



**Homeland
Security**

Privacy Office, Mail Stop 0655

July 7, 2020

SENT BY ELECTRONIC MAIL TO: foia@americanoversight.org

Austin Evers
Executive Director
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: 2020-HQFO-01056

Dear Mr. Evers:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated May 05, 2020, and received by this office on May 5, 2020. You are seeking any resume provided by Ian M. Smith to DHS, any conflicts or ethics waivers or authorizations issued for Ian M. Smith, including authorizations pursuant to 5 C.F.R. § 2635.502, records reflecting any recusal determination made or issued for Ian M. Smith and any SF-50 forms for Ian M. Smith.

A search of the Office of the Chief Human Capital Officer and the Office of the General Counsel for documents responsive to your request produced a total of 14 pages. I have determined that 5 pages of the records are releasable in their entirety and 9 pages are partially releasable pursuant to Title 5 U.S.C. § 552: (b)(6).

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

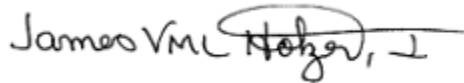
You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at

www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact the analyst below who processed your request and refer to **2020-HQFO-00247**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS 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.

Sincerely,

A handwritten signature in black ink that reads "James V.L.M. Holzer, J". The signature is written in a cursive, slightly stylized font.

James V.L.M. Holzer
Deputy Chief FOIA Officer

Enclosure(s): Responsive Documents, 14 pages

IAN MATTHEW SMITH

(b)(6)

5 Years' Experience in Finance – 3 Years' Experience in Immigration Law/Policy – New York-Barred – Media Commentator – Hill Experience – Bilingual

LEGAL EXPERIENCE

IMMIGRATION REFORM LAW INSTITUTE (irli.org), Washington, D.C., Associate (Dec. 2014 – current) Supporting litigation team with legal research and analysis (Immigration, Administrative, Constitutional Law, etc.); drafting amicus briefs and petitions for rule change; leading federal/state investigative FOIA program including appeals process; publishing immigration law and policy commentary (under own and superiors' name) for *The Hill*, *National Review*, *Fox News*, *Washington Times*, and elsewhere. Regularly interviewed for print, radio (i.e. Hannity) and television (i.e. CNN).

SENATE COMMITTEE for ENVIRONMENT & PUBLIC WORKS (Minority), Washington, D.C., Legal Analyst (Jul. – Dec. 2014). Conducted legal research and drafted memoranda on issues arising under Environmental and Transportation law. Authored memo on potential EPA legal violations related to the proposed Power Plant Rule and helped author major report on the Hydraulic Fracturing industry.

REGULATORY STUDIES CENTER at GEORGE WASHINGTON UNIVERSITY, Washington, D.C., Policy Analyst, Retrospective Review Project (May – Aug. 2014). Drafted analytical reports on how agencies can incorporate retrospective review mechanisms into specific proposed rules as per EO 13563 and 13610. All reports posted as public comments.

COHEN, MILSTEIN, SELLERS & TOLL, Washington, D.C., Contract Associate, ERISA/Securities Law Practice Group (Jun. – Jul. 2014). Conducted legal research and drafted memoranda on issues arising under FRCP and ERISA.

CAUSE OF ACTION, Washington, D.C., Investigative/Legal Analyst (Nov. 2012 – Nov. 2013). Led CoA's first investigative project on cronyism; scored front page coverage in the *Washington Post*. Analyzed corporate and securities filings; interviewed federal and state agency officials, corporate lawyers and product suppliers; reviewed litigation documents, case law, state and federal statutes and regulations; authored multiple federal and state FOIA requests. Helped draft soon-to-be published law review article on non-Congressional, Executive branch earmarks. Researched procurement law, federal grant regulations, OMB guidance, GAO Red Book and protest filings; analyzed data from federal spending databases; and authored FOIA requests to 11 federal agencies.

MERCATUS CENTER at GEORGE MASON UNIVERSITY, Arlington, VA, Legal Analyst, Regulatory Comments Project (Aug. – Nov. 2012). Project's hypothesis: Federal agencies are more responsive to comments that could lead to court challenges as opposed to comments merely relating to economic analysis. Closely analysed substance, comments and responses of eight major agency rules in accordance with strategic template.

