



REPORT OF INVESTIGATION

SUBJECT (b)(6); (b)(7)(C) Attorney (former) Environment and Natural Resources Division (b)(6); (b)(7)(C)		CASE NUMBER 2021-000707
OFFICE CONDUCTING INVESTIGATION Fraud Detection Office		DOJ COMPONENT Environment and Natural Resources Division
DISTRIBUTION ☒ Field Office FDO ☒ AIGINV ☒ Component ENRD ☐ USA ☒ Other (b)(6); (b)(7)(C) and OPR	STATUS ☐ OPEN ☐ OPEN PENDING PROSECUTION ☒ CLOSED PREVIOUS REPORT SUBMITTED: ☐ YES ☒ NO Date of Previous Report:	

SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Environment and Natural Resources Division (ENRD) Ethics Office, alleging that on (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) ENRD attorney (b)(6); (b)(7)(C) self-reported a potential financial conflict of interest with an investigation to which he was assigned in connection with a detail to another DOJ component. In (b)(6); (b)(7)(C) was detailed to (b)(6); (b)(7)(C) to assist (b)(6); (b)(7)(C) with an ongoing civil investigation (b)(6); (b)(7)(C) In (b)(6); (b)(7)(C) consulted with ENRD ethics personnel regarding stock his wife owned in (b)(6); (b)(7)(C)

During the course of the OIG investigation, the OIG found indications that (b)(6); (b)(7)(C) may have also failed to report stocks owned by his wife when he completed his required Office of Government Ethics (OGE) Forms 450, Confidential Financial Disclosure Report.

The OIG investigation substantiated the allegation that (b)(6); (b)(7)(C) failure to disclose his wife's ownership of (b)(6); (b)(7)(C) stock before and during his assignment to the (b)(6); (b)(7)(C) investigation of (b)(6); (b)(7)(C) created the appearance of a financial conflict of interest. However, because (b)(6); (b)(7)(C) sought ethics advice and followed the advice to recuse himself from the (b)(6); (b)(7)(C) investigation once he became aware of his wife's ownership of (b)(6); (b)(7)(C) stock, the OIG did not find that (b)(6); (b)(7)(C) violated the federal ethics regulations pertaining to disqualifying financial interests. The OIG investigation found that (b)(6); (b)(7)(C) failed to investigate his wife's financial holdings, which were imputed to him, and report them, as required, on his OGE Forms 450 for years (b)(6); (b)(7)(C)

DATE August 18, 2022 (b)(6); (b)(7)(C)	SIGNATURE (b)(6); (b)(7)(C)
PREPARED BY SPECIAL AGENT	
DATE August 18, 2022 Andrew B. Hartwell	SIGNATURE
APPROVED BY SPECIAL AGENT IN CHARGE	Digitally signed by Andrew Hartwell Date: 2022.08.18 16:49:06 -04'00'



None of the witnesses interviewed by the OIG had any direct or personal knowledge that (b)(6); (b)(7)(C) (1) intentionally failed to disclose his wife's financial holdings as they related to (b)(6); (b)(7)(C); (2) took any action that would have had a direct and predictable effect on his wife's financial interests before he self-reported his wife's ownership of (b)(6); (b)(7)(C) stock in (b)(6); (b)(7)(C) approximately six months into his detail working on the (b)(6); (b)(7)(C) investigation of (b)(6); (b)(7)(C) or (3) intentionally failed to report his wife's financial holdings on his OGE 450s.

The OIG reviewed the Memorandum of Understanding (MOU) regarding (b)(6); (b)(7)(C) detail to (b)(6); (b)(7)(C) to work on the (b)(6); (b)(7)(C) investigation, (b)(6); (b)(7)(C) OGE Forms 450 (and related documentation), government email records, and communications (b)(6); (b)(7)(C) had with ENRD ethics personnel related to his wife's ownership of (b)(6); (b)(7)(C) stock. Additionally, the OIG confirmed that neither (b)(6); (b)(7)(C) nor his wife attempted to initiate any stock transactions related to (b)(6); (b)(7)(C) during the time that he was detailed to (b)(6); (b)(7)(C) or immediately after his recusal from the (b)(6); (b)(7)(C) investigation and return to ENRD in (b)(6); (b)(7)(C).

