

OFFICE OF ETHICS NEWSLETTER



JANUARY'S EDITION

GREETINGS FROM THE DIRECTOR



Government Ethics: It's Not Just for Oxymora:
It's for Everyone.

As we all know, ethics sometimes is under-appreciated. Yet, I've seen a marked change in the attitude of Federal officials to ethics over the last 15 years. When I started doing ethics lectures, you couldn't utter the first word without some senior official looking disgusted and asking "At what price ethics?"

To get around what was, at that time, a popular anti-governmental mantra, I actually used to have to diffuse this silent curse at the outset. I'd do that by starting off my lectures with the classic "dig" that we've all had thrown our way: That government ethics was another oxymoron, like "military intelligence," "super-medium jumbo shrimp," "hot-water heater" (think about it), and my own favorite, "Sense of Congress Resolution."

Yet, we know that government ethics is not an oxymoron. Our standard of conduct is to avoid even the appearance of wrongdoing. As for ethics scandals in government, much like a High Jump Competition, the higher you set the bar, the more likely it is that some will fall beneath that standard. Conversely, if one's ethical standard is ground-level (i.e., limited to merely avoiding prosecution), you can bet that there will be fewer scandals, but what does that actually say?

What changed things? The answer, of course, were ethics scandals in the late eighties that led to the President's Commission on Government Ethics Laws, the establishment of the Office of Government Ethics as an independent agency, and the issuance of the Standards of Ethical Conduct. Ethics is now at the heart of the confirmation process for incoming Presidential appointees. Where the ethics official was once the last person to see the upper reaches of officialdom, nowadays, he or she is at the head of the line. Our inside culture has changed.

Yet, as our ethics culture has changed and solidified, I believe that we have had a substantial impact even on the private sector. Our largest corporate clients changed with us, whether to reflect us, or just because it happened. Many corporations now have ethics advisors and ethics codes. If they do considerable business with the government, those advisors often are former Feds. I now advise folks at our training sessions that if an outside party offers you something that doesn't sound right, chances are that they haven't done a lot of business with us, because our larger partners often know our rules better than we do. Okay, so, as the nightly news shows, we missed a few. What we'll never see, and what the media is incapable of showing, is how many we catch and how many more we don't have to catch. The bottom-line fact is, that we are having an impact and having one beyond our agency walls.

As for the government ethics "oxymoron" joke, I really don't expect to hear it for a while. Too bad. I have a "killer" of a retort ready: "Can you say Arthur Anderson, Enron, Global Crossing, Worldcom, . . . ?"



Ethtrack Goes Live

A long-awaited electronic tracking system for ethics training (Ethtrack) went live on December 18.

Diane Koch, Eastern Regional Research Center, Agricultural Research Service, conceptualized and performed the initial work on a tracking system nearly four years ago. Greg Kidd, National Finance Center (NFC), took the idea and converted it into the new reality for Department employees.

The tracking system is tied to the computer based training modules posted on the Department's website, <http://www.usda.gov/ethics>. When an employee completes a module, he or she is asked if he or she wants to receive credit for taking the module. If so, the employee clicks a "Notify" button.

At the following screen, the employee is asked if he or she is a Department employee. If the employee clicks "yes," he or she is then taken to a screen that asks for his or her Social Security Number (secured, of course) and email address. (NOTE: Employees must use the email address that they give to correspondents outside the Department's internal email system.) After the certification message is sent, the employee is told that he or she will receive an email confirmation notice of the training.

If a user of the training modules is not a Department employee, he or she will have an opportunity to have his or her ethics advisor notified by email provided that his or her agency is a registered user at NFC.

The system also contains a feature allowing the individual employee to see the record of which training he or she has taken.

Ethics advisors will benefit from the use of Ethtrack through a reduction in the numbers of email notifications to handle and also through an enhanced ability to make timely and accurate training reports.



Meet an Ethics Advisor

In our last newsletter we introduced Anita Cunningham from the Food and Nutrition Service and she's still signing autographs. In this edition we're headin' to the land of Mardi Gras, Lagniappe, Cajun cookin...and all that *jazzzzzzzz*. Please welcome:

Name: Dawn Bolden
Agency: National Finance Center
Address: P.O. Box 60,000
New Orleans, LA 70160-0001
Tele. No.: (504) 255-5679
Email: Dawn.Bolden@usda.gov
NFC: Website Address: www.nfc.usda.gov/ethics

NFC Employee Count: 1,711
No. of Confidential Filers: 152

GENERAL INFORMATION

Dawn has worked in the National Finance Center (NFC) Ethics Office for well over 4 years. She was first detailed to the Ethics Office at the request of Linda Simmons, NFC Mission Area Ethics Advisor. After several months management realized that Dawn was an asset to both the Human Resource Management Staff (HRMS) and the Ethics Office. The rest is history.