FINANCIAL EXPERIENCE

MASS INDUSTRIAL LTD (NYSE: MIL), Hong Kong, Financial Analyst, Distressed Investing Operation, Investment Committee and Treasury Department (Feb. 2005 – Jan. 2010). *25 years-old global investment holding company specializing in distressed assets.* Sourced and advised on distressed asset opportunities. Conducted market research and prepared materials on existing holdings and targeted companies.

With team, actively managed USD80m global equity/bond portfolio. Analyzed associated securities offering documents, analyst reports and sales materials.

Assisted in-house counsel on legal research; reviewed and edited contracts and transaction documents.

LEGAL INTERNSHIPS

HERITAGE FOUNDATION, Washington, D.C. (Fall 2012).

Worked for Senior Legal Fellow Hans Von Spakovsky. Drafted reports and memoranda on voting and election law, FOIA, the WARN Act, the Hatch Act; several articles for Heritage media and *National Review*.

CENTER FOR INDIVIDUAL RIGHTS, Washington, D.C. (Summer 2012).

Wrote memoranda and contributed legal research toward, among other things, CIR's 2011 victory in *US v. NY*; and *Brennan v. Ashcroft*.

CLIFFORD CHANCE LLP, Hong Kong, Capital Markets & Private Equity teams (Summer 2012).

Conducted due diligence survey for a global investment bank for proposed mid- and back-office outsourcing business for HKEx broker participants.

NORTON ROSE FULBRIGHT LLP, Hong Kong, Banking & Securities team (Feb. 2012).

Proofed contracts and loan syndication documents; provided associated project finance research.

SIMMONS & SIMMONS LLP, Hong Kong, Derivatives & Finance team (Summer 2011).

Co-authored a client advisory on Basel III/Dodd-Frank/Emir (EU) ramifications on ISDA Master Agreements and the global OTC derivatives market. Analysis included untested treatment of close-out netting arrangements in multi-party agreements under HK insolvency law.

GROIA & CO, Toronto, Canada (Jan. 2011).

Litigation boutique that has been involved with most important recent securities case in Canada.

Drafted research memoranda on issues such as tortious interference with contractual relations; TMX/LSE merger-regulatory implications.

FINANCIAL SERVICES INSTITUTE OF AUSTRALASIA, Sydney, Australia (Jul. – Dec. 2011).

Financial services industry body which promotes public and government policy initiatives.

Drafted report on the implications mandatory central clearing provisions of OTC derivatives in Dodd-Frank/Emir particularly for Asian buy-side institutions.

EDUCATION

UNIVERSITY OF NEW SOUTH WALES, Sydney, Australia, JD, (Jun. 2012) – Upper third.

Study Abroad: Hebrew University Law School, Jerusalem, Israel (International & Israeli Law, 2011).

UNIVERSITY OF BRITISH COLUMBIA, Vancouver, Canada, BA in English Literature (Dec. 2005).

Study Abroad: Qinghua University (Beijing, 2002); Beijing Language Culture University (Beijing, 2003).

OTHER INFORMATION

Admitted to the New York Bar (February 2014). Proficient in Mandarin. U.S. Citizen.

Board member of political action committee; regular volunteer on congressional campaigns.

