

# SECRET AGENT MAN? OVERSIGHT OF EPA'S IG INVESTIGATION OF JOHN BEALE

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## HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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## **SECRET AGENT MAN? OVERSIGHT OF EPA'S IG INVESTIGATION OF JOHN BEALE**

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**Tuesday, October 1, 2013**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,  
WASHINGTON, D.C.

The committee met, pursuant to call, at 9:37 a.m., in Room 2154, Rayburn House Office Building, Hon. Darrell E. Issa [chairman of the committee] presiding.

Present: Representatives Issa, Mica, Duncan, McHenry, Jordan, Chaffetz, Walberg, Lankford, Gowdy, Farenthold, Woodall, Meadows, Bentivolio, Cummings, Maloney, Norton, Tierney, Lynch, Connolly, Speier, Pocan, Duckworth, Kelly, and Horsford.

Staff Present: Molly Boyd, Deputy General Counsel and Parliamentarian; Lawrence J. Brady, Staff Director; Joseph A. Brazauskas, Counsel; Ashley H. Callen, Deputy Chief Counsel for Investigations; Sharon Casey, Senior Assistant Clerk; Steve Castor, General Counsel; Drew Colliatie, Professional Staff Member; John Cuaderes, Deputy Staff Director; Adam P. Fromm, Director of Member Services and Committee Operations; Linda Good, Chief Clerk; Tyler Grimm, Senior Professional Staff Member; Christopher Hixon, Chief Counsel for Oversight; Mark D. Marin, Deputy Staff Director for Oversight; Ashok M. Pinto, Chief Counsel, Investigations; James Robertson, Senior Professional Staff Member; Laura L. Rush, Deputy Chief Clerk; Jonathan J. Skladany, Deputy General Counsel; Peter Warren, Legislative Policy Director; Rebecca Watkins, Communications Director; Lena Chang, Minority Counsel; Courtney Cochran, Minority Press Secretary; Susanne Sachsman Grooms, Minority Deputy Staff Director/Chief Counsel; Jennifer Hoffman, Minority Communications Director; Elisa Lannier, Minority Director of Operations; Una Lee, Minority Counsel; and Dave Rapallo, Minority Staff Director.

Chairman ISSA. The committee will come to order.

The Oversight Committee exists to secure two fundamental principles. First, Americans have a right to know that the money Washington takes from them is well-spent. And, second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights.

Our solemn responsibility is to hold government accountable to taxpayers because taxpayers have a right to know what they get from their government. Our obligation is to work tirelessly, in partnership with citizen watchdogs, including the IG's office, to deliver

the facts to the American people and bring genuine reform to the Federal bureaucracy. This is our mission statement.

And today we are here because a high-ranking EPA official swindled taxpayers. In fact, effectively, he embezzled \$800,000 or more over most of his career from the taxpayers.

He's here with us today, not as our most important witness, because, in fact, what we want to find out in this committee and the reason that this hearing has great merit is we want to find out how top officials at the EPA under multiple administrations for more than a decade never verified that a man who said he's a secret agent of the CIA—never verified that he was.

We also want to find out—that big lie was compounded with a big lie while an individual, who was supposedly working for the CIA, also got his pay raised to a level that appears to be above the statutory limit. And I repeat: It appears as though Mr. Beale was paid an amount greater than Congress allows.

Just as this committee investigated some months ago CMS allowing for payments greater than the statutory limit to the State of New York and we do not hold New York accountable alone, we do not hold Mr. Beale accountable alone. No individual and no individual's boss should be able to write anything that allows for somebody to be paid more than the law allows.

The lack of internal controls at the EPA and, in fact, the lack of external controls in government as a whole will be the subject not just today but in the days to come.

We hear complaints from the private sector that top EPA officials turn a deaf ear to their concerns about how regulations kill jobs and add enormous cost with little or no benefit. That is an issue that we will deal with many times as we address the EPA.

But today it appears as though there was a deaf ear taken to somebody not working. In fact, evidence shows—and we will hear from the Inspector General—evidence shows that beyond even the craziness of somebody saying they had to be gone for weeks or months at a time because they: “worked for another agency,” not doing that job but still being paid, and, in fact, not being billed back to the CIA, over and above that we understand there was actually a retirement ceremony in which the individual retired and then convinced the now-director and others that he should continue being paid because he wasn't really retired; his retirement from the CIA was awaiting a replacement.

To my understanding, your first replacement was killed by the Taliban. And we're really sorry for the loss of that nonexistent secret agent to replace a nonexistent secret agent.

It is not our desire, ordinarily, to call anyone before Congress simply to ridicule them, but I believe that today there is a degree of ridicule of top individuals at the EPA and, I fear, top individuals and lower individuals throughout government if, in fact, we cannot make a government-wide search to see if this has happened before.

One thing that I've found in the many years in which I manufactured consumer electronics: There is no such thing as one defect. There is no such thing as everything is perfect except the one you got, ma'am. There is no such thing as, well, this is the first time we've had a report of this defect or this problem. Here I believe the

lack of controls at the EPA almost guarantee that others did not do their job and fell through the cracks.

We have an agenda on this side of dais, which is we'd like to have union officials keep time cards to show how much time they spend doing union work versus the work of agencies. That has not passed the Congress, and it may not, but finding out if people do work should.

We have learned that Deputy Director Perciasepe—I'll get it better in time—and now-Administrator McCarthy worked extremely close with Mr. Beale for years. In fact, in 2009 through 2012, Ms. McCarthy was John Beale's direct supervisor at the Office of Air and Radiation, where he was senior official. This office is responsible for the most sweeping regulations affecting business.

As we look at a history of working closely with names we all know, including direct report to people who continue to be in the office today, what we find interesting is, if Mr. Beale could perpetrate outright lies with impunity, what did he do in his daily work life on those rare days in which he actually performed work for the EPA?

We need to get to the bottom of this because we owe it to the American people. We need to discover, in fact, whether individuals like Mr. Beale and others not performing work are now sitting in retirement collecting paychecks in retirement for work they did not do and, thus, a retirement they did not earn.

Finally, I want to thank the Inspector General for the work done. It is our report that, in fact, your investigation began delayed because, at a time when you should have been informed, the general counsel and others were being consulted around you. And for that, we want to make sure it is clearly understood that going to a lawyer when you discover something is not a substitute for also going to the IG.

This committee supports the Inspector General's offices and their work. The 12,000 men and women who independently—independent of Congress and, quite frankly, whenever possible, independent of their employers in the executive branch—seek to root out waste, fraud, and abuse is essential to this committee.

There is no partisan divide on the work of the IGs, and we will work on a bipartisan basis to ensure that administrations, Republican and Democratic, understand IGs are never to be kept in the dark when there is an allegation of even a portion as onerous as this one. IGs have to be brought in at the beginning, not when it's about to become public.

It also is disturbing to me that, Mr. Brenner, back in the 1970s when you and Mr. Beale went to Princeton, you began a friendship. A friendship should, in fact, require that when you're the superior of somebody who you helped bring into the Agency, that you look with a little more scrutiny, that, in fact, you are more likely to know that what somebody is saying isn't true. And I find it astonishing of that.

Additionally, during our investigation and with the help of the Inspector General, we became aware of what appears to be an inappropriate acceptance of an \$8,000 gift, a discount on a Mercedes-Benz, from an outside lobbyist. My understanding is this was not done with the preapproval or cooperation directly of Mercedes-

Benz, but it is our intention to use our power to do an investigation beyond that which the IG has authority.

If it were up to me, the IG would have had authority to interview all of you, or both of you, even as you sought retirement to escape his jurisdiction. One of the reasons you're here today is, in fact, that the IG Act has certain limitations. It cannot compel former members of government to speak to them. It cannot go between agencies and, in fact, is very stovepiped. It is our intention to move legislation that expands the ability of IGs to gain subpoena authority and that that authority should extend to investigations that begin within their agencies but which have tentacles in other agencies and with former employees, particularly when those employees' very paychecks are what is in question.

So I want to thank my ranking member for being patient as I went through a little longer opening statement. And I look forward to this hearing and to the work we must do afterwards.

And I yield to the ranking member.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Chairman, this is a very important hearing, but before I discuss today's hearing, I want to address our current budget situation.

Today is the first time the Federal Government has shut down in 17 years. This has happened because a small group of Tea Party Republicans has taken our country hostage as a part of their ideological crusade to overturn the law of the land and put insurance companies back in charge of healthcare decisions of millions of Americans.

The Republican House leadership could have averted this shutdown immediately by simply allowing the House of Representatives to vote on a clean continuing resolution. Let me say that again. If they put a clean resolution on the floor, it would pass and there would be no government shutdown.

But they refuse because they are placing internal Republican politics ahead of the best interests of our Nation and our economy. So, this morning, 800,000 hardworking, middle-class Federal workers who would have been at their duty stations providing vital services to the American people are furloughed. Many of them are my constituents. And things will only deteriorate from here.

I agree that our committee has a constitutional duty to provide oversight, and hearings like this one are a key part of that oversight. But it seems odd for our committee to be here today acting like nothing is different and pretending that we are just going about our business as usual. I want to make clear that a government shutdown is not business as usual, and we should not treat it that way.

I urge my colleagues on the other side of the aisle to ask your leadership to put a clean CR on the floor and end this shutdown today.

With that said, let me turn to today's hearing. I want to begin by thanking Inspector General Elkins and his deputy, Patrick Sullivan, for investigating this gross abuse of taxpayer funds.

I also want to acknowledge the Department of Justice for successfully prosecuting Mr. Beale, who pleaded guilty last Friday and



will be forced to pay back the almost \$900,000 in funds he stole—in funds he stole—from the American people.

In addition, I want to acknowledge the role of Administrator McCarthy in finally revealing this fraud, which lasted incredibly for decades. I know we will discuss the Inspector General's concerns about how quickly his office received a referral, but I believe that the IG will agree that had it not been for Administrator McCarthy, this fraud may never have been uncovered.

Mr. Beale's betrayal of the public trust for his own personal enrichment is truly shocking in its scope, duration, and sheer audacity. It is amazing.

Mr. Beale defrauded the Environmental Protection Agency for decades, under both Republican and Democratic administrations, by claiming he was a covert operative of the CIA. One senior EPA official during the Bush administration actually approved Mr. Beale's request to work offsite 1 day a week so he could participate in an interagency special advisory group working on a project with the Directorate of Operations at the CIA. Give me a break.

This was no ordinary ruse. In addition to lying, he stole and lied, lying to senior EPA officials across multiple administrations, Mr. Beale also duped his own family members, his friends, and even his own lawyer. That's a lot of duping. Mr. Beale did not come clean to his own criminal defense attorney until investigators arranged for a meeting at CIA headquarters in Langley, Virginia, in order to finally confront him about his lies.

But that's not all Mr. Beale did. That's not all that he lied about. According to the Inspector General, Mr. Beale also lied about contracting malaria and serving in Vietnam, all to obtain a handicapped parking spot. Oh, my God. Mr. Beale also lied on travel vouchers, about where he was going and why he needed to go there, so he could visit his family in California.

Simply put, Mr. Beale was a con artist, and the American taxpayers were his mark. As public servants, we must always remember that we serve the people. Mr. Beale flouted one of the most basic tenets of government service: It's not your money; it's the taxpayers' money. It's people that go out there, the ones that I saw this morning when I left home at 5 o'clock getting the early bus. It's their money. And you stole it.

Mr. Beale's actions are an insult to the thousands of hard-working and dedicated public servants across the country and an insult to our CIA agents around the world. While Mr. Beale was claiming to work at Langley and pretending to go on secret missions overseas, real intelligence agents were hunting down Osama bin Laden and battling al Qaeda in the most dangerous places in the world.

Mr. Beale's impersonation of a CIA agent forced our Nation's law enforcement and intelligence officials to spend their scarce time and resources uncovering his fraud instead of combatting real threats around the globe. This is truly reprehensible.

I'm gratified that justice has been served and that Mr. Beale will pay for his fraud, for his lies, for his theft. However, our inquiry cannot end there. We need to understand how EPA's system failed to catch him earlier and examine additional reforms.

Although the Inspector General's audit work is still ongoing, I look forward to hearing about his initial recommendations and to hearing from the Deputy Administrator of EPA about steps the Agency has already taken and plans to take to safeguard taxpayer dollars from this type of fraud in the future.

As I close, let me say I urge my colleagues to refrain from using Mr. Beale to make generalizations about government workers. Mr. Beale is an aberration, not a rule. The vast majority of Federal employees dedicate their lives to serving the public. They come to work every day. They give it everything they've got because they realize it's bigger than them. It's not about them; it's bigger. They are honest, they are hardworking, and they would never even contemplate breaching the public trust in this manner.

So, Mr. Chairman, with that, I look forward to the testimony, and I yield back.

Chairman ISSA. I thank the gentleman.

Chairman ISSA. And I join with him in saying, on a day in which hundreds of thousands of Federal workers are on furlough without pay, we don't take this as an ordinary day, but perhaps an appropriate day to have somebody who furloughed himself with pay time and time again.

Members will have 7 days to submit opening statements for the record.

Chairman ISSA. And we'll now recognize our first panel of witnesses.

The Honorable Arthur A. Elkins, Jr., is the Inspector General for the U.S. Environmental Protection Agency.

Welcome.

Mr. Patrick Sullivan is Deputy Inspector General of Investigations at the EPA and oversaw and had primary responsibility for this investigation.

Mr. Mark Kaminsky, who is sitting behind the two IGs, is a special agent with the Office of the Inspector General at EPA. He may be called to answer questions because of his direct contact in this investigation and will also be sworn in when the others are sworn in.

The Honorable Robert Perciasepe is the Deputy Administrator of the U.S.—United States—United States Environmental Protection Agency. We get so used to just saying "EPA" around here.

And Mr. Robert Brenner is the former Director of Policy Analysis and Review at the Air and Radiation Division of the U.S. Environmental Protection Agency.

And our primary witness, Mr. John C. Beale, is the former senior policy advisor at the U.S. Environmental Protection Agency and, allegedly, the CIA.

With that and pursuant to the committee rules, would all of you, including Mr. Kaminsky, please rise to be sworn and raise your right hands?

Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Thank you. Please be seated.

Let the record reflect that all witnesses answered in the affirmative.

This is a large panel, and even with some not making opening statements we're going to consume a lot of time. So I'd ask you to keep your opening statements as close to 5 minutes or less as possible. Your entire written statements will be placed in the record, in addition to any comments that you may want to give us afterwards. We'll hold the record open—I'll announce that at the end—for a couple of days.

Mr. Elkins?

**STATEMENT OF THE HONORABLE ARTHUR A. ELKINS, JR.**

Mr. ELKINS. Thank you. Good morning, Chairman Issa, Ranking Member Cummings, and members of the committee. I am Arthur Elkins, Inspector General of the U.S. Environmental Protection Agency.

I am pleased to appear before you today to discuss some of the recent important work of the Office of Inspector General. In particular, I will highlight the audit work that ensued as a direct result of the OIG's criminal investigation of former EPA employee John C. Beale.

The EPA's Assistant Inspector General for Investigations, Patrick Sullivan, whose testimony will follow mine, will provide more specific details of the investigation that led to Beale's guilty plea on September 27th of 2013.

Thank you for allowing me the opportunity to share with you the OIG's various efforts to safeguard the EPA and the U.S. Chemical Safety and Hazard Investigation Board from fraud, waste, and abuse through independent oversight of their programs and operations.

Before I begin, I would like to commend the expertise, diligence, and professionalism of the OIG staff, whose exceptional work serves as the foundation of my testimony this morning.

Once my office learned about the serious allegations made against Beale, the OIG's Office of Investigations immediately launched and quickly completed a successful investigation of what you will certainly agree to be an egregious and almost unbelievable case. As a result of this investigation, the OIG's Office of Audit has mobilized to aggressively assess the various internal control issues at the EPA that allowed this highly troubling scenario to occur.

My testimony will primarily detail the subsequent work that will be conducted by the OIG's Office of Audit as a result of the investigation. I also received a congressional request that the OIG immediately launch an investigation into the Agency's policies and processes that facilitated Beale's fraud.

The Office of Investigations requested audit assistance to address the following potential EPA systemic weaknesses: EPA's retention bonuses, the statutory annual pay limit, EPA's first-class travel, EPA's process for approval of foreign travel, EPA's vetting process for new employees, time and attendance issues, timely referrals of potential criminal allegations to the OIG, and authority of EPA's Office of Homeland Security.

In September 2013, the OIG's Office of Audit sent a notification letter to the Agency stating our plan to begin preliminary research on various administrative areas as a result of recent actions taken against a former EPA employee. We are also currently performing

work to address the first part of congressional requests. We have reviewed the OIG's Office of Investigations case files to determine how the fraud took place, what internal controls existed, what controls may need strengthening, and what controls were compromised, circumvented, or overridden.

On completion of this part of the request, we will provide a letter to the requester which will address the facts concerning how the fraud occurred. The estimated date for the issuance of this letter will be October 31, 2013, barring any delays due to the possible shutdown of the government and the EPA's cooperation.

We just started our preliminary research for the second part of the congressional request. We will keep the committee updated on the audit's estimated completion.

Further, this audit may uncover other issues that I have not detailed this morning. Accordingly, we may issue early warning reports on time and attendance and travel as it relates to Beale.

This investigation has also resulted in several investigations related to administrative matters. As these are ongoing investigations, I am unable at this juncture to discuss them but will do so when I can.

My testimony today highlights the OIG's commitment to continue to shine a light on the EPA and the CSB to guarantee that our tax dollars are being well-spent so that a scenario such as the Beale case should not happen again.

Funding to the OIG clearly represents a great value to the American taxpayers. I ask the committee to please keep in mind that additional budget cuts may force us to focus on statutory work and reduce discretionary work, such as requests from Congress to investigate agency programs or operations.

In conclusion, I would like to reaffirm the OIG's commitment to add value and assist the agency in accomplishing its mission of safeguarding the health of the American people and protecting the environment. We take very seriously our mandate to promote economy, efficiency, and effectiveness and prevent and detect fraud, waste, and abuse through independent oversight of the EPA's programs and operations.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Members may have. Thank you.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Elkins follows:]

**Statement of  
Arthur A. Elkins Jr.  
Inspector General  
Office of Inspector General  
U.S. Environmental Protection Agency  
Before the  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
October 1, 2013**

Good morning Chairman Issa, Ranking Member Cummings and Members of the Committee. I am Arthur Elkins, Inspector General of the U.S. Environmental Protection Agency (EPA). I am pleased to appear before you today to discuss some of the recent important work of the Office of Inspector General (OIG). In particular, I will highlight the audit work that ensued as a direct result of the OIG's criminal investigation of former EPA employee John C. Beale. The EPA's Assistant Inspector General for Investigations, Patrick Sullivan, whose testimony will follow mine, will provide more specific details of the investigation. Thank you for allowing me the opportunity to share with you the OIG's various efforts to safeguard the EPA and the U.S. Chemical Safety and Hazard Investigation Board (CSB) from fraud, waste and abuse through independent oversight of their programs and operations.

Before I begin, I would like to commend the expertise, dedication, diligence and professionalism of the OIG staff whose exceptional work serves as the foundation of my testimony this morning. Once my office learned about the serious allegations made against Mr. Beale, the OIG's Office of Investigations immediately launched and quickly completed a successful investigation of what you will certainly agree to be an egregious and almost unbelievable case. As a result of this investigation, the OIG's Office of Audit has mobilized to aggressively assess the various internal control issues at the EPA that allowed this highly troubling scenario to occur.