Although she works as a full time Ethics Assistant, Dawn has various assignments related to the function of the HRMS. For the past two years, Dawn chaired a special event involving Public Service Recognition Week. This event was the first ever collaboration of Federal employees within the tri-state region of Louisiana, Mississippi and Texas. Dawn often works on special projects for the Federal Executive Board and the Federal Personnel Council. She also contributes to office operation in the following areas: Disaster Recovery Program, NFC and HRMS newsletter, Property Management, Internal Controls, and the Standard Steering Committee.

Prior to her ethics assignment, Dawn worked as a Systems Administrator in the Thrift Savings Plan Service Office Telecommunications Central Control Unit. (*Say that fast 3 times!*) All previous work experiences were held in the private sector in the areas of marketing and business development.

Since she had only two years of prior government experience before coming to NFC's Ethics Office, Dawn was surprised to learn about the many ways in which government impacts the lives of the American people. Now that I've given you a little background on Dawn, let's hear from her, in her own words.

- Q. Did the program administration/coordination meet your expectations?
- A. *I was surprised to learn about the many ways in which government impacts our lives as private and public citizens. For example, under certain conditions Federal employees are prohibited from accepting gifts. Conversely, in private industry gift giving is considered an acceptable practice. Gifts are given and accepted based upon the quality of a business relationship. Entertainment, dining and personal gifts are inherently incorporated into the value and worth of the services one provides. While, I certainly see the prudence of the gift regulations cited in the "Standards of Ethical Conduct for Employees of the Executive Branch," the "throw me something mister" and "lagniappe" (which means a little something extra) culture of Louisiana certainly keeps us on our toes.*
- Q. Were you surprised to find out what ethics entails? If so, please identify surprises.
- A. *As you can guess from my prior answer, yes, I was surprised. I've spent many years as a stay-at-home Mom, for which I personally believe I've received the greatest personal achievement and fulfillment. I have found working in the area of ethics very similar to that time in my life. Mothers are always working at teaching the importance of being a responsible person and the value of living a life filled with integrity. Sometimes we wonder if what we painstakingly teach will leave a lasting impression upon the ones we so dearly love. Such is the work we perform in the Ethics Office; our expectations are the same. We are ever vigilant and diligent in our efforts to teach employees of the executive branch the responsibilities of serving the public's trust.*

Q. If you had one wish for the program what would it be?

- A. *I ditto the response of Anita Cunningham when asked this same question in the previous Ethics Newsletter. I believe so many people are clueless regarding the work ethics officials perform. I see ethics officials as true champions of "Good Government," working to preserve the foundation and uniqueness of the country we love and serve. During our most recent Ethics Retreat, Office of Government Ethics Desk Officer, Cheryl Kane-Piasecki's overview of the ethics program invoked our consciences to remain cognizant of the bigger picture and to take ownership in developing creative ways in which to communicate the ethics program. I also advocate a proactive approach to meeting the rudiments of ethics compliance within the agencies of the executive branch.*

****SPECIAL RECOGNITION, HONORS & AWARDS****

When asked to share honors received, Dawn replied with...

I have received many accolades of personal rewards and recognition in both the private and public sectors. However, I am most honored by working with esteemed individuals who actually believe and live what they teach throughout the ethics environment. People I call "Defenders of the Truth," like my supervisor, Linda Simmons, Cheryl Kane-Piasecki, the USDA Office of Ethics staff, Tonya Willis of Farm and Foreign Agriculture Services, and the generous and kind folks at Agricultural Research Service, like Sue Prada, Lynn Best and Susan Mutchler. All of these individuals enhance the importance and quality of a job that we all care so much about. They have helped to mold an ethics community that has truly developed into a family. I have been allowed the privilege of knowing these honorable individuals, which have so greatly impacted my life. I am sure Linda and I both agree that the wealth of information provided to us by the folks at the Office of Ethics, particularly Dave Spradlin, is without measure. The honor has been all mine.

(Meet an Ethics Advisor – continued on page 5)



Annual Ethics Training at USDA

No sooner do we end one annual training program, than we start another! That's right, it's time to consider your ethics training accomplishments for CY 2003.

Each Mission Area within USDA will soon be notifying its employees of training plans for 2003, and we at the Office of Ethics decided to give our clients a "heads up" here and to notify others of our intent to assist USDA Mission Areas.

We're primarily responsible for training all Public filers; as well as Confidential filers assigned to positions in the headquarters (HQ) offices listed below. (If you don't know what we mean by "Public and Confidential filers," visit our website at: www.usda.gov/ethics and view our training module titled, Financial Disclosure.)

Public Filers:

If you are assigned to a position within one of the following HQ offices, watch for our invitations to attend live briefings. *

The Office of Ethics services the offices of the: Secretary, Deputy Secretary, Assistant Secretaries, Under Secretaries, Deputy Under Secretaries, and HQ Staff Offices including:

- The Subcabinet
- Office of the Deputy Secretary
- Office of the Executive Secretariat
- Farm & Foreign Agricultural Services
- Food Nutrition & Consumer Service
- Food Safety
- Natural Resources & Environment
- Research, Education & Economics
- Rural Development
- Marketing & Regulatory Programs
- Department Administration
- Congressional Relations
- Chief Financial Officer
- General Counsel
- Inspector General
- Communications
- Chief Information Officer
- Chief Economist
- Office of Budget and Program Analysis
- National Appeals Division

*If you miss our briefings, we'll request that you review (3) of our website training modules and self certify through our new and improved process designed by the National Finance Center. (See our article on page 2 titled "Ethtrack Goes Live").