In a voluntary OIG interview, (b)(6); (b)(7)(C) admitted that his wife owned (b)(6); (b)(7)(C) stock; however, he maintained that he was unaware of the holdings at the time he was detailed to (b)(6); (b)(7)(C) to assist in the investigation of (b)(6); (b)(7)(C). He said no one in ENRD or (b)(6); (b)(7)(C) asked him if he or his wife owned (b)(6); (b)(7)(C) stock when he was assigned to the (b)(6); (b)(7)(C) investigation as a detailee. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) denied having knowledge of his wife's (b)(6); (b)(7)(C) stock holdings until he specifically sought details about them after another member of the (b)(6); (b)(7)(C) investigative team had to recuse himself from the investigation. When (b)(6); (b)(7)(C) became aware that his wife owned (b)(6); (b)(7)(C) stock, he contacted his ENRD supervisor and ENRD ethics officials to determine if his wife's holdings would impact his ability to remain on the (b)(6); (b)(7)(C) investigation. After being advised that it would require him to be recused from the investigation, (b)(6); (b)(7)(C) immediately did so. Additionally, (b)(6); (b)(7)(C) admitted that he did not disclose his wife's financial holdings on his OGE Forms 450. (b)(6); (b)(7)(C) told the OIG he had not thought about inquiring about the specifics of his wife's assets and he had not been attempting to conceal the information. (b)(6); (b)(7)(C) acknowledged to the OIG that he should have sought information about his wife's assets and disclosed them on his OGE Forms 450.

The Public Integrity Section declined to open a criminal investigation on (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) retired from his position at ENRD and the Department, effective (b)(6); (b)(7)(C).

The OIG has completed its investigation and is providing this report to ENRD and (b)(6); (b)(7)(C) for their information and to the Department's Office of Professional Responsibility for appropriate action.

The OIG previously submitted a Management Advisory Memorandum to the Department regarding potential conflicts of interest with its attorneys (<https://oig.justice.gov/sites/default/files/reports/21-110.pdf>).

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

Predication

During the course of the OIG investigation, the OIG found indications that [REDACTED] may have also failed to report stocks owned by his wife when he completed his required Office of Government Ethics (OGE) Forms 450, Confidential Financial Disclosure Report.

The OIG's investigative efforts consisted of the following:

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Trial Attorney (former)

Review of the following:

- Government email records for (b)(6); (b)(7)(C)
- OGE 450 documentation for (b)(6); (b)(7)(C)
- Documentation related to (b)(6); (b)(7)(C) detail to (b)(6); (b)(7)(C)
- Information received from (b)(6); (b)(7)(C)

Financial Conflict of Interest

The information provided to the OIG alleged that from (b)(6); (b)(7)(C) while detailed to (b)(6); (b)(7)(C) to work on an investigation of (b)(6); (b)(7)(C) failed to disclose that his wife owned (b)(6); (b)(7)(C) stock.

5 C.F.R. § 2635.402, Disqualifying financial interests, states that “an employee is prohibited by criminal statute, 18 U.S.C. 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to his knowledge, he or any person whose interests are imputed to him under this statute has a financial interest, if the particular matter will have a direct and predictable effect on that interest.” Section 2635.402(c) requires an employee to “disqualify himself from participating in a particular matter in which, to his knowledge, he or a person



whose interests are imputed to him has a financial interest." The financial interests of an employee's spouse are imputed to the employee. 5 C.F.R. § 2635.402(b)(2)(i).

Review of documentation related to (b)(6); (b)(7)(C) detail to (b)(6); (b)(7)(C) indicate that (b)(6); (b)(7)(C) was contacted in (b)(6); (b)(7)(C) and asked if he was willing to volunteer for a detail to (b)(6); (b)(7)(C) to work on the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) agreed to the detail and signed a Memorandum of Understanding (MOU). According to the MOU, (b)(6); (b)(7)(C) was detailed to (b)(6); (b)(7)(C) from (b)(6); (b)(7)(C).