**Overview of the EPA OIG**

The OIG is an independent and objective office within the EPA that is uniquely charged to conduct audits and investigations related to programs and operations at the agency to prevent and detect fraud and abuse. Although we are a part of the EPA, the agency's senior leaders can neither prevent nor prohibit us from conducting our work. In accordance with the Inspector General Act of 1978, as amended, the OIG's mission is to: conduct independent and objective audits and evaluations; prevent and detect waste, fraud and abuse; promote economy, effectiveness and efficiency; review pending legislation and regulation; and keep the agency head and Congress fully and currently informed. We fulfill our mission by primarily issuing audit and evaluation reports that include recommendations for corrective action, by conducting investigations, and by referring criminal cases to the United States Attorney General for prosecution.

For fiscal year (FY) 2013, the OIG operated on a post-sequestration budget of \$49.125 million. Our funded full-time equivalent (FTE) for FY 2013 was 338.

Within the OIG are three offices (Audit, Evaluation and Investigations) that perform our mission-related work. The Office of Audit designs and implements long-term, nationwide audit plans to improve the economy, efficiency and effectiveness of agency programs and prevent fraud, waste and mismanagement. It also leads and participates in multi-agency projects to address government-wide management issues. The Office of Program Evaluation manages, coordinates and has overall responsibility for leading the design and implementation of program evaluations within the OIG. Its evaluations use design and methodology strategies that maximize innovation, identify new issues, and focus on increased understanding of EPA programs. The Office of Investigations manages, sets policy, coordinates, and has overall responsibility for criminal investigations of allegations, including financial fraud involving EPA programs or funds and employee misconduct. In addition, it is responsible for the OIG Hotline, which receives complaints of fraud, waste and abuse in EPA programs and operations. The Office of Investigations maintains vital working relationships with the Department of Justice; the Federal Bureau of Investigation; other OIGs; and federal, state and local law enforcement agencies.

#### **Recent Work of the EPA OIG**

From April 1, 2008, through March 31, 2013, we issued 390 reports, processed 2,015 hotline cases, and performed 492 investigations. We have made recommendations having the potential to save the EPA approximately \$793 million by preventing fraud, waste and other abuses in mandatory programs.

Here are several examples from the OIG's most recent body of work:

- In May 2013, the OIG's Office of Audit issued a report (Report No. 13-P-0272, *Early Warning Report: Main EPA Headquarters Warehouse in Landover, Maryland, Requires Immediate EPA Attention*) that raised significant concerns about a lack of agency oversight of personal property and warehouse space at the facility. We found, among other things, that the warehouse contained multiple unauthorized and hidden personal spaces that included such items as televisions and exercise equipment; numerous potential security and safety hazards existed at the warehouse, including unsecured personally identifiable information (such as passports); and deplorable conditions existed at the warehouse; corrosion, vermin feces, mold and other problems were pervasive.
- In November 2012, a corporation and owners of a Florida septic tank company pled guilty to a fraud scheme that targeted the elderly throughout the United States and resulted in 12 arrests and convictions. The defendants had knowingly participated in a scheme to fraudulently market and sell an unnecessary septic treatment product to customers throughout the continental United States from March 2009 through October 2010. The OIG's Office of Investigations led this investigation that resulted in the guilty pleas.

- In January 2013, British Petroleum Exploration and Production Inc. pled guilty in the U.S. District Court, Eastern District of Louisiana, to 14 criminal counts of illegal conduct involving the 2010 Deepwater Horizon disaster, and was sentenced to pay \$4 billion in criminal fines and penalties—the largest criminal resolution in U.S. history. The spill caused 11 deaths and extensive environmental damage. The OIG’s Office of Investigations was part of the Deepwater Horizon Task Force that led to this guilty plea.
- In February 2013, the OIG’s Office of Audit issued a report (Report No. 13-P-0152, *EPA Could Improve Contingency Planning for Oil and Hazardous Substance Response*) which found that while EPA regions have expanded contingency planning for responding to oil spills and hazardous substance releases by creating additional plans and materials, regions cannot maintain this large volume of information with their limited resources. We recommended that the EPA issue guidance to regions on how to use the most efficient method available to address National Contingency Plan requirements, require regions to keep critical planning information up to date and avoid unnecessary duplication, and develop a process to regularly incorporate lessons learned from national exercises.
- In February 2013, the OIG’s Office of Program Evaluation issued a report (Report No. 13-P-0161, *EPA Needs to Improve Air Emissions Data for the Oil and Natural Gas Sector*) which found that EPA has limited directly measured air emissions data for air toxics and criteria pollutants generated by several important oil and natural gas sector processes and sources. We recommended that the EPA develop and implement a comprehensive strategy for improving air emissions data for the oil and gas production sector, prioritize which oil and gas production emission factors need to be improved, develop additional emission factors, and ensure the National Emissions inventory data for oil and gas production are complete.
- In September 2013, the OIG’s Office of Program Evaluation issued a report (Report No. 13-P-0387, *EPA Can Better Document Resolution of Ethics and Partiality Concerns in Managing Clean Air Federal Advisory Committees*) which found that EPA had adequate procedures for identifying potential ethics concerns, including financial conflicts of interest, independence issues and appearances of a lack of impartiality. However, the EPA can better document its decisions on selecting members with independence and partiality concerns. We also identified one instance where agency procedures involving a potential conflict of interest were not followed and an instance where peer review was not conducted in accordance with Office of Management and Budget and EPA guidance. We recommended that EPA instruct staff on the proper process for addressing potential conflicts of interest, develop procedures to document decisions and mitigating actions regarding independence and partiality concerns, and implement a process to determine whether its scientific work products are influential

scientific information that require peer review in accordance with Office of Management and Budget and EPA guidance.

Further details on these audits and investigations, as well as other examples of the OIG's work, may be found in our *Semiannual Report to Congress* and/or our website.

#### **EPA Management Challenges for FY 2013**

Our work is also highlighted in the EPA's FY 2013 Management Challenges, which was issued on July 1, 2013, as mandated by the Reports Consolidation Act of 2000. The major management challenges are programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse and mismanagement, and a failure to perform well that could seriously affect the ability of an agency or the federal government to achieve its mission or goals. We used audit, evaluation and investigative work, as well as additional analysis of agency operations, to identify challenges and weaknesses. This report, which was included in the Agency's Financial Report, is available to the public in its entirety on the OIG's website.

The following are the five areas we determined were the key management challenges facing the EPA for FY 2013:

- Oversight of Delegations to States.
- Safe Reuse of Contaminated Sites.
- Enhancing Information Technology Security to Combat Cyber Threats.
- The EPA's Framework for Assessing and Managing Chemical Risks.
- Workforce Planning.

While the EPA has made progress, we repeated the five management challenges reported from last year (although we changed the title of the challenge on cyber security). As will be clearly evident in my testimony ahead, additional challenges and weaknesses may exist in areas that we have not yet reviewed, and other significant findings could result from additional work.

#### **OIG's Criminal Investigation of John Beale**

The remainder of my testimony will briefly cover the OIG's Office of Investigations criminal investigation of former EPA employee John Beale that led to his guilty plea on September 27, 2013. I will also detail the subsequent work that will be conducted by the OIG's Office of Audit as a result of the investigation. As I mentioned at the beginning of my testimony, the Assistant Inspector General for Investigations, Patrick Sullivan, will be providing more specific details of the investigation. I would like to note that during the course of our investigation, we uncovered criminal facts that date back nearly 25 years. While John Beale pled guilty to charges dating from 2000, as negotiated by the U.S. Attorney's Office, all the facts that the OIG uncovered from 1988 to the present are relevant in my testimony.



On February 11, 2013, the Office of Investigations received information regarding John Beale, who was a former Senior Policy Advisor at the Office of Air and Radiation (OAR) at the EPA. Gina McCarthy, who was the EPA Assistant Administrator of OAR at the time, provided the information. The information alleged that John Beale had engaged in employee misconduct, including theft of government money, time and attendance fraud, and travel voucher fraud, by perpetrating a lie that he worked for the Central Intelligence Agency.

Once the OIG learned of the allegations, we immediately launched an investigation that was conducted by our special agents. That investigation revealed that, in 1988, John Beale was hired by the EPA as a consultant by his friend, Robert Brenner. We discovered numerous misleading and false statements on several of John Beale's applications for federal employment. The investigation also revealed that, due to administrative errors and lack of internal controls within the EPA, John Beale was erroneously paid a retention incentive bonus for 16 years that cost the government more than \$500,000. In fact, his base pay and retention incentive bonus exceeded the statutory pay cap for federal employees at his pay grade for 4 years. We also found that John Beale was absent from work at EPA for long periods of time under the guise that he was working for the CIA. Also, while employed at the EPA, John Beale took many first-class domestic and international trips at the expense of the government.

The former Assistant Administrator for OAR, Gina McCarthy, referred her concerns about John Beale's potential criminal misconduct to the EPA's Office of General Counsel (OGC) on or about November 1, 2012. No one at the agency notified the OIG at that point. Rather, the OGC requested that the EPA's Office of Homeland Security (OHS), which is located within the Office of the Administrator, conduct an investigation into John Beale's alleged status as a CIA undercover agent. This request resulted in a significant delay in reporting the misconduct to the OIG, since we did not receive notice until February 11, 2013. We began our investigation shortly thereafter.

In March 2013, we presented the case to the Department of Justice (DOJ), U.S. Attorney's Office, District of Columbia, for potential criminal prosecution. DOJ made the determination to pursue criminal prosecution for actions taken by John Beale during his employment with the EPA. He entered into a plea agreement with DOJ that included the admission of theft of government money from 2000 through 2013. John Beale agreed to pay EPA approximately \$890,000 in restitution and approximately \$500,000 to DOJ in criminal forfeiture.

On September 27, 2013, John Beale pled guilty, and his sentencing hearing will be scheduled in the near future.

#### **OIG's Audit Response to Investigation of John Beale**

As a result of the Beale investigation, the ranking member of the Senate Environment and Public Works committee requested that the OIG immediately launch an investigation into the agency's policies and processes that facilitated Beale's fraud, and to make

recommendations to ensure that this does not happen again. Also, the Assistant Inspector General for Investigations, Patrick Sullivan, requested audit assistance to address seven areas identified as potential EPA systematic weaknesses during the investigation of John Beale. The seven areas related to:

- EPA's retention bonuses.
- Statutory annual pay limit.
- EPA's first-class travel.
- EPA's process for approval of foreign travel.
- EPA's vetting process for new employees.
- Time-and-attendance issues.
- Referrals of potentially criminal allegations to the OIG; authority of EPA's Office of Homeland Security.

The Office of Audit was assigned to look into all the areas listed in Sullivan's request. On September 11, 2013, a notification letter was sent to the agency stating that the OIG plans to begin preliminary research on various administrative areas as a result of recent actions taken against a former EPA employee. We are also currently performing work to address the first part of the Ranking Member's request to look into the policies and procedures that had facilitated Beale's fraud.

We have reviewed the OIG's Office of Investigations case file to determine:

- How the fraud took place.
- What internal controls existed.
- What controls may need strengthening.
- What controls were compromised, circumvented or overridden.

We are conducting interviews and reviews with OAR and Office of Administration and Resources Management personnel to acquire any additional information that was not included in the Office of Investigations case file. We are coordinating this with the Office of Investigations so that we do not compromise any active investigations.

Upon completion of interviews and reviews, we will provide a letter to the Ranking Member, as requested in his August 27, 2013, letter, which will address the facts concerning how the Beale fraud occurred. The estimated date for the issuance of this letter will be October 31, 2013, barring any delays due to the possible shutdown of the government and the cooperation of the EPA.

We just started our preliminary research on this audit, and the timeframe for completing the second part of the congressional request will vary depending on its scope and complexity. Typically, it takes 3 to 6 months to issue the preliminary results of the audits, and it takes 9 to 12 months for the final report to be issued. However, if significant issues are discovered, the issuing of the final report may take longer. We will keep the Committee updated on the audit's estimated completion.

Further, our audit may uncover other issues that I have not detailed this morning, and, in fact, we have noted some indicators that suggest additional probable issues. Accordingly, we expect to issue early warning reports to the EPA concerning the internal controls surrounding the Beale matter. At this time, we expect to issue early warning reports on time-and-attendance and travel as it relates to John Beale.

### **Conclusion**

Again, the investigation of John Beale resulted in several reviews that will assess the adequacy of internal controls at the EPA, and examine the system of failure that permitted an individual to commit multiple frauds at the EPA over a period spanning more than two decades. This investigation has also resulted in several investigations related to administrative matters. As these are ongoing investigations, I am unable at this juncture to discuss them, but will do so when I can.

My testimony today highlights the OIG's commitment to continue to shine a light on EPA and the CSB and to guarantee that our tax dollars are being well spent, so that a scenario, such as the Beale case, should not happen again. Funding to the OIG clearly represents a great value to the American taxpayer. I ask the Committee to please keep in mind that additional budget cuts may force us to focus on statutory work and reduce discretionary work, such as requests from Congress to investigate agency programs or actions.

In conclusion, I would like to reaffirm the OIG's commitment to add value and assist the agency in accomplishing its mission of safeguarding the health of the American people and protecting the environment. We take very seriously our mandate to promote economy, efficiency and effectiveness; and prevent and detect fraud, waste and abuse through independent oversight of the EPA's programs and operations.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Members may have.

Chairman ISSA. Mr. Sullivan?

**STATEMENT OF PATRICK SULLIVAN**

Mr. SULLIVAN. Chairman Issa, Ranking Member Cummings, members of the committee, I am Patrick Sullivan, Assistant Inspector General for Investigations at EPA.

The EPA's OIG investigation of this case has included more than 40 interviews, the review of thousands of documents, and coordination with many Federal law enforcement agencies. On September 27th, Mr. Beale entered a plea of guilty to one count of theft of government funds.

The activities relevant to this case began in 1988 when Mr. Beale was hired as a consultant to the EPA by his close friend Robert Brenner, then-director of EPA's Office of Policy Analysis and Review, and continued until Mr. Beale's retirement in April of 2013.

Our investigation revealed that Mr. Beale engaged in the following misconduct: false official statements, timecard fraud, incentive retention bonus fraud, travel voucher fraud, false impersonation of a Federal official, and misuse of an official government passport.

Mr. Beale's official personnel file contains numerous misleading and false statements, including a claim that he worked for a U.S. Senator.

Over a period of 22 years, Mr. Beale received a retention incentive bonus amounting to 25 percent of his salary. Evidence suggests Mr. Beale was only authorized to receive this bonus for 6 years, costing the government approximately \$500,000.

Mr. Beale's work on the Clean Air Act in the early 1990s gained him significant prestige. Starting in 1994, he began the false impersonation of a CIA employee, lying to even his wife and closest friends in addition to his EPA colleagues. He told OIG investigators that he perpetrated this lie to, quote, "puff up the image of myself."

The investigation revealed Mr. Beale was absent from the EPA for long periods of time between 2000 and 2013 under his alleged CIA cover. During this time, Mr. Beale lied to several high-ranking EPA officials about his work for the CIA, including former Assistant Administrators Jeff Holmstead and Gina McCarthy.

Subsequent investigative interviews revealed Mr. Holmstead shared Mr. Beale's claimed CIA status with other EPA executives and it became, "an open secret" in EPA that Mr. Beale worked undercover for the CIA. When Gina McCarthy became Assistant Administrator for the Office of Air and Radiation in 2009, she was told during her orientation process and subsequently by Mr. Beale himself that he worked for the CIA.

Additionally, an executive assistant that worked for Mr. Beale recalled that he had told her he needed to stay on with the CIA until his replacement, who had been captured and was being tortured in Pakistan, had recovered. She responded: "John, that's what movies are made of."

When interviewed by OIG investigators, Mr. Beale admitted to taking off a total of 2-1/2 years for nonexistent CIA work at a cost to the taxpayers of approximately \$350,000. Mr. Beale also stated that during these periods he actually was working around the house, riding his bicycle, and reading books.

Concurrent with his frequent absences from the EPA, Mr. Beale received a substantial cash award, including a Presidential Rank Award of \$28,000, all on top of his salary and the 25 percent retention incentive bonus.

Mr. Beale perpetuated the lie that he had contracted malaria in Vietnam during his service in the U.S. Army, using it both as another reason for his frequent absences and used it to obtain a handicapped parking permit at EPA. Mr. Beale never had malaria, and he never served in Vietnam. Over time, the parking space cost the taxpayers and the government approximately \$18,000.

Mr. Beale also committed travel card fraud—excuse me, travel-related fraud. For example, we were able to confirm that he charged more than \$80,000 in trips between 2005 and 2007 to California. All these trips to California were fraudulent. He traveled there to visit his elderly parents, who lived in Bakersfield.

Another example: Mr. Beale usually stayed at hotels that far exceeded—I mean far exceeded—the allowable government lodging rate. In one instance, he charged the government \$1,066 per night for 4 nights in London even though he had the opportunity to stay at a different hotel at \$375 per night. When confronted with this outrage by our investigators, Mr. Beale stated, “Even I am outraged at this.”

From approximately 1998 until his retirement in 2013, Mr. Beale claimed he had a back injury requiring first-class airplane accommodations. He provided medical documentation from a chiropractor supporting this claim. Due to Mr. Beale’s undertaking extensive physical activities and his many other deceptions regarding his health, his claim is dubious at best. And one example, when he traveled from Washington to London, his first-class ticket was 14 times higher than the coach fare. The government was charged \$14,000 for this one ticket as opposed to \$1,000 had he taken a coach flight.

Mr. Beale was never held accountable for his spending on these trips. When interviewed, those responsible for approving his travel vouchers acknowledged that the charges he submitted often seemed excessive, but they were never questioned because he was a highly respected EPA senior official and based on his work for the CIA.

That concludes my remarks, Chairman. I’ll be happy to answer questions at the appropriate time.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Sullivan follows:]

**Statement of  
Patrick Sullivan  
Assistant Inspector General for Investigations  
Office of Inspector General  
U.S. Environmental Protection Agency  
Before the  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
October 1, 2013**

Good morning, Chairman Issa, Ranking Member Cummings and members of the committee. I am Patrick Sullivan, Assistant Inspector General for Investigations for the U.S. Environmental Protection Agency (EPA). Thank you for inviting me to appear before you today to discuss in further detail my office's investigation into the activities of John C. Beale while he was employed in the EPA's Office of Air and Radiation (OAR).

The EPA Office of Inspector General's (OIG's) investigation of this case, to date, has included interviews with more than 40 individuals. We have examined thousands of documents. In addition to offices and individuals at the EPA, we have coordinated with other federal law enforcement agencies, namely: the Central Intelligence Agency's Office of Inspector General; the Department of State's Diplomatic Security Service; the Department of Homeland Security's Immigration and Customs Enforcement; the Department of Justice, including the Federal Bureau of Investigation; and the Department of the Treasury's Financial Crimes Enforcement Network.

As Inspector General Elkins noted, the Office of Investigations first received information about Mr. Beale's potential misconduct on February 11, 2013. However, the activities that investigators discovered began as far back as 1988, when Mr. Beale was hired. I will describe those activities one topic at a time beginning with the hiring of Mr. Beale.

