (b)(6),(b)(7)(C) did not make a recommendation or express a preference for either product but instead told Stagnitti that the decision on which product would meet OIT's needs was his and Dyson's to make. Stagnitti stated that prior to Dyson and him selecting (b)(6),(b)(7)(C) three members of (b)(6),(b)(7)(C) branch informed him (b)(5) (b)(6),(b)(7)(C) over (b)(6),(b)(7)(C) He stated that (b)(5) he and Dyson selected (b)(6),(b)(7)(C) He stated they selected it (b)(5) (b)(5) (b)(6),(b)(7)(C) was procured through an interagency agreement with the U.S. General Services Administration. (EXHIBITS 3, 9, 11, 12, and 14)

## Coordination with the U.S. Attorney's Office

The facts and evidence discovered during this investigation were presented to the U.S. Attorney's Office for District of Columbia; however, the matter was declined for prosecution. (EXHIBIT 15)

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Pamela Dyson, Director/Chief Information Officer, Office of Information Technology

## Signatures

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

2/28/18
Date

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

2/28/18
Date

**Approved:**

2/28/18
Date

John R. Hartman, Assistant Inspector General
for Investigations

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**Exhibits**

1. Predicating Document, Intake E-mail, dated March 21, 2016.
2. Memorandum of Activity, Records/Information Review, dated January 10, 2018.
3. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated December 11, 2017.
4. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated April 26, 2017.
5. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated May 16, 2017.
6. Memorandum of Activity, Document Receipt and Review, dated May 16, 2017.
7. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated May 25, 2017.
8. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated May 25, 2017.
9. Memorandum of Activity, regarding the interview of Stagnitti, dated January 23, 2018
10. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) dated July 12, 2017.
11. Memorandum of Activity, Records Obtained, dated October 23, 2017.
12. Memorandum of Activity, Records Review, dated October 4, 2017.
13. Memorandum of Activity, regarding the interview of (b)(6);(b)(7)(C) ated July 25, 2016.
14. Memorandum of Activity, Document Receipt and Review, dated June 6, 2017.
15. Memorandum of Activity, Judicial - Declined, dated December 4, 2017.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

OFFICE OF
INSPECTOR GENERAL

# MEMORANDUM

JAN 1 1 2018

TO: FILE

FROM: (b)(6),(b)(7)(C)
Office of Investigations (b)(6),(b)(7)(C)

THROUGH: (b)(6),(b)(7)(C)
Office of Investigations

SUBJECT: Case No. 18-OIT-0031-I
Unknown Subject
Nonpublic EDGAR Information Leak

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The purpose of this memorandum is to document the Office of Inspector General's (OIG) investigative activities and to recommend case closure.

On October 10, 2017, the OIG received a referral from the U.S. Securities and Exchange Commission's (SEC) Office of Information Technology (OIT) regarding an allegation of a potential leak of nonpublic information to the media. Specifically, it was alleged that the exact language from an internal SEC e-mail regarding a technical defect in a pilot project in the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system was quoted in an October 6, 2017, Reuters article. The Reuters article reported that the source of the nonpublic information came from an internal memorandum dated September 22, 2017, which was the date of the internal SEC e-mail referencing the defect.

The OIG initiated an investigation regarding the potential leak. According to the OIT, while OIT was testing a new filing in EDGAR in September 2017, an information technology program manager (PM) discovered what appeared to be a technical defect that he believed, at the time, may have posed a denial of service (DOS) vulnerability to the EDGAR system.

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During this investigation, the OIG learned that companies that submit filings to EDGAR access the system through (b)(7)(E)
(b)(7)(E)

**[AGENT'S NOTE:** In September 2017, the OIG completed an audit related to EDGAR and published a report entitled, *Audit of the SEC's Progress in Enhancing and Redesigning the Electronic Data Gathering, Analysis, and Retrieval System, Report No.* 544.]

After the Reuters article was published, the PM and IT specialist discovered through coordination with other OIT staff that the filing (b)(7)(E)
(b)(7)(E)

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The OIG identified three SEC employees who were involved in addressing the potential technical defect that was disclosed in the Reuters article. Those employees' SEC e-mails, phone, and mobile device records were reviewed and revealed that none of the employees had contact with the authors of the article or Reuters. The OIG interviewed the three employees and each one denied disclosing nonpublic information to the authors of the article or Reuters. Additionally, during interviews with the OIG, the OIT staff involved with the matter stated that (b)(7)(E) (b)(7)(E)

In conclusion, the investigation found no evidence that any of the three SEC employees disclosed nonpublic information to the media in connection with the Reuters article about a possible DOS vulnerability in the SEC's EDGAR system. Further, it was determined that (b)(7)(E) (b)(7)(E) Based on these factors, a report to management is not warranted and administratively closing this case is recommended. If approved, OIT will be notified of the closure.