Special Note: We will also support the Mission Areas within USDA in training their confidential filers on an "as requested" basis. Sooo, if you want our office to brief your employees, give us a call on (202) 720- 2251. (Fees for training are exorbitant!)

Confidential Filers:

If you are assigned to a position within one of the following offices, expect our request that you view and self certify, through our new and improved process designed by the National Finance Center, the following three training modules on our website:



Conflicting Interests;



Using Government Property and Time; and



Gifts from Outside Sources *

* For extra credit, also view Gifts Between Employees.

Confidential filers serviced by the Office of Ethics include those within the offices of:

- Administrative Law Judge
- Board of Contract Appeals
- Budget and Program Analysis
- Civil Rights
- Communications
- Crises Planning and Management
- Chief Economist
- Ethics
- Executive Secretariat
- Chief Financial Officer
- General Counsel
- Hazardous Material Management Group
- Human Resources Management
- Chief Information Officer
- Operations
- Outreach
- Planning and Coordination
- Procurement and Property Management
- Secretary & Deputy Secretary
- Small & Disadvantaged Business Utilization



USDA Interagency Ethics Workgroup Meeting

The initial Interagency Ethics workgroup meeting was recently held on December 4, 2002. The participants discussed several areas that they felt required immediate attention to set this group's efforts in motion. These issues included marketing the ethics program; joint training sessions with other agencies; and improved communication and consistency among mission areas. To further improve the ethics programs, it was suggested that the ethics advisors positions be moved to the Administrator's office to improve our visibility and responsibility to the agencies; review the grade levels for Ethics Advisors; plan an Ethics conference for FY 2003 to include State and Regional staff held by USDA and attend any courses (i.e. writing courses, communications, etc) that would improve the Ethics Advisors ability to provide technical assistance and customer service for our mission areas.



Desk Officers Servicing Mission Area Ethics Advisors

Office of the Secretary
Departmental Administration
Desk Officer: Ray Sheehan

Research, Education & Economics
Marketing and Regulatory Programs
Desk Officer: Dave Spradlin

Farm & Foreign Agency Service
Rural Development
Desk Officer: Pat Tippet

Food Safety
Food Nutrition & Consumer Service
Desk Officer: Lolita Roberson

National Resources & Environmental
Desk Officer: Mike Edwards

(Meet an Ethics Advisor – Continued from page 3)

****INVITATION TO NETWORK/PARTNER****

Dawn welcomes collaboration...

There is so much to learn from one another. Although ethics is a unique environment and our experiences may differ, the same rules apply. So share and share alike. Linda and I take a very proactive stance regarding training and educating NFC employees about the standards of conduct and ethics rules and regulations. I often draw upon my marketing background to develop a message that targets the needs of our audience and best communicates the ethics program. Each month I develop an "all employee memorandum," which addresses issues involving fundraising or soliciting employees during the Combined Federal Campaign, the do's and don'ts of political activities for executive branch employees during the election season, and gift giving in the month of December, to name a few. I often scan the Office of Government Ethics and the Office of Ethics web sites for new advisories and later adapt this information for our NFC audience. Linda and I enjoy producing and performing skits that address ethics issues that are specific to certain Branches within the NFC community. It is often said that a picture is worth a thousand words. So, I've created ethics posters that communicate some aspect of public service as a public trust. This office has also developed an ethics-training package that is distributed during HRMS's orientation for new hires. We utilize the Department of Interior's satellite downlinks as a training media for our Confidential Financial Disclosure Filers. And of course, we highly publicized the use of the Office of Ethics training modules to help our public and confidential filers meet their annual ethics-training requirement. On an annual basis, we coordinate a highly requested annual ethics training session for the Association of Government Accountants. Our training program is always evolving and we are constantly looking for new and innovative ways to present the ethics program to NFC employees. Anyone with a few suggestions?

With a soft smile, Dawn closes out our interview with a special invitation...

In the words of Bob Barker, host of the Price is Right. "Ed Peterman, come on down." I'm sure we can put something together.

(Meet an Ethics Advisor – Continued from page 5)

What a terrific segue to our next interview! Let's see if anything comes of her invitation. See our next Newsletter for a chat with Ed Peterman, Mission Area Ethics Advisor, Rural Development.