**Hiring**

In 1988, Mr. Beale was hired as a consultant to the EPA by his close friend Robert Brenner, who was then the Director of OAR's Office of Policy, Analysis and Review. Mr. Brenner and Mr. Beale had attended graduate school together at Princeton University from 1975 to 1979 and owned property in Massachusetts together from approximately 1983 to 1999.

In 1989, Mr. Beale was hired as a full-time EPA employee in the position of Senior Policy Advisor. Mr. Brenner had recommended the competitive selection of Mr. Beale and prepared an "Advance in Hire" memorandum articulating that, in order for Mr. Beale to accept the position, he would need to start at the pay grade of GS-15 Step 10 because he would be taking a \$20,000 pay reduction from his previous position in the private sector.

Our investigation revealed numerous misleading and false statements, including inconsistencies and omissions, on multiple applications for federal employment found in Mr. Beale's Official Personnel File. The applications were for jobs at the EPA and elsewhere. One example of the problems found is that Mr. Beale claimed to have worked for Senator Tunney of California, supplying a work address in Washington D.C. However, Mr. Beale stated in his resume and other paperwork that he was working and living in California during the same time period. Furthermore, he spelled the Senator's name differently on various applications. When investigators sought confirmation of Mr. Beale's employment and service dates with the U.S. Senate or, to be thorough, the U.S. House of Representatives, they found none.

#### **Retention Incentive Bonuses**

Throughout Mr. Beale's career with the EPA, Mr. Brenner was instrumental in facilitating and recommending bonuses, promotions, awards and other recognition on Mr. Beale's behalf.

In 1991, Mr. Brenner recommended a first retention incentive bonus for Mr. Beale, representing 25 percent of Mr. Beale's base pay. A retention incentive bonus may be given by an agency to keep an employee with the federal government when he or she has a unique skill set that is sought out by private companies. An agency can pay such a bonus for a three-year period. Therefore, this bonus should have ended by 1994. Instead, Mr. Beale received payments until 2000.

In 2000, Mr. Brenner – who by this time was a Deputy Assistant Administrator – recommended a second retention incentive bonus for Mr. Beale, again representing 25 percent of Mr. Beale's base pay. The bonus was approved by Bob Perciasepe, who was then the Assistant Administrator of OAR. This second bonus should have ended by 2003, but Mr. Beale received payments until 2013.

In short, while bonus payments would have been authorized for a total of six years, Mr. Beale received bonus payments for 22 years. The agency thus erroneously paid him bonuses for 16 extra years, costing the government more than \$500,000.

Additionally, Mr. Brenner's recommendations that Mr. Beale receive the bonuses indicated that Mr. Beale had received outside offers of employment. However, supporting documents available for the six years that Mr. Beale may have been eligible to receive the bonuses did not include written proof of such offers. Mr. Beale conceded in an interview with the OIG on June 14, 2013, that he had not, in fact, received any written offers of employment to support either bonus. Rather, he said, he had received only oral offers for outside employment.

#### **Promotion and Overpayment**

In 2000, Mr. Brenner recommended Mr. Beale for a promotion to Senior Leader status, a designation equivalent to the Senior Executive Service for technical professionals in the

federal government pay system. At that time, Mr. Beale was given the operational title of Deputy Assistant Administrator, the same title held by Mr. Brenner since 1993. Based upon his Senior Leader status and retention incentive bonuses, from 2000 to 2013, Mr. Beale was paid, on average, \$180,000 per year, an amount that exceeded statutory pay limits for federal employees at his grade for four of those years – 2007, 2008, 2009 and 2010.

### **False Personation of a CIA Agent**

From approximately 1990 to 1993, Mr. Beale was instrumental in drafting and implementing the Clean Air Act Amendments. It appears that his role gained him significant prestige within the EPA, and with foreign countries and private companies interested in the environment and clean air, in particular.

Our investigation revealed that, beginning in 1994, Mr. Beale began the false personation of a Central Intelligence Agency (CIA) employee. During his June 14, 2013, interview with the OIG, he said that he perpetrated this lie to “puff up the image of myself.” It also was at the core of Mr. Beale’s fraud scheme to justify frequent and long absences from the office. He admitted having told even his wife and closest friends, in addition to co-workers, that he worked for the CIA, a fact also documented by email correspondence and other sources.

Mr. Beale was absent from the EPA for long periods of time from 2000 to 2013 under his alleged CIA cover. In communications to his colleagues and family members, he often volunteered locations and other details relating to foreign travel he was undertaking on behalf of the CIA – none of which actually occurred.

Starting in 2000, Mr. Beale began to place “D.O. Oversight” on his calendar for every Wednesday, to validate his absences from the EPA. “D.O.” refers to the Directorate of Operations, which is responsible for covert operations at the CIA. As a Deputy Assistant Administrator, Mr. Beale’s calendar was available to his supervisors and other co-workers both in written form and electronically.

In 2001, Mr. Beale told his supervisor, Assistant Administrator for OAR Jeff Holmstead, that he had to be absent from his work at the EPA so he could work on “D.O. Oversight” issues at the CIA. When interviewed by the OIG on June 3, 2013, Mr. Holmstead confirmed that fact, as well as that he had believed Mr. Beale. During his tenure with OAR, Mr. Holmstead shared Mr. Beale’s alleged CIA status with other OAR executives, and this “information” spread throughout the office. The lie became an open secret – something many people were aware of but knew they were not supposed to disclose or discuss.

In 2009, from the start of her tenure as Assistant Administrator for OAR, Gina McCarthy was told by OAR senior executives that Mr. Beale worked for the CIA, which required frequent absences from the EPA. Mr. Beale also told Ms. McCarthy personally that he worked for the CIA. She confirmed these facts in the first of two interviews with the OIG,



on February 27, 2013. In his June 14, 2013, interview, Mr. Beale said that providing this fabrication to senior level managers of OAR “made the lie kind of official or sanctioned.”

Additionally, an Executive Assistant who worked for Mr. Beale, in an interview with the OIG, recalled that Mr. Beale had told her he needed to stay on with the CIA until his replacement, who had been captured and was being tortured in Pakistan, had recovered. According to the Executive Assistant, she responded, “John, that’s what movies are made of,” and Mr. Beale asserted that he was telling her the truth.

When interviewed by OIG investigators on June 14, 2013, Mr. Beale admitted to taking off a total of 2 ½ years – six months in 2008 and two years between 2011 and 2013 – for nonexistent CIA work, at a cost to the federal government of approximately \$350,000. Mr. Beale also stated that during these periods he actually was working around the house, riding his bicycle and reading books.

#### **Awards**

Concurrent with his frequent absences from the EPA, Mr. Beale received substantial cash awards, all on top of his salary and the 25 percent retention incentive bonuses. In 2003, he received a cash award for \$1,500. He was recommended for and received at least three performance awards: In 2004, he was presented with a Superior Accomplishment Recognition Award, which was accompanied by a \$2,250 payment. Mr. Brenner, now Mr. Beale’s equal in rank rather than his supervisor, submitted the nomination, which was approved by Mr. Holmstead.

In 2005, Mr. Beale was away from the EPA for more than 400 work hours, which he recorded on his calendar as either “DO Oversight” or “out of the office.” That same year, Mr. Holmstead recommended Mr. Beale for a second Superior Accomplishment Recognition Award, which carried a \$2,000 payment. In 2005, Mr. Beale also received a Meritorious Executive Rank Award, a category of the Presidential Rank Award, which carried a \$28,201 payment. Mr. Brenner nominated Mr. Beale for that award, which was approved by Mr. Holmstead.

#### **Lies About Military Service in Vietnam and Malaria**

Over the course of Mr. Beale’s employment with the EPA, he perpetuated other lies that gained him financial benefits and special treatment.

For example, Mr. Beale told other EPA employees that he had contracted malaria in Vietnam during service in the U.S. Army. During the June 14, 2013, interview, he admitted to never having had malaria or ever being in Vietnam. Military documentation confirms that Mr. Beale never served in Vietnam. Mr. Beale used his lie about having malaria as a basis for obtaining subsidized parking at EPA facilities – designated for people requiring special access for medical conditions – for several years, costing the government approximately \$200 a month and totaling approximately \$18,000 over his

tenure with the agency. Additionally, he cited his alleged malaria condition as another explanation for why he was often gone for long periods of time.

### **Travel Fraud**

The lies perpetuated by Mr. Beale also involved travel-related fraud.

#### Travel Vouchers

Between 2005 and 2007, Mr. Beale traveled multiple times to Los Angeles and Bakersfield, California, to work on an alleged research project. From these trips, the OIG's investigation was able to confirm that \$87,434.30 in charges submitted to the government via travel vouchers were fraudulent. In the June 14, 2013, interview, he admitted that the alleged project did not require him to travel to Los Angeles and Bakersfield and any related work could have been done from his EPA office or Arlington, Virginia, residence. Mr. Beale stated that he actually had traveled to California so he could spend time with and care for his ailing parents, who lived in Bakersfield.

A review of Mr. Beale's travel authorizations and vouchers – which were approved and reimbursed – revealed that he never indicated Bakersfield as a destination. Rather, he listed Los Angeles and other domestic as well as foreign cities. However, the receipts attached reflected charges in Bakersfield – a discrepancy readily apparent when comparing the receipts to the vouchers. Also, when he traveled to Bakersfield, Mr. Beale always claimed meals and independent per diem expenses for a higher cost city, such as Los Angeles, to receive a greater payment.

#### Lodging

Travel documents revealed that Mr. Beale usually stayed at hotels that far exceeded the allowed government lodging rate. In one instance, he charged the government \$1,066 per night for four nights in London even though he had the opportunity to stay at a different hotel for \$375 per night. When shown this overage during the interview on June 14, 2013, Mr. Beale stated, "Even I am outraged at this."

#### First-Class Flight Accommodations

Mr. Beale claimed that, from approximately 1998 until his retirement in 2013, he had a back injury requiring first-class airplane accommodations when he traveled for official EPA business. Our investigation revealed that he provided medical documentation from a chiropractor supporting his back injury claim. However, due to Mr. Beale's undertaking extensive physical activities, including bike riding, and his many other deceptions regarding his health, his claim of needing first-class travel accommodations due to a back injury is dubious at best.

From available travel records, we have determined that Mr. Beale charged the government approximately \$300,000 in travel expenses between 2003 and 2011. His first-class airfares

often were more than five times the amount of coach fares. In one case, when Mr. Beale traveled for the EPA from Washington, D.C., to London, United Kingdom, to meet with the Shell Foundation about cook stoves and pollution/respiratory issues, his first-class ticket was 14 times higher than the coach fare – \$14,000 instead of approximately \$1,000 for a round-trip flight.

Mr. Beale was never held accountable by his management for his spending on these trips. When interviewed by the OIG, those responsible for approving his travel vouchers acknowledged that the charges he submitted often seemed excessive, but they never questioned him about them because he was a highly respected EPA senior level official and because, based on his work for the CIA, they trusted his word.

The Executive Assistant interviewed by investigators said that she had brought concerns about the excessive and abusive nature of Mr. Beale's travel expenses to her supervisor. According to the Executive Assistant, the supervisor told her not to question the expenses, which were authorized because Mr. Beale was a senior level official.

#### Misuse of Government-Issued Passport

Finally, our investigation revealed that, beginning in 2003, Mr. Beale traveled overseas multiple times for personal reasons using a government passport issued to him for official EPA travel, as confirmed by the U.S. Departments of State and Homeland Security. Misuse of a government-issued passport violates 18 U.S. Code §1544. The State Department also verified that Mr. Beale has not held a personal passport since 2003. In the OIG interview on June 14, 2013, Mr. Beale agreed with these facts.

### **Retirement**

In September 2011, a joint retirement party was held on the Potomac River for Mr. Beale, Mr. Brenner and a third EPA employee on the Celebrity Yacht owned by Capital Yacht Charters. Friends, family and senior-ranking EPA executives – including Mr. Perciasepe and Ms. McCarthy – attended. During interviews conducted by OIG investigators, Ms. McCarthy and several other OAR employees stated that they believed Mr. Beale had retired from the EPA at this point.

On March 29, 2012, Ms. McCarthy was informed via email by a member of her staff that John Beale was still on the payroll and had not retired. She responded, "I thought he had already retired."

On April 2, 2012, Ms. McCarthy forwarded the March 29 correspondence to an EPA official with human resources oversight, asking for clarification of Mr. Beale's "situation." In that message, she stated her discomfort with "the lack of appropriate paperwork on this 'arrangement'" and asked that staff find out what was happening. Referring to the retention incentive bonus that Mr. Beale still was receiving, she ended her message, "We had discussed this bonus many months ago and as you advised me, I have not taken action to question that. What do you suggest?"

At some point, Ms. McCarthy began contacting Mr. Beale to inquire about the status of his retirement plans. His responses include an email to her dated November 29, 2012, in which he stated, “. . . I want to let you know that despite much back and forth my plans remain much the same as we discussed last spring. You may recall that I was asked to stay on until after the election. The good news is that I am holding firm to that plan. The better news is that November 30 is my last working day with the Federal government. Tomorrow! I get back to the states this weekend and then have to go to the Mayo clinic for a few days of tests. . . .”

On November 30, 2012, Mr. Beale sent another email to Ms. McCarthy in which he wrote, “Today is my last day of what I consider substantive work in the government. I still have to spend some time having some medical issues addressed, out processing, and being debriefed. During this time, I will be using some sick leave, annual leave, and a few days of regular time. I will have a much better idea of how long this will take after I complete the initial medical review and get debriefed on the debriefing process. At this point I am guessing the entire process should take about four to six weeks considering the holidays. . . .”

Mr. Beale officially retired from the EPA on April 30, 2013, after receiving pay and benefits for approximately another 1 ½ years after the “retirement party.” As you heard from Inspector General Elkins, Ms. McCarthy, who was then Assistant Administrator for OAR, referred concerns about Mr. Beale’s potential criminal misconduct to the EPA’s Office of General Counsel on or about November 1, 2012. Three months later, the Office of General Counsel reported the misconduct to the OIG.

#### **Performance Appraisals**

OIG investigators examined those of Mr. Beale’s performance appraisals that are readily available, from 2006 through 2012. All reflect a rating of “effective” or “fully successful” (an equivalent rating under an earlier scale). The only appraisal signed by Mr. Beale is from 2006; some of the others include a note to the effect that the employee was unavailable or forgot to sign. The 2010 appraisal is notated “John Beale is performing a special assignment during this period.” The 2009 appraisal is notated “special assignment during this period.”

#### **Concluding Remarks**

As Inspector General Elkins explained, the OIG’s Office of Audit has begun research into the underlying causes and internal control weaknesses at the EPA brought to the fore through this case.

The Office of Investigations continues to determine the extent of potential administrative misconduct of other senior level EPA employees whose failure to exercise due diligence allowed this fraud scheme to occur and continue unchecked for as long as it did.

I will be pleased to answer any questions you may have.

Chairman ISSA. Mr. Brenner?

**STATEMENT OF ROBERT BRENNER**

Mr. BRENNER. Good morning, Chairman Issa, Ranking Member Cummings, and distinguished committee members. I am Rob Brenner, and I served as Director of EPA's Office of Policy Analysis—

Chairman ISSA. Could you pull the mic a little closer, please, for everyone? Thank you.

Mr. BRENNER. —from 1988 until my retirement 2 years ago. Today I am voluntarily appearing before the committee solely in my individual capacity.

I am very proud of my career in public service, my accomplishments, and the accomplishments of the team that I was a part of. My career at EPA was defined by the opportunity to play a key role in the development, congressional passage, and the implementation of the bipartisan Clean Air Act amendments of 1990, legislation that has prevented millions of premature deaths and illnesses.

During the implementation phase, I designed and led programs to provide business opportunities and economic incentives for U.S. companies, support technological innovation, reduce toxic exposures for communities, and monitor the Clean Air Act's costs and benefits for the U.S. taxpayers.

I am also fortunate to have been well-recognized for those efforts. I received a gold medal from EPA, meritorious and distinguished public service awards from three different Presidents, and a distinguished career service award from then-Assistant Administrator Gina McCarthy and Administrator Lisa Jackson.

Of course, those accomplishments are far from mine alone. Just as meaningful to me are the many notes of thanks I continue to receive from exceptional individuals I recruited, managed, and mentored during my 30-plus years at EPA.

In 1987, one of the people I recruited to assist with those efforts was John Beale. John and I met in graduate school, where he was working on both a master's degree in public affairs and law degree as part of a scholarship program. We became good friends, and we worked together on a foundation program to identify and recognize leaders in the area of energy and environmental policy.

After graduate school, we stayed in touch. And from the early 1980s until about 1989, we saw each other about once a year at a vacation home we co-owned in Massachusetts.

I want to take this opportunity to described why John's recent conviction for post-2000 thefts from EPA is so inexplicable for his friends and colleagues, including me.

The answer is: That period was preceded by more than a decade of effective and highly regarded work. During that time period, John co-directed the Agency's Clean Air Working Group during the challenging 1989 to 1990 clean air legislative process. He developed many strong relationships at EPA, on the Hill, and with stakeholders. And he became a frequent and well-respected participant in clean air strategy meetings at the White House.

After that, he provided strategic advise on several key rulemakings to implement the Clean Air Act; created and managed the process that brought together the auto industry, States, and the environmental community to create the national low-emitting

vehicle program. He played a central role in the development of the landmark national health standards for ozone and particulates. And he became a highly regarded member and a frequent leader of U.S. teams negotiating international environmental and energy agreements and protocols.

Yet, after 2000, this exceptional record turned into one that resulted in John's pleading guilty to years of deception and hundreds of thousands of dollars of theft based, in part, on his claim that he worked for the CIA.

The question then becomes, how could anyone at EPA believe that John was involved in national security work? And the answer is that, if it had been anyone else, it almost certainly would not have been credible, but John had established a track record that made him one of the most highly regarded members of the EPA. Moreover, he had served in the military, he had been an undercover policeman, and he had worked at the U.S. Attorney's office in New York—the type of background I would have expected of someone doing national security work.

While I am in no way trying to defend the conduct which is the basis for this guilty plea, I am saddened and disappointed that John's good works and contributions at EPA will be overshadowed by these unfortunate events.

And at this time, I'm prepared to answer any questions.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Brenner follows:]

**Statement of Robert Brenner  
Before the U.S. House Committee on Oversight and Government Reform  
Washington, DC  
October 1, 2013**

Good morning, Chairman Issa, Ranking Member Cummings, and distinguished Committee members.

I am Rob Brenner, and I served as the Director of EPA's Office of Policy, Analysis and Review – often referred to as the Air Policy Office – from 1988 until my retirement two years ago. My career was defined by the opportunity to play a key role in the development, enactment, and implementation of the bipartisan 1990 Clean Air Act Amendments. I organized talented EPA colleagues from across the Agency into a team that developed policy and drafted legislation for both the Reagan and George H.W. Bush administrations. Later I worked with EPA's political leadership and the Bush White House to send a Clean Air Act proposal to Congress and provide Congress with the information it needed for its deliberations. Thanks to our work at EPA, the Clean Air Act was passed in 1990 with the overwhelming support of both the U.S. House of Representatives and the Senate. Afterwards, I devoted much of my remaining career to the effective implementation of its provisions.

