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Description of document: Copies of Federal Election Commission (FEC) Inspector General (OIG) investigations closed during CY 2021 and CY 2022

Requested date: 15-January-2023

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Source of document: FOIA Request
Federal Election Commission
Inspector General
Attn: FOIA Requester Service Center
1050 First Street, NE
Washington, DC 20463
Fax: 202-219-1043
Email: FOIA@fec.gov

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From: Katrina Sutphin <ksutphin@fec.gov>
Sent: Tue, Feb 21, 2023 5:25 pm
Subject: Re: Your Freedom of Information Act Request to the Federal Election Commission FOIA [2023-026]

VIA ELECTRONIC MAIL

Re: Your Freedom of Information Act Request to the Federal Election Commission FOIA [2023-026]

This email is in response to the request you filed for information under the Freedom of Information Act (FOIA) dated and received by the Federal Election Commission's (FEC) FOIA Requester Service Center on January 15, 2023. Specifically, you requested: "A copy of the investigation report for each FEC OIG investigation closed during CY 2021 and CY 2022."

After discussing the scope of your FOIA request with me on January 31, 2023, you agreed to narrow the scope to include only 2022 investigations.

We have searched our records and have located 11 pages of responsive documents, which we are releasing to you with redaction B(7)(C). Please note that our response to your request does not include documents or publications publicly available on our website or compilations of publicly available news articles.

Exemption 7(C) protects from disclosure records or information compiled for law enforcement purposes that if released could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C § 552(b)(7)(C).

Accordingly, your FOIA request has been granted in part.

Please note that the Agency considers the foreseeable harm standard when reviewing records and applying FOIA exemptions to maximize releases to requesters. Additionally, the Agency's response to your request does not include documents or publications publicly available on our website or compilations of publicly available news articles.

You may contact our FOIA Public Liaison, Christine McClarin at (202) 694-1485, for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

You may appeal any adverse FOIA determination. Any such appeal must be filed in writing and should follow the guidelines set forth in 11 C.F.R. § 4.8. If you have any questions, please contact the FOIA Requester Service Center at FOIA@fec.gov, or (202) 694-1650.

Sincerely,

Katrina Sutphin
FOIA/Privacy Counsel

FEDERAL ELECTION COMMISSION

Office of the Inspector General



Report of Investigation

Alleged Outside Employment by Senior Agency Employee

Case Number: I21INV00015

August 30, 2022


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Federal Election Commission
Office of the Inspector General

MEMORANDUM

TO: The Commission

FROM: Christopher Skinner
Inspector General 

SUBJECT: Report of Investigation I21INV00015: Alleged Outside Employment by Senior Agency Employee

DATE: August 30, 2022

1. Background and Summary

The Federal Election Commission (FEC) Office of the Inspector General (OIG) initiated an investigation on January 14, 2022, to inquire into an anonymous hotline complaint that alleged [REDACTED], was engaged in outside employment without agency approval or clearance in violation of federal regulations and FEC rules.

Specifically, the OIG received an anonymous complaint that alleged [REDACTED], was operating a business out of a home in [REDACTED] in violation of government-wide and agency rules that require agency approval prior to engaging in outside employment. The complaint included a web link¹ to a Bloomberg profile for a company called [REDACTED], that purported to show [REDACTED] employed as its [REDACTED] with dates of employment of December 2000 to the present. The complaint further alleged that the address associated with [REDACTED] was [REDACTED] home address.

As detailed further herein, based on the testimony of agency personnel, as well as review of relevant public, business, and agency records, the investigation determined the allegation was not substantiated. Accordingly, the OIG makes no recommendations in this report and considers the matter closed.