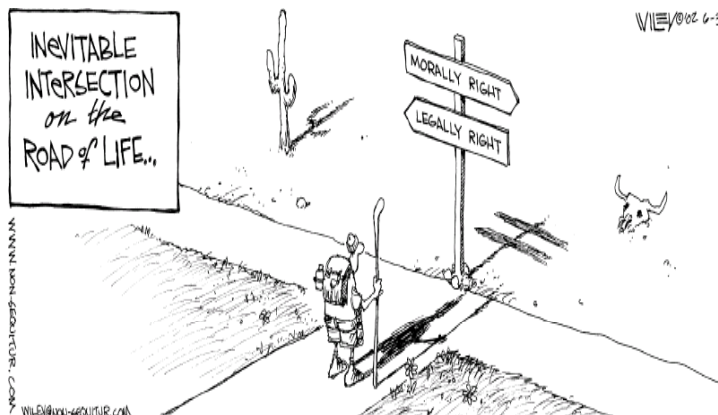
2003 Annual Government Ethics Conference

The Office of Government Ethics will host the 13th Annual Government Ethics Conference, March 10 through 13, 2003, at the Valley Forge Convention Center in King of Prussia, Pennsylvania. This year's conference will include a day of pre-conference training for ethics officials who are new to the field. These sessions, which will be conducted on Monday, March 10, will require a separate registration and fee. The pre-conference program may be attended independent of, or in conjunction with, the full conference program. Amy Comstock, Director, of OGE, will begin the day with a keynote address. This pre-conference will include introductory level sessions on financial disclosure, gifts, seeking employment, post employment, and conflicting financial interests. There will also be a lunch time session on the realities of being an ethics official.

The main conference program on March 11 through 13, will include speeches from Mr. Noel Hillman, Principal Deputy Chief, Public Integrity Section, Criminal Division, Department of Justice, and Professor Steven Schooner from Washington University. Other sessions will cover topics such as working with senior management in your agency, improving your administrative ethics systems, ethics issues relating to special Government employees, and the role of the Inspector General in ethics-related matters.

"Employment" Definition

During the course of the recent OGE Audit, it became clear to the auditors that ethics folks were not clear as to the definition of "employment" that lies at the core of the requirement to obtain prior approval for outside employment under the USDA Supplement to the Standards of Conduct (5 CFR



No Sequitur (C) 2002 Wiley Miller. Dist. By Universal Press Syndicate. Reprinted with permission. All rights reserved.

(Employment Definition continued)

part 8301). Of particular concern was confusion over what is covered by non-compensated employment. The requirement is as follows:

(b) Definition of employment. For purposes of this section, "employment" means any form of non-Federal employment or business relationship or activity involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities:

- (1) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney; and
- (2) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee, which involves decision making or policymaking for the non-Federal entity, or the provision of advice or counsel.

Under (1), in addition to consultants, at a minimum, we're talking in terms of professionals who have earned degrees in a given area of study and are licensed to practice a profession, including as lawyers, doctors, accountants, teachers.

Under (2), we're talking about serving as a fiduciary or professional advisor for a FOR-PROFIT entity. Thus, service as a fiduciary of a non-profit association or a scientific society does not require prior approval; service as a vice-president of a local bank would.



Kudos for the Office of ETHICS

We are pleased to share with you comments from our clients/customers on our Ethics web site, computer base training modules and our newsletter.

"Nice job! I'm usually pretty bored with this kind of stuff, but the scenario approach is well done. The web design is great, nicely interactive, clearly sequenced." - **Mark Nechodom, Forest Service**

"What a hoot! This training was the most pleasant surprise I've had in years! (33 with the Department) We are required to complete three modules, but it was so pleasant (and informative) that I completed all of them. I REALLY appreciate the sense of humor demonstrated by the writers. Who ever put this training together deserves a BIG award (we agree!). Thank you. I'll let my coworkers know that it ain't that bad." - **Hilary Odom, Animal Plant Health Inspection Service**

"We adapted the original ten lessons for our ethics website . . . Overall, your lessons have been very well received . . . I would add that your generosity has been a tremendous blessing to us as a small agency (under 3,000) with a minimal allotment for all training. We anguish each year on providing ethics training that is relevant and different. We are concerned about forcing employees to take time for ethics and having nothing useful to convey. Your modules were the perfect means to satisfy a regulatory requirement while providing important information in an entertaining way." - **John L. Szabo, Nuclear Regulatory Commission**

"I thought the training sessions were nicely presented and informative..." - **Lauren Godby, Departmental Administration**

"We've gotten nothing but compliments from the very highest level of the IRS for using web based training modules. In fact it was so successful that the IRS-Commissioner directed the personnel director to put all mandatory training into a web based format which we did this year. And every chance we get we tell them where we "borrowed" the idea. So your example has been a guiding light for us and for the IRS." - **Rodger P. Hargraves, Jr. - Internal Revenue Service**

"Your ethics web site rivals the Office of Government Ethics site for useful material. - **Peter Rundlet, Attorney at Law**