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SMITH, IAN				2. Social Security Number (b)(6)		3. Date of Birth 03/01/81		4. Effective Date 01/07/18			
FIRST ACTION				SECOND ACTION							
5-A. Code 894		5-B. Nature of Action GEN ADJ				6-A. Code		6-B. Nature of Action			
5-C. Code QWM		5-D. Legal Authority REG 531.207				6-C. Code		6-D. Legal Authority			
5-E. Code ZLM		5-F. Legal Authority E O 13819				6-E. Code		6-F. Legal Authority			
7. FROM: Position Title and Number						15. TO: Position Title and Number POLICY ANALYST 90836785 067406					
8. Pay Plan		9. Occ. Code		10. Grade or Level		11. Step or Rate		12. Total Salary 79,720.00		13. Pay Basis PA	
16. Pay Plan GS		17. Occ. Code 0301		18. Grade or Level 12		19. Step or Rate 01		20. Total Salary/Award 81,548.00		21. Pay Basis PA	
12A. Basic Pay 62,722.00		12B. Locality Adj. 16,998.00		12C. Adj. Basic Pay 79,720.00		12D. Other Pay .00		20A. Basic Pay 63,600.00		20B. Locality Adj. 17,948.00	
								20C. Adj. Basic Pay 81,548.00		20D. Other Pay .00	
14. Name and Location of Position's Organization						22. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OSEM ASST SEC FOR POLICY HS OS0112000000000000 PP 01 2018					
EMPLOYEE DATA											
23. Veterans Preference 1 1 - None 3 - 10-Point/Disability 5 - 10-Point/Other 2 - 5-Point 4 - 10-Point/Compensable 6 - 10-Point/Compensable/30%						24. Tenure 3 0 - None 2 - Conditional 1 - Permanent 3 - Indefinite		25. Agency Use		26. Veterans Preference for RIF YES X NO	
27. FEGLI C0 BASIC						28. Annuitant Indicator 9 NOT APPLICABLE				29. Pay Rate Determinant 0 NOT APPLICABLE	
30. Retirement Plan KF FERS (FRAE)				31. Service Comp. Date (Leave) 10/02/17		32. Work Schedule F FULL TIME				33. Part-Time Hours Per Biweekly Pay Period	
POSITION DATA											
34. Position Occupied 2 1 - Competitive Service 3 - SES General 2 - Excepted Service 4 - SES Career Reserved				35. FLSA Category E E - Exempt N - Nonexempt		36. Appropriation Code				37. Bargaining Unit Status 8888	
38. Duty Station Code 11-0010-001				39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks FEDERAL PAY INCREASE DUE TO E.O. 13819 SIGNED 12/22/17. SALARY INCLUDES A GENERAL INCREASE OF 1.4% ROUNDED AND A LOCALITY PAYMENT (OR OTHER GEOGRAPHIC ADJUSTMENT) APPLICABLE IN THIS AREA.											
46. Employing Department or Agency HOMELAND SECURITY						50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: CELISA M. STEPHENS EXECUTIVE DIRECTOR, HRMS					
47. Agency Code HS OS		48. Personnel Office ID 5500		49. Approval Date 12/22/17							

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SMITH, IAN						2. Social Security Number (b)(6)		3. Date of Birth 03/01/81		4. Effective Date 08/27/18	
FIRST ACTION						SECOND ACTION					
5-A. Code 317		5-B. Nature of Action RESIGNATION				6-A. Code		6-B. Nature of Action			
5-C. Code RPM		5-D. Legal Authority REG 715.202				6-C. Code		6-D. Legal Authority			
5-E. Code		5-F. Legal Authority				6-E. Code		6-F. Legal Authority			
7. FROM: Position Title and Number POLICY ANALYST 90836785 067406						15. TO: Position Title and Number					
8. Pay Plan GS		9. Occ. Code 0301		10. Grade or Level 12		11. Step or Rate 01		12. Total Salary 81,548.00		13. Pay Basis PA	
12A. Basic Pay 63,600.00		12B. Locality Adj. 17,948.00		12C. Adj. Basic Pay 81,548.00		12D. Other Pay .00		16. Pay Plan		17. Occ. Code	
20A. Basic Pay		20B. Locality Adj. .00		20C. Adj. Basic Pay		20D. Other Pay .00		18. Grade or Level		19. Step or Rate	
14. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OSEM ASST SEC FOR POLICY						22. Name and Location of Position's Organization 7A HS OS0112000000000000 PP 19 2018					
EMPLOYEE DATA											
23. Veterans Preference 1 1 - None 2 - 5-Point 3 - 10-Point/Disability 4 - 10-Point/Compensable 5 - 10-Point/Other 6 - 10-Point/Compensable/30%						24. Tenure 3 0 - None 1 - Permanent 2 - Conditional 3 - Indefinite		25. Agency Use		26. Veterans Preference for RIF YES X NO	
27. FEGLI C0 BASIC						28. Annuitant Indicator 9 NOT APPLICABLE		29. Pay Rate Determinant 0 NOT APPLICABLE			
30. Retirement Plan KF FERS (FRAE)				31. Service Comp. Date (Leave) 10/02/17		32. Work Schedule F FULL TIME		33. Part-Time Hours Per Biweekly Pay Period			
POSITION DATA											
34. Position Occupied 2 1 - Competitive Service 2 - Excepted Service 3 - SES General 4 - SES Career Reserved				35. FLSA Category E E - Exempt N - Nonexempt		36. Appropriation Code		37. Bargaining Unit Status 8888			
38. Duty Station Code 11-0010-001				39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC							
40. Agency Data		41.		42.		43.		44.			
45. Remarks SF-2819 WAS PROVIDED. LIFE INSURANCE COVERAGE IS EXTENDED FOR 31 DAYS DURING WHICH YOU ARE ELIGIBLE TO CONVERT TO AN INDIVIDUAL POLICY (NON-GROUP CONTRACT). FORWARDING ADDRESS= (b)(6) LUMP-SUM PAYMENT TO BE MADE FOR ANY UNUSED ANNUAL LEAVE. EMPLOYEE GAVE NO REASON FOR RESIGNATION.											
46. Employing Department or Agency HOMELAND SECURITY						50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: CELISA M. STEPHENS EXECUTIVE DIRECTOR, HRMS					
47. Agency Code HS OS		48. Personnel Office ID 5500		49. Approval Date 10/04/18							