[REDACTED]

2. Relevant Standards

a. 5 CFR § 2635.101(b)(10) *Basic Obligations of Public Service* provides, “Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.” Should an employee wish to seek outside employment, 5 CFR § 2635.803 *Prior Approval for Outside Employment and Activities*, states, “An employee shall obtain prior approval before engaging in outside employment or activities.”

b. Commission Directive 73, *Procedures for Requesting Prior Approval for Outside Employment*, dated May 20, 2014, provides that Commission employees shall obtain written approval from the Designated Agency Ethics Official (DAEO)² before engaging in outside employment, as defined below, where the services provided:

- Are related to the employee’s official duties; or
- Involve the application of the same specialized skills or the same educational background as used in the performance of the official duties.

c. 5 CFR Part 2634, *Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture*, requires senior government employees (among others) to file annual confidential disclosure forms. Those disclosures are memorialized on Office of Government Ethics (OGE) Form 450. 5 CFR § 2634.907(e)(1) further requires disclosure of outside employment:

Each financial disclosure report filed pursuant to this subpart must identify all positions held at any time by the filer during the reporting period, other than with the United States, as an officer, director, trustee, general partner, proprietor, representative, executor, employee, or consultant of any corporation, company, firm, partnership, trust, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution.

3. Findings

The OIG reviewed public, business, and agency records, and interviewed ██████████ and an FEC ethics official to ascertain ██████████ work history and compliance with the foregoing standards. The investigation found the following:

a. Review of Open Source Records. OIG investigators accessed the Bloomberg profile³ that listed ██████████, with an employment date of December 2000 to the “present.” Further, the report showed ██████████ former employment was

² Per Directive 73, the written request shall state the name of the person, group, or organization for which the outside employment is to be performed; the type of outside employment to be performed; the proposed hours of, and whether the proposed outside employment will be compensated.

³ ██████████

with [REDACTED] from June 1998 to December 2000. However, the report did not provide the date it was last updated, nor did a routine Google search render further relevant information regarding [REDACTED]. In addition, a Google search of the address⁴ listed by Bloomberg for [REDACTED] is a dental office in an office suite within a commercial building located in Fairfax (i.e., not [REDACTED] home address).

b. Delaware Corporate Records. OIG investigators obtained the Delaware incorporation records for [REDACTED]. Those records indicated that the company was incorporated in Delaware in September 1997 and was involuntarily dissolved on May 31, 2007.

c. [REDACTED] Resume. OIG investigators obtained a copy of [REDACTED] resume. It indicated that [REDACTED] has been employed by the FEC [REDACTED]. It further indicated that [REDACTED] was employed by [REDACTED] from 2000 to 2003 as its [REDACTED].

d. Review of FEC records. The OIG reviewed electronic copies of [REDACTED] OGE Forms 450 from 2016 to the present. Although [REDACTED] has been employed with the FEC since [REDACTED], the OIG found during its investigation that records of [REDACTED] OGE 450 filings were not available from 2003-2015. Prior to 2016, all OGE Forms 450 were filed using a paper format and were destroyed six years after filing in accordance with records retention policies; therefore, no records were available prior to that period. As such, the OIG reviewed [REDACTED] filings from 2016 to present and found no reference to employment with [REDACTED].

e. Ethics Official Testimony. OIG investigators interviewed the FEC Deputy Ethics Official (DEO). The DEO testified as follows:

i. All new hires receive an ethics briefing. As a new entrant, and senior official, [REDACTED] was required to submit a public disclosure form (OGE form 450) and report any compensated or uncompensated position they held with an organization other than the U.S. government at any time during the reporting period unless an exception applied. The reporting period for a new entrant is the calendar year of the date of hire and the preceding two calendar years.

ii. OGE 450's submitted prior to 2016 were captured on paper. The DEO retains the forms for six years after filing. As such, records prior to 2016 are not available for review.

iii. Prior to engaging in outside employment that relate to their official duties or rely on the same skills as their official duties, FEC employees are required to notify the FEC DEO via email of their intention for outside employment and a description of the employment. Upon review of the request, the ethics official responds with an approval or denial.

iv. The DEO is the primary point of contact for seeking clearance concerning outside employment. In the event the DEO is not available to verify a prior request, the Ethics Office has a centralized recordkeeping system whereby ethics documents, including email requests for prior approval of outside employment, any supplemental information provided, and the final written determination, are maintained in a locked file cabinet located in a storage room.

