

OFFICE OF THE INSPECTOR GENERAL  
U.S. Nuclear Regulatory Commission

Memorandum of Interview

OIG Case No: 07-63

On November 19, 2007, Dale E. KLEIN, Chairman, U.S. Nuclear Regulatory Commission (NRC) was interviewed by Special Agents (SA) (b)(7)c and (b)(7)c (b)(7)c Office of the Inspector General (OIG), NRC, regarding former Jeffrey MERRIFIELD's post government job search. KLEIN provided essentially the following information:

KLEIN stated that shortly before MERRIFIELD's announced he would not be seeking a third term, the discussed the topic of his continuing service within the NRC. KLEIN stated that he felt that for the sake of MERRIFIELD's future career, that MERRIFIELD should do something else other than serve a third term as a Commissioner.

KLEIN stated that at about the same time MERRIFIELD told him about his arrangement to use an agent to handle job offers from interested firms. It was KLEIN's understanding that MERRIFIELD would not be directly involved in any discussions with any future employers prior to the end of his term. All of these communications were to be held exclusively with the agent.

KLEIN told MERRIFIELD that he should follow all the government ethics rules during his job search. He recommended to MERRIFIELD that he should avoid using an agent or intermediary, as obtaining the best positions would require his direct involvement in the job search. KLEIN recommended to MERRIFIELD that he not speak with anyone about any future employment until after his term had ended. He told MERRIFIELD that he should save up a "nest egg" that he could live off for a few months following the end of the term and use that to facilitate his job search period. MERRIFIELD told KLEIN that he wanted to obtain a job shortly after leaving government service and be able to move and settle his family before the school year began.

KLEIN related that subsequently during a social event, he was approached by Steve CREAMER, Chief Executive Officer of Energy Solutions. KLEIN believed this event occurred during the 2007 NRC Regulatory Information Conference. CREAMER asked KLEIN what was the true nature of the process being used by MERRIFIELD to find employment. KLEIN stated that based on his conversations with CREAMER, he believed that MERRIFIELD was personally contacting firms to "remind" them of his job search arrangement with an agent. KLEIN felt this was not illegal, but possibly inappropriate behavior and mentioned the matter to his legal advisor, Roger DAVIS. KLEIN did not speak of this matter with MERRIFIELD. This was the only instance of possible impropriety that KLEIN recalled.

KLEIN indicated that he learned that MERRIFIELD was going with The Shaw Group only when it was publicly announced. He did not know any of the companies with which MERRIFIELD had possibly been having employment discussions or negotiations. MERRIFIELD did not discuss this matter with him, and did not confide in others that he was aware of. KLEIN did not know if MERRIFIELD discussed his job search with other Commissioners. KLEIN speculated that MERRIFIELD had been in employment

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discussions with Energy Solutions, but acknowledged that was based entirely on his own speculation resulting from the discussion with CREAMER.

KLEIN stated that he had asked both MERRIFIELD and Commissioner Edward McGAFFIGAN to serve as heads of the Combined Licensing (COL) task force. It was KLEIN's intention to have bipartisan leadership of the task force, but McGAFFIGAN was unable to accept the assignment due to his failing health. KLEIN reiterated that he had approached MERRIFIELD about this assignment, not vice versa. KLEIN noted that MERRIFIELD was actively involved in the task force, but did not feel that MERRIFIELD unduly influenced the project.

KLEIN stated that during the period between the April 2007 submission of the COL task force SECY and its final approval in June 2007, MERRIFIELD and KLEIN did discuss the report and its recommendations during their one on one meetings, and speculated that he discussed the issues with the other Commissioners during their one on one meetings as well. KLEIN noted that throughout his tenure, MERRIFIELD generally was a staunch advocate of his chosen positions and was reluctant to change his mind. The other Commissioners also commented that MERRIFIELD was excessively touting his accomplishments within this task force, but KLEIN indicated that this self-promoting tendency by MERRIFIELD was not unique to this issue.

KLEIN did not specifically recall SECY 07-0076 which addressed a proposed memorandum of cooperation with China on the AP 1000 reactor. KLEIN did recall the ceremonial signing and indicated that this was part of a larger US foreign policy initiative. KLEIN indicated that he was unable to attend the signing ceremony, but he could not recall why MERRIFIELD was selected to be the NRC representative. KLEIN did not recall MERRIFIELD advocating this issue in particular.

KLEIN could not recall having met with Shaw representatives at the NRC headquarters, but believed he may have met them at the NRC Regulatory Information Conference.

KLEIN was not aware of any recusals made by MERRIFIELD, either verbally or in writing. KLEIN was also not aware of any travel related to MERRIFIELD's job search prior to the end of his term. KLEIN commented that MERRIFIELD traveled frequently. KLEIN also indicated that he did not approve or track the other Commissioners' leave and would not have known if MERRIFIELD was traveling or taking leave to engage in job search activities.

Interviewed by (Special Agent (b)(7)c  
Special Agent

MOI Prepared on November 20, 2007

MOI Reviewed by/on: (b)(7)c 20 Nov 07