NOTIFICATION OF PERSONNEL ACTION

1. Name (Last, First, Middle) SMITH, IAN					2. Social Security Number (b)(6)		3. Date of Birth 03/01/81		4. Effective Date 10/02/17						
FIRST ACTION					SECOND ACTION										
5-A. Code 170		5-B. Nature of Action EXC APPT			6-A. Code		6-B. Nature of Action								
5-C. Code Y7M		5-D. Legal Authority SCH C 213 3311			6-C. Code		6-D. Legal Authority								
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority								
7. FROM: Position Title and Number					15. TO: Position Title and Number POLICY ANALYST 90836785 067406										
8. Pay Plan		9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary		13. Pay Basis	16. Pay Plan GS	17. Occ. Code 0301	18. Grade or Level 12	19. Step or Rate 01	20. Total Salary/Award 79,720.00		21. Pay Basis PA	
12A. Basic Pay		12B. Locality Adj. .00		12C. Adj. Basic Pay		12D. Other Pay .00		20A. Basic Pay 62,722.00		20B. Locality Adj. 16,998.00		20C. Adj. Basic Pay 79,720.00		20D. Other Pay .00	
14. Name and Location of Position's Organization					22. Name and Location of Position's Organization IMMEDIATE OFFICE OF THE SECRETARY OSEM ASST SEC FOR POLICY HS OS0112000000000000 PP 20 2017										
EMPLOYEE DATA															
23. Veterans Preference 1 1 - None 2 - 5-Point 3 - 10-Point/Disability 4 - 10-Point/Compensable 5 - 10-Point/Other 6 - 10-Point/Compensable/30%					24. Tenure 3 0 - None 1 - Permanent 2 - Conditional 3 - Indefinite			25. Agency Use		26. Veterans Preference for RIF YES X NO					
27. FEGLI C0 BASIC					28. Annuitant Indicator 9 NOT APPLICABLE					29. Pay Rate Determinant 0 NOT APPLICABLE					
30. Retirement Plan KF FERS (FRAE)				31. Service Comp. Date (Leave) 10/02/17		32. Work Schedule F FULL TIME				33. Part-Time Hours Per Biweekly Pay Period					
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38. Duty Station Code 11-0010-001				39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC											
40. Agency Data		41.		42.		43.		44.							
45. Remarks APPOINTMENT AFFIDAVIT EXECUTED 10/2/17 OPF MAINTAINED BY DHS-HQ. FROZEN SERVICE: NONE CREDITABLE MILITARY SERVICE: NONE EMPLOYEE IS AUTOMATICALLY COVERED UNDER FERS, FERS-RAE OR FERS-FRAE. FEDERAL EMPLOYEES' HEALTH BENEFITS (FEHB): YOU HAVE 60 DAYS FROM THE DATE OF HIRE TO ENROLL. SEND YOUR COMPLETED SF-2809 TO HTTPS://FHRNAVIGATOR.COM/FRBWEB/LOGON.DO?OPERATION=INDEX&CLIENT=DHSHQ TO COMPARE PLANS AND GET MORE INFORMATION, VISIT WWW.OPM.GOV/INSURE FEDERAL EMPLOYEES' GROUP LIFE INSURANCE (FEGLI): YOU ARE AUTOMATICALLY ENROLLED IN BASIC COVERAGE. YOU HAVE 60 DAYS FROM THE DATE OF HIRE TO ELECT OPTIONAL COVERAGE. SEND YOUR COMPLETED SF-2817 TO HTTPS://FHRNAVIGATOR.COM/FRBWEB/LOGON.DO?OPERATION=INDEX&CLIENT=DHSHQ *** REMARKS CONTINUED ON THE NEXT PAGE ***															
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FIRST ACTION					SECOND ACTION							
5-A. Code 170		5-B. Nature of Action EXC APPT			6-A. Code		6-B. Nature of Action					
5-C. Code Y7M		5-D. Legal Authority SCH C 213 3311			6-C. Code		6-D. Legal Authority					
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority					
7. FROM: Position Title and Number					15. TO: Position Title and Number POLICY ANALYST 90836785 067406							