⁴ (b) (7)(C)

f. [REDACTED] Testimony. The OIG interviewed [REDACTED]. [REDACTED] testified as follows:

i. [REDACTED] began [REDACTED] employment with the FEC in the fall of 2003 as the [REDACTED] of the [REDACTED]. [REDACTED] was (b) (7)(C) [REDACTED] in [REDACTED] and (b) (7)(C) [REDACTED] position as [REDACTED].

ii. Prior to [REDACTED] FEC employment, [REDACTED] began working for [REDACTED] as its [REDACTED] [REDACTED] between the end of 2000 and early 2001. [REDACTED] employment ended with [REDACTED] on or about the end of 2002 or early 2003 when [REDACTED] and several other employees were “let go” after [REDACTED] ran into financial issues.

iii. [REDACTED] has not received any compensation from [REDACTED] since [REDACTED] employment ended, nor does [REDACTED] currently receive or hold any interest, compensation, or other incentives with [REDACTED] Inc. [REDACTED] no longer communicates with any of [REDACTED] former employees.

iv. [REDACTED] believed that the Bloomberg report was outdated given that it appeared to show [REDACTED] was the [REDACTED], from December 2000 to the present.

4. Analysis

The preponderance of the evidence established that the allegation that [REDACTED] engaged in outside employment with [REDACTED], without prior approval and/or disclosure was not substantiated. While there are nuanced differences among the relevant standards, they all regulate essentially the same activity – engaging in outside employment without prior approval or disclosure. Here, the only evidence that suggested [REDACTED] had engaged in outside employment was the Bloomberg profile. However, that profile was undated and contradicted by the preponderant evidence.

[REDACTED] testified that [REDACTED] no longer worked for [REDACTED] and had terminated [REDACTED] employment prior to joining the FEC, which was corroborated by business records that showed [REDACTED] had dissolved and was consistent with information [REDACTED] previously provided on [REDACTED] resume. In addition, research of open source and public records identified no information concerning [REDACTED] that would routinely return if a business remained actively operating (e.g., place of business, telephone number, website). Accordingly, the investigation determined that the allegation was not substantiated.

5. Conclusion

After careful review of the evidence and witness testimony, the OIG did not substantiate the allegation that [REDACTED] engaged in outside employment while employed by the FEC. The OIG makes no recommendations in this report and considers the matter closed.


cc: Lisa Stevenson, Acting General Counsel



Federal Election Commission
Office of the Inspector General

MEMORANDUM

TO: The Commission

FROM: Christopher Skinner
Inspector General 

SUBJECT: Report of Investigation I22INV00010: Lost FEC Laptop Reported by an Agency Employee

DATE: June 3, 2022

1. Background and Summary

The Federal Election Commission (FEC) Office of the Inspector General (OIG) initiated an inquiry on March 10, 2022, based on a referral from the Office of the Chief Information Officer (OCIO) that an agency employee, (b) (7)(C) with the Office of General Counsel (OGC), had lost (b) (7)(C) FEC laptop and may have failed to promptly report the loss in accordance with FEC policy.

As further detailed herein, during the inquiry, the employee made numerous conflicting and incomplete statements. Among other things, the employee reported having lost the laptop during a hospital visit. However, the laptop was subsequently recovered from a different location (a supermarket), which the employee did not disclose having visited until after the laptop was recovered. (b) (7)(C) also refused to cooperate with OIG investigators and made other conflicting statements about the timeline of events surrounding the loss and recovery of the laptop. (b) (7)(C) subsequently tendered resignation and refused to attend a follow-up interview concerning the recovery of the laptop.

Accordingly, this investigation found that (b) (7)(C) was not candid about the circumstances surrounding the loss and recovery of (b) (7)(C) FEC laptop. In addition, we identified a recommendation to improve FEC policy concerning the loss of FEC computing devices.