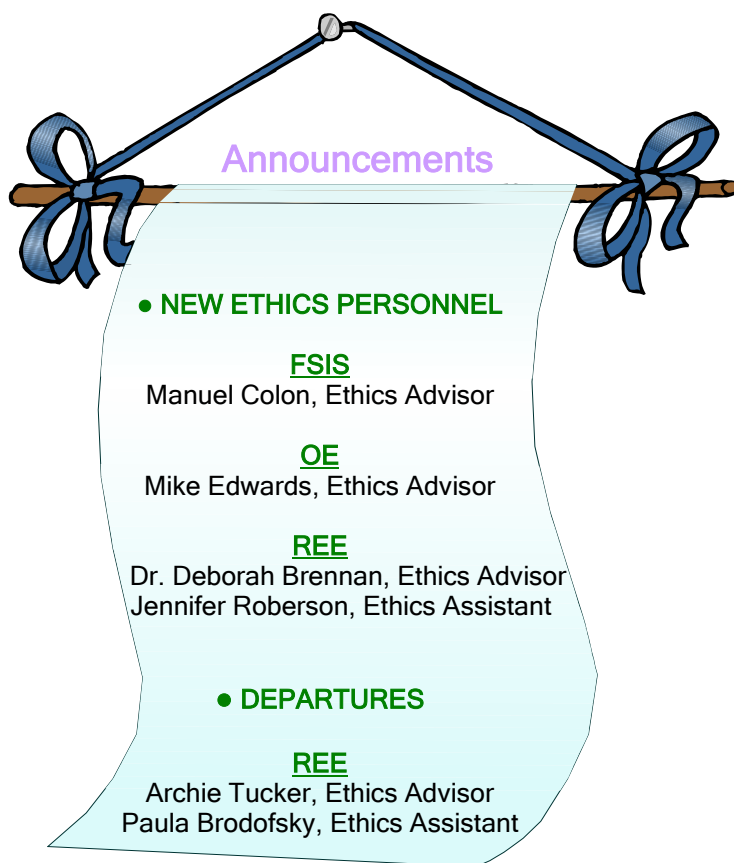
"Very well done."

"Enjoyable and educational."

"I was just looking at the current Newsletter. It has pertinent information and is something I will return to once I set up the appropriate reminders to myself. Therein, after the interview with Anita Cunningham, you gave her the "Award". I had to laugh.

Specifically, this sense of humor also caught me by surprise several times during the training modules. It was a welcomed change. It's one of the reasons I went through all the modules. The information was useful and easily digestible. Thanks. - **Eric A. Curry, Agricultural Research Service**

Once again, USDA's landmark online ethics training is being adopted by two more Federal agencies for their use. This time, it's the **Office of Thrift Supervision and Internal Revenue Service**.



2002 Ethics Retreat Survey Responses

For those of you who responded to the 2002 Annual Ethics Retreat Survey, thank you, we appreciate your feedback. In fact, some responses drew such excitement in the office we thought we'd exploit them in the newsletter, with permission of course.

Overall, responses indicated that the center at Research, Education, and Economics in Beltsville offered a pleasurable environment for the retreat. The facility itself was mostly rewarded for providing a space conducive to networking and a satisfactory learning environment. However, the Beltsville location, combined with early start times, was an area of concern for some participants. Nevertheless, at least one person was completely satisfied with the environment...

"I found the facilities to be excellent! I loved the location. Just the general atmosphere of the building and the conference room were very pleasing. The way the tables in the room were set up, the access to restrooms, kitchen, parking lot, phones, vending machines, etc., were all within easy walking distance. All of the presenters and attendees were so nice. I felt very comfortable." - Lynn Best (ERS)

On a side note, Ed Peterman's request for Krispi Kreme donuts for the 2003 Annual Ethics Retreat is under consideration.

Scientific issues, including adjunct professorship, was the most well received topic by those surveyed. It proved to be an issue many felt was extraordinarily helpful and informative. Sue Mutchler of Agricultural Research Services (ARS) and Dave Spradlin of the Office of Ethics (OE) received special thanks, and were applauded moreover for their presentations on these issues.

Other praise was given to Ed Peterman of Rural Development (RD), for his presentation on *How to Survive an OGE Audit*. Ed's list of elements offered a peek at how to run a successful Confidential Financial Disclosure Program. His presentation was very attentive to detail and considered "highly informative."

The pedagogical techniques used at the retreat were on the whole nicely received. The use of practical ethics scenarios was considered helpful and a highly effective way of learning ethics matters. Still, small group interaction received mixed reviews, as it was the "favorite part" for some, and considered "forced interaction" by others. As Lynn Best (ERS) described,

"I think the scenarios contributed greatly to the learning process. The way in which they were presented (some with a touch of humor) really helped me to absorb the material and relate to the situations. I did not like getting together in the small work groups though, but that's just me."

Finally, further comments and suggestions provided interesting perspectives on the 2002 Annual Ethics Retreat offering praise, constructive criticism, and various avenues to explore for the future. Here are a few of them:

"I am really pleased to have met Ray and Dave and to realize that both of you have a sense of humor which is absolutely necessary in this business. I felt very comfortable interacting with all of you (including Pat, whom I've known from her previous position with ARS). I look forward to future interactions." - Eric E. Roos (ARS)

"Participants seemed to be from two different worlds: 1) those that deal with ethics on a full-time basis and 2) those that deal with ethics as a collateral duty. Workshop/Training needs of these two groups are different in my opinion. I would prefer to have a workshop targeted at collateral duty ethics officials" - Andrew C. Hammond (ARS)

"I'm excited about the Intra-agency ethics group. I think this will allow mission areas of similar interests the opportunity to focus their thoughts and present their issues of common concern to the Office of Ethics through one body as opposed to a dribs and drabs of suggestions from everyone" - Ed Peterman (RD)

THE BEST OF THE WORST

Actual Cases In Competition for the Ethics Darwin Awards

(This article is reprinted from *Federal Ethics Report*, Vol. 9, Iss. 8, with the permission of the publisher, CCH Washington Service Bureau.