I am grateful for the public service opportunities I had at EPA. I was able to work with smart, determined, and effective leaders, not only at EPA; but also across the business, environmental, and academic communities; and with our partners in state and local government to help build an effective implementation program. I designed and led initiatives to provide business opportunities and economic incentives for U.S. companies, support technological innovation, reduce toxic exposures for communities, and monitor the Clean Air Act's costs and benefits for the U.S. taxpayer. The 1990 Clean Air Act has prevented millions of premature deaths and an even larger number of illnesses. Every one of those millions of people has a face; an individual with a family that has been spared the pain, sadness, and cost of managing and suffering with a pollution-induced illness.

I am also fortunate to have been well-recognized for my efforts. I received an EPA Gold Medal for my work on the development and passage of the 1990 Clean Air Act, the Mellon Career Award from the Air and Waste Management Association, Presidential Awards for Meritorious Public Service from Presidents George H.W. Bush and Bill Clinton, and a Distinguished Executive Award for "sustained extraordinary accomplishment" from President George W. Bush. Upon my retirement, then Assistant Administrator Gina McCarthy and Administrator Lisa Jackson presented me with a Distinguished Career Award. Just as meaningful to me are the many notes of thanks I continue to receive from exceptional individuals I recruited, managed, and mentored during my 30-plus years at EPA.

One of the people I recruited into public service was John Beale. Though the Clean Air Act initiative eventually succeeded, EPA's early efforts met their fair share of

frustration. During our unsuccessful attempt to get certain clean air amendments passed in 1987, it became apparent to me that we would need additional help. In particular, the team needed someone with a policy background, who could collaborate with the Agency's attorneys on legal issues, had a commitment to environmental protection, and would work well with our wide range of stakeholders. The person I decided to recruit for the position was John Beale.

John and I met in graduate school, where he was working on both a Master's Degree in Public Affairs and a law degree as part of a scholarship program. We became good friends and worked together on a foundation program to identify and recognize leaders in the area of energy and environmental policy. After graduate school we stayed in touch, and from the early 1980s until about 1989, we saw each other roughly once a year at a vacation home we co-owned in Massachusetts.

What I knew of John and his deep knowledge of and interest in environmental issues made him a strong candidate for the position. And what I witnessed of his commitment to public service, particularly his counseling of returning veterans and representation of abused children as an Officer of the Court, only made him a more obvious choice. In addition, John had gained extensive legal experience at a corporate law firm in Seattle and at the U.S. Attorney's office in New York. We had several discussions about working together in the fall of 1987, and in early 1988 John began a full-time consulting position at EPA. In a very short time, he became a highly-respected member of the Clean Air Act Amendments team. John had an unmatched ability to listen to participants in a negotiation and broker agreements that provided them – and EPA – with a successful outcome.

After that successful start, John transitioned into a full-time policy analyst position at EPA and served as co-director of the Agency's Clean Air Group during the exceptionally challenging 1989-1990 Clean Air Act legislative process. John developed many relationships at EPA, on the Hill, and with stakeholders, and he became a frequent and well-respected participant in Clean Air Act strategy meetings at the Bush White House.

After the Act's passage in 1990, John received an EPA Gold Medal for his contributions. He then began to consider new career options, including some outside of EPA. With the Clean Air Act implementation process still ahead of us, I felt it important that the Agency retain John's skills and knowledge of the Act's legislative history. I recommended that he receive a "retention allowance" – a salary bonus designed to enable the government to compete with the private sector to retain employees with much needed expertise. Those types of bonuses undergo numerous reviews and require approval from two Assistant Administrators, both of whom were superior to me. My recommendation of John was approved by them, and he began receiving the retention allowance in the early 1990s.



John's work over the subsequent decade clearly justified EPA's decision to encourage him to remain at the Agency. During the period I was John's supervisor, he made extraordinary contributions to public health and the environment:

- John worked out the details of several key 1990 Clean Air Act provisions with the EPA Administrator, senior White House officials, and members of Congress. His knowledge of the statute's intent enabled him to manage the subsequent development of two of its most challenging regulations: permitting requirements for large facilities and the improvements to the State-EPA planning processes for achieving air quality standards.
- He brought together the deeply divided stakeholders in the auto industry, states, and the environmental community to negotiate the National Low-Emitting Vehicle program, which resulted in large savings to the industry and significant public health benefits across the country.
- From 1995 to 1997, John played a key role in the development of new national air quality standards for ozone and particulates. John established cross-agency processes to ensure that the EPA Administrator could carefully evaluate the extensive array of relevant health science and receive additional input from scientists and stakeholder groups outside the Agency. The standards have stood up well over time. Not only have the ozone and particulate standards proven to be a milestone in public health protection, but the legal challenges culminated in a unanimous Supreme Court decision, authored by Justice Scalia, upholding the standards.
- He was the leader of the U.S. negotiating team for LRTAP, an international agreement between more than 20 countries – including Europe, Russia, Canada, and Mexico – to reduce the long-range transport of air pollution. John was the North American representative on the Executive Board of the treaty organization and leader of the U.S. negotiating team for individual protocols to cut emissions of volatile organic compounds, nitrogen, sulfur, heavy metals, and for the enforcement provisions.
- John led U.S. negotiations with Mexico to control cross-border air pollution, resulting in Mexico installing additional controls on coal-fired power plants, factories, and vehicles operating in the border region.
- During the 1990s John also became the career policy lead for EPA's climate programs. John arranged for EPA to contribute its scientific expertise, helped develop U.S. policy positions, and then participated in

the negotiations regarding those policies. John also helped negotiate multi-nation action programs to reduce greenhouse gases such as methane. He was the lead EPA participant in the Department of State's efforts to negotiate programs to reduce carbon and other pollutants in India, and led the U.S. efforts that achieved the establishment of similar programs and emission reductions in China, Mexico, and South Africa. His responsibilities also included coordination of various scientific research and domestic energy efficiency programs and collaboration with other federal agencies to ensure that programs across the government operated in a complementary manner.

- John led the successful effort to include a commitment to a global clean cookstove program as an outcome of the Johannesburg World Summit on Sustainable Development. The initiative garnered broad international support and became the Bush Administration's signal achievement at the Summit.
- During the transition between the Clinton and Bush Administrations, John was the EPA representative at the Cabinet meeting with newly-elected President Bush to develop responses to both the California energy crisis and ongoing climate concerns. He continued to represent EPA in the follow-up meetings with the Vice President and senior officials from the Department of Energy, the State Department, and the Federal Energy Regulatory Commission. John received a letter of commendation from Vice President Cheney for his contributions to the development of the Bush Administration's National Energy Plan.

These were all high-priority activities for EPA, resulting in John working directly with the Assistant Administrator for Air and Radiation, and often the EPA Administrator, to develop and implement these initiatives. John's ability to successfully manage a broad range of projects made him a valuable member of the team.

In the late 1990s, John was promoted out of my office into a senior leadership position, reporting directly to the Assistant Administrator for Air and Radiation. The new position and title recognized his leadership in international climate and energy policy.

Notwithstanding all these accomplishments, I am aware that John has recently signed a plea agreement acknowledging that he received certain salary and bonus payments from the EPA to which he was not entitled. I am saddened and disappointed by these events. John is a friend and was an asset to the EPA. I am very proud of the projects I worked on with John. These projects have resulted in more cost effective and innovative policies and millions of people leading healthier lives. The fact that John's good works and contributions will be overshadowed by these events is unfortunate.

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Chairman ISSA. Mr. Beale, do you have an opening statement?

Mr. BEALE. Thank you, Mr. Chairman. No, I do not have an opening statement.

Chairman ISSA. Before I go to Mr. Perciasepe, Mr. Beale, it's my understanding that you may intend to assert your constitutional privilege to remain silent. Is that correct?

Mr. BEALE. Yes, it is, Mr. Chairman. In the letters from September 23rd and 24th, I think my attorney advised the committee of that fact. And I will be asserting my Fifth Amendment privilege this morning.

Chairman ISSA. And is it my understanding that you have already, as earlier stated, you've already pled guilty to the charges before you?

Mr. BEALE. Mr. Chairman, I respectfully have to make the same statement, that I'm asserting my Fifth Amendment privileges this morning.

Chairman ISSA. Mr. Beale, today's hearing will cover the topics including the U.S. EPA, the Inspector General's investigation of your employment at the EPA as a senior policy advisor in EPA's Office of Air and Radiation. You were uniquely qualified to provide us testimony that would help the committee better understand your conduct while at the EPA as an employee.

To that end, I must ask that you consult with your attorney, recognizing that although you have already pled guilty and, by definition, are not subject to prosecution for these very areas we're investigating, we do have a need to find out whether not you but other individuals participated or in some way aided in your ability to do this. Those areas of our investigations are clearly not subject to protection for you against self-incrimination but, in fact, are the legitimate requirements of government to ensure that this does not happen again.

So I would ask you to consult with your attorneys as to whether or not you're prepared to help in this investigation or whether, having already pled guilty, you continue to assert that you would be incriminated from something you've already pled guilty to. Would you please seek counsel and then give me your answer?

Mr. GOWDY. Mr. Chairman, could I ask the chair a question?

Chairman ISSA. Of course.

Mr. GOWDY. Was there a written plea agreement between the government and Mr. Beale?

Chairman ISSA. Under Federal rules, the sentencing guidelines are not mandatory at a plea agreement, but he did enter one.

Mr. GOWDY. Is there a requirement that he cooperate in that plea agreement? Is he looking for a 5K1.1 or a Rule 35 at some point?

Chairman ISSA. It is my understanding that cooperation is part of the consideration for the sentencing not yet to happen.

Mr. GOWDY. Is there a transcript of the plea colloquy between he and the judge when he entered his change of plea?

Chairman ISSA. If the counsel can make us aware of that, behind Mr. Beale?

Mr. BEALE. It is my understanding that there is a transcript, but we don't have a copy of it right now.

Chairman ISSA. Counsel, you're not sworn, but if you could answer the gentleman's question as a member of the bar, it would be helpful for us dispense with this.

Mr. KERN. Mr. Chairman, there is no 5K1 component to the plea agreement. It's a straight-up plea agreement that doesn't require any additional testimony or information from Mr. Beale.

Mr. GOWDY. Did he receive a reduction in his guideline points for acceptance of responsibility?

Mr. KERN. He did.

Mr. GOWDY. Was it the super-acceptance or the two-point acceptance?

Mr. KERN. It was three points, two plus one.

Mr. GOWDY. And is any part of that, receiving a reduction in his sentence for cooperation, that doesn't include answering questions when he's not in jeopardy in a congressional committee hearing?

Mr. KERN. No. It only requires acceptance of responsibility as contemplated by the guidelines.

Mr. GOWDY. Mr. Chairman, I'd love to have a copy of that plea agreement if we could get one. And I'm sure that other attorneys on this panel and non-attorneys would like to see it, as well.

Chairman ISSA. Thank you. Mr. Gowdy, I'm going to direct staff to get that. And, obviously, it's of our interest that the U.S. Attorneys' Office not enter an agreement that would in some way allow what is occurring here to occur.

Mr. Cummings, do you have any questions before we move forward?

Mr. CUMMINGS. Mr. Chairman, I just wanted to enter into the record the—going to Mr. Gowdy—and I think Mr. Gowdy makes an excellent inquiry, because I was wondering the same things.

We've got the letter of September 23rd, 2013, from Mr. Kern—I guess that's his counsel—September 24th, 2013, from Mr. Kern to the committee. And then this is a statement of the offense. I think we ought to have that as part of the report.

Chairman ISSA. Without objection, it will all be placed in the record.

Do you have any other questions?

Mr. CUMMINGS. No, I just—no. No, I don't.

I do have one question, Mr. Chairman, to the counsel.

Counsel, would you identify yourself, please?

Mr. KERN. Yes. John Kern on behalf of Mr. Beale.

Mr. CUMMINGS. And so you—okay, fine.

Is there any—you know, part of our problem here is that we're trying to prevent this from happening again. So there is no requirement anywhere for him to cooperate with anybody with regard to how he accomplished what he allegedly accomplished so that we can try to make sure it doesn't happen again? There's no requirement anywhere?

Mr. KERN. No, there's not.

Mr. CUMMINGS. All right. Very well.

Chairman ISSA. Okay. We'll move forward and dispense with this.

Mr. Beale, did you serve in Vietnam?

Mr. BEALE. Mr. Chairman, I respectfully decline to answer that question on the basis of the advice of my attorney to assert my Fifth Amendment privilege.

Chairman ISSA. Mr. Beale, did you ever or do you now—do you now or did you ever serve with the Central Intelligence Agency as an agent or an operative or in any capacity in which you aided the CIA?

Mr. BEALE. Mr. Chairman, I respectfully decline to answer that question on the basis of my Fifth Amendment privilege.

Chairman ISSA. With that, I have no choice but to relieve you of your position at the dais. We will escort you. You're subject to a deposition—or, sorry, subject to a subpoena. So we're going to ask that you remain and monitor the entire hearings from an anteroom that we're making available to you, along with your attorney.

It is the intention of this committee to seek your return for purposes of full disclosure. We will do so in concert with the U.S. attorney and, obviously, the trial judge.

And, with that, we'll take just a 2-minute recess so they can reassess how the seating order—

Mr. CUMMINGS. Mr. Chairman?

Chairman ISSA. Yes?

Mr. CUMMINGS. Just one thing.

First of all, I'm hopeful, Mr. Chairman, that after sentencing we bring him back. Because then he is no longer in jeopardy and we can get the kind of information that we need to assist in the things that you talked about a little bit earlier, making sure this stuff does not happen again, so that we can get as much detail as possible. Then he's not in jeopardy.

So I'm hoping while he's watching that he's aware that he will likely—and I'm assuming the chairman would have no objection to bringing him once sentencing is over.

Chairman ISSA. And I agree with the gentleman. And the reason for him watching it is so he knows what is said here.

The intent is to work with the U.S. Attorneys' Office. I believe that the appropriate arrangement should be prior to his sentencing as part of his plea bargain. That is not my decision; it's not your decision. But we will seek to work with the court.

As you know, we delayed this hearing until after the plea bargain in order to make the closure of this portion of the investigation for the IG's office in place.

But we will take this 2-minute recess and we'll be right back. Thank you.

[Recess.]

Chairman ISSA. The committee will come to order.

We now recognize Mr. Perciasepe for his opening statement.

#### **STATEMENT OF THE HONORABLE BOB PERCIASEPE**

Mr. PERCIASEPE. Chairman Issa and Ranking Member Cummings and all the members of the committee who are here today, thank you for providing me with the opportunity to appear before you today and to discuss the Environmental Protection Agency's progress in addressing recent issues brought to light by the EPA Inspector General's ongoing investigation involving former EPA employee John C. Beale.

As evidenced by EPA's referral of this matter to our Inspector General and our steadfast cooperation with the Inspector General's investigation to this matter, we approach this with great seriousness. And we're approaching corrective actions aggressively to deal with the issues that were raised by Mr. Beale's fraudulent activity.

As stewards of the taxpayers' resources, EPA takes seriously our responsibility to ensure that Federal funds are used for the purposes that are appropriate, cost-effective, and important to the Agency's mission.

The recent Inspector General's investigation, as we know, identified a number of administrative processes and controls, which were listed in testimony just a few moments ago, that were either insufficient or they were not being effectively used in preventing what appears to be a calculated, long-term criminal fraud.

While I have not been provided the full details yet of the Inspector General's investigative findings, I am aware the most significant fraud involved employee pay, including exceeding statutory pay limits, unauthorized extension on retention incentives, time and attendance, government-funded travel. And in nearly all instances, there are policies and procedures in place. However, a number of them may have been ignored, circumvented, or undermined by Mr. Beale's criminal misconduct.

At this time, the EPA is fully cooperating with the Inspector General and is looking forward to assessing all findings with a complete commitment to implement appropriate further process improvements and administrative changes necessary to ensure more effective internal controls.

While we are waiting for the Inspector General's report and continue to cooperate with them, we don't want to wait to deal with some of the issues that we already know about. So in regard to steps already taken as part of our regular ongoing process of improvements and based on some of the preliminary findings shared, I want to outline a number of actions that we've already begun to take.

Back last year and more recently this year, back in October of last year, I directed the Office of Administration and Resource Management in our Office of Chief Financial Officer to conduct additional reviews of policies and controls for time and attendance, employee pay, and travel.

These reviews have resulted in strengthening of existing policies. We've strengthened supervisory control on time and attendance. We've increased oversight of time entry and approval practices, including generation of acceptance reports to assist managers. To show every employee whether the employee or their timekeeper entered the employee's time; each employee who fails to enter his or her own time for three pay periods in a single quarter; any instance where a supervisor or a time approver failed to approve an employee's time—all of these are now available in exception reports and are an additional series of controls on top of our existing system. These reports will then enable the Office of Chief Financial Officer, working with the employees and supervisors and time approvers, to correct or discover what the issues may be.

We have improved review of employee travel, including a requirement now that 100 percent of all travel vouchers will be au-

dited and all receipts will be submitted by the Chief Financial Officer before payment is authorized.

We have tightened retention incentive processes, requiring future retention incentives to be entered into the human resource system with a not-to-exceed date, stop date, on the system, generating an exceptions report which will require a human resource specialist to either confirm the recertification has been received or end the incentive payment. So I might add as an aside, there is nobody at EPA right now receiving incentive payments.

We've also ensured a review of gross payment amounts of employees by generating new controls for employee pay to ensure compliance with the statutory pay limits.

These documented changes in policies and procedures will also be supported by an array of new training, resources for employees and supervisors, and defined roles and responsibilities associated with our administrative processes.

As I indicated previously, our agency is fully committed to strengthening accountability for stewardship of resources entrusted to us by the taxpayers. And we expect fully to be working with the Inspector General as they do their administrative review of this current investigation and that they will be providing us with additional recommendations beyond the ones I've already mentioned that we've already implemented.

So I want to thank you again for allowing me to represent the Agency here today, and I'm looking forward to answering your questions. Thank you, Mr. Chairman.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Perciasepe follows:]

**TESTIMONY OF  
BOB PERCIASEPE  
DEPUTY ADMINISTRATOR  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
UNITED STATES HOUSE OF REPRESENTATIVES  
OCTOBER 1, 2013**

Chairman Issa, Ranking Member Cummings, and Members of the Committee, thank you for providing me with the opportunity to appear before you today to discuss the U.S. Environmental Protection Agency's (EPA's) progress in addressing recent issues brought to light by the EPA Inspector General's ongoing investigation involving former EPA employee, John C. Beale. As evidenced by the EPA's referral of this matter to our Inspector General and our steadfast cooperation with the Inspector General's investigation into this matter, the EPA approaches the issues raised by Mr. Beale's fraudulent activity very seriously.

Introduction

As stewards of taxpayer resources, the EPA takes seriously our responsibility to ensure that federal funds are used for purposes that are appropriate, cost-effective and important to the U.S. Environmental Protection Agency's mission. The EPA's Office of Administration and Resources Management, the Office of the Chief Financial Officer, the Office of Environmental Information, and I, as the agency's Chief Operating Officer, share responsibility for providing a governance framework for overseeing the administrative processes and systems which enable the agency to ensure accountability and maintain integrity of operations. That charge includes managing the administrative systems of the agency as well as developing an effective collection



of policies, procedures and training necessary for employees, supervisors and managers to understand their important roles and responsibilities. We routinely identify process improvements based on Office of Personnel Management and Office of Management and Budget guidance, emerging federal spending transparency and accountability requirements as well as General Accountability Office reviews and Inspector General audits and findings. Finally, we work closely with our Inspector General as part of the annual Federal Managers' Financial Integrity Act (FMFIA) process which delineates potential management weaknesses and associated corrective plans – the end result of which is improved accountability and effectiveness in our program and resource management.