2. Facts

On February 23, 2022, (b) (7)(C) with OGC, reported to OCIO that (b) (7)(C) left (b) (7)(C) personal belongings (including (b) (7)(C) FEC laptop) in the waiting area at

the emergency room of George Washington University (GW) Hospital in Washington, D.C. on February 10, 2022.

On February 28, and March 7, 2022, OIG investigators interviewed [REDACTED] via Microsoft Teams. After having been duly sworn, [REDACTED] provided the following statements:

- On February 9, 2022,¹ [REDACTED] was feeling ill with COVID-19 symptoms and wanted to go to the emergency room for medical treatment. [REDACTED] first went to Sentara Northern Virginia Medical Center, which was the closest hospital to [REDACTED] home in [REDACTED]. The emergency room in that hospital was full and [REDACTED] waited from approximately midnight on February 10, 2022, to 6:00 a.m. but was not treated by medical staff. As a result of not being seen by the medical staff, [REDACTED] went home and waited for traffic to decrease before going to GW Hospital.
- [REDACTED] that [REDACTED] niece drove [REDACTED] to GW Hospital on the morning of February 10, 2022, and they arrived at the hospital around 9:00 a.m. [REDACTED] stated that [REDACTED] went straight to the emergency room registration desk. [REDACTED] was seen by the medical staff in approximately 10 minutes. When [REDACTED] went into the triage area, [REDACTED] left [REDACTED] bag that had a personal iPhone and the FEC laptop with [REDACTED] niece. According to [REDACTED], [REDACTED] put [REDACTED] identification card and car keys in [REDACTED] coat pocket, which [REDACTED] wore into the triage area.
- [REDACTED] stated the medical staff gave [REDACTED] some medication that made [REDACTED] sleep for two to three hours. After [REDACTED] woke up, [REDACTED] had discussions with the medical staff about admitting [REDACTED] to the hospital. [REDACTED] did not want to stay in the hospital because [REDACTED] did not have all [REDACTED] belongings and [REDACTED] would need to go to work. [REDACTED] stated that [REDACTED] decided to leave the hospital, so [REDACTED] and [REDACTED] niece departed around 9:00 p.m. the evening of February 10, 2022.
- According to [REDACTED], when [REDACTED] woke up at home on the morning of February 11, 2022, [REDACTED] discovered [REDACTED] bag was missing, so [REDACTED] returned to GW Hospital to attempt to locate it. After unsuccessful attempts to locate the bag, [REDACTED] called the OCIO helpdesk on a secondary phone to inform them of [REDACTED] lost laptop; however, [REDACTED] was unable to reach anyone. [REDACTED] tried again on the week of February 13, 2022, to reach the OCIO helpdesk and was successful in contacting [REDACTED] (b) (7)(C) [REDACTED] informed [REDACTED] that [REDACTED] had lost [REDACTED] laptop.²
- The OIG asked [REDACTED] why [REDACTED] brought [REDACTED] FEC laptop to GW Hospital. [REDACTED] responded [REDACTED] wanted to be able to use the laptop to send an email to [REDACTED]

¹ [REDACTED] initially stated [REDACTED] visited GW Hospital on February 5, 2022 and that [REDACTED] had returned to the hospital on February 6, 2022, to inquire about the lost items. When the OIG informed [REDACTED] the dates did not match the police report [REDACTED] had completed, [REDACTED] corrected the dates, stating [REDACTED] was at GW Hospital on February 10, 2022, and returned on February 11, 2022, to inquire about [REDACTED] lost bag.

² The OIG confirmed with OCIO that [REDACTED] spoke with [REDACTED] that week.

supervisor in the event [REDACTED] was admitted to the hospital. [REDACTED] stated [REDACTED] emailed [REDACTED] supervisor around 9:00 a.m. on February 10, 2022, to let [REDACTED] supervisor know [REDACTED] was going to be out of the office. [REDACTED] stated [REDACTED] was on leave from the time [REDACTED] visited the emergency room on February 10 until February 25, 2022. [REDACTED] returned to work on February 28, 2022.

