

Subject: RE: USCCR FOIA Request 2022-1
Date: Friday, February 25, 2022 at 1:45:19 PM Eastern Standard Time
From: Andrew Gall
To: FOIA
CC: David Ganz, Sheryl Cozart
Attachments: Conflict of Interest _23-11-2021.pdf, Re_ IMPORTANT_ Conflict of Interest.pdf, Re_ Vote on EAC in transcriptp breakdown_17-11-2021.pdf

EXTERNAL SENDER

Ms. Lewis,

Attached to this email are three records responsive to your FOIA request (#2022-1). This is the third and final tranche of records, as the attached documents should fully satisfy your request. However, if you need any further assistance or would like to discuss any aspect of your request, please contact USCCR at foia@usCCR.gov within 90 days.

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.

Sincerely,
Andrew Gall

Date : 11/23/2021 3:15:04 PM
From : "Irena Vidulovic" ividulovic@usccr.gov
To : "Mauro Morales" mmorales@usccr.gov, "David Ganz" dganz@usccr.gov
Cc : "Debo P. Adegbile" dadegbile@usccr.gov
Subject : Conflict of Interest
Attachment : PILF 2018 990.pdf;

Staff Director Morales and General Counsel Ganz,

I write to follow up on a potential conflict issue I raised during the Friday business meeting. Ms. Mitchell serves as Chair on the Board of the Public Interest Law Foundation. This organization, PILF, appears to employ Commissioner Adams as General Counsel, it also appears he serves as a Director for the organization and as an officer through his status as President.

At the November 19, 2021 business meeting, I raised, on the record, the point that Commissioner Adams appears to have financial and business relationships with Ms. Mitchell, through PILF, which as far as I am aware he failed to disclose to the General Counsel's office prior to the nomination and vote on Ms. Mitchell's appointment. I asked for a written opinion from the General Counsel as to whether any ethical rules, policies or laws were violated as a result of this apparent non-disclosure, and, if so, what the impact of any breach is not only for Commissioner Adams, but also for the August 2021 vote appointing Ms. Mitchell to the EAC Board of Advisors. In other words, if Commissioner Adams should have disclosed and recused but did neither are the nomination and the vote itself tainted. Other Commissioners may have thought differently about the nomination and their vote had they been aware of ethical issues.

Specifically, I would direct the General Counsel to 5 CFR § 2635.402, Disqualifying financial interests (and related statute, 18 U.S.C. 208(a)), and 5 CFR § 2635.502, Personal and business relationships (also known as the impartiality rule). As the titles of these regulations imply, the first deals with conflicts of interest that stem from financial interest and the second deals with a more general duty of an employee to act and appear in a way that is impartial. I would also direct the General Counsel to PILF's IRS 2018 990 statement (attached). This document indicates that, in the relevant filing year J. Christian Adams was the highest paid employee of PILF, with a salary of \$120,000.00 (page 7), and it

indicates that compensation is approved by the organizations independent Board members, of which Ms. Mitchell is one (page 29). In short, Ms. Mitchell serves as Chair of the Board on which Commissioner Adams serves, she Chairs the Board of an organization that employs Commissioner Adams as General Counsel and President, and Ms. Mitchell participates in approving his compensation. The failure to disclose these facts if true raise serious questions as to the propriety and validity of Commissioner Adams participation in matters regarding Ms. Mitchell.

Please undertake a review of the relevant ethical and conflict of interests policies, and laws, including but not limited to those I have identified and report your findings to the Commissioners. If it is determined that a violation occurred or that this matter is more appropriately investigated by a separate independent third-party, a referral to Office of Inspector General of the Department of Justice may be appropriate, consistent with 5 CFR 2638.502)

As indicated above, please include in your analysis a determination as to whether any rule, policy or law was violated, if so, in what way, as well as an opinion as to the appropriate remedy for such a violation for the individual(s) involved and an appropriate way to remedy a potentially tainted Commission action. Lastly but importantly, please also include guidance for how the process should work to identify, provide notice of, and deal with possible conflicts of interests arising from financial, business, and personal relationships so we do not have any similar issues in the future.

