

OFFICE OF THE INSPECTOR GENERAL  
U.S. Nuclear Regulatory Commission  
Memorandum of Interview

Case No. 07-63

On August 12, 2009, (b)(7)c Office of the General Counsel (OGC), U.S. Nuclear Regulatory Commission (NRC), was interviewed by Special Agent (SA) (b)(7)c Office of the Inspector General (OIG), NRC regarding statements that she made to former (b)(7)c (b)(7)c during her interview and her interactions with John SZABO, Senior Attorney, OGC, regarding conflict of interest issues. (b)(7)c provided essentially the following information.

(b)(7)c stated that she was assigned to former Commissioner Jeffrey MERRIFIELD's office in September 2006, and reassigned to OGC after MERRIFIELD's departure.

When asked to clarify what she meant in her interview with (b)(7)c when she acknowledged that, "the action of voting was not the threshold for actions which could pose a conflict of interest," (b)(7)c stated that a vote is not the only action that may be sufficient for a conflict of interest. (b)(7)c said that other things or other actions and not just a vote could result in a concern about a conflict, for example a commissioner asking the staff to speed up the schedule on something. For a conflict to be a concern, the actions resulting from the vote, or other actions such as directing the staff to do something must represent a benefit to a potential employer.

(b)(7)c explained that her prior comment regarding "ministerial action" was meant to help explain how Commissioner Merrifield worked with his staff in the development of staff requirements memorandum (SRM). She stated that SRM revisions following commission votes could cover a wide range of involvement with commission offices. There can be simple and straightforward SRM revisions or comments that are editorial or process issues. However, some changes involve substantive policy issues requiring input from the Commissioner. The simple changes she regards as ministerial because they did not require interaction or direction from the Commissioner.

(b)(7)c said that she was very conservative about calling SZABO regarding potential conflict of interest issues regarding MERRIFIELD. She could not explain why she did not talk to SZABO about MERRIFIELD's vote on SECY 07-0076. She stated that when she called SZABO on May 17, 2007, it was about the SRM to SECY 07-0076 and the Fitness for Duty rule before the Commission because it had a direct affect on Progress Energy, a company that MERRIFIELD had discussed possible employment with but since terminated discussions.

(b)(7)c advised that at this time she did not know that Shaw had a 20 per cent interest in Westinghouse and that MERRIFIELD's vote on SECY 07-0076 had occurred prior to his contacts with Westinghouse. She believes that she did not tell SZABO that MERRIFIELD had already voted on SECY 07-0076 because she did not make the connection between The Shaw Group and Westinghouse. She said that she found out about Shaw's 20 per cent ownership of Westinghouse prior to MERRIFIELD's departure and believes that she learned about it from John THOMA, MERRIFIELD's Chief of Staff.

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Furthermore, it is possible that no one on the staff knew that Shaw owned 20 per cent of Westinghouse prior to the SECY 07-0076 vote.

(b)(7)c stated that the only paper that she remembers as significant from a conflict of interest perspective was SECY 07-0082 because of a potential conflict of interest with Progress Energy, a company MERRIFIELD was contemplating employment negotiations. She stated that he later withdrew his recusal from Progress Energy since he had terminated all negotiations.

(b)(7)c related that SECY 07-0076 was not a big deal because it had nothing to do with licensees. She stated that there were many SECYs that were not a big deal and were circulated around the Commissioner's offices for approval.

She related that there were many SRMs that did not required MERRIFIELD's input and therefore, completed by the staff without final review by MERRIFIELD. She stated that MERRIFIELD did not want to be bothered by non-substantive matters in SRMs that he believed could be handled by his staff.

She stated that she distinctively remembers talking to MERRIFIELD about Westinghouse because Westinghouse executives were scheduled to "Drop In" on the Commissioners in May or June 2007. On her recommendation, MERRIFIELD did not meet with the Westinghouse executives.

(b)(7)c acknowledged that there was no formalized process for the identification and communication of recusals and evaluations of any potential conflicts. The communication was always verbal and may have come to her from either John THOMA or MERRIFIELD. She said at the time she thought that keeping track and reviewing issues for potential conflict was easy, but admitted to being wrong from today's perspective.

With respect to SECY-07-0076 she indicated that she did not recall any detailed discussion in Commissioner MERRIFIELD's office about the potential affect of a conflict with Shaw prior to the vote or after learning about Shaw's 20 per cent ownership of Westinghouse. With respect to SECY-07-0082 she indicated that she did not recall any detailed discussion in Commissioner MERRIFIELD's office about the potential impact on vendors such as General Electric or Westinghouse. She did acknowledge that issues involving vendors could cause conflicts, but it would depend on the specifics of each issue.

Interviewed by:

MOI prepared d

MOI reviewed b

(b)(7)c