8. Pay Plan		9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary	13. Pay Basis	16. Pay Plan GS	17. Occ. Code 0301	18. Grade or Level 12	19. Step or Rate 01	20. Total Salary/Award 79,720.00	21. Pay Basis PA
12A. Basic Pay		12B. Locality Adj. .00	12C. Adj. Basic Pay		12D. Other Pay .00		20A. Basic Pay 62,722.00		20B. Locality Adj. 16,998.00		20C. Adj. Basic Pay 79,720.00	20D. Other Pay .00
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30. Retirement Plan KF FERS (FRAE)			31. Service Comp. Date (Leave) 10/02/17		32. Work Schedule F FULL TIME			33. Part-Time Hours Per Biweekly Pay Period				
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40. Agency Data		41.		42.		43.		44.				
45. Remarks *** REMARKS CONTINUED *** TO GET MORE INFORMATION AND USE THE FEGLI CALCULATOR, VISIT HTTP://WWW.OPM.GOV/INSURE/LIFE. FLEXIBLE SPENDING ACCOUNT(FSA): YOU HAVE 60 DAYS FROM THE DATE OF HIRE BUT NO LATER THAN OCT 1ST TO ENROLL IN A HEALTH CARE OR DEPENDENT CARE FSA. IF HIRED ON/AFTER OCT 1ST YOU WILL BE ELIGIBLE TO ENROLL DURING THE FSA OPEN SEASON. TO GET MORE INFORMATION AND ENROLL ONLINE, VISIT WWW.FSAFED.COM. ONLINE ENROLLMENT IS MANDATORY. FEDERAL DENTAL AND VISION PROGRAM (FEDVIP): YOU HAVE 60 DAYS FROM THE DATE OF HIRE TO ENROLL IN A SUPPLEMENTAL DENTAL AND/OR VISION PLAN. TO GET MORE INFORMATION AND ENROLL ONLINE, VISIT WWW.BENEFEDS.COM ONLINE ENROLLMENT IS MANDATORY. THRIFT SAVINGS PLAN (TSP): YOU ARE ELIGIBLE TO CONTRIBUTE TO TSP. YOU ARE AUTOMATICALLY *** REMARKS CONTINUED ON THE NEXT PAGE ***												
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5-C. Code Y7M		5-D. Legal Authority SCH C 213 3311			6-C. Code		6-D. Legal Authority								
5-E. Code		5-F. Legal Authority			6-E. Code		6-F. Legal Authority								
7. FROM: Position Title and Number					15. TO: Position Title and Number POLICY ANALYST 90836785 067406										
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30. Retirement Plan KF FERS (FRAE)				31. Service Comp. Date (Leave) 10/02/17		32. Work Schedule F FULL TIME				33. Part-Time Hours Per Biweekly Pay Period					
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38. Duty Station Code 11-0010-001				39. Duty Station (City - County - State or Overseas Location) WASHINGTON DIST OF COLUMBIA DC											
40. Agency Data		41.		42.		43.		44.							
45. Remarks *** REMARKS CONTINUED *** ENROLLED AT THE RATE OF 3%. TO INCREASE OR DECREASE YOUR CONTRIBUTION AMOUNT, COMPLETE A TSP-1 AND SEND IT TO HTTPS://FHRNAVIGATOR.COM/FRBWEB/LOGON.DO?OPERATION=INDEX&CLIENT=DHS HQ FERS EMPLOYEES ONLY: YOU WILL IMMEDIATELY RECEIVE AN AGENCY AUTOMATIC CONTRIBUTION OF 1% OF YOUR PAY AND QUALIFY FOR UP TO 4% MATCHING. TO GET INFORMATION, VISIT WWW.TSP.GOV/FORMS/TSPBK08.PDF FEDERAL LONG TERM CARE INSURANCE PROGRAM (FLTCIP) YOU HAVE 60 DAYS FROM THE DATE OF HIRE TO APPLY FOR COVERAGE USING THE ABBREVIATED UNDERWRITING APPLICATION. TO GET MORE INFORMATION AND APPLY ONLINE, VISIT WWW.LTCFEDS.COM . YOU MAY APPLY ONLINE OR DOWNLOAD AN APPLICATION.															
46. Employing Department or Agency HOMELAND SECURITY					50. Signature/Authentication and Title of Approving Official ELECTRONICALLY SIGNED BY: CELISA M. STEPHENS EXECUTIVE DIRECTOR, HRMS										
47. Agency Code HS OS		48. Personnel Office ID 5500		49. Approval Date 10/15/17											