INTRODUCTION:

It began at a typical Washington reception. Folks were standing around juggling plates, utensils and plastic glasses of house wine. As is usual, the conversation turned to work. "You wouldn't believe the telephone call I got today...." "Oh, yea!?! Let me tell you about mine...." The one-upmanship became intense. We began drawing from the ancient past (the '80s) to dredge up the classics. Suddenly the light dawned and we realized that we had the makings for the Ethics Darwin Awards. To be fair to other departments and agencies (ethics counselors are nothing, if not fair), we sent out an all-points bulletin asking for their input as well. The results were presented at the Interagency Ethics Council on August 2, 2001. You decide which ones are the winners of the Ethics Darwin Awards.

CONFLICTS OF INTEREST:

"Sure I can approve my own request, why not?" A federal attorney, who was the secretary of his private sailing club, sent a letter to the Navy admiral in charge of the Navy facilities in the nearby harbor, requesting on behalf of the sailing club the use of the Navy's piers by the sailing club. Later that week, as the General Counsel for the same admiral, the attorney reviewed his own letter and recommended approval of the request. Not a bad system! Too bad the attorney violated not one, but two criminal statutes. (18 U.S.C. §§ 205 and 208)

"But I wasn't really here!" A Chief Counsel was made Acting Deputy Administrator for the last six months of his tour. At the time, details to Senate-confirmed positions were legal only for 30 days. When he was getting ready to leave we advised that his representational activities would be severely limited for the next two years due to the scope of his official responsibilities as Acting Deputy. He then, in all seriousness, suggested that matters arising during the last five months of his detail should not be covered by the post-employment restrictions because he was not legally in the job during that time. (18 U.S.C. § 207 (a)(2))

"My company is the best, really!" A government computer support manager worked for a private computer repair firm during off-hours. In his official capacity, he recommended and then authorized sole source awards to that firm. When we found out about it and asked him what he thought he was doing, he said, "I am very familiar with the work of the firm and knew that the government was getting the best deal from qualified people." He received a two-week suspension without pay, and was removed from supervisory responsibilities. (Those who knew the employee confirmed that he really believed he was doing the right thing.) (18 U.S.C. §208)

OUTSIDE ACTIVITIES:

Would cloning work? A federal forest fighter wanted to know if he could have a part-time job with a local fire-fighting brigade. When asked if that brigade also fights forest fires, he responded in the affirmative. What did he plan to do about his regular job in that situation? His answer: take annual leave.

USE OF GOVERNMENT RESOURCES:

"What do you mean, I can't sell real estate at work!" A federal employee, who had a second career as a realtor, printed her agency phone number on her realtor business card. When she answered her phone at her agency, she announced her office as "J&B Real Estate." When advised that she could not use her government office for her commercial business, she left federal service. (The record is silent regarding how much of her duty day was actually spent on government work.) (5 C.F.R. § 2635.704)

Real estate, part II. An employee at another agency set up her realty business the same way. However, when her supervisor finally took away her phone, she gave out her co-workers' phone numbers. When her personal calls came in, she took over their desks to continue her realty business. She was eventually removed from service. (5 C.F.R. § 2635.704)

"Interference with my real job." Recently, we had a brief network outage in our Central Region. An employee who trades stock on the Internet during his lunch hour was not able to get online to do some trading that involved a very volatile stock. He lost a sizeable amount of money because he wasn't able to get online and do the trading he needed to do to protect his investment. He contended that the federal government was liable for his financial loss due to a network outage that kept him from managing his stock portfolio during lunch. We reminded him that the use of the government computer for day trading was prohibited by the Department's Limited Personal Use of Government Equipment Policy. (5 C.F.R. § 2635.705)

"What do you mean, this isn't my property!" One entrepreneurial employee backed his panel van up to the office door one night and stole all the computer equipment. He wasn't too hard to catch because he tried to sell everything at a yard sale the next day—with bar coding and "Property of U.S. Gov't." still prominently displayed. (5 C.F.R. § 2635.704)

"But it makes my heart flutter!" The agency issued a policy statement prohibiting employees from viewing sexually explicit material via office computers and the Internet. About six weeks later, a supervisor walked into an employee's cubicle and observed that the subordinate's computer was connected to a pornographic Internet site. Also, the employee's computer log showed he had visited multiple pornographic sites for almost two hours. The supervisor issued a notice of proposed suspension to the subordinate for Unauthorized Use of Government Property and Wasting Time. The employee claimed that he viewed the sites to "cool down and relax" after an argument with his supervisor. The employee claimed discrimination on the basis of age (62) and disability (heart angina) when he was issued a 5-day suspension that was later reduced to 3 days. The Equal Employment Opportunity Commission affirmed the agency finding of no discrimination. *Clinton Zimmerman v. Pirie, Secretary, Department of the Navy*, 101 FEOR 1223 (April 5, 2001). (5 C.F.R. §§ 2635.704 and 2635.705)