The OIG also reviewed information received from (b)(6); (b)(7)(C) indicating that (b)(6); (b)(7)(C) wife owned (b)(6); (b)(7)(C) stock. This information showed that (b)(6); (b)(7)(C) wife had (b)(6); (b)(7)(C). The information further indicated (b)(6); (b)(7)(C) and that neither (b)(6); (b)(7)(C) nor his wife attempted to initiate any stock transactions relating to (b)(6); (b)(7)(C) in or around the time (b)(6); (b)(7)(C) was detailed to (b)(6); (b)(7)(C) working on the (b)(6); (b)(7)(C) investigation or immediately after his recusal from that investigation and return to ENRD in (b)(6); (b)(7)(C).

During an interview with the OIG, (b)(6); (b)(7)(C) explained that (b)(6); (b)(7)(C) worked in (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) the detail came about due to (b)(6); (b)(7)(C) urgent need for assistance. The Assistant Attorney General (AAG) for ENRD instructed (b)(6); (b)(7)(C) to find two attorneys to detail to (b)(6); (b)(7)(C) for six months. (b)(6); (b)(7)(C) said he solicited volunteers but only one person responded. In order to identify a second detailee, (b)(6); (b)(7)(C) said he assessed who among the attorneys in his section could break away more easily than others based on workload and current responsibilities. (b)(6); (b)(7)(C) consulted with the other managers within the section and, based on his work schedule and experience, determined that (b)(6); (b)(7)(C) was the most appropriate person to select for the (b)(6); (b)(7)(C) detail. According to (b)(6); (b)(7)(C) did not mention that he might have a financial conflict with the detail assignment, and (b)(6); (b)(7)(C) had no reason to suspect that (b)(6); (b)(7)(C) had a conflict.

(b)(6); (b)(7)(C) told the OIG that he knew nothing of a potential conflict until he received an email from (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) asking to talk. According to (b)(6); (b)(7)(C) explained that someone else assigned to the (b)(6); (b)(7)(C) investigation had had to be recused based on a conflict related to stock ownership. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) he had (b)(6); (b)(7)(C) understood that his wife held a (b)(6); (b)(7)(C). The recusal of the other attorney led (b)(6); (b)(7)(C) to inquire about his wife's holdings. That is when (b)(6); (b)(7)(C) learned that the (b)(6); (b)(7)(C) individual stocks, (b)(6); (b)(7)(C) asked (b)(6); (b)(7)(C) who needed to be notified of this. According to (b)(6); (b)(7)(C) was concerned that this stock ownership was an obvious conflict and (b)(6); (b)(7)(C) wanted to do the right thing and report the situation. (b)(6); (b)(7)(C) advised (b)(6); (b)(7)(C) he should report the situation to ENRD (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) the ethics officials agreed that (b)(6); (b)(7)(C) needed to be recused from the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) explained that (b)(6); (b)(7)(C) was recused and returned to ENRD before the scheduled end of his detail. (b)(6); (b)(7)(C) said he had not discussed this matter with (b)(6); (b)(7)(C) since then, but (b)(6); (b)(7)(C) recalled there was some consideration as to whether (b)(6); (b)(7)(C) needed to amend or adjust his annual OGE Form 450. (b)(6); (b)(7)(C) told the OIG that he had no concerns about (b)(6); (b)(7)(C) actions, and he found (b)(6); (b)(7)(C) to be credible. (b)(6); (b)(7)(C) used to supervise (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) previous position and had never had any issues with (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) is an honest and reliable person. (b)(6); (b)(7)(C) did not have any knowledge of (b)(6); (b)(7)(C) living outside his means or being in financial distress.

During an interview with the OIG, (b)(6); (b)(7)(C) stated that in (b)(6); (b)(7)(C) she received an email from (b)(6); (b)(7)(C) informing her that he had just learned that his wife owned (b)(6); (b)(7)(C) stock in (b)(6); (b)(7)(C). In the email, (b)(6); (b)(7)(C) inquired about whether or not this presented a conflict of interest. According to (b)(6); (b)(7)(C) she reached out to (b)(6); (b)(7)(C) given that the investigation was being handled by (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) decided that (b)(6); (b)(7)(C) should immediately stop working on the matter and they then consulted with (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C), she learned that ENRD management had approached (b)(6); (b)(7)(C) regarding the detail to (b)(6); (b)(7)(C) and that his assignment to the investigation



happened very quickly. (b)(6); (b)(7)(C) told the OIG she felt bad that she had to report this matter, as she did not want (b)(6); (b)(7)(C) to get into trouble and she did not feel that (b)(6); (b)(7)(C) intentionally withheld the information regarding his wife's stock ownership. (b)(6); (b)(7)(C) thought that if the detail had not happened so quickly, (b)(6); (b)(7)(C) might have recognized that he should obtain his wife's financial information and disclose it. (b)(6); (b)(7)(C) also explained that the reason supervisors keep copies of the OGE 450 is so they are aware of circumstances that might present potential conflicts of interest when assigning work.