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

1/10/18
Date

Approved:

John R. Hartman, Assistant Inspector General
for Investigations

1/10/18
Date

Office of Information Technology Notified: (b)(6),(b)(7)(C)
By (Initials)

Pam Dyson via email
Person Notified

1/11/18
Date

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

OFFICE OF
INSPECTOR GENERAL

# MEMORANDUM

**September 13, 2019**

TO: FILE (b)(6);(b)(7)(C)

FROM: (b)(6);(b)(7)(C)
Office of Investigations

THROUGH: (b)(6);(b)(7)(C)
Office of Investigations

SUBJECT: Case No.19-OIT-0304-I
Potential Exposure of SEC Nonpublic Information
Office of Information Technology

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The purpose of this memorandum is to document the Office of Inspector General's (OIG) investigative activities and to recommend case closure.

On January 29, 2019, Andrew Krug, SEC Chief information Security Officer (CISO), Office of Information Technology (OIT) provided information to the OIG relating to an Oklahoma Department of Securities (ODS) data breach. According to Krug, ODS notified the SEC that a server involved in the breach contained SEC data. The ODS stated that among the documents accessed were two sets of documents that had been provided by SEC Litigation Support during 2018, potentially encompassing thousands of documents that may contain personally identifiable information (PII) of investors. The breach occurred as a result of a misconfiguration that allowed for public access to the documents from November 20, 2018 to December 7, 2018.

According to Krug, news of the breach became public when UpGuard Inc. (UpGuard), a cyber security company, released an online article titled *Out of Commission: How the Oklahoma Department of Securities Leaked Millions of Files*. The article was published on January 16, 2019, and detailed how

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UpGuard accessed the ODS servers which were misconfigured with publically accessible Internet connections. The article provided a detailed description of the types of data found on the exposed servers. The SEC was not specifically mentioned in UpGuard's report. On the same day, the financial periodical Forbes released an online article titled *Massive Oklahoma Government Data Leak Exposes 7 Years of FBI Investigations.* The Forbes article reiterated the UpGuard findings, but also did not mention the SEC specifically.

On January 31, 2019, Krug informed the OIG that a privacy assessment had been initiated and that no SEC data was confirmed to be exposed at that time. Krug informed the OIG that there was insufficient information to warrant convening the Privacy Incident Response Team (PIRT). Krug also stated that his office and the Division of Enforcement (ENF) would continue to collect information and assess the possibility of compromised SEC data.

On February 20, 2019, the OIG opened this matter as a Preliminary Inquiry. This action was taken based on information from Krug that the SEC Privacy Office was continuing to evaluate information provided by ENF concerning the scope of case data potentially exposed. Krug's office contacted representatives of ODS who were reviewing network and server logs to determine potential exposure beyond what had already been identified. The ODS also reported the involvement of the Federal Bureau of Investigation (FBI) as a result of FBI data potentially compromised by the exposure.

(b)(6);(b)(7)(C)

Additional information became available on March 14, 2019, when Krug informed OIG that file identifiers provided from the exposed files to ENF matched markers in the SEC's "Woodbridge" case. Later de-duplication efforts revealed approximately 12,000 social security numbers (SSNs) and associated names potentially exposed, which included a single document that contained approximately 3,000 SSNs and/or employee identification numbers (EINs). In addition, there were approximately 30,000 documents without SSNs that may contain financial information.

On May 8, 2019, the OIG spoke with (b)(6);(b)(7)(C) the FBI Oklahoma City Field Office. (b)(6);(b)(7)(C) related that the FBI is not actively investigating this matter as a criminal incident. According to (b)(6);(b)(7)(C) discussions with the Oklahoma City United States Attorney's Office indicate that prosecution is "neither warranted nor viable" with respect to UpGuard. (b)(6);(b)(7)(C) further indicated that there was no evidence that data accessed by UpGuard was ever disseminated further. This matter remains part of the FBI's "Continuous Assessment" program for computer intrusion activity in general.

On August 9, 2019, Krug reported that the ODS analysis was essentially completed. As a result of logging issues, the ODS indicated that they may never know whether their data was exposed beyond the apparent access on the part of UpGuard. As a result, the ODS relayed their intent to begin notifying approximately 300,000 individuals of potential PII exposure. The ODS has advised the SEC that 12,733

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notifications resulted from 12,934 records related to SEC data. The majority of the records pertained to the SEC's Woodbridge matter. The ODS indicated they will conduct the notifications and provide credit monitoring in accordance with applicable state laws, as there are some variations - the affected individuals reside in all 50 United States and Canada. According to Krug, the PIRT will not be convened and ENF has a complete list of all the names related to SEC data.

In conclusion, the information collected by the OIG in response to this incident did not find evidence that warrant criminal investigation by the OIG. SEC management was aware of the incident and actively worked with the ODS to resolve the matter. Accordingly, a report to management is not warranted and administratively closing this case is recommended. If approved, the office of the CISO will be notified of the closure.

Concurrence:

(b)(6);(b)(7)(C) [redacted]

9-13-2019
Date

Approved:

9/13/19
Date

Nicholas Padilla, Jr., Deputy Inspector General
for Investigations

OIT Notified: (b)(6);(b)(7)(C) [redacted] CISO Andrew Krug 9-13-2019
By (Initials) Person Notified Date

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