From: (b)(6)
To: Smith, Ian
Cc: Financial Disclosure HQ
Subject: New Entrant Advisory - Smith, Ian
Date: Saturday, June 2, 2018 3:57:18 PM

Dear Mr. Smith:

Thank you for your responses to my request for clarification on your Public Financial Disclosure Report (OGE 278). With the updates and this advisory, your report can be certified. While your report does not appear to raise any conflicts of interest, because it is your first report, I wanted to ensure you received this advisory to remind you of how the conflict of interest rules may apply to you.

RULE: A criminal statute, 18 U.S.C. 208(a), prohibits you from participating personally and substantially in a particular matter, in which you have a financial interest, if the matter could have a direct and predictable effect on your financial interests, unless you first obtain a written waiver or qualify for a regulatory exemption. An example might be if you were preparing recommendations on how to proceed with a case, and learned that the case may have a financial impact on one of the companies listed on your report.

For purposes of this statute, the interests of the following persons are imputed to you and, therefore, treated as your own: your spouse and minor children; any general partners; any organization in which you serve as an officer, director, trustee, general partner or employee; and any person or organization with which you are negotiating or have an arrangement concerning prospective employment.

EXEMPTIONS: Ownership of Securities - Normally, you must disqualify yourself from working on any project or assignment that is likely to affect your financial interests. 5 C.F.R. § 2640.103. However, the law recognizes exemptions for investment interests which may be too small or indirect to create an actual conflict of interest (e.g., non-sector diversified mutual funds). See 5 C.F.R., Part 2640, Subpart B. Most likely exemptions which may apply to your situation are the following:

- a. You may participate in a particular matter where the aggregate of your interests (including those imputed to you) does not exceed \$15,000 in all entities involved in the matter, where the interests are in publically traded stock, long-term Federal or municipal securities.

Example: You own American Airlines and Delta stock, both publicly traded companies where your reported interest is between \$1,001-\$15,000. Should you be asked to make a recommendation on an antitrust matter where American and Delta are both parties, and your aggregate interest in both companies was below \$15,000, you would qualify for this exemption, assuming you did not have financial interests in other parties in the case.

- b. You may participate in a particular matter involving specific parties where the aggregate

of your interests in publically traded securities (including those imputed to you) does not exceed \$25,000 in all nonparties affected by the matter.

- c. You may participate in a particular matter affecting one or more holdings of a sector mutual fund (or a sector unit investment trust) where the disqualifying financial interest in the matter arises because of ownership of an interest and the aggregate market value of interests in any sector fund or funds and any sector unit investment trust or trusts does not exceed \$50,000. See 5 C.F.R. § 2640.201(a)(2)(i). For purposes of calculating the \$50,000 de minimis amount, you must aggregate the market value of all sector mutual funds (and sector unit investment trusts) in which you have a disqualifying financial interest and that concentrate in the same sector and have one or more holdings that may be affected by the particular matter.

FORMER EMPLOYER: Under the impartiality rule, for a period of one-year after resignation from Immigration Reform Law Institute, you are considered to have a “covered relationship” with your former employer. 5 C.F.R. § 2535.502. Likewise, you also have a covered relationship with your former clients for a period of one year after you last provided service to that client. Under this impartiality rule, you are therefore disqualified and must recuse yourself from any official action in which your former employer or client is a party or represents a party, unless otherwise authorized (by an agency designee after consultation with this office).