(b)(6); (b)(7)(C) told the OIG she received an email from (b)(6); (b)(7)(C) sometime in (b)(6); (b)(7)(C). In the email, (b)(6); (b)(7)(C) explained that he was detailed to (b)(6); (b)(7)(C) to work on the (b)(6); (b)(7)(C) investigation and that he had discovered that his wife had stock in (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) she told him to recuse himself from the investigation. (b)(6); (b)(7)(C) checked back later in the week to ensure that (b)(6); (b)(7)(C) had recused himself and found that he had. (b)(6); (b)(7)(C) told the OIG that all (b)(6); (b)(7)(C) employees who are required to file an OGE 450 are also required to complete another form if they record hours on a specific matter to ensure that conflicts are addressed at the outset. According to (b)(6); (b)(7)(C) and ENRD each maintain the conflict documentation and each of the divisions do the forms differently; (b)(6); (b)(7)(C) was unaware if the detailees completed these forms or not. (b)(6); (b)(7)(C) said in addition to detailees, (b)(6); (b)(7)(C) also hired attorneys specifically to work on the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) was involved in the development of questions to be used in hiring the new attorneys to help identify potential conflicts of interest before final offers were made. (b)(6); (b)(7)(C) explained that the funding for these positions was specific and could only be used for attorneys to work on the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) was not involved in vetting potential financial conflicts for detailees and did not know who was. However, she suggested that managers in (b)(6); (b)(7)(C) which was overseeing the investigation, would probably have been involved. Because (b)(6); (b)(7)(C) was not involved in vetting detailees she typically did not receive names of the detailees ahead of time. (b)(6); (b)(7)(C) recalled one instance in which an attorney came from the (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) reached out to that attorney to ensure the attorney did not have any financial conflicts. (b)(6); (b)(7)(C) said she knew of no other situations similar to (b)(6); (b)(7)(C).

During an interview with the OIG, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) told the OIG that she had spoken with (b)(6); (b)(7)(C) about this matter once to let him know that it was being referred to ENRD's Ethics Official and the OIG. (b)(6); (b)(7)(C) informed (b)(6); (b)(7)(C) he would be receiving a call from (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) did not volunteer to be detailed to work on the (b)(6); (b)(7)(C) investigation. ENRD management was directed to make several attorneys available to assist (b)(6); (b)(7)(C) and ENRD sent two attorneys, one of whom was (b)(6); (b)(7)(C) stated that at first management sought volunteers for the detail but eventually they had to pull attorneys from the various litigating groups because they did not receive the number of volunteers needed. (b)(6); (b)(7)(C) explained she had worked with (b)(6); (b)(7)(C) since (b)(6); (b)(7)(C). She briefly discussed this matter with (b)(6); (b)(7)(C) and he reportedly said he had been asked to go on the detail, had very little time to consider it, and he did not think about his wife's (b)(6); (b)(7)(C) at the time. According to (b)(6); (b)(7)(C) explained he had no involvement with his wife's (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told the OIG she had no concerns about (b)(6); (b)(7)(C) related to ethics or integrity and she never had any issues with (b)(6); (b)(7)(C) related to candor, conflicts, substance abuse, or performance.

