

## Ethical Failure

**Gambling** – Allegations were made regarding Air National Guard members running a “fantasy football” league on Government computers. Each member of the league contributed \$10 to play, with the winner buying all of the other participants’ pizza at the end of the season. It was determined that the winner actually expended more on the pizza than the amount of the winnings. It was also determined that activities associated with the game were conducted on break and lunch times. Section 2-302 of DoD 5500.7R, Joint Ethics Regulation, prohibits gambling by DoD personnel while on duty or while on Federal property. In addition, it was a misuse of Government resources to carry out such an activity on Government computers. The guardsmen involved were counseled by their commanding officer.

**Abuse of Position** – Two retired colonels working for a National Guard educational program were found to have not been impartial in their duties when engaging in family hires. Colonel 1 nicely asked Colonel 2 to authorize the hiring of Colonel 1’s son as a contractor which Colonel 2 did. Not to be outdone, Colonel 2 oversaw the hiring of his nephew and brother-in-law as contractors. Colonel 2 even attempted to get his own son hired as a contractor, but Colonel 2’s supervisor correctly thought it would be inappropriate. Each colonel was issued a letter of caution to avoid an appearance of a conflict and were required to take an annual ethics training course.

**Bribery (18 U.S.C. § 201 – Type Violations)** - First Lieutenant Robert Moore (Ret.) agreed to pay \$120,000 in restitution for accepting money from contractor in exchange for the award of DoD contracts. In addition to pleading guilty to bribery for the award of contracts at Bagram Airfield, Afghanistan, Moore pled guilty to conspiracy, admitting to falsifying the number of bunkers and barriers delivered at Bagram, which resulted in DoD paying for bunkers and barriers that were never received. Moore also admitted to falsifying damage reports for leased vehicles, causing DoD to pay for repairs not performed. Two other officials, Christopher P. West, an Army Major, and Patrick W. Boyd, an air Force Master Sergeant, likewise pled guilty to bribery and conspiracy for related conduct. The two agreed to pay \$500,000 and \$130,000, respectively, in restitution to DoD.

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A civilian Engineering Technician assigned to the Public Works Department at Naval Air Station, Corpus Christi, TX recommended Contract Construction and Fence Co. for a \$153,000 contract. But behind the scenes, the company had first agree to pay the Government employee \$5,000 in exchange for the recommendation, per the employee’s request. The technician admitted to accepting the bribe in return for his official action that resulted in the contract award. The Navy debarred the civilian employee for three years, and he left Federal service.

**Compensation for Representational Services from Non-Federal Sources (18 U.S.C. § 203-Type of Violations)** – A decedent affairs clerk at a Veterans Affairs (VA) hospital acted as an agent of another employee at the VA hospital, who moonlighted at a nearby funeral home. The clerk referred VA official to the funeral home where his coworker moonlighted for the handling of bodies abandoned at the VA hospital. The moonlighting employee paid the clerk for referrals. Payments totaled approximately \$450. The clerk pled guilty on October 13, 1999, to a misdemeanor violation of 18 U.S.C. 203(a)(1), for receiving compensation for representational

services rendered in a particular matter before a department or Agency of the United States. On March 10, 2000, the moonlighting employee was sentenced to pay \$25.

**Conflicts of Interest (18 U.S.C. § 208 – Type Violations)** - A contract manager at a Tennessee Valley Authority (TVA) power plant in Kentucky found himself out of two jobs after investigators learned that he had been moonlighting for the same contractor he was overseeing. As part of his responsibilities with TVA, the contract manager reviewed contractor bids and oversaw contract performance. The manager accepted a job with one of TVA's contractors as a part-time supervisor, and worked for the contractor in Oklahoma and Indiana on his days off and vacation days. Even though the manager's actions did not result in any identified financial loss, he was terminated from TVA and prosecuted for a violation of 18 U.S.C. 208. He pled guilty and was sentenced to probation and a \$1,000 fine. This criminal statute prohibits personnel from participating in official actions (such as reviewing contractor bids) that affect their employer, even if they work for that employer only part time.

**Credit Card Abuse** – Three former civilian employees from Barksdale Air Force Base, Louisiana, were convicted of conspiracy to defraud the Government (18 U.S.C. 371) and conversion of U.S. property for personal use (18 U.S.C. 641). The employees used the U.S. Government IMPAC credit cards to purchase personal items, which included extensive home improvement products and car-related materials. One of the employees certified on official documents that purchases on the IMPAC credit card were properly used by members of the reserve unit. One of the employees was sentenced to a one year and one day prison term, and the other employees were sentenced to six months in a Federal halfway house and were required to make full restitution.

**Endorsements** – A Senior Executive Service employee served on the board of directors of a non-Federal entity (NFE). While on the board, he listed his official position and DoD contact information on the NFE's Website. Prior to this ethical violation, he had failed to request a legal opinion regarding his ties to the NFE. He was counseled and told to remove his title from NFE materials.