#### Recent Inspector General Investigation

As we know, a number of administrative process controls were insufficient or ineffective in preventing what appears to be calculated, long-term criminal fraud. While I have not been provided the full details of the Inspector General investigative findings, I am aware that the most significant fraud involved employee pay, including exceeding statutory pay limitations and unauthorized extension on retention incentives; time and attendance; and government-funded travel. In nearly all instances, policies and procedures were in place, however, a number of them may have been ignored, circumvented, or undermined by Mr. Beale's criminal misconduct. At this time, the EPA is fully cooperating with the Inspector General and is looking forward to assessing all findings with a complete commitment to implement appropriate further process improvements and administrative changes necessary to ensure more effective internal controls.

Steps taken to address deficiencies

In regard to steps taken as part of regular ongoing process improvements and since preliminary findings from the IG Investigation were shared with our agency, we have taken a number of actions. In October 2012 and more recently in July of this year, I directed the Office of Administration and Resources Management and the Office of the Chief Financial Officer to conduct additional reviews of policies and controls for time and attendance, employee pay, and travel. These reviews resulted in the following:

- Strengthening supervisory controls of time and attendance:
  - Supervisors and time approvers now required to review and approve every individual timesheet, rather than review and approve in groups.
- Increased oversight of time entry and approval practices:
  - Bi-weekly report showing every employee where neither employee or time keeper entered the employee's time;
  - Quarterly report showing each employee who fails to enter their own time for three pay periods in a single quarter;
  - Bi-weekly report showing any instance where a supervisor or time approver failed to approve an employee's time;
  - Plan for an additional quarterly report showing all situations where someone other than an employee's immediate supervisor approves the employees time for more than three pay periods in a single quarter;
  - Follow-up by the Office of the Chief Financial Officer with employees, supervisors, and time approvers based upon these reports.

- Improved review of employee travel:
  - Receipts for any expense over \$75 must now be included with travel voucher, in addition to being maintained by employee;
  - 100% of travel vouchers audited by the Office of the Chief Financial Officer, including an audit of all receipts submitted before payment is authorized.
- Tightened retention incentive processes:
  - Require future retention incentives to be entered into the human resources system with a "not to exceed date" of when the next annual certification is due (or the end date at the end of the three year period);
  - Exceptions report generated which will require human resource specialists to either confirm the recertification has been received or end the incentive payments.
- Ensured review of gross pay amounts of employees:
  - Generated new reports for employee gross salaries and total pay to ensure compliance with statutory pay limits.

These documented changes in policies and procedures will also be supported by an array of new training and toolkit resources for employees and supervisors that define roles and responsibilities associated with our administrative processes.

As I indicated previously, our agency is fully committed to strengthening accountability for and stewardship of resources entrusted to us by the taxpayers. We look forward to working with the EPA's Inspector General to ensure continuous improvement in that process.

Thank you again for allowing me to represent the agency here today, and I look forward to answering your questions.

Chairman ISSA. I will now recognize myself for a series of questions.

Mr. Sullivan, you and your deputies in your investigation uncovered not just the big lie, the "I'm a secret agent man," but you also uncovered these excess payments.

Were you able to discover whether any other—whether this was a common overrun, allowing people to fly first-class, you know, the nature of how—you know, each of the violations that are unrelated to his not showing up to work? Did the scope of your investigation include any other employees other than Mr. Beale?

Mr. SULLIVAN. Our investigation was targeting Mr. Beale for his alleged criminal conduct, which we've now proven by his guilty plea. The question you're referring to now, I believe, the bigger picture, our Office of Audit is engaged now in a thorough audit of the seven areas that Mr. Elkins already testified to.

Chairman ISSA. And the EPA is audited by an outside accounting firm. Is that correct? Who is it?

Mr. SULLIVAN. I don't know, sir.

Chairman ISSA. Okay, so you don't know if EPA got a clean audit on its spending.

Mr. ELKINS. Chairman Issa, my staff conducts the EPA's financial statement audit, so it's done in-house.

Chairman ISSA. Okay. So, previously, these were simply areas that were not audited thoroughly, obviously.

Mr. ELKINS. The specific areas that we're discussing here, no, not.

Chairman ISSA. And audit of pay never includes verifying whether you exceed the SES pay cap?

Mr. ELKINS. No, we have not conducted an audit on that issue.

Chairman ISSA. Okay.

Mr. Perciasepe, does your accounting change now catch someone who has paid more than the statutory maximum?

Mr. PERCIASEPE. Yes, sir, it would. We've designed these improvements we've been making and the ones that we are now implementing to deal with the most important findings that we know of so far.

Chairman ISSA. Uh-huh.

Mr. PERCIASEPE. And so we are—again, I want to keep pointing out that we will expect to learn more, but yes.

Chairman ISSA. Okay.

Mr. Brenner, you said some glowing things about Mr. Beale, including, you know, if it had been anybody but Mr. Beale, you would've not considered his story credible.

But isn't it true you were aware that he basically took trips to domestic locations and turned expense accounts in? Were you also aware of his excess spending, in excess of the EPA guidelines and/or Federal regulations?

Mr. BRENNER. No, sir, I was not aware of that.

Chairman ISSA. Mr. Elkins or Mr. Sullivan, in your investigation, who did review and would approve a first class ticket for 10 times the cost?

Mr. SULLIVAN. We interviewed the individual that signed the vouchers. She told us that because Mr. Beale's status as an execu-

tive and because of his CIA connection, she never actually looked at the vouchers, she just signed them and processed them.

Chairman ISSA. So, in other words, at EPA, his undercover, super-secret status was known by a great many people?

Mr. SULLIVAN. That is a fair statement, Mr. Chairman.

Chairman ISSA. So when our Founding Fathers said the only way to keep a secret between two people is for one to be dead, they didn't understand how the EPA can keep secrets among many people, including people who have no security clearances? In other words, weren't there people at the CIA who have no high ranking security clearance who were "well aware" that he was with the CIA?

Mr. SULLIVAN. Well, if I understand your question, Mr. Chairman, Mr. Beale does not have a security clearance. To our knowledge, he has never had a security clearance; that is correct.

Chairman ISSA. Well, we kind of understand that part on him. But in other words, the people in HR and so on that were approving these excess payments without looking at them, they were told he was in the CIA. So it was an open secret that he was super clandestine secret.

Mr. SULLIVAN. Well, the folks in HR might not have known that, but the people at his level, the executives in the agency—

Chairman ISSA. But the person approving the vouchers without looking at them was high ranking?

Mr. SULLIVAN. Yes, a deputy assistant administrator.

Chairman ISSA. So a deputy assistant administrator can, without credible requirements, can approve expenses greater than they are supposed to be approved and nobody behind them needs a justification?

Mr. SULLIVAN. That is what happened, sir.

Chairman ISSA. So there is no control over the American taxpayers for excess at the EPA.

Mr. SULLIVAN. Well, I know that is part of the issue of the audit that Mr. Elkins described is taking place now.

Chairman ISSA. Mr. Brenner, you yourself received, as I understand a \$9,000 discount—or \$8,000 discount on a Mercedes Benz. I understand you drove here in a Mercedes Benz today. Is it true that you received a discount through a lobbyist on behalf of Mercedes Benz on your automobile?

Mr. BRENNER. [inaudible.]

Chairman ISSA. Please turn the mic on for all of us.

Mr. BRENNER. I am sorry. It is on.

Chairman ISSA. I asked if you received a discount. That is pretty much a yes or no. Did you receive a discount on a Mercedes, arranged by a lobbyist, on an automobile you were purchasing?

Mr. BRENNER. As I said, Mr. Chairman, this is an issue that was reviewed and investigated a couple years ago, and my understanding is that the decision was that no further action on it was warranted. And I disclosed it in my 2011 financial disclosure form.

Chairman ISSA. Okay. So, today, in the investigation in which we are conducting on EPA—there was an investigation. You have disclosed it in financial documents after the fact. So let's go through this. Did you receive—did you accept an \$8,000 discount for a Mercedes Benz?

Mr. BRENNER. Mr. Chairman, I came here voluntarily today to discuss the issues associated with Mr. Beale. I did not come prepared to discuss this set of issues that, as I said, have already been investigated and a decision has been made on it, and I am not prepared to discuss those issues today.

Chairman ISSA. Mr. Brenner, we served you with a subpoena, and then you said you would come voluntarily.

Mr. BRENNER. No.

Chairman ISSA. I am sorry. We threatened a subpoena, I guess.

Mr. BRENNER. I am not aware of that either.

Chairman ISSA. Okay, let me go through the script.

During the course of the committee's investigation, it was brought to our attention that you allegedly engaged in unethical conduct. According to the report from the EPA Inspector General, you accepted an \$8,000 discount from Mercedes Benz. The discount was not offered to the general public and was arranged specifically for you by a lobbyist employed by, well, Hogan & Lovells, a local law firm.

The committee is charged with preventing and investigating waste, fraud and abuse. The information that we have uncovered during the investigation as a result of the inspector general's work includes this allegation of improper discount and demonstrates at least one possibility that the culture in which you operated as a supervisor promoted or allowed unethical behavior at the EPA, which Mr. Beale has pled guilty to.

At this point, the committee would ask once again, voluntary or otherwise, because we will request you back involuntarily, would you please answer the question, did you receive the discount? Not was it passed by, not was it prosecuted; did you receive the discount?

Mr. BRENNER. Mr. Chairman, as I said, that was not an issue I came here today prepared to discuss. I came voluntarily to discuss the matters directly related to Mr. Beale. If the committee wants to pursue this set of issues, I would ask that that be done through my counsel—

Chairman ISSA. Are you represented by counsel here today?

Mr. BRENNER. I am represented by counsel here today.

Chairman ISSA. Would you please confer with counsel as to whether or not this question, a question which takes no preparation—you know whether or not you received a discount. You said there was an investigation that cleared you. We are inquiring into that because, quite frankly, it was part of the IG's investigation. It is part of the information that was given to us. And it is germane to this hearing.

You are not here simply because you were duped by Mr. Beale. You are here as part of the broader investigation about what might be a negligent culture at the EPA as to whether or not the American people's moneys are being protected and well spent.

Please seek your counsel. We will wait.

[discussion off the record.]

Mr. BRENNER. Mr. Chairman, as I noted on my 2011 financial disclosure form, I did receive a discount on a vehicle, and it is described in that form.

Chairman ISSA. And the attorney/lobbyist who arranged for that, is that somebody that does business with the EPA?

Mr. BRENNER. Mr. Chairman, as I said, this is a set of issues that I did not come prepared to discuss in detail with you and the committee.

Chairman ISSA. And we will stay at a 10,000 foot level. You know the individual. Was it an individual or a firm that did business with the EPA and sought to influence legislation?

Mr. BRENNER. Yes, Mr. Chairman, it was an individual who did business with EPA.

Chairman ISSA. Is it your understanding that you are allowed to accept discounts of monetary value from lobbyists or anyone else who does business with your agency that you oversee and/or accept them, something not available to the general public? I am just asking you what you understand the ethics to be.

Mr. BRENNER. Mr. Chairman, as I said, this is an issue that was reviewed and investigated by the IG and the Department of Justice, and they came to the conclusion that no further—at least my understanding is they came to the conclusion that no further action is warranted.

Chairman ISSA. Well, I am going to go to the ranking member, and I am not sure that we believe that this is a closed matter.

But, Mr. Cummings, thank you for your patience through this.

Mr. CUMMINGS. Just to piggyback on just one question, Mr. Elkins, Mr. Brenner said the IG had—it is his opinion he has been cleared of this. Is that right? And did you do the investigation that he is talking about?

Mr. ELKINS. Representative Cummings, I would like to refer this to Mr. Sullivan.

Mr. CUMMINGS. Mr. Sullivan. I didn't know who to ask.

Mr. SULLIVAN. Yes, Mr. Cummings, my office did do the investigation. And Mr. Brenner is not accurate in his recitation of the facts.

The fact is that the U.S. Department of Justice Public Integrity Section did decline prosecution of Mr. Brenner for accepting the discount. However, we were never able to interview him because he retired prior to us being able to interview him. And once he retired, we no longer had the ability to compel an interview.

Our process is that once we get a declination, an employee within the agency is compelled to speak to us because there is no longer—they are no longer in jeopardy of prosecution. And that was indeed our plan, to compel Mr. Brenner's interview with us, but it never happened.

Mr. CUMMINGS. Well, that is very helpful. Thank you very much.

Chairman ISSA. I would ask unanimous consent that the gentleman have his full 5 minutes.

Without objection, so ordered.

Mr. CUMMINGS. Thank you very much.

Mr. Elkins and Mr. Sullivan, I want to thank you for joining us today. I want to commend you and your team of investigators for your very fine work in uncovering this massive fraud on the taxpayers and helping bring Mr. Beale to justice.

I am struck by the audacity of Mr. Beale's lies. According to the criminal plea agreement, "For more than 10 years, Beale engaged



in a pattern and scheme of deception, during which he lied to the United States Government, his supervisors, friends and family about a position he claimed he had with the Central Intelligence Agency.”

It goes on to say that Mr. Beale used his fake CIA job as an excuse to just not show up for work, but he did it for what ended up to be two and a half years. Is that right?

Mr. SULLIVAN. Yes, sir. At a minimum, two and a half years, at a minimum.

Mr. CUMMINGS. What does that mean?

Mr. SULLIVAN. That means that the two and a half year figure was agreed to during negotiations between the United States Attorney and Mr. Beale’s defense counsel.

Mr. CUMMINGS. So it is quite possible it could have been more. Is that what you are saying?

Mr. SULLIVAN. It could have been a little bit more or maybe a year or two more, but we agreed on a two and a half year figure.

Mr. CUMMINGS. The idea that Mr. Beale was a secret agent for the CIA seems preposterous to all of us now, but it was a lie, and he kept it going for decades. He fooled pretty much everybody, his employers, his family and even his criminal defense lawyer, and it sounds like Mr. Beale was good at lying. And the more people he—you know, the more he lied, the more it seems that people believed him. And they went on and on and on, and I guess it became easier to believe.

Mr. Sullivan, you interviewed more than 40 current and former EPA employees in connection with your investigation. Is that correct?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. And did senior EPA officials across multiple administrations, both Democratic and Republican, believe that Mr. Beale was working for the CIA?

Mr. SULLIVAN. Yes.

Mr. CUMMINGS. So you heard Mr. Brenner talk about what a great guy he was, all this wonderful stuff he had done. Did you get the impression that everybody kind of felt that way when he talked about all of his secret agent stuff and playing James Bond? I mean, is that, because he was such a good guy, they thought—do you think that is why everybody just said, oh, he is off on another mission?

Mr. SULLIVAN. Well, sir, I think the best way I can describe it is this. Mr. Beale did very high quality work for the agency. He got a lot of accolades. And based on our interview with him, he said that wasn’t enough; he needed to puff up his image. That is when he assumed the persona as being a CIA undercover agent. It was universally accepted, absolutely universally accepted throughout the agency that he worked for the CIA among the senior executives.

The first executive that ever questioned him working for the CIA was in fact Gina McCarthy. Beyond her suspicions, everyone else we interviewed flat out believed he worked for the CIA.

Mr. CUMMINGS. So you mean to tell me that somebody could walk in, I could be working for the EPA or in some other agency,

and say, you know what, guys, I am with the CIA, and is it nothing is required——

Mr. SULLIVAN. Well, Mr. Cummings, I think——

Mr. CUMMINGS. To show that? Do you follow me?

Mr. SULLIVAN. He began in 1994 with assuming this persona, and he did it a little bit a time. And finally, when he spoke to Mr. Homestead, who was then assistant administrator, in 2001, he crafted a somewhat believable story that the CIA had recruited him to be on this oversight panel, and in fact, he was reviewing undercover operations around the globe as part of his oversight panel he was recruited to join, allegedly. Of course, it was all a lie. But Mr. Homestead believed that. And he used that to a springboard more and more time away from the agency.

Mr. CUMMINGS. In fact, the plea agreement described that, in 2001, a senior Bush administration official at the EPA granted Beale permission to be out of the office 1 day a week in order to work on, and I quote, “an interagency special advisory group working on a project with the Directorate of Operations at the CIA.” Pursuant to this authorization, Mr. Beale began taking 1 day a week off on days he claimed he was working for the CIA, and he did that for many years.

Mr. Sullivan, is that right? Do you recall how many years that happened? I know you have talked about two and a half years a little earlier.

Mr. SULLIVAN. Yes, the total, it was a minimum of two and a half years that was agreed to by his defense counsel and the U.S. Attorney’s Office for the plea agreement. He began taking 1 day off a week, and then he gradually—it morphed into more and more time. There was a period of time, for approximately 2 years, he never came into the office. That was toward the end of his career.

Mr. CUMMINGS. But that Bush administration official was not alone. The plea agreement said that Mr. Beale was also lying to his family.

Mr. Sullivan, was that true? Was Mr. Beale also lying to his family?

Mr. SULLIVAN. That is correct. It is absolutely correct that based on—and we could see that based on email traffic. We never interviewed Mr. Beale’s wife. We also had another——

Mr. CUMMINGS. Are they still married?

Mr. SULLIVAN. Yes, sir, to my understanding.

Mr. CUMMINGS. Are you sure?

Mr. SULLIVAN. I do not know.

Mr. CUMMINGS. Okay, go ahead.

Mr. SULLIVAN. We also had one other employee, who was an administrative person, executive assistant, that did suspect Beale, but she was fairly midlevel rank. And she believed that Beale’s travel vouchers were far too excessive. And she brought that to the attention of her immediate supervisor, who was a deputy assistant administrator, the person in fact who was signing the vouchers, and her fears were dismissed.

Mr. CUMMINGS. What about his criminal defense attorney?

Mr. Sullivan, do you have any understanding of whether after he had already been caught, Mr. Beale initially lied to him as well, is that right?

Mr. SULLIVAN. Yes. Mr. Beale maintained the persona of being a CIA agent and his defense counsel told the U.S. Attorney assigned to the case that, please, tell the OIG agents to back off because you are interfering with the CIA work. And the U.S. attorney came to us, and we have a great relationship with the CIA Inspector General's Office. We discussed the case with them. They had already told us he did not work for the CIA, and they had no record of him whatsoever. So we arranged for him to come to Langley in a secure room, and that was the point where Mr. Beale, I think, finally came forward and told his attorney that he really did not work for the CIA.

Mr. CUMMINGS. I have one other thing. How did the government force Mr. Beale to face the facts and admit that he was never employed by the CIA? You brought him to the CIA?

Mr. SULLIVAN. No, we said we would. We arranged that. We arranged it to make him feel comfortable, and we arranged him for a particular day to meet us at the main gate in McLean on 123, and he would be escorted by one of our agents and a CIA employee, and we would go to the secure room with Mr. Beale and his attorney.