(b)(6); (b)(7)(C) (b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) the (b)(6); (b)(7)(C) investigation staff included approximately 20 detailees from outside of (b)(6); (b)(7)(C) stated he was aware of the situation with (b)(6); (b)(7)(C) but believed he never spoke directly with (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told the OIG he was unaware of the exact vetting process used for detailees, but he believed the internal vetting process consisted of one or two interviews of the detailees. (b)(6); (b)(7)(C) speculated that (b)(6); (b)(7)(C) and others in the (b)(6); (b)(7)(C) had a hand in vetting attorneys to be assigned to the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) was informed of the conflict after (b)(6); (b)(7)(C) potential conflict was disclosed to (b)(6); (b)(7)(C) personnel. (b)(6); (b)(7)(C) did not have to remove (b)(6); (b)(7)(C) from the investigation himself because (b)(6); (b)(7)(C) was immediately recused and



removed from the matter. (b)(6); (b)(7)(C) explained he was aware of at least one other attorney who had a conflict and had to be recused but it was a different sort of situation. (b)(6); (b)(7)(C) told the OIG he was unaware of any impact (b)(6); (b)(7)(C) conflict had on the (b)(6); (b)(7)(C) investigation.

(b)(6); (b)(7)(C) told the OIG that as (b)(6); (b)(7)(C) specifically the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) bringing on detailees to work the (b)(6); (b)(7)(C) investigation (b)(6); (b)(7)(C) Management working the investigation advised they needed more attorneys than they had in the Division, so (b)(6); (b)(7)(C) leadership decided to bring on detailees from other components. (b)(6); (b)(7)(C) could not recall any specific safeguards in place to avoid conflicts of interest. Each detailee spoke with the management (b)(6); (b)(7)(C) which was managing the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) and, according to (b)(6); (b)(7)(C) any potential conflicts that the attorney had would have come up during the calls, but it was not the primary purpose of the calls. The calls were to determine if the attorneys would be a good fit based on their skills and interest. According to (b)(6); (b)(7)(C) the process for detailees was different than the one used for bringing on new attorneys from outside of the DOJ. Like all newly hired employees in the Department, the newly hired attorneys had to go through the human resources and security processes. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) These MOUs addressed issues such as the duration of the detail, who managed the detailee's day-to-day work, and who reviewed and approved the detailee's time and attendance and leave submissions. (b)(6); (b)(7)(C) the MOUs and they were executed by the parties (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) to proceed with on-boarding the detailees. (b)(6); (b)(7)(C) did not know whether the detailees were asked to complete any sort of financial or conflict documentation. According to (b)(6); (b)(7)(C) she was unaware of discussions about minimizing or avoiding detailees' conflicts of interest with the investigation. Attorneys hired from outside of DOJ were assessed for conflicts of interest and their hiring depended on them being conflict free. In contrast, according to (b)(6); (b)(7)(C) the managers of the detailees' home divisions knew the detailees would be working on the (b)(6); (b)(7)(C) investigation and should have screened the detailees for conflicts. In (b)(6); (b)(7)(C) opinion, if another division put forth an attorney as a detailee, it should mean the attorney was both available to work on the matter and that the attorney was free from conflicts. (b)(6); (b)(7)(C) stated that on (b)(6); (b)(7)(C) contacted her regarding the detail. (b)(6); (b)(7)(C) described to him the roles and responsibilities of the detailees and (b)(6); (b)(7)(C) drafted an email to send to his staff seeking a volunteer. On (b)(6); (b)(7)(C) provided (b)(6); (b)(7)(C) the names of two possible detailees.

(b)(6); (b)(7)(C) explained to the OIG she was aware that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) knew of no one who started working on the matter and later had to be recused, but she does not think that information would have made it to her attention. Additionally (b)(6); (b)(7)(C) told the OIG that a couple times a year, an (b)(6); (b)(7)(C) attorney will have to be recused from a matter because the investigation takes an unexpected turn and reveals a conflict for the attorney. Throughout the period during which (b)(6); (b)(7)(C) was bringing on detailees from elsewhere in the Department, (b)(6); (b)(7)(C) did not communicate or coordinate with other components' ethics officials, and she did not recall any conversations regarding mitigating or avoiding conflicts of interest with regard to the detailees. (b)(6); (b)(7)(C) said conflicts of interest are worked out during the onboarding process for new hires and therefore those managing the (b)(6); (b)(7)(C) investigation may have assumed that the detailees had also been vetted.