ETHICS PLEDGE: Further, as a Pledge signatory, ***you also have a 2-year recusal from your date of appointment from participation in any “particular matter involving specific parties” that could affect the interests of any employer or client/member you had within the past 2-years.*** Therefore you may not participate in a particular matter involving Immigration Reform Law Institute, as well as all its clients/members you personally served.

As defined in the Executive Order (E.O.) 13770, “particular matter involving specific parties” is any “particular matter” including “any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding,” that involve a specific party or parties. Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identified parties, such as a specific contract, grant, license, product approval application, enforcement action, administrative adjudication, or court case. See 5 C.F.R. § 2641.201(h)(1). However under the Pledge it also includes any meeting or other communication relating to the performance of your official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

CONCLUSION: While we are not aware of any actual or potential conflict arising between your duties and reported interests, should you be assigned something related to your financial interests or former employer/clients/members, you should recuse yourself from participating in the particular matter and seek advice regarding the applicability of any exemptions or exceptions for your holdings (including any newly acquired interests), or authorization for your participation where the impartiality rule may be triggered.

Please do not hesitate to contact me should you have questions about the above. Thank you,

(b)(6)

Acting Associate General Counsel (Ethics)

Tel: (b)(6)

Confidentiality Notice and Warning

The above communication and attachments are covered by Federal and state laws and regulations governing electronic communication. The communication and attachments may contain confidential or privacy protected information that is legally privileged or operationally sensitive and remains the property of the United States Government. If you are not an addressee or it is apparent that you have received this communication in error, you are hereby notified that any dissemination, distribution, copying, or other use of this message is strictly prohibited. Regardless of how you received the information contained in this communication and accompanying attachments, any use by you must be for official purposes only and misuse may subject you to Federal prosecution. If you have received this communication in error, you should immediately notify the sender of this circumstance and delete or destroy this communication and all attachments.



Homeland Security

March 28, 2018

MEMORANDUM FOR: Ian Smith
Office of Policy

FROM: (b)(6)
Senior Ethics Counsel
Office of the General Counsel

SUBJECT: Your Financial Interests and the Ethics Rules

This confirms that we have reviewed your Public Financial Disclosure Report (OGE 278e), covering your financial interests for 2017. To help you avoid potential conflicts of interest, we are providing you with this reminder of the ethical rules that may be applicable to you in light of your reported information.

FINANCIAL CONFLICT RULE

RULE: You are prohibited from participating personally and substantially in a particular matter, in which you have a financial interest, if the matter could have a direct and predictable effect on your financial interests. This prohibition covers all the companies and the European Investment Bank listed on your new entrant report. An example might be if you were preparing recommendations on how to proceed with a DHS program, and learned that the program may have a financial impact on one of the companies listed on your report. This prohibition is set forth in a criminal statute, 18 U.S.C. 208(a).

For purposes of this statute, the interests of the following persons are imputed to you and, therefore, treated as your own: your spouse and minor children; any general partners; any organization in which you serve as an officer, director, trustee, general partner or employee; and any person or organization with which you are negotiating or have an arrangement concerning prospective employment. Your dependent children's financial interests (for example, college students) may also raise conflict questions for you if your assignments impact the dependent child's financial interests.

WHAT SHOULD YOU DO?

If a matter involving one of your financial interests comes to your attention, you should immediately stop working on the matter, inform your supervisor that you are recusing and seek ethics guidance from an Ethics Counselor. There are several possible options that will resolve the conflict. These include: recusal from the matter, divesting the conflicting asset, requesting a waiver of the conflict and evaluating whether a regulatory exemption applies to your situation.

PENSION WITH DHS PROHIBITED SOURCE. You have advised that you do not have any pension plans or other financial ties with former employers.

OTHER POTENTIAL CONFLICT AREAS

SPOUSAL EMPLOYMENT. You have not indicated you have an employed spouse. Should that situation change, please be advised that a spouse's employment could be a conflicting financial interest. In those circumstances, you must ensure that you do not work on a government assignment, project, or contract that has a direct and predictable effect on whether your spouse will retain his/her job, maintain the level of his /her salary, or earn a bonus or commission, or on whether the company will undergo any reorganization that would affect your spouse's interests. If your actions will not have a direct and predictable effect on your spouse's employment and (a) your spouse is a salaried employee of the company working in a division that has no involvement in any of the assignments, projects, or contracts with DHS and (b) your spouse does not participate in any bonus or benefit plans tied to the profitability of the company nor own stock in the company, his/her employment would likely not be a conflicting financial interest requiring your disqualification. Additionally, regardless of his/her compensation plan, your spouse may own company stock (such as, through company benefit plans, including a pension plan). Ownership of company stock is subject to the above rules.