[REDACTED] bag, along with the iPhone and FEC laptop, were subsequently recovered at a Whole Foods Market in Arlington, Virginia. [REDACTED] emailed the OIG on March 9, 2022, stating, "I received an email in my personal email from the lost and found at a Whole Foods I stopped at prior to the hospital...I returned the laptop and charger yesterday afternoon to the FEC I.T. helpdesk." OIG confirmed that [REDACTED] returned the lost laptop on March 8, 2022. OIG conducted an analysis of the laptop and identified no unauthorized access during the relevant period.

During [REDACTED] interviews, [REDACTED] provided conflicting and incomplete statements:

- The OIG asked [REDACTED] whether [REDACTED] had made any stops on [REDACTED] way to GW Hospital. [REDACTED] responded that [REDACTED] niece drove [REDACTED] directly from [REDACTED] home in [REDACTED] to GW Hospital. However, on March 9, 2022, [REDACTED] emailed the OIG stating [REDACTED] laptop was recovered at a Whole Foods Market that [REDACTED] had visited prior to the hospital.
- [REDACTED] told the OIG that [REDACTED] emailed [REDACTED] supervisor from GW Hospital around 9:00 a.m. on February 10, 2022, to inform [REDACTED] supervisor [REDACTED] was going to be out of the office. The OIG obtained the February 10 email from [REDACTED] supervisor. The time stamp of the email showed it was sent at 7:15 a.m., almost two hours before [REDACTED] stated [REDACTED] had arrived at GW Hospital.
- [REDACTED] testified [REDACTED] returned to GW Hospital on February 11, 2022 and spoke with a security guard posted in the hospital's main lobby and another guard posted in the emergency room about [REDACTED] missing items. [REDACTED] stated both guards told [REDACTED] that [REDACTED] belongings were probably lost for good, and they did not report the lost items into the security's computer system. However, the Sergeant who is in charge of GW Hospital's security told the OIG that security guards would enter reports of lost items into a computer tracking log as standard practice and that they had no record of [REDACTED] alleged report.
- OIG investigators asked [REDACTED] to provide documentation of [REDACTED] GW Hospital visit to confirm the date and time of the visit. OIG investigators advised [REDACTED] that the record need not provide any medical information, merely a date and time of visit and that [REDACTED] was free to redact any other information from the record. [REDACTED] stated [REDACTED] would provide a record but ultimately did not.
- [REDACTED] declined to provide the name and contact information for [REDACTED] niece, whom [REDACTED] stated accompanied [REDACTED] to the hospital. [REDACTED] claimed that [REDACTED]

had an ongoing dispute with [REDACTED] niece regarding the loss of [REDACTED] belongings (including the laptop). Notwithstanding OIG investigators' request, [REDACTED] declined to provide [REDACTED] name and contact information.

In order to resolve the foregoing inconsistencies (especially concerning the recovery of the laptop), the OIG attempted to conduct a third interview with [REDACTED]. The OIG offered to accommodate [REDACTED] schedule for an in-person interview for the following dates, which [REDACTED] declined:

- March 22, 2022
- March 29, 2022

After declining to speak with the OIG on the aforementioned dates, [REDACTED] informed the OIG on April 4, 2022, that [REDACTED] had retained union representation. [REDACTED] union representative offered to assist in re-scheduling [REDACTED] interview. The union representative attempted to schedule the interview on two occasions. [REDACTED] failed to appear for [REDACTED] rescheduled interview on the following dates:

- April 6, 2022
- April 8, 2022

[REDACTED] resigned from the agency on April 8, 2022.

3. Relevant Standards

The OIG identified FEC Policy Number 58- 4.3, *Mobile Computing Security Policy*, as applicable in this instance. Specifically, sections 2(e) and 2(g) provide:

e. Portable computing devices should not be left unattended while being transported, unless locked in a secure location where not visible (e.g. airport terminal locker, the trunk of a locked car);

g. If a portable computing device that contains FEC information is stolen (regardless of where the theft occurs), the device's owner/user (i.e., the person responsible), should:

- i. Notify the Information System Security Officer (ISSO) as soon as possible; and
- ii. File a police report as soon as possible.