During an interview with the OIG (b)(6); (b)(7)(C) working the (b)(6); (b)(7)(C) investigation as well as other related cases. According to (b)(6); (b)(7)(C) attorneys from across the Department had been detailed to (b)(6); (b)(7)(C) to work on the investigation. Additionally, (b)(6); (b)(7)(C) hired several new attorneys in the section specifically to support the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) told the OIG he was unaware of any sort of formal process to ensure that attorneys assigned to the case did not have conflicts of interest specific to (b)(6); (b)(7)(C) heard from (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had a conflict and that he had reported that he was unaware of the details of his wife's (b)(6); (b)(7)(C) stock. (b)(6); (b)(7)(C) explained (b)(6); (b)(7)(C) and could not recall a similar financial conflict in his time with (b)(6); (b)(7)(C) said the MOU provided information specific to the (b)(6); (b)(7)(C) investigation and it was the individual attorney's



responsibility to disclose the existence of any conflict. According to (b)(6); (b)(7)(C) conflict had no negative impact on the investigation and (b)(6); (b)(7)(C) was able to easily transition (b)(6); (b)(7)(C) responsibilities to another attorney. During his time on the detail, (b)(6); (b)(7)(C) had no problems getting along with others on the investigation. (b)(6); (b)(7)(C) had no knowledge of (b)(6); (b)(7)(C) living outside of his means and had no concerns regarding (b)(6); (b)(7)(C) integrity. After being recused, (b)(6); (b)(7)(C) went back to ENRD because the MOU did not allow him to remain at (b)(6); (b)(7)(C) working on other matters. (b)(6); (b)(7)(C) was not aware of any other conflicts that have arisen during the investigation.

(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) he was not aware of any (b)(6); (b)(7)(C) process for identifying potential conflicts of interest for the detailees, and he was unaware who, if anyone, was responsible for this. According to (b)(6); (b)(7)(C) may have been involved with ensuring there were no conflicts of interest, but he was unsure.

During an interview with the OIG, (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) did not know how conflicts were assessed but explained that the standard MOU was not case specific and probably did not address conflicts specifically. (b)(6); (b)(7)(C) told the OIG that in his experience, typically conflicts among staff are identified at the onset of an investigation. It is much rarer that an employee would be conflicted out mid-matter. According to (b)(6); (b)(7)(C) the Department's annual ethics training should have reinforced that employees have the responsibility to come forward and report any potential conflicting relationships.

During a voluntary OIG interview, (b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C) ENRD sent out an urgent email seeking volunteers for a detail to support the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) did not volunteer but was asked by his management if he would agree to go on detail (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) there was an onboarding process, and an MOU was drafted assigning him to (b)(6); (b)(7)(C) to work on the (b)(6); (b)(7)(C) investigation. Approximately six months into working on the case, another attorney working on the (b)(6); (b)(7)(C) investigation had to be recused from the case and members of the team surmised it was due to a financial conflict of interest. According to (b)(6); (b)(7)(C) that caused him to think about his wife's financial holdings and the fact that he did not know the details of those holdings. According to (b)(6); (b)(7)(C) he was aware (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) explained that later that night, he asked his wife about her financial holdings and looked through the documentation she provided him. Initially (b)(6); (b)(7)(C) did not see any (b)(6); (b)(7)(C) stock, but he ultimately found documentation indicating that she owned stock (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) he immediately reported the situation to (b)(6); (b)(7)(C) and the ENRD ethics attorney. He was advised by the ENRD Ethics Officials that he had to recuse himself from the (b)(6); (b)(7)(C) investigation, which he did. According to (b)(6); (b)(7)(C) no one asked him if he had any financial conflicts or if he owned any stock in (b)(6); (b)(7)(C) when he was onboarding as part of the detail, and he did not think about it as it happened so fast. (b)(6); (b)(7)(C) was also not asked to complete any forms or another OGE 450 when he began his detail.

According to (b)(6); (b)(7)(C) he did not attempt to initiate any stock transactions relating to (b)(6); (b)(7)(C) in or around the time he was on the detail working on the (b)(6); (b)(7)(C) investigation. He had no knowledge of his wife initiating any stock transactions relating to (b)(6); (b)(7)(C) during the time he was working on the (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) denied seeking an assignment to the (b)(6); (b)(7)(C) investigation to influence his wife's financial holdings.