Mr. CUMMINGS. Can you describe that? I just got to know. I mean, what was that like? You got a guy who has been lying that he is a part of the CIA. You bring him to the CIA. And now there is this wonderful meeting where—I mean, tell us what happened.

Mr. SULLIVAN. Well, he never showed up, because he finally then told his defense counsel that he really didn't work for the CIA. But it came to that point in order for us to get past that bridge because he had maintained with his own counsel that he worked for the CIA.

Mr. CUMMINGS. Clearly, EPA needed more checks and balances, is that right?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. I see you have just been sent a bulletin. What does that say?

Mr. SULLIVAN. It is cell phone records and locations overseas. During the time he allegedly worked for the CIA, he was in communications with executives at the EPA, and he claimed he was overseas, either in Pakistan or other locations. When we pulled his government cell phone records, we found he was actually at his vacation home in Massachusetts making the phone calls claiming that he was overseas.

Mr. CUMMINGS. The chairman said something that I think is so probably quite accurate. He said that a lot of times when he saw a defect, it was probably more than one defect. And I am just wondering, I mean, when you all look at this, are you seeing this as an aberration, or are you seeing, you know what, there is probably more of this stuff going on?

I mean, did you—Mr. Elkins or Mr. Sullivan, do you have an impression?

In other words, we are trying to make sure it doesn't happen again. I mean, do you believe that this is just one of these things that happened, this guy was just a phenomenal liar and he got away with it, or do you think that it is quite possible that there are other situations like this?

Mr. ELKINS. Well, Representative Cummings, in our business, we don't really like to deal with speculation. We like to deal with the facts. That is why we are starting our audit. Hopefully, at the end of that audit, we will be able to shine a light on your question and give you an answer to that question.

Mr. CUMMINGS. So you expect that if the audit, if there are some things like this happening, that that audit might provide you with the information you need to be able to answer that. Is that what you are saying?

Mr. ELKINS. That is our goal, yes.

Mr. CUMMINGS. All right.

Thank you very much, Mr. Chairman.

Chairman ISSA. Thank you.

And if you will yield me long enough to pile on a little bit, I think what Mr. Cummings and I are both getting to is the internal controls to prevent each and every one of these abuses from happening appear not to be in place.

And obviously, when it is done, Mr. Perciasepe, you have made it clear you are trying to create those internal controls.

Obviously, we would like to find out who else fell between the cracks. And then the challenge for us is, Mr. Elkins, you are one of 74 IGs. We figure there are 73 other agencies that need to do some soul searching about internal controls, and that is a big part of the reason why Mr. Cummings and I have you all here today.

Chairman ISSA. With that, I would like to go to the gentleman from North Carolina.

Mr. MCHENRY. I would like to yield the balance of my time to the gentleman from Ohio, Mr. Jordan.

Mr. CUMMINGS. That is the whole time.

Mr. JORDAN. I thank the gentleman, and I thank the chairman.

Mr. Brenner, do you know Patrick Raher?

Mr. BRENNER. Yes, sir, I do.

Mr. JORDAN. And isn't it true that Patrick Raher is a member of the EPA Clean Air Act Advisory Committee?

Mr. BRENNER. He was at one time. He is not a member now.

Mr. JORDAN. But he was at one time. Do you know how long he served?

Mr. BRENNER. I do not know how long.

Mr. JORDAN. Isn't it true that he was a member back in 1992, do you know? Our records indicate he was a member in 1992.

Mr. BRENNER. I think that is correct.

Mr. JORDAN. Okay. You testified you and Mr. Beale did important work on the Clean Air Act. Did you work with Mr. Raher back in the early 1990s, when he was a member of the Clean Air Act Advisory Committee?

Mr. BRENNER. That was a forum that met publicly—

Mr. JORDAN. Have you worked alongside Mr. Raher? You said you knew him. Did you work alongside of him in his capacity at the Clean Air Act Advisory Committee? In your capacity with the EPA, did you work with him?

Mr. BRENNER. I discussed Clean Air Act issues in that public forum with Mr. Raher and with many other people who were a member of this Public Advisory Committee.

Mr. JORDAN. Okay. And let me go back to where the chairman was a little while ago. Have you ever purchased an Mercedes Benz automobile?

Mr. BRENNER. I did.

Mr. JORDAN. And Mr. Sullivan, did Mr. Brennen—Brenner, excuse me, receive a discount for the purchase of this automobile?

Mr. SULLIVAN. Yes, our investigation revealed he did receive a \$8,000—it was entitled a VIP discount.

Mr. JORDAN. An \$8,000 VIP discount.

Mr. SULLIVAN. Yes, sir.

Mr. JORDAN. And the individual who helped, “broker the deal,” I am look at your report, can you tell me who that individual was?

Mr. SULLIVAN. It was Mr. Raher.

Mr. JORDAN. The same Mr. Raher who served on the EPA Advisory Committee?

Mr. SULLIVAN. Yes, sir.

Mr. JORDAN. The same Mr. Raher that Mr. Brenner has known since 1992?

Mr. SULLIVAN. Well, I don’t know how long he has known him, but it is the same Mr. Raher.

Mr. JORDAN. Well, he was working at the EPA and Mr. Raher has been at the Advisory Committee, was working at the Advisory Committee since 1992.

Mr. Brenner, is that accurate, what Mr. Sullivan had to say there? Is everything exactly that way? You got an \$8,000 discount from Mercedes Benz when you purchased this automobile?

Mr. BRENNER. Sir, Mr. Raher is somebody who I have known, as you mentioned, since 1992 and in fact before that. He has been a friend of mine throughout that period. And it is true that he was involved in—

Mr. JORDAN. So he is a friend.

Mr. BRENNER. He is a long-time friend.

Mr. JORDAN. Well, you didn’t tell me that a little while ago. A long-time friend?

Mr. BRENNER. That is the case, that he has been a friend.

Mr. JORDAN. Okay, now I want to come more to the present time when you got the \$8,000 discount on the purchase of the Mercedes Benz that Mr. Raher was the broker for that deal and at the time worked as a lobbyist for the Daimler Auto Group. At that time, were you also then working on the CAFE standards?

Mr. BRENNER. No, sir, I was not. And I am going to say again that this is an issue that was looked at—

Mr. JORDAN. Well, it is our understanding, at that time, you got the—at the time you got the \$8,000 discount, were you working in the Office of Air and Radiation?

Mr. BRENNER. I was working in the Office of Air and Radiation at the time.

Mr. JORDAN. And that office had jurisdiction over the CAFE standards?

Mr. BRENNER. That office shared jurisdiction with another agency.

Mr. JORDAN. But that office was involved in forming the CAFE standards, correct?

Mr. BRENNER. But I was not.

Mr. JORDAN. But was your boss, Ms. McCarthy, your direct supervisor, was she involved?

Mr. BRENNER. Yes, I believe she was involved in it.

Mr. JORDAN. Mr. Sullivan, do you know if Ms. McCarthy knew about the discount that one of her employees got from someone in the auto industry at the time they were working on implementing the CAFE standards for the auto industry?

Mr. SULLIVAN. She did not know about it at the time. We interviewed Ms. McCarthy, and indeed, we interviewed every GS-14 employee and above.

Mr. JORDAN. When did Ms. McCarthy find out about the special sweetheart deal that Mr. Brenner got from Mercedes Benz?

Mr. SULLIVAN. It is when we interviewed her.

Mr. JORDAN. And when was that? Give me that date.

Mr. SULLIVAN. That was—well, I don't have the report in front of me, sir, but I believe it was in late 2010.

Mr. JORDAN. When did Mr. Brenner again get the special deal?

Mr. SULLIVAN. In 2010.

Mr. JORDAN. The same year.

Mr. SULLIVAN. Yes.

Mr. JORDAN. The same time they are working on CAFE standards. We had a hearing in this committee. In fact, Mr. Chairman, I would ask to enter into the record some of the findings from the hearing we had in our subcommittee last Congress on implementation of the CAFE Standards.

Chairman ISSA. Without objection, so ordered.

Mr. JORDAN. At the same time the CAFE Standards were being formed?

Mr. SULLIVAN. Sir, I don't have any direct knowledge of the CAFE standards. I didn't have any visibility on that. We were just investigating the allegation that Mr. Brenner took—an ethical violation—

Mr. JORDAN. Ms. McCarthy knew about it in 2010. Mr. Brenner got the loan, the sweetheart deal, in 2010. CAFE standards were being worked on in 2010 out of Ms. McCarthy's office.

Mr. SULLIVAN. I will accept that assertion, sir, but we weren't looking at the CAFE standards.

Mr. JORDAN. Okay. Well, I understand that. I am just saying the dates; it all happened at the same time.

Mr. Chairman, I understand I am out of time, but here is the point: Mr. Raher, who is on the Clean Air Act Advisory Committee, has known Mr. Brenner for 20-some years, not just known him, close friends, then works as a lobbyist for a major auto group at the time the CAFE standards are being implemented. Mr. Brenner who works in the office of Ms. McCarthy where they are putting together these CAFE standards gets a sweetheart deal. That is what is going on at the EPA, and that is our concern.

With that, I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Massachusetts, Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman.

I want to thank Mr. Elkins and Mr. Sullivan especially for your participation in the hearing this morning.

I want to talk a little bit about these retention bonuses and the conditions under which they are granted. There seem to be two conditions based on the regulations and statutes and EPA policy. One of the conditions is that for an employee to receive a retention bonus, that there is the danger that they would be attracted away to private practice and we would lose the benefit of their services.

Is that correct, Mr. Elkins?

Mr. Sullivan?

Mr. SULLIVAN. Yes, that is the general concept behind the recentive retention bonus.

Mr. LYNCH. Mr. Perciasepe, the other condition is that we actually retain the employee, we actually retain them. So in this case, at least you can enlighten me, we did not really dig down and verify whether Mr. Beale's job offers, private sector opportunities, were real, number one, and then we didn't verify whether we retained him. It is apparent that he was gone for a year and a half at one stretch. He was not employed. He just left for a year and a half. There is a total of two and a half years here that he was absent from the workplace. So, on the retention bonus, we didn't verify that he deserved it, and then we didn't verify that we retained him. Now, there is a complete collapse, and I am wondering if you can help me with this?

Mr. PERCIASEPE. Well, I think you mentioned the reasons for a retention bonus correctly. They are likely to leave. They have offers or some other reason that they are likely to leave. They are performing work that is necessary for the agency. And when there was an approved retention bonus for Mr. Beale, it was in the time frames that you heard several people talking about, including Mr. Sullivan, that he had a high prestige. He was a high-performing individual, and it was not unreasonable to expect that he might be getting retention bonuses.

Mr. LYNCH. But for a year and a half, he was puttering around the house reading books. That is not a high performance.

Mr. PERCIASEPE. The problem is not in the original rationale for that back in the 1990s. The problem is that it kept getting recertified without any recertification process. So it went on through the time period that I think the inspector general is talking about. So the issues of when he was at work and not at work are not during the initial granting of the retention bonus.

Mr. LYNCH. Okay, let me stop you because you are not being helpful.

Mr. Sullivan, how did this guy basically absent himself from the workplace for a year and a half, and we didn't pick up on it? He was gone for 2 and a half years out of 13 years. How did this happen?

Mr. SULLIVAN. He, again, claimed he was living his alternate lifestyle as the CIA undercover agent, and he claimed he was traveling overseas and doing undercover work and no one questioned him, and he had free rein. No one questioned Mr. Beale ever. No one questioned his vouchers. No one questioned his time away from the office. No one questioned his lack of work product.

Mr. LYNCH. What are we doing now to make sure this doesn't happen again, Mr. Perciasepe?

Mr. PERCIASEPE. As I mentioned in my opening statement, and I want to be clear about this because we are working with the IG as they do their review, so we are going to probably learn more, but in advance of that, we have moved ahead and established a number of improvements to our controls. We have controls. They were not followed. So we have added additional levels of control. And on retention bonus, we have put a hard stop. They need to be renewed every year, and they only have a 3-year duration.

Mr. LYNCH. That was always in there.

Mr. PERCIASEPE. Right. That's always in there. What didn't happen in the early part of the last decade is that nobody ever reviewed those. So what we now have in the system is a hard stop. If they don't get reviewed, the payment stops.

Mr. LYNCH. We need to do a lot more.

I only have 20 seconds left. What kills me is there actually are employees, whether they are doctors at the VA or finance people at SEC, that we actually do need to pay retention bonuses to, to retain them, because of the value they bring to the government and to the taxpayer. This is just disgraceful that we have undermined it in this fashion. So you have got to clean up your act.

Thank you. I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Mr. Sullivan, I am going to come back to you. At the time that this—and also—well, we have entered the report, but I will come back to that maybe, Mr. Chairman.

But Mr. Sullivan, did you recommend prosecution for the sweetheart deal that Mr. Brenner got with Mercedes Benz and that Mr. Raher facilitated with the Daimler Auto Group?

Mr. SULLIVAN. That was a joint investigation that we had with the FBI. It was opened up; a file was opened up in the Public Integrity Section of the Department of Justice. We believed we had enough evidence to prove a crime. The U.S. Attorney's Office—excuse me, the Public Integrity Section declined prosecution, and the FBI dropped out of the case, and it left us—

Mr. JORDAN. But in your professional opinion, you felt it should have proceeded with a prosecution?

Mr. SULLIVAN. Well, we presented the facts, and that decision is always up to the Justice Department.

Mr. JORDAN. I understand that. But are you are a good lawyer. I can tell. You are testifying here today, and you know what you are talking about. In your professional judgment, you felt it should have moved forward?

Mr. SULLIVAN. I think that there was merit to move forward, yes, sir.

Mr. JORDAN. Okay. And just to refresh my memory again. What date did you recommend that, that you sent this on and, the decision was made. What was the date?

Mr. SULLIVAN. The declination, again, I don't have my file in front of me, the declination happened sometime in 2011.

Mr. JORDAN. In 2011. Okay. Mr. Brenner, when did you step down?

Mr. BRENNER. I retired from EPA in August of 2011.



Mr. JORDAN. So this declination that Mr. Sullivan talked about was before you retired?

Mr. BRENNER. I am not sure exactly when the declination took place.

Mr. JORDAN. Mr. Sullivan, can you answer that?

Mr. SULLIVAN. Yes, the declination happened before Mr. Brenner retired.

Mr. JORDAN. Well, let me go to Mr. Sullivan. Was there talk—when you talked with Ms. McCarthy about this incident, was there talk of disciplining Mr. Brenner, any type of disciplinary action? I mean, here you have got the inspector general, who thinks it should be prosecuted. Was there any disciplinary action taken?

Mr. SULLIVAN. Well, let me explain how it works. When we work a criminal investigation, we concentrate on that first. And when we interviewed Ms. McCarthy the first time, it was based on a fact trying to develop evidence for a potential crime.

The second time we spoke to Ms. McCarthy about this it was after the declination had been issued, and it was after Mr. Brenner had retired. At that point, we were looking at a potential administrative violation. We also endeavored to determine it if any other employee in the Office of Air and Radiation had accepted a VIP discount. Therefore, we interviewed every GS-14 and above, any supervisor, and that was in excess of 50 people, and there was no evidence anyone else accepted a discount.

Mr. JORDAN. Mr. Brenner, were you disciplined in any way for the loan deal with Mercedes Benz, with the discount that you got when you purchased the automobile? Was there any type of disciplinary action taken?

Mr. BRENNER. No, sir.

Mr. JORDAN. And no talk of getting fired or any type of disciplinary action at all?

Mr. BRENNER. No, sir. As I said, it was investigated, and the Department of Justice declined to take further action on it.

Mr. JORDAN. And did you get any type of bonus when you—in 2011, when your retirement comes due or in that calendar year?

Mr. BRENNER. I don't remember what bonuses I might have received in that year.

Mr. JORDAN. Mr. Sullivan, how many people directly report—when you were doing this investigation, how many directly report to Ms. McCarthy when she was running the Office of Air and Radiation. How many people directly reported to her?

Mr. SULLIVAN. To my understanding, it is in excess of 1,000.

Mr. JORDAN. Direct reports.

Mr. SULLIVAN. Direct reports? She had three deputy assistant administrators.

Mr. JORDAN. And who were those three deputy assistant administrators?

Mr. SULLIVAN. Well, at one time, there was Mr. Brenner, Mr. Beale, and a Ms.—and another lady.

Mr. JORDAN. So two of the three had significant problems, two of the three that directly reported to her, Mr. Beale and Mr. Brenner.

Mr. SULLIVAN. Subsequent investigations uncovered that, that is correct.

Mr. JORDAN. I want to do one last thing if I could, Mr. Chairman. Let's put on the screen. This is what amazes me. Not only does Ms. McCarthy know that this takes place, if we could put that up, the invitation, this is the invitation for the retirement party. At the bottom, you can see where it mentions Gina McCarthy as the head of the thing.

So Ms. McCarthy only has three people who report directly to her. Two of them were here today; one left already, Mr. Beale. The other is Mr. Brenner. Mr. Brenner gets a sweetheart deal from Mercedes Benz, facilitated by Mr. Raher, who has been an adviser to the EPA since 1992 and a close friend of Mr. Brenner. All this goes on. The IG recommends prosecution. No discipline—no disciplinary action taken at all for Mr. Brenner. In fact, they throw him a party. They throw him a party when he retires. That is what is going on at our Environmental Protection Agency.

Chairman ISSA. Would the gentleman yield?

Mr. JORDAN. I would yield to the chairman.

I yield back to the chairman.

Chairman ISSA. My understanding is he didn't retire. This was the nonretirement retirement of Mr. Beale, who everyone knew stayed on the payroll.

Mr. JORDAN. For Mr. Beale, but not for Mr. Brenner.

Chairman ISSA. That is correct.

We now go to the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Mr. Perciasepe, part of me feels we are a little bit fiddling while Rome is burning because of course, we are now on the first day of a complete government shutdown. And while the sordid details of this case are fascinating and should be dealt with and are a worthy topic of congressional attention and oversight, Mr. Perciasepe, does the shutdown cost EPA money on a daily basis?

Mr. PERCIASEPE. The shutdown costs the American people on a daily basis.

Mr. CONNOLLY. Is there a dollar estimate for just the EPA?

Mr. PERCIASEPE. I don't have a dollar estimate.

Mr. CONNOLLY. Mr. Sullivan or Mr. Elkins, any idea of what it costs EPA every day we are shutting down?

Mr. ELKINS. I don't have that number available.

Mr. CONNOLLY. Would it be fair to suggest that it far exceeds what we are looking at here today in terms of the estimated cost of Mr. Beale's fraud?

Mr. ELKINS. I would say that the cost would be substantial.

Chairman ISSA. Would the gentleman yield for a question?

Mr. CONNOLLY. Yes, sir.

Chairman ISSA. Isn't it true the CBO scores a savings for every day that 800,000 employees are not being paid?

I agree with the gentleman, by the way, that we should not be in shutdown, that the important work of the EPA and other agencies, we would like to have them back to work as soon as possible, but I am not sure we have the right panel to analyze the cost-benefit analysis.

Mr. CONNOLLY. I know the chairman will appreciate, I wanted to reclaim my time right after you said that.

But okay, I am glad we in agreement.

But I think it is fair to say that there is also a cost associated, both tangible and intangible, with the shutdown, and I think it is really important we put this hearing in that context.