"And they even pay me for doing this." The Merit Systems Protection Board affirmed the decision by the Drug Enforcement Agency ("DEA") to remove a criminal investigator for willful misuse of a government vehicle. The former official was engaged in a social and sexual relationship with a confidential source of information, who was also the wife of a convicted drug trafficker. The former official received daily gifts from the confidential source. He used his official government vehicle to travel to the residence of the confidential source, and to transport her from her residence to the Miami airport and to the Café Iguana for purely social reasons. He even gave her some DEA-owned ammunition for use in her own gun. The case is reported at 100 FMSR 83446, *Julio A. Colon v. Department of Justice*, November 3, 2000. (5 C.F.R. § 2635.704, 31 U.S.C. § 1344)

"Sorry, Skipper, but those really aren't perks." Immediately upon arriving at his new duty station in Italy, the new commanding officer of the Navy facility, in an effort to save money, used an official vehicle rather than obtaining a rental car, which he was authorized to do while awaiting delivery of his personal vehicle. His use of the official vehicle was discovered when the car was stolen while he was at a restaurant. The subsequent investigation revealed that he had used an official boat (called a barge) to ferry himself and his social group to the island of Ischia for a social evening. (A commercial ferry would have cost the total party less than \$20.) The investigation also revealed that he had tried to persuade the commanding officer of a subordinate command to create a GS-14 position for his spouse. The officer was relieved of his command and returned Stateside. (5 C.F.R. § 2635.704)

GIFTS FROM OUTSIDE SOURCES:

While visiting a foreign country, two scientists were invited to visit an installation 40 miles away. Their government host suggested that they take a bus—and offered them \$5,000 each for the fare. They didn't take the money—but they did call their ethics officer to ask if it would be OK.

"Great dinner, thanks for the tip." Just prior to a major contract award, a Bureau Director went out to dinner with one of the potential competitors at a swanky Washington restaurant. The wine alone cost over \$100 per bottle. Too bad the Director didn't realize that a *Washington Post* reporter was at the next table. The story received front-page coverage in the next day's *Post*. By that afternoon, the Director announced that he had accepted a job in private industry—a job he couldn't refuse (with his father-in-law). (5 C.F.R. § 2635.202)

GIFTS BETWEEN EMPLOYEES:

One party too many. The Big Boss was retiring and his second-in-command called the secretary to ask her to set up a retirement party. He directed her to send a memo to the staff advising them of what they were expected to contribute. She was assigned paper plates, napkins, plastic utensils, and a paper tablecloth. Everyone, including the secretary, was expected to contribute \$25 for food and gift. To the surprise of no one, the second-in-command was selected as the new Big Boss. *His* new branch chief called the secretary to have her set up a "promotion" party. The branch chief's memo to the staff advised them of what they were expected to contribute. For the secretary, it was once again paper plates, napkins, plastic utensils, and paper tablecloth. Everyone, including the secretary, was again expected to contribute \$25 for food and gift. To no one's surprise, the branch chief was selected as the new second-in-command. *Her* senior analyst called the secretary and asked her to set up a "promotion" party. The secretary contacted her ethics office instead, where disciplinary action was initiated. (5 C.F.R. §2635.302)

ENDORSEMENT:

"There's a downside to endorsing even non-profit groups?" The Secretary, who had a long-standing relationship with a national non-profit group, was asked to be the Chairman of the honorary fund-raising committee for the state. He was very unhappy when his ethics officer told him that he could not lend his name and title to the event. However, he changed his tune when it was revealed that the fund-raising company hired to handle the fund-raising had embezzled all the money from the non-profit group, folded its tent, and disappeared into the night. (5 C.F.R. § 2635.703(b))

MISUSE OF OFFICIAL POSITION:

"You obviously don't know who I am." The son of a bureau director was denied a rental car because he was too young. Outraged, his father wrote a scathing letter (on agency letterhead) to the president of the rental car company, and sent it off in a U.S. postage-paid envelope. The president of the company was not amused and returned his scathing response to the head of the agency. As a result, the bureau director was treated to a four-hour ethics session and the USPS fine for personal use of official postage. (5 C.F.R. § 2635.702)

"But Judge, I didn't get anything!" A safety inspector found much of the government's equipment to be "in need of repairs to meet safety standards." He then referred the business to his brother-in-law's repair shop. The equipment owner smelled a rat and called the FBI. They discovered that, in return for each referral, the brother-in-law was treating the inspector to an evening with a lady of dubious morals. The case was brought to trial. In his defense, the inspector claimed that he had not received a "thing of value" in return for the referral. The judge didn't buy it—and neither did his wife.