The Public Integrity Section declined to open a criminal investigation on (b)(6); (b)(7)(C)

OIG's Conclusion

The OIG investigation concluded that (b)(6); (b)(7)(C) did not knowingly participate personally and substantially in a particular matter in which his wife had a financial interest. As discussed above, as soon as (b)(6); (b)(7)(C) became aware of his wife's financial interests, he disqualified himself from participating in the (b)(6); (b)(7)(C) investigation in accordance with 5 C.F.R. § 2635.402(c).

However, the OIG investigation found that despite recently adopting a process to screen attorneys for conflicts in the wake of a negative decision in an unrelated (b)(6); (b)(7)(C) investigation, (b)(6); (b)(7)(C) failed to properly screen all detailees assigned to join its (b)(6); (b)(7)(C) investigation. (b)(6); (b)(7)(C) who had helped set up the screening procedures which required all attorneys working on (b)(6); (b)(7)(C) cases to state affirmatively that they did not have a conflict, was unable to explain why the procedures were not used to screen DOJ attorneys from other components who were detailed to the (b)(6); (b)(7)(C) investigation. None of the other (b)(6); (b)(7)(C) witnesses interviewed said they were involved in screening the detailees for conflicts, nor were they able to explain the conflicts screening process or identify who was responsible for ensuring the screening occurred.

While (b)(6); (b)(7)(C) may have been the only detailee who had a financial conflict of interest, (b)(6); (b)(7)(C) did not implement a screening mechanism to ensure that detailees were not brought on to the case if they had potential conflicts. This is exceptionally important given that (b)(6); (b)(7)(C) was recently negatively impacted when it failed to disclose a potential conflict in an unrelated matter. While none of the witnesses whom the OIG interviewed in this matter were aware of a negative impact from (b)(6); (b)(7)(C) apparent conflict with the (b)(6); (b)(7)(C) investigation, that investigation is still ongoing, and the disclosure of this apparent conflict might still have negative implications.

(b)(6); (b)(7)(C) Failure to Investigate and Disclose his Wife's Financial Interests on his OGE Forms 450

The information developed by the OIG indicated that (b)(6); (b)(7)(C) failed to fully disclose his wife's financial interests on his confidential financial disclosure report (OGE Form 450) filed in (b)(6); (b)(7)(C)

Title I of the Ethics in Government Act of 1978 (5 U.S.C. app. 101), Executive Order 12674 (as modified by Executive Order 12731), and 5 C.F.R. Part 2634, Subpart I, of the Office of Government Ethics (OGE) regulations require certain employees whose duties involve a heightened risk of potential or actual conflicts of interest to file confidential financial disclosure reports each year. In particular, the regulations specifically require all filers to disclose ownership of individual stocks valued at more than \$1,000 for themselves, their spouses, and their dependent children. 5 C.F.R. § 2634.907. The information disclosed on the OGE Form 450 is intended to assist officials of the employee's agency in determining the filer's compliance with applicable Federal conflict of interest laws and regulations, and to assist the filer's supervisors in avoiding making assignments that would create financial conflicts. Employees who fail to file the required reports, who file those reports late, or who falsify or fail to report the required information may be disciplined for misconduct. 5 C.F.R. § 2634.701(d).

OGE Form 450 contains guidance for the filer on the form itself. The filer is directed as follows:

Step 1: Read the instructions for Parts I through V on the following pages.

Step 2: For each statement below, check Yes or No to describe your situation.

I. I have reportable assets or sources of income for myself, my spouse, or my dependent children.

Yes

No



II. I have reportable liabilities (debts) for myself, my spouse, or my dependent children.	Yes	No
III. I have reportable outside positions for myself.	Yes	No
IV. I have reportable agreements or arrangements for myself.	Yes	No
NOTE: Statement V is for annual filers only. It does not apply to new entrants and SGEs.		
V. I have reportable gifts or travel reimbursements for myself, my spouse, or my dependent children.	Yes	No

Part I of the directions identify the categories of "Assets and Income" that the filer must report for "Yourself, Spouse, and Dependent Child." Those directions identify, in pertinent part,

"Assets held for investment or the production of income that ended the reporting period with a value greater than \$1,000.

Reportable assets include, but are not limited to:

-Assets such as stocks, bonds, annuities, trust holdings, partnership interests, life insurance, investment real estate, or a privately-held trade or business[.]"

The form further instructs the filer on how to report a specific stock and provides examples (e.g., "OGC Communications (OGC) (*Example of a stock with a ticker symbol*)") (emphasis in original).