I think it is also important to really guard against taking an egregious particular case and then generalizing. There are former Members of Congress, even from the chairman's home State, who were incarcerated for being criminals who were engaged in criminal activities. And to take that particular case and then say, well, then all of Congress must be complicit, let's start making sure that we include in our accusations and insinuations that all of them are corrupt, would be a false premise.

Chairman ISSA. Would the gentleman yield further for one moment?

Of course, I will stop the clock.

I would bring to the gentleman's attention, I believe it may have been before you arrived here, that the Congress took up what we often call the Duke Cunningham law so that any Member of Congress who disgraces and embezzles and/or receives gifts in return for their favors as voters would in fact forfeit their pension, so never again will we have that. And that is a big part, and I have offered some legislation for the ranking member to consider we are trying to do is to recognize that never again should somebody retire on a 22-year retirement, as Mr. Beale, did when in fact he didn't work for 22 years.

Mr. CONNOLLY. And I really appreciate the point of the chairman because I would be glad to join with the chairman and the ranking member on such legislation. I think that is exactly the corrective kind of action we ought to be looking at. What we shouldn't be doing is trying to paint with a guilty brush by insinuation the guilt of Mr. Beale and perhaps others. We have to be very careful about that. And that is the point I was making.

And I know the chairman would agree with me that those who might conclude we are all to be painted with the same brush, that would be a false assertion, no matter the temptation of the public to look cynically at a Congress when individual examples of corruption occur. That is the point I am trying to make.

Mr. Perciasepe, is EPA rampant with corruption? Was this a circle of conspiracy that Mr. Beale was only the sort of the tip of the iceberg?

Mr. PERCIASEPE. You know, at the core of this matter is an individual who deliberately and with calculation defrauded the EPA and the American taxpayer. I am not able to say how much further that went because that is still under review, but we have policies and controls in place. They were——

Mr. CONNOLLY. So stipulated.

Mr. Sullivan and Mr. Elkins, any evidence of a conspiracy, that this is wider than just Mr. Beale?

Mr. ELKINS. Sir, that is why we are conducting our audit. Hopefully, within the very near future, we will be able to give you an answer to that question.

Mr. CONNOLLY. So, right now, you don't have an answer to that question?

Mr. ELKINS. No, I don't, because we haven't completed the audit.

Mr. CONNOLLY. A final question, if I may, Mr. Chairman.

Mr. Brenner, you indicated—did I understand your testimony correctly that you vacationed together with Mr. Beale?

Mr. BRENNER. I said that—

Mr. CONNOLLY. Could you turn on your microphone, Mr. Brenner?

Mr. BRENNER. Sorry. I said that occasionally John Beale and I had vacationed together at a house that we co-owned in Massachusetts.

Mr. CONNOLLY. Over what period of time?

Mr. BRENNER. The time I was referring to was in the 1980s.

Mr. CONNOLLY. 1980s. For the whole decade? Was this a regular thing, or it just happened once? We are trying to get at how well you knew Mr. Beale.

Mr. BRENNER. I think it was about once a year from that period, from about 1983 until about 1989. But I have said that I knew Mr. Beale very well.

Mr. CONNOLLY. And if the chair would just indulge one final question, you indicated in your testimony that starting in 1988 through roughly the year 2000, you felt that Mr. Beale was a solid professional and did good work, is that correct?

Mr. BRENNER. That is correct.

Mr. CONNOLLY. But starting in 2000, you saw a change. Something changed, is that correct?

Mr. BRENNER. I don't know that I personally saw anything after 2000. What I was describing is that I was Mr. Beale's supervisor through the 1990s, and after that, I was no longer his supervisor.

So what I am saying is during the time that I was his supervisor in the 1990s, there were a lot of noteworthy accomplishments that Mr. Beale deserves credit for in many different areas. He was highly regarded. After 2000, though, I was no longer his supervisor, and I have said in my testimony, given his plea, that of course something went dramatically wrong in terms of his performance at EPA. He pled guilty to fraud.

Mr. CONNOLLY. Yes, I understand that. But did you observe that at the time, this change in your friend, or is this something you just were made aware of retrospectively?

Mr. BRENNER. No, I did not observe that myself.

Mr. CONNOLLY. That is what I wanted to get at.

Chairman ISSA. I thank the gentleman.

Mr. CONNOLLY. I thank the chair.

Chairman ISSA. Please note that I majored in indulgence here.

Mr. CONNOLLY. You have been most indulgent.

Chairman ISSA. With that, we recognize the gentleman from Utah, and I ask indulgence to borrow 15 seconds.

Mr. CHAFFETZ. Absolutely, Mr. Chairman.

Chairman ISSA. Mr. Brenner, I just want to understand, in 1994, when Mr. Beale began perpetrating this criminal activity of claiming to be CIA and taking time off, you had prior to that time co-owned this home that you call a vacation home in Massachusetts, having bought it from his parents. That is the way I understand it. Is that true?

Mr. BRENNER. That is true. That house was purchased by the two of us somewhere around 1983.

Chairman ISSA. Okay. So, at the time that you helped Mr. Beale get into this job and through the period of part of your supervising him, you were friends; you co-owned a building, a home, a vacation spot together. That is correct, right?

Mr. BRENNER. It is correct that we co-owned. I don't describe that as helping Mr. Beale get into EPA. We have a personnel process, had a personnel process at the agency, where his application—

Chairman ISSA. I don't want to take more of his time. It is just that when somebody says I sort of know this guy, he is a friend, but you could own a building together, you are friends, you vacation together, and you are his supervisor.

With that, I will let the gentleman from Utah follow up.

Mr. CHAFFETZ. Mr. Chairman, if I can ask unanimous consent to have my clock reset to 5. I believe Mr. Connolly was given an extra—

Chairman ISSA. The indulgence is so noted.

Mr. CHAFFETZ. And I thank the gentleman from Virginia as well for his understanding.

And I thank the chairman.

Listen, this is important. If we are going to get to the truth, we have to understand. As a Nation, we are self-critical. We are going to look deep into these things to make sure they never happen again.

So I have seen the movie "Catch Me If You Can." It smells a lot like that. It is unbelievable that somebody could get away with this.

I want to go back to that invitation and this party. There is a retirement party. Mr. Beale is stepping down. My understanding, Mr. Sullivan, is that Ms. McCarthy was at that retirement party, and she was keenly aware that he was retiring. Correct?

Mr. SULLIVAN. Yes, sir, that is correct.

Mr. CHAFFETZ. But he didn't actually retire. He continued on for how much longer on the payroll of the United States Government?

Mr. SULLIVAN. A year and a half longer.

Mr. CHAFFETZ. And at that time, he was the direct—who was his direct report? He reported directly to Ms. McCarthy during that time, correct?

Mr. SULLIVAN. Yes.

Mr. CHAFFETZ. Did he show up to work during that time?

Mr. SULLIVAN. No.

Mr. CHAFFETZ. Let's put up slide No. 2—slide No. 7, pardon me. Slide No. 7.

This is a letter from Gina McCarthy, who is now the EPA administrator, but prior to that, she had this responsibility for Mr. Beale. The retirement party happened in September of 2011. This is an email that is dated January of 2013: "As you are aware, we have been seeking confirmation for your employment status with the other Federal agency you maintained you have worked for or are currently working for while employed at the EPA."

And later it goes on and says, "We have been unable to confirm the existence of an interagency detail or any other type of arrangement."

You are familiar with this email, Mr. Sullivan?

Mr. SULLIVAN. Yes, sir, I am.

Mr. CHAFFETZ. Let's go to slide No. 8. About a month later, this is an email, and the highlight I wanted: "It has come to my attention that you are currently receiving a retention bonus in addition to your base salary. As a result, I have notified OARM to cancel payment of the retention bonus."

So what happened there? In between—Gina McCarthy, she becomes aware that maybe this is a lie. It is fraud. It is deception. And she sends this.

Mr. SULLIVAN. Mr. Chaffetz, can you tell me the date of that email? I can't read it.

Mr. CHAFFETZ. It is February 5th.

Mr. SULLIVAN. February 5th. And that was almost a week before we were informed about the situation. We were informed on February 11th of 2012—I am sorry, 2013.

Mr. CHAFFETZ. So what did she do about it? Did she tell you about it?

Mr. SULLIVAN. She told us about it on February 11th of 2013.

Mr. CHAFFETZ. She didn't tell you about it first, right? She told the General Counsel's Office.

Mr. SULLIVAN. That is correct, sir.

Mr. CHAFFETZ. So she didn't tell you directory first. She told somebody else about it.

Mr. SULLIVAN. That is correct.

Mr. CHAFFETZ. And then it went to another office, correct?

Mr. SULLIVAN. That is correct.

Mr. CHAFFETZ. And then it finally landed on your desk.

Mr. SULLIVAN. That is correct.

Mr. CHAFFETZ. Did she fire him?

Mr. SULLIVAN. Fire who? Mr. Beale?

Mr. CHAFFETZ. Yes.

Mr. SULLIVAN. No.

Mr. CHAFFETZ. So Gina McCarthy knows that it is fraud. He is admitting that he doesn't have any excuse to this. He has basically been outed at this point. And the only thing that she does is get rid of his retention bonus?

Mr. SULLIVAN. Well, sir, with all due respect, I think you mischaracterized that.

Ms. McCarthy forwarded her concerns about fraud, and it was our job as criminal investigators to investigate it. During this time period, from February 11th on, we were conducting our criminal investigation. So Ms. McCarthy had her suspicions.

Mr. CHAFFETZ. But she had enough to go and say, let's get rid of your retention bonus, because obviously, this other agency isn't true.

What happened to Mr. Beale? Did he get fired?

Mr. SULLIVAN. No, sir. He retired.

Mr. CHAFFETZ. And as a consequence, does he get his full retirement benefits?

Mr. SULLIVAN. Yes, sir, he does.

Mr. CHAFFETZ. So here he is prosecuted, convicted, pled guilty, owing hundreds—almost \$1 million. He defrauds the Federal Government. Gina McCarthy knows about this. She only had three reports at the time: Mr. Brenner, who has his own ethical problems

and challenges. The number two person is defrauding the Federal Government by nearly \$1 million, faking his way, saying he is a CIA employee, and she doesn't fire him? And the guy still, month after month, the United States taxpayers are going to pay him for his extraordinary services, and it is based, right, on the highest 3 years of his income, which was fraudulent.

It is another example, Mr. Chairman, of this administration, the Obama administration, failing to actually fire somebody. What does it take to actually get fired in this Federal Government? If this person could be fired and she didn't do it, I think we have no choice but to hear from Administrator McCarthy. She was involved in this. She went to his retirement party. He didn't show up to work for years, and she paid him above what she is allowed to do by the statutory limit; didn't fire him; he still gets his bonus. She needs to come before this committee.

Chairman ISSA. I thank the gentleman.

As I go to Ms. Duckworth, I just want to make sure our timeline is accurate. According to what the gentleman just went through, the administrator was aware and was working with the general counsel on the fact that he didn't work for that other agency, in her estimation, before the investigation was given to you, is that correct? In other words, general counsel—her awareness, general counsel, and then, later, you, is that right?

Mr. SULLIVAN. That is correct.

Chairman ISSA. Okay. We can follow up on that later. Thank you.

The gentlelady from Illinois.

Ms. DUCKWORTH. Thank you, Mr. Chairman.

We are here to talk about government accountability today, and this an incredibly important topic, but I would be remiss not to mention that our government is in shutdown for the first time in nearly 20 years. American veterans, small business owners and families all across the country are waking up today to news that their government has failed to meet its most basic function.

I have been willing to work with my colleagues on both sides of the aisle to make changes to the Affordable Care Act. I even voted against my own party to repeal the Medical Device Act. But the time to have these discussions is not when government is being held hostage.

This government shutdown is a disgrace. It is a waste of the American people's time. They are right to be extremely disappointed in us.

Our neighbors sent us to Washington to find solutions and not to play politics, and I hope that my colleagues remember that as we continue this discussion.

That is why I am so pleased to be working in a bipartisan way at this hearing today. Like so many of my colleagues, I am outraged at this clear case of abuse in the public trust. At a time when programs critical to the livelihoods of Americans are being slashed, Mr. Beale managed to pocket hundreds of thousands of hard-working taxpayer dollars by making up fantasies and lies. And while this is just one particularly bad apple in an otherwise hard-working, honorable civil service workforce, it seems totally inexcusable to me that the management of this agency failed to catch and stop

his fraudulent activity. For an entire decade after he was legitimately authorized to do so, Mr. Beale was able to receive thousands of dollars on autopilot.

Mr. Elkins and Mr. Sullivan, I understand that your office is still working on recommendations on how to address these massive management failures at the EPA. Could you share with us your thoughts on the controls that EPA has already started to put into place, and perhaps reflecting what my colleague from Utah was talking about in terms of once a manager finds out or suspects that there is something going on, are they allowed to fire that person right away or must the investigation process continue, and how has that changed?

Mr. ELKINS. Well, first of all, I applaud the actions that EPA is taking to address some of the issues that we have discussed here at this hearing. We will continue to look, as a result of our audit, at what other internal control weaknesses are out there and make recommendations to resolve those internal control weaknesses as they make themselves apparent.

In terms of the personnel issues or the regulations that you spoke of, I am not prepared to address specifically what is allowed and what is not allowed for those, and I don't want to speculate. Without having the actual regulations in front of me, I don't want to speculate on that issue.

Ms. DUCKWORTH. Thank you.

Mr. Sullivan, do you think the controls that EPA has already started to put in place are sufficient?

Mr. SULLIVAN. Ma'am, I really don't want to offer an opinion on that. I haven't had a chance to see them being implemented. But I do want to say that we have received complete cooperation during this investigation. So I am very hopeful and optimistic. But I don't think we have had enough time to see if they are going to work.

Ms. DUCKWORTH. Mr. Brenner, this vacation home that you own in Massachusetts, when did you pay that off?

Could you turn your microphone on, please?

Mr. SULLIVAN. Sure. We purchased the home in 1983 or somewhere around then, and then, in later years, in the late 1990s, Mr. Beale bought the remainder, my share of the house, from me because this was his family home that they had built together back when he was a teenager, and his plan was to redevelop the house. He bought out my share.

Ms. DUCKWORTH. Okay, I am running out of time so I am going to cut you off a little bit. So he bought out the time years after you authorized him to get additional pay that he wasn't authorized to get.

Mr. BRENNER. First of all——

Ms. DUCKWORTH. Twenty-five percent of his salary more than he should have gotten.

Mr. BRENNER. Well, I don't think that is accurate that he was not authorized to get it. We went through a complete process for justifying that increase in pay.

Ms. DUCKWORTH. Right, based on him orally saying, oh yeah, I have an oral offer of a job offer. So, basically, you——

Mr. BRENNER. No, I think there was more than that.



Ms. DUCKWORTH. That is not what I am reading in the investigation here. It says that there is no documentation that he ever had a job offer from another firm.

Now, my question is, you helped him get additional money for years, and then he turned around and, with that additional income, was able to pay you and buy you out of this home that you shared. Don't you think that is an ethical problem that you are facing right now?

Mr. BRENNER. Actually, what happened at the time was he sold a residence that he had here in the area, and he used the proceeds from that in order to be able to—

Ms. DUCKWORTH. And how did he buy that residence, with additional dollars, with the pay that he received, a job that you helped him get and a job that you helped him get more money than he should have been getting for, for all this time.

You know, Mr. Perciasepe, just with my last question, I just want to ask, you know, even if an EPA employee has a buddy like Mr. Brenner to help him out, who himself is willing to engage in questionable ethics by accepting handouts from lobbyists, can this continue to happen with the EPA today?

Mr. PERCIASEPE. Today there is no one at EPA getting these retention bonuses. Only 28 people have gotten it in the last 20 years. We have put new processes in place. And I agree with the inspector general that I need to see more of their work to know if I need to do more. But we have not waited, and we have put some new controls in place. It is basically layers of controls that would kick out these things when they are not being—the problem with the Beale activity through the first decade of this century was that it was never kicked out that his retention bonus had expired. And it should have been. And it can't go that way anymore because we now have a hard stop in the system that would pop it out, and it would either have to be recertified with the evidence that you suggested, Congresswoman, and/or the payments would stop. So that is what would happen today if somebody else got a retention bonus.

Ms. DUCKWORTH. Thank you.

Mr. GOWDY. [Presiding.] I thank the gentlelady.

The chair would now recognize the gentleman from Florida Mr. Mica.

Mr. MICA. Thank you, Mr. Chairman.

First of all, Mr. Elkins, I heard that you have said to the committee that you think measures have been put in place so this could not happen again. Is that correct?

Mr. ELKINS. Mr. Mica, actually, Mr. Perciasepe made that statement.

Mr. MICA. Well, do you agree with what he said? Based on your investigation what took place.

Mr. ELKINS. Well, at this stage of the game, since we have not completed our audit, I couldn't really speculate.

Mr. MICA. You can't speculate. But this is an incredible tale of ripping off the government for two decades. It is also astounding—and I wasn't here, I had to run to the floor—but to find out that this individual is going to get his retirement.

Is that the case again, Mr. Perciasepe.

Mr. PERCIASEPE. I can only say at this time, Congressman, we are looking into that. I mean, obviously, we had to wait for the investigation to be completed. Obviously, it was plead—it was put before the judge on Friday, so we are going to look into all avenues to collect money that might be due to the Federal Government.

Mr. MICA. Well, let me ask you a further question, how would you describe the relationship between Mr. Beale and Ms. McCarthy?

Mr. PERCIASEPE. I think Ms.—Administrator McCarthy was suspicious of all of these activities, and I recognize that we can parse through how many months here or how many months there. But the bottom line is she was the first person since 2001 that actually questioned these activities, which led ultimately to the inspector general's report.

Trying to check out somebody's personnel status, it doesn't necessarily require the IG as a first step. But I recognize that we need to make sure that we are following up with the IG on these matters. So we did do that, and the investigation has been completed, and we now see what we see here.

Mr. MICA. Okay, let me ask—

Mr. PERCIASEPE. I want to point out that she is the one that precipitated that—whether how many months one way or the other—

Mr. MICA. Let me ask Mr. Sullivan a question. Can we put the slide up? I think it is slide eight. It is an email from McCarthy in February of 2013, a month after her last email questioning Mr. Beale's work status. This email is about the fact she is now cutting off his retention bonus.

Mr. Sullivan, for how long had Mr. Beale been receiving these bonuses.

Mr. SULLIVAN. He had been receiving them continuously since 1991.

Mr. MICA. It seems strange and ironic that someone who had stated they retired is receiving a bonus, which was in fact—the bonuses I thought were designed to keep people from leaving the agency. Even if the facts of Mr. Beale's situation were true, would his covert activities warrant a retention bonus?

Mr. SULLIVAN. I don't want to offer an opinion on that, sir. I don't know. All I can tell you is he continued receiving them up until 2013.

Mr. MICA. Well, again, it is incredible all these—this time that passes, gaming the system, then, at the very end, continuing to game it to receive a bonus designed to keep people from the agency and he was set to leave, it is just beyond the pale.

Mr. Elkins, would you like to comment?

Mr. ELKINS. Sir, clearly, there were some internal controls that were not functioning properly, and to that extent, that would be the extent of my comment.