OUTSIDE EMPLOYMENT AND ACTIVITIES. Although you do not currently have any outside employment or activities, please be advised that the ethics rules and conflict of interest statutes prohibit certain activities. DHS regulations (effective March 7, 2016) require that all outside activities beginning after the effective date be approved in advance by your supervisor and an Ethics Counselor. Please email EthicsOfficeHQ@hq.dhs.gov to receive additional guidance.

The following is a reminder of the general rules regarding activities with entities outside of the Federal government (even if unpaid):

- You may not participate personally and substantially in a particular DHS matter (e.g., contract, grant, license, claim, investigation or other similar assignment that involves or impacts non-Federal parties) that will directly affect the financial interests of the outside entity (including any clients). 18 U.S.C. § 208; 5 C.F.R. § 2635.502.
- You may not use your public office (authority or title) for the private gain of the outside entity, or individuals involved with the outside entity or matter. 5 C.F.R. § 2635.702.

- You may not, with or without compensation, represent the outside entity, or any individuals, before any Federal agency or U.S. Courts, where the U.S. is a party or has a substantial interest. For example, if you are performing work or volunteering for an outside entity, you may not interact with the Federal government on behalf of the entity. This includes assisting the entity or individuals with tax issues before the IRS, contacting Federal government officials to seek or influence a decision on a benefit or application, or briefing Federal government officials as a company employee. 18 U.S.C. §§ 203 and 205.
- You may not make unauthorized use of official time or Government property for your activities with the outside entity. This includes using email systems, copiers, and phones to conduct outside activities. 5 C.F.R. §§ 2635.704 and 705.
- You may not give the appearance that DHS sanctions or endorses the outside entity or your activities with the outside entity. For example, you may not refer to your title or position with DHS in a matter intended to influence outside parties. Your name and DHS title cannot be used on letterhead or websites of outside entities to support your personal activities. 5 C.F.R. § 2635.702(b) and (c).
- You may not use or improperly disclose non-public information, including sensitive, classified, or otherwise protected information acquired as part of your official duties and which is not generally available to the public. 18 U.S.C. § 1905; 5 C.F.R. § 2635.703.

PRESERVING IMPARTIALITY AND APPEARANCE QUESTIONS

Employees are continually charged with preserving their impartiality in performing their official duties to ensure the public can have confidence in the integrity of DHS operations. The ethics rules are intended to offer a road map for employees to help them avoid inadvertently creating an appearance of special treatment or favoritism, but the rules cannot cover or anticipate every fact situation. Employees must, therefore, be sensitive to how their decisions and conduct would appear to the public. You should ask yourself if a reasonable person, with knowledge of the relevant facts, would question your impartiality. If you are unsure of how to proceed, discuss the question with your supervisor and with an Ethics Counselor. Ethics Counselors can work with you to determine an appropriate course of action. 5 C.F.R. § 2635.501, et. seq.

Generally, employees should not participate in any particular matter involving specific parties (e.g., contract, grant, license, claim, investigation or similar matter that involves non-Federal parties) in which someone with whom they have a “covered relationship” is or represents a party, if a reasonable person with knowledge of the relevant facts would question the employee’s impartiality in the matter.

In accordance with the regulation, you are considered to have a covered relationship with your former employer, the Immigration Reform Law Institute, and anyone else with whom you have a business, contractual or other financial relationship that involves other than a routine consumer transaction. Consequently, you may not participate in any particular matter involving specific

parties where your former employer, an outside employer, or their employees or clients is a party or represents a party, without advance authorization from your supervisor. 5 C.F.R. 2635.501(a).

CONCLUSION

While we are not aware of any actual or potential conflict arising between your duties and reported interests, should you be assigned something related to your financial interests or listed affiliations, you should immediately recuse yourself from participating in the particular matter and seek advice regarding the applicability of any exemptions or exceptions for your holdings (including any newly acquired interests), or authorization for your participation where the impartiality rule may be triggered **before you proceed to work on the assignment.**

For questions or additional guidance, please contact EthicsOfficeHQ@hq.dhs.gov.