The form requires the employee to sign the form, certifying that "the statements I have made on this form and all attached statements are true, complete, and correct to the best of my knowledge."

A review of (b)(6); (b)(7)(C) OGE Forms 450 indicated that (b)(6); (b)(7)(C) signed each form with the above quoted certification but did not report his wife's ownership of (b)(6); (b)(7)(C) or other stocks for (b)(6); (b)(7)(C). According to officials at ENRD, (b)(6); (b)(7)(C) did not complete an OGE Form 450 for (b)(6); (b)(7)(C) before he went on detail (b)(6); (b)(7)(C).

The OIG also reviewed the OGE Form 450 that (b)(6); (b)(7)(C) filed in (b)(6); (b)(7)(C) which he submitted after the (b)(6); (b)(7)(C) conflict came to light. The (b)(6); (b)(7)(C) OGE Form 450, which covered calendar year (b)(6); (b)(7)(C), reported (b)(6); (b)(7)(C) individually held stocks, compared to none reported in (b)(6); (b)(7)(C). In addition to (b)(6); (b)(7)(C), the OGE Form 450 indicated that (b)(6); (b)(7)(C) wife also owned stock (b)(6); (b)(7)(C) all of which could have been of interest to ENRD managers when they assigned work to (b)(6); (b)(7)(C) to ensure he had no conflicts of interest.

None of the employees the OIG interviewed had direct knowledge of (b)(6); (b)(7)(C) OGE Form 450 disclosures.

During an interview with the OIG, (b)(6); (b)(7)(C) explained that (b)(6); (b)(7)(C) was required to report his wife's stocks on his annual OGE Form 450, but she was unaware if he did. Furthermore, she explained that the reason supervisors keep copies of the OGE Forms 450 is so they know where potential conflicts may arise when they assign work. (b)(6); (b)(7)(C) stated that first-line supervisors are responsible for reviewing and maintaining the OGE 450s within ENRD.

(b)(6); (b)(7)(C) explained to the OIG that in ENRD's (b)(6); (b)(7)(C) OGE Forms 450 are reviewed by first-line supervisors. (b)(6); (b)(7)(C) went on to say that she probably would have been made aware if someone had not completed his 450 as required, but (b)(6); (b)(7)(C) had no knowledge of issues with (b)(6); (b)(7)(C) OGE Forms 450.



During a voluntary interview, (b)(6); (b)(7)(C) told the OIG he (b)(6); (b)(7)(C) and he was aware of (b)(6); (b)(7)(C) that his wife held (b)(6); (b)(7)(C). According to (b)(6); (b)(7)(C) he did not know the specifics (b)(6); (b)(7)(C) and he never asked his wife about it. Because he had no knowledge of the specifics (b)(6); (b)(7)(C) and his wife's financial holdings, he did not report those holdings on his OGE Forms 450 after their marriage as required by the form. (b)(6); (b)(7)(C) told the OIG he had no involvement or say in her holdings. (b)(6); (b)(7)(C) said he did not purposefully omit his wife's financial holdings on his OGE 450s. He explained that after he learned of the details of the holdings and he was recused from the (b)(6); (b)(7)(C) investigation, he inquired with ethics officials to determine if he needed to update his calendar year (b)(6); (b)(7)(C) OGE Form 450 to reflect his wife's holdings, but he could not recall if he had actually re-filed the form with the amended information.

The Public Integrity Section declined to open a criminal investigation on (b)(6); (b)(7)(C).

OIG's Conclusion

The OIG investigation concluded that (b)(6); (b)(7)(C) had an affirmative responsibility to know his financial interests as well as those interests that are imputed to him. He should have taken action to determine his wife's financial holdings so that he could report them fully and accurately on his annual confidential financial disclosure form (OGE Form 450). (b)(6); (b)(7)(C) failure to investigate his wife's financial interests, which were imputed to him, and report them as required by Executive Order, constituted administrative misconduct in violation of 5 C.F.R. § 2634.701(d).

A copy of the OIG's final report and the public summary regarding this investigation were reviewed by (b)(6); (b)(7)(C). During the review (b)(6); (b)(7)(C) annotated his comments and provided them back to the OIG for inclusion into this report.