Thank you for your time addressing this important matter.

Thank you,
Debo P. Adegbile

Irena Vidulovic

Special Assistant to Commissioner Debo P. Adegbile

U.S. Commission on Civil Rights

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#USCCR

Date : 2/9/2022 12:14:44 PM

From : "Irena Vidulovic" ividulovic@usccr.gov

To : "David Ganz" d ganz@usccr.gov, "Debo P. Adegbile" dadegbile@usccr.gov, "Mauro Morales" mmorales@usccr.gov

Subject : Re: IMPORTANT: Conflict of Interest

By what authority would he be entitled to my email?

From: David Ganz

Sent: Wednesday, February 9, 2022 10:30:09 AM

To: Debo P. Adegbile

Cc: Irena Vidulovic

Subject: FW: IMPORTANT: Conflict of Interest

Commissioner Adams has asked me to send him the below email that you sent to Mauro and me. Would you like me to do so? If not, please let me know.

Just as background, OGE regulations note that ethics advice is not covered by attorney-client privilege. See 5 CFR §§ 2641.105, 2634.607, 2635.107(b) (“[d]isclosures made by an employee to an agency ethics official are not protected by an attorney-client privilege.”)

From: Irena Vidulovic

Sent: Tuesday, November 23, 2021 3:15 PM

To: Mauro Morales; David Ganz

Cc: Debo P. Adegbile

Subject: Conflict of Interest

Staff Director Morales and General Counsel Ganz,

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Debo P. Adebile

Irena Vidulovic

Special Assistant to Commissioner Debo P. Adebile

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#USCCR

Date : 11/17/2021 9:42:39 AM
From : "Irena Vidulovic" ividulovic@usccr.gov
To : "Mauro Morales" mmorales@usccr.gov
Subject : Re: Vote on EAC in transcriptp breakdown

Commissioner Adebile however voted against adopting the AI on EAC on April 30th. However once it was voted and it became a USCCR administrative instruction he followed the adopted AI which bundled Commissioner Yaki's vote with Cleta. He also understood that we could only strike on e R' nominee.

From: Mauro Morales
Sent: Wednesday, November 17, 2021 9:39:51 AM
To: Irena Vidulovic
Subject: FW: Vote on EAC in transcriptp breakdown

From: Juana Silverio <jsilverio@usccr.gov>
Sent: Tuesday, November 16, 2021 5:59 PM
To: Norma Cantu <ncantu@usccr.gov>; Angelia Rorison <arorison@usccr.gov>; Mauro Morales <mmorales@usccr.gov>
Subject: Vote on EAC in transcriptp breakdown

I'm ready to call the question, folks.
All right. Call the question then.
Commissioner Adams, how do you vote?
COMMISSIONER ADAMS: Yes.
CHAIR CANTU: Commissioner Adebile?
COMMISSIONER ADEGBILE: Aye.
CHAIR CANTU: Commissioner Gilchrist?
COMMISSIONER GILCHRIST: Yes.
CHAIR CANTU: Commissioner Heriot?
COMMISSIONER HERIOT: Yes.
CHAIR CANTU: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: Yes.
CHAIR CANTU: Commissioner Kladney?
COMMISSIONER KLADNEY: No.
CHAIR CANTU: Thank you.
Commissioner Yaki?
COMMISSIONER YAKI: Abstain.
CHAIR CANTU: And I vote yes.
One abstention, 1 no, 6 yeses. The motion passes.

--

Juana Silverio (*she/her/ella*)
Special Assistant to Commissioner Norma V. Cantú

U.S. Commission on Civil Rights

E: jsilverio@usccr.gov

<http://usccr.gov/>

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