"Criminal conversation." A Navy admiral was found guilty for awarding \$150,000 worth of military contracts to a firm headed by a woman with whom he was having an adulterous affair. The admiral was found guilty of violating Department of Defense ethics regulations, making false official statements, obstructing justice, adultery, and obtaining services under false pretenses. His scam was discovered only after he dumped his paramour for another woman. In retribution, she spilled the beans to the Inspector

General. The admiral, who had been promoted to two-star rank, left the Navy as a captain, a two-grade reduction in rank. He was sentenced to 30 days confinement to quarters, a letter of reprimand, and forfeiture of a month's pay. (5 C.F.R. §§ 2635.502 and 2635.702(d))

"Hey, it's all money isn't it?" One group of well-meaning federal employees decided to break previous records for donations to the Combined Federal Campaign by holding a raffle. First they needed prizes, so they approached the on-site contractor and solicited donations. Next, they held the raffle, but with all the proceeds in cash, one of the sponsors pocketed the money and wrote a personal check. At last notice, the IRS was still investigating whether the employee took a personal tax deduction for the total on the check.

MISUSE OF THE GOVERNMENT CREDIT CARD:

- The young man who charged his honeymoon.
- The young man who charged his new sports car.
- The soldier who spent \$3,100 on six visits to Hooters and Bottoms Up.
- The employee's wife who went on a \$13,000 shopping spree in Puerto Rico.
- The employee's wife who used the credit card for Internet gambling.
- The Marine who ran up over \$20,000 in charges and left the Marine Corps.
- The Bureau Director who kept hitting the ATM for gambling money in Atlantic City.
- The young woman who embezzled several thousands of dollars and charged her "get-away" airline tickets to New Zealand on the government card. (5 C.F.R. §2635.704)

BRIBERY:

"I only take the money." A government technician and a co-worker went to a manufacturer and offered to ensure that the manufacturer received agency contracts in return for a hefty "finders fee." The manufacturer, unfortunately for our enterprising employees, went to the FBI, which set up a sting operation and arrested the technician. At trial, the ever so clever technician argued that he could not be found guilty of bribery because he was not a contracting officer, and therefore did not have the authority to award contracts to the manufacturer. The court rejected this argument after listening to testimony on the role of technicians in providing expert information that contracting officers rely upon, and upheld the conviction of the technician. (402 F.2d 924)

"Please call me 'Dr.' Inmate." One enterprising federal employee cut a deal with a local university—they gave him an honorary Ph.D. in Public Administration in return for his signing a mega-buck grant for the university. (Obviously, he had great expertise in Public Administration.) (18 U.S.C. §201)

POLITICAL ACTIVITIES:

The election was coming up and one enterprising young man called his ethics officer to inquire whether it was permitted, under the Hatch Act amendments, to stuff ballot boxes!

An employee who was told not to wear current Bush campaign buttons responded, "But I'm not. This is a button from his dad's campaign!"

CONTESTS:

Extra pay? A local motorcycle dealer sponsored a "motorcycle poker" event across public lands. The off-road bikes followed a pre-set route, stopping along the way to pick up playing cards. The one with the best poker hand at the end won a new motorcycle. Who was the winner—the on-duty government employee, who was to follow the contestants, making sure that nobody had fallen off his bike or gotten lost. He didn't get to keep the bike.

TRAVEL:

Bumped Well. It was the young employee's first official trip to Washington, DC. It was just a 1-day, round trip. Her meeting was scheduled for 1:00 p.m. Anxious to make a good impression (and to look around DC), she booked an early-morning flight out of Atlanta. When she got to the airport she discovered that the flight was overbooked, and the airline was offering free, round-trip tickets to anyone who would volunteer to take the next flight. That flight was to arrive in DC at 12:20 p.m., and she figured that she would still have time to make her meeting. As her plane reached Richmond, the pilot announced that would be a slight delay while Air Force One took off. Her plane circled and circled. The delay lasted for over an hour, and by the time the plane finally landed, she had missed the meeting. (Federal Travel Regulations)

FBI Undercover Parties. According to an FBI report, in 1997, FBI personnel from around the country journeyed to Washington to attend a senior FBI official's retirement party. Many out-of-town G-men traveled on official orders and public expense. According to their travel orders, the purpose of the trip was to attend an ethics conference! According to the news report, only five people attended the ethics forum.

About the Authors:

TJ Sullivan, retired, is the former Director of the Departmental Ethics Office and the Alternate Designated Agency Ethics Official for the Department of the Interior. She is a graduate of George Washington University and Central Michigan University.

Steve Epstein has served as an ethics counselor in the Departments of the Navy and Defense. He is a graduate of Washington and Lee University, University of Southern California, and University of Texas School of Law. He has other candidates for the Ethics Darwin Award, but they are not fit for publication.

The views expressed in this article are solely those of the authors and do not necessarily reflect the policies of the Department of Interior or the Department of Defense.

Editorial Note: There are no copyright restrictions on this article. However, materials in this issue other than the above article are copyrighted and may not be reproduced in any manner without the prior permission of the publisher.