**Financial Disclosure Violations** – A former official of the Tennessee Valley Authority (TVA) received 2 years probation and was ordered to pay a \$5,000 fine and perform 150 hours of community service for failing to disclose information on his financial disclosure form. John Symonds pled guilty to violating 18 U.S.C. § 1001 for making a false material statement by failing to disclose information regarding the receipt of money from a source other than his U.S. Government salary on his financial disclosure form. While working as a manager for TVA from November 2000 through December 2002, Symonds was required to complete an Executive Branch Confidential Financial Disclosure Report (Form OGE 450), as well as update his financial disclosure report annually by submitting Optional OGE Form 450-A. Despite owning a company that received over \$5,000 in 2002 from another company, Symonds filed an OGE Form 450-A certifying that had no new reportable assets or sources of income. Symonds and his former spouse used the payments for personal expenses.

**BAH Fraud** - For 2 years after his divorce, an active duty service-member continued to list his ex-wife on his Basic Allowance for Housing paperwork, allowing him to picket extra funds, including a family separation allowance. While the overpayment continued for 2 years, the service member continued to keep the money. Once the command caught on, he was court martialled, sentenced to 6 months confinement, fined, and reduced in rank.

**Gift Violations** – A Supervisory Contract Specialist at Andrews air Force Base was terminated after it was discovered that she had accepted a total of \$2820 from a subordinate (a subordinate that the specialist had, in fact, personally hired) on two occasions. Despite the specialist's claims that she did not know that accepting the gifts was wrong, an Administrative Judge affirmed the termination of a 20-year federal career. 5 C.F.R. Part 2635, the "Standards of Ethical Conduct for Employees of the Executive Branch," forbids employees from accepting gifts from lesser-paid employees unless (1) the employees are not in a subordinate-superior relationship, and (2) there is a personal relationship between the two employees that would justify the gift.

**Involvement in Claims Against the Government or in Matters Affecting the Government (18 U.S.C. § 205-Type Violations)** - A civilian employee of the Oklahoma City, Air Logistics Center (OC-ALC), who was also the former OC-ALC shop steward, was charged with violating 18 U.S.C. 205. The employee who was not an attorney, owned a private company called Associated Labor Consultants. This company provided legal services to other OC-ALC civilian employees by filing legal briefs on behalf of the civilian employees and by representing them before various board hearings against the United States. The employee collected approximately \$1,050 in fees from OC-ALC civilian employees for his services, and had billed out but had not collected an additional \$1,853. The Air Force employee was charged with a civil violation of 18 U.S.C. 205. The case was dismissed without prejudice. On February 2, 1998, the parties entered into a stipulated agreement in which the accused agreed to pay the United States \$3,000 and to refrain from advising, counseling, or representing persons with claims against the United States.

**Misuse of Government Resources and Personnel** – While working at the Air Force Legal Operating Agency, an official directed Air Force JAGs to stay at local hotels at a higher monetary rate when housing was available on Maxwell AFB at a much lower rate. This official used his Marriott rewards points to reserve hotel rooms for visiting military personnel so that he could use his public office for private gain and collect the mileage for himself. As a result of the scheme, the official received a total of 587,282 Marriott reward points and an additional 100,000 reward point for other room arrangements. He pled guilty and was sentenced to pay a \$5,000 fine and \$90,356 in restitution to the Government for defrauding the Air Force.

**Post Employment Violations (18 U.S.C. § 207 – Type Violations)** – A Government employee that was involved in approving a contract for audio/visual equipment left the Government to work for that contractor. At the completion of work, the Government had paid approximately \$6 million for \$841,000 worth of equipment. Several individuals were charged with fraud, and the employee that left the Government for the outside position was charged with violating the post-employment restriction in 18 U.S.C. § 207(a)(1). He received one year probation and a \$25,000 fine.

**Morale, Welfare, and Recreation (MWR) Issues** – A Marine Corps Commanding Officer, directed or requested that his subordinates use their official duty time to perform manual labor and other activities in support of a private organization – in an attempt to fundraise for the upcoming Marine Corps Ball. They performed the work in exchange for money and command endorsement from the organization. They ultimately received \$48,600 in compensation from the outside organization for performance of their official duties, in violations of 18 U.S.C. § 209 and Paragraph 3-205 of DoD 5500.7R, the Joint Ethics Regulations, which prohibits an employee from receiving supplemental salary from a non-Federal source for the performance of DoD duties. The Commanding Officer was disciplined and directed to transfer all the money to the U.S. Treasury.

**Political Activity Violations** – When a Federal Aviation Administration employee decided to run for mayor of Albuquerque, he wisely consulted his Ethics Counselor. He was advised that the Hatch Act did not prohibit him from entering the mayoral race. A problem soon emerged, however, when advertisements, press releases, and newspaper editorials started to identify the employee as a Republican, and the employee began to accept financial assistance from the Republican Party. The employee was swiftly contacted by the Office of Special Counsel, which advised him that he was in violation of the Hatch Act and needed to quit his campaign or leave his federal position. The employee, however, took the position that he was not in fact in violation of any laws, and continued his campaign. Unhappily for the employee, the voters did not afford him much interest, and his campaign never truly got off the ground. He did manage, however, to catch the attention of the Merit Systems Protection Board. The employee's violation of the Hatch Act earned him a 120-day suspension. (Source: [www.fedsmith.com](http://www.fedsmith.com), April 18, 2005).