In addition, on March 25, 2022, FEC Chair Allen Dickerson sent an email to all FEC staff reiterating the requirements of the Inspector General Act of 1978. In the email, Chairman Dickerson stated that under the IG Act, "the agency and its employees have a duty to cooperate with OIG."

4. Conclusions

Notwithstanding ██████ statements that ██████ lost ██████ FEC laptop at GW Hospital, the preponderance of the evidence established that ██████ in fact lost it at a Whole Foods Market in Arlington, based on the following:

- The laptop was recovered at Whole Foods.
- ██████ ultimately admitted via email that ██████ had visited Whole Foods the morning of the day ██████ purportedly lost ██████ laptop at GW Hospital.
- ██████ refused to provide corroboration for ██████ statements that ██████ lost the laptop at GW Hospital (i.e., documentation of ██████ visit and ██████ niece's contact information).
- GW Hospital personnel stated they had no records of ██████ visit or that ██████ had reported lost items.

In addition, ██████ evinced a lack of candor when ██████ stated ██████ lost ██████ laptop at GW Hospital and failed to disclose that ██████ stopped at a Whole Foods Market en route to the hospital, despite having been specifically asked during ██████ interviews. Moreover, ██████ ██████ abrupt resignation and refusal to cooperate (i.e., by providing documentation of ██████ visit or ██████ niece's contact information and refusing to participate in a follow-up interview), as well as GW Hospital's lack of records of ██████ visit or report of lost items, call into question whether ██████ indeed visited GW Hospital.

Finally, we are unable to conclude whether ██████ complied with FEC Policy 58-4.3, as the policy's requirements are vague and ambiguous. First, the policy only applies to "stolen" devices; it does not reference missing or lost devices. Second, the policy provides only that personnel should report stolen devices "as soon as possible," as opposed to a specific timeframe. Third, the prohibition against leaving devices unattended does not define the term "unattended," for example, to specify that ██████ device must be attended by ██████ as opposed to ██████ niece.³

Here, ██████ stated that ██████ attempted to report ██████ missing laptop as soon as ██████ discovered it was missing but was unable to reach OCIO personnel that day (which was a Friday). ██████ further stated, and OCIO corroborated, that ██████ reported the missing laptop the following workweek. Although it would certainly have been ideal for ██████ to report the missing laptop sooner, absent a more specific requirement in FEC policy, we cannot conclude ██████ violated FEC policy.

4. Recommendation

FEC OCIO should update FEC Policy 58-4.3 to contemplate missing and lost computing devices (in addition to stolen devices), to clarify timelines in which FEC personnel should

³ Assuming ██████ niece ever even possessed ██████ laptop given it was lost and recovered at a supermarket as opposed to the hospital.

report missing, lost, and stolen devices, and to clarify the meaning of “unattended” for purposes of transporting devices.⁴

cc: Alec Palmer, Staff Director/Chief Information Officer
Lisa Stevenson, Acting General Counsel
Greg Baker, Deputy General Counsel

⁴ The OIG conferred with OCIO on June 3, 2022. OCIO concurred with the recommendation.

Federal Election Commission Office of Inspector General
Investigation Closings: 1/1/2021 - 12/31/2022

Case Number	Title	Date Initiated	Date Closed
I19INV00007	Inappropriate Hire	01/31/19	06/03/21
I21INV00015	Unauthorized outside employment	12/04/20	09/08/22
I21INV00037	Allegations of bias against RAD personnel reviewing 58th inaugural committee reports	02/01/21	08/10/21
I21INV00038	Use of public office for the endorsement of products and enterprises	11/05/21	06/27/22
I21INV00063	FEC PIV card Issue	06/08/21	12/16/21
I22INV00010	Missing FEC Equipment	03/10/22	06/27/22
Total Closed Investigations : 6			