Mr. MICA. Well, again, when we are facing—well, today's the government shutdown, but we are facing financial bankruptcy of the Nation in a couple of weeks with our debt exploded from the beginning of this administration from \$9 trillion to \$17 trillion and soon asking for nearly another trillion dollars to keep us afloat. And people see this kind of money going out to someone who scammed the

system. It is greatly disappointing, disheartening and very sad for the American taxpayer.

I yield back, Mr. Chairman.

Mr. GOWDY. Thank the gentleman from Florida.

The chair would now recognize the gentlelady from New York, Ms. Maloney.

Mrs. MALONEY. Thank you.

And I thank the chairman and ranking member for calling this hearing. It is unbelievable. It is outrageous. It reminds me of the movie, the famous movie on fraud, "Catch Me If You Can," who defrauded so many people. In this case, you are defrauding United States taxpayers, eroding their faith in government. It is outrageous beyond belief.

And Mr. Perciasepe, I want to know, how much does he get in retirement? And what are you going to do to make sure he doesn't get the retirement money? That is the first step that we can take in retrieving what, by his own admission, Mr. Beale said that he received over \$800,000 in pay, bonuses, travel, benefits, and a total scam that defrauded the government for well over a decade. So do you know how much he makes in retirement? And what are you doing to make sure that the scam doesn't continue, that a complete fraud, who said he was a member of the distinguished CIA, and no one even bothered to check? It is almost—the incompetence is beyond belief. So do you know what his retirement is each year?

Mr. PERCIASEPE. Congresswoman, I do not know—

Mrs. MALONEY. Can you get it back to the committee?

Mr. PERCIASEPE. We can definitely get it back.

Mrs. MALONEY. And can you get us the steps you are taking to make sure he does not get his retirement. And if you say, you cannot get it, we can't stop it because of bureaucratic regulations, then I believe, in a bipartisan effort, we would join in a single bill to stop it and to stop anyone else who defrauds the taxpayer of getting a retirement benefit. It is beyond belief. He scams the taxpayer, scams the agency, scams the government and erodes the confidence we have in government and then gets a retirement? I, for one, hope that we can stop that at the very least.

Now these retention benefits that my colleague was talking about, who recommended him to get these retention benefits? Do you know, Mr. Sullivan, who recommended them?

Mr. SULLIVAN. Yes, ma'am.

In 1991, Mr. Brenner prepared the paperwork for the first set of retention bonuses, and it was approved by a gentleman by the name of William Rosenberg, who was the then assistant administrator for the Office of Air and Radiation. The second round of retention bonuses were prepared in 2000, and again, Mr. Brenner recommended them, and it was signed by Mr. Perciasepe, who at the time was the then assistant administrator for the Office of Air and Radiation.

Mrs. MALONEY. So, Mr. Brenner, the gentleman with whom he sells his house to the guy he is recommending to get an illegal bonus and then has other business relationships, he is recommending that he gets this bonus treatment.

Now Mr. Brenner, did you think that he had another job offer.

Mr. BRENNER. Yes, this was in 1991, when the original—

Mrs. MALONEY. Did you get it in writing, a copy in writing? Was in the file any information about the job offer that entitled him to this additional pay and scam?

Mr. BRENNER. I don't remember whether we had it in writing or whether we had obtained the information through a phone call, but he did have an offer, and I would note that—

Mrs. MALONEY. There is no offer, unless it is put into the file.

And Mr. Sullivan, will you research this and get back to us? Was there anything in the file in writing about this alleged job offer that Mr. Brenner's pal got, who then he sold his house to or did other business deals with, was there anything in writing in the file?

Mr. SULLIVAN. I can answer that question now, Congresswoman. Mr. Beale told us that he never had a written offer, either in 1991 or 2000, so there was never a written offer for any of the retention incentive bonuses.

Mrs. MALONEY. So we have policies in place, but they are not implemented. We need an audit of what is happening. Who would be the proper person to audit this so that the Mr. Brenners of the future can't get away with it?

Mr. Brenner, did you recommend other people to get this special treatment?

Mr. BRENNER. I don't remember having—

Mrs. MALONEY. Okay, Mr. Sullivan, would you investigate who else he recommended should get this and whether or not he had business deals with them? I mean, this is just unbelievable. And who would be the proper person, Mr. Perciasepe, to audit this to make sure that people within the agency are honest?

Mr. PERCIASEPE. Well, first of all, we put some new controls in already on the retention bonus system. No one at EPA right now is getting a retention bonus. Even the Inspector General themselves have used this technique to keep valuable employees. And so we don't want to—

Mrs. MALONEY. I am not questioning the policy. I am just saying the policy—we need professionals, and we need highly qualified people get many offers. But I believe that Mr. Beale never had another offer. I believe that he lied, like he lied to everyone else. So how do we catch the liars? Who would you say would be the appropriate agency to audit the EPA to see if anyone else is involved in some type of scam and whether this is following?

Now, I would just like to say, how many other people do you think are scamming the EPA right now with your lax policies that in place?

Mr. PERCIASEPE. Well, first of all, I believe we have adequate policies in place at EPA.

Mrs. MALONEY. Well, they are obviously not working, to the tune of \$800,000, and it would have continued without the excellent work of Gina McCarthy and I would say the investigators and the prosecutors who stopped this. I congratulate their public work.

But that this was allowed to happen for well over a decade is an outrageous abuse.

Mr. PERCIASEPE. There are two things here: There is a policy, and then whether the policies followed and if there are controls to make sure the policies are followed.

Mrs. MALONEY. Obviously, there weren't controls. What do you recommend would be the controls? The policies were in place.

Mr. PERCIASEPE. Correct.

Mrs. MALONEY. You required written information. The written information was not there.

Mr. PERCIASEPE. These things only last for 3 years. They should be recertified.

Mrs. MALONEY. You know, they have to be killed with a date for 3 years. So the policies were abused. My question is, how do you enforce the policies that are in place? There should be an audit of this. Where should the audit come from?

Mr. PERCIASEPE. I am going to say, first, I have done——

Mr. GOWDY. The gentelady's time has expired.

Excuse me, the gentelady's time has expired, but you may answer her question.

Mr. PERCIASEPE. Thank you. Thank you, Mr. Chair.

We have made some changes already, based on what we know, in terms of controls to make sure the policies are implemented. I am confident that the inspector general, who we have a very good working relationship with, is also looking at this to see if there would be more to do. I am not going to presuppose that what we've already done is enough, but I want you to be comfortable that we have already made changes that have more controls on there.

Mrs. MALONEY. Mr. Chairman, I still haven't had the answer to my question, what are—he says, “we put more”——

Mr. PERCIASEPE. The IG, the IG.

Mrs. MALONEY. The IG is investigating.

What I was asking about, who audits before it even gets to the IG? Who audits to make sure they are doing what they are supposed to do? That was my question. Is there an audit there? The IG is going after corruption.

I am talking about a level where you make sure that the policies that are put in place actually happen, an audit level, where would that be?

Mr.—anybody, can anybody answer that where they think it should be?

Mr. ELKINS. Yes, I will try to answer that. I believe what you are referring to are the internal controls. And I think, at the program and operational level, once those internal controls are in place that the folks who are in charge of implementing those policies and programs should be the ones to audit those to make sure that they are being implemented correctly.

Mrs. MALONEY. Can we ask, in this case, would it have been Mr. Brenner who would have audited it? And since he is the one who approved it, who would have audited in the case of Mr. Beale? If you had a proper audit, who would be the person in EPA who should have audited whether or not all his claims were true and all the stuff that he was doing, ripping off everybody, who would have been the proper person to audit it?

Mr. GOWDY. You may answer it briefly.

Mr. ELKINS. Typically speaking, it would probably be a supervisor.

Mrs. MALONEY. And the supervisor was Mr. Brenner, right?

Mr. CHAFFETZ. If the gentlewoman would yield, I believe it was Gina McCarthy.

Mrs. MALONEY. Supervisor was Gina McCarthy, but she—so should be auditing it for the whole area.

Mr. CHAFFETZ. Gentlewoman, I appreciate that. She only had three direct reports: Mr. Brenner, Mr. Beale and another person.

Mr. BRENNER. Could I have an opportunity to clarify this?

Mr. GOWDY. Well, the gentlelady, her time has expired. I have been very generous, but you and I will have a chance to talk briefly. And you may have an opportunity to answer it in response to one of my questions.

But for now, we will go to the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman, and thank you to the panel that's here that has helped to get to the bottom of some of these issues that we are questioning.

Mr. Sullivan, were you ever aware that Mr. Beale was in Pakistan?

Mr. SULLIVAN. He had significant foreign travel, and we knew he took a trip to India. And I am not sure if we ever confirmed a trip to Pakistan. But many times when he claimed to be in Pakistan, through phone records, we proved he was in the United States.

Mr. WALBERG. Could we get the slide up, 4B, on that?

I wanted to ask that question and see if had you any direct information—4B.

Okay, you notice it says there this was an email from John Beale to Gina McCarthy, "Due to recent events that you have probably read about, I am in Pakistan."

Mr. SULLIVAN. Well, we could definitely say, Congressman, that he was not in Pakistan then because we checked his cell phone usage and the cell towers he was pinging off of were either in Massachusetts or in Arlington, Virginia.

Mr. WALBERG. So, when he said, "I am reachable by cell, text or email with a 9-hour time difference, ho, ho, ho."

Mr. SULLIVAN. That was obviously a lie.

Mr. WALBERG. Thank you.

Mr. Perciasepe, when was the first time that Ms. McCarthy expressed to you that she had concerns about Mr. Beale.

Mr. PERCIASEPE. We had conversations, probably in 2012, during our regular meetings, where she was expressing these concerns. And everybody in the agency at the management level said that they should be pursued and which is what she did.

Mr. WALBERG. Did you ever discuss with Ms. McCarthy her decision to refer the matter to the general counsel, rather than the IG?

Mr. PERCIASEPE. No, I never did. But I don't think—

Mr. WALBERG. Did you ever discuss with Ms. McCarthy the general counsel's decision to have the Office of Homeland Security look into the matter, rather than refer it to the IG.

Mr. PERCIASEPE. Will you let me answer?

Mr. WALBERG. Well, I think you did. I asked if you ever had, and you said, no. So what about this?

Mr. PERCIASEPE. The idea that you pursue what may be a personnel—an HR matter through the general counsel or there may be something related to the other agency that has mentioned sev-

eral times here, the lead unit in our agency that deals with the intelligence community at a general level is the Office of Homeland Security, but once that was discovered that that was not—there was nothing to verify there, then we immediately turned it over to the IG.

Mr. WALBERG. Well——

Mr. PERCIASEPE. So we are talking about a couple months here when this has obviously something that Ms. McCarthy——

Mr. WALBERG. Then, to your knowledge, was the decision to direct the matter to the Office of Homeland Security, which is located in the Office of the Administrator, done to contain the issue within the agency and keep the story from becoming news that could affect the agency?

Mr. PERCIASEPE. Absolutely not. It was to determine facts, and once we had the facts, we turned it over to the IG.

Mr. WALBERG. To your knowledge, was the decision to direct the matter to the Office of Homeland Security, which is located in the Office of Administrator, done so that EPA could understand the facts of the story prior to becoming news?

Mr. PERCIASEPE. Once we understood the facts, we turned them over to the IG to let it go where it went. And I can guarantee you that the IG will attest that we cooperated completely; we wanted them to get to the bottom of it.

Mr. WALBERG. Mr. Sullivan, Mr. Elkins.

Mr. SULLIVAN. Yes, sir.

Mr. Perciasepe is correct that it was referred to Homeland Security first via the Office of General Counsel. The only problem that we had with that is the Office of Homeland Security, who are not criminal investigators, not—without law enforcement authority, they interviewed Mr. Beale, very prematurely in our estimation, and it caused us great harm to the investigation.

Mr. WALBERG. The head start caused you harm.

Mr. SULLIVAN. That is correct, sir.

Mr. WALBERG. Mr. Perciasepe, you worked with Mr. Beale both in the 1990s and from 2009 on; is that correct?

Mr. PERCIASEPE. I was the assistant administrator for Air and Radiation for two and a half years in the late 1990s, correct.

Mr. WALBERG. When was the first time Mr. Beale represented to you that he was doing work for the CIA?

Mr. PERCIASEPE. He never represented that to me.

Mr. WALBERG. Never at all?

Mr. PERCIASEPE. Never.

Mr. WALBERG. Did you ever have any doubts about this claim when it came evident?

Mr. PERCIASEPE. I had lots of doubts about it when it became evident to me when I came back to the agency.

Mr. WALBERG. What did you do to seek to verify the claim?

Mr. PERCIASEPE. It was already on—Administrator McCarthy—well, Assistant Administrator McCarthy at the time was in the process of running it through what we just talked about.

Mr. WALBERG. You oversaw the office in with Mr. Beale worked and later became the deputy administrator, don't you think it was your responsibility to verify one of your employees was missing work under the guise of being a covert operative for the CIA?

Mr. PERCIASEPE. He was not doing that when he worked for me.

Mr. WALBERG. Mr. Chairman, it's amazing.

As we are talking today of a government shutdown, I think we have evidences here of government shutdown in the EPA over issues that cost the taxpayer almost a million dollars.

And I yield back.

Mr. GOWDY. I thank the gentleman.

The chair would now recognize the gentlelady from California, Ms. Speier.

Ms. SPEIER. Mr. Chairman, thank you, and I thank the ranking member, and I thank the inspector generals for being here. This is an absolute disgrace. This is stealing money from the American People. It reminds me of a perfect burglary and is ripe for a made-for-TV movie.

Now, having said that, I am deeply concerned about a number of things: One, prospectively trying to take someone's retirement away, as the bill that's being suggested by the chairman and being discussed with the ranking member, is something that I would endorse. But I would recommend that what we need to do here is introduce a private bill to take away the pension of Mr. Beale, because this bill that we are contemplating is only going to be prospective in nature. And I think this man has got to be brought to real justice.

I am concerned about, one, he is in debt to the American people, having ripped them off about \$800,000. Do we even know if he has assets that equal \$800,000? Do we know that?

Mr. SULLIVAN. Yes, ma'am, he does. He had significant assets. In fact, he's already paid back to the Clerk of the Court here in the District of Columbia \$886,000, and he has 90 days to pay the \$507,000 asset forfeiture judgment against him.

Ms. SPEIER. How much money have you spent in this investigation?

Mr. SULLIVAN. We can get back to you on that, ma'am. I don't have that in front of me.

Ms. SPEIER. Because I think the other thing that we should look at is the cost recovery that should be attributed to the individual who has conducted themselves in such an illegal manner. The taxpayer shouldn't have to pick up the tab for that. We should be able to cover that cost as well, and that should be contemplated in any legislation we do as well.

Mr. Brenner, do you think you have done anything wrong?

Mr. BRENNER. No, I do not think I have done anything wrong with respect to the way Mr. Beale's personnel issues were handled during the time I was his supervisor.

Ms. SPEIER. Well, let's start by the fact that you recommended him for a retention bonus, which you did, correct?

Mr. BRENNER. That's correct.

Ms. SPEIER. And it's required that you have a written offer to base that retention bonus on, correct?

Mr. BRENNER. I don't know whether a written offer is required. It requires that there either a written offer or a determination that an offer was made. In other words, I believe at times it is done through a phone call to discuss it with whoever was making the offer.



Ms. SPEIER. Is that true, Mr. Sullivan, is it required that there be a written offer?

Mr. SULLIVAN. It's my understanding that a written offer is not required, although most packages do have a written offer attached. What is required the supervisor recommending the incentive bonus has to assert that he or she did due diligence to confirm there was an offer.

Ms. SPEIER. So what was your due diligence, Mr. Brenner?

Mr. BRENNER. We are talking about something that happened 20 some years ago and I——

Ms. SPEIER. You can't recall, it sounds like.

Mr. BRENNER. I don't recall whether there was a letter or whether there was a phone call, but I know that it was reviewed by the personnel office, all of these retention allowances——

Ms. SPEIER. No.

Mr. BRENNER. Need to be reviewed.

Ms. SPEIER. But you had an obligation to do due diligence. Did you talk to this prospective employer? You have to be able to recall that.

Mr. BRENNER. It's 20-some years ago, so I don't remember whether I either talked to the employer or had received a letter, but I know that without one of those two things being in place, there was no way it could have been approved.

Ms. SPEIER. Well, let me ask you about the \$8,000 discount you received. Did you disclose that on your financial disclosure statement?

Mr. BRENNER. I did.

Ms. SPEIER. You did? Is that an amount that is legal to actually receive?

Mr. BRENNER. It's on my—2011 disclosure statement, and as I said——

Ms. SPEIER. Was that after the fact, was that after it was reported?

Mr. BRENNER. That's when it was reviewed.

Ms. SPEIER. Okay, so——

Mr. BRENNER. And as I said, it was reviewed and investigated by the Department of Justice and the decision was to decline taking additional action on it.

Ms. SPEIER. Well, whether they declined to take legal action or not does not mean that it wasn't illegal. If you received an \$8,000 discount, that is a gift that exceeds the limits under the financial disclosure laws. And I think you are guilty, and I do think that you should be held accountable for the fact that you received a gift that exceeded the amount that you are allowed to receive under those laws.

Mr. Sullivan, the fact that Mr. Beale took three trips to London at \$25,000 a piece, one to London and India for \$36,000, and made it his goal in life to only fly first class, and was able to get a chiropractor to basically say that he had a back problem and, therefore, should be able to fly first class is deeply troubling to me. I think I could go to a chiropractor and get a letter saying that I have a back problem. Lots of people up here could probably do that. That's not a basis on which you fly first class internationally or anywhere. So what do we do to fix that?

Mr. SULLIVAN. As Mr. Elkins had previously testified, there are an ongoing series of seven audits within EPA, and one of them, specifically, the audits that I am going—not in my shop, that's the Office of Audit, was looking at the first class travel in EPA, and I know they will be part of the comprehensive report that will be produced.

Ms. SPEIER. You know, Mr. Sullivan— and I know I exceeded my time, Mr. Chairman, let me make one more comment—what you have uncovered troubles all of us greatly. I worry that there could be incidents like this in other agencies within the Federal Government. And I hope that what you have uncovered is shared with other IGs throughout the system and that we clean up this act everywhere, because I wouldn't be surprised if we have first class travel going on at other agencies under the ruse that everyone has a back problem, and I yield back.

Mr. GOWDY. The chair thanks the gentlelady.

And the chair would now recognize the gentleman from Oklahoma, Mr. Lankford.

Mr. LANKFORD. Thank you, Mr. Chairman.

I completely associate myself with the comments that the gentlelady just made, Ms. Speier. This is something we do need to establish a process. There are employees that have been furloughed through sequestration. At the same time, we have got an employee that's getting a quarter million dollar salary, well in excess of what is legally accessible, and doing zero work at the EPA, zero, not even showing up. That is frustrating for the people that are working there and that are doing their job. That's frustrating for other people in the Federal family, and it's incredibly frustrating to the Federal taxpayer, who works very hard, and who counts pennies, and who is very attentive to their own family and what they turn in on the IRS forms that goes into working for the Federal Government they want to know it actually works. And someone's watching how this is being spent. So I do appreciate the work, we have a lot of work still to go to be able to evaluate some of these processes.

But I would like to talk about a couple of these processes, pick up on what Ms. Speier was mentioning before. What is the paper-work that is required to turn in and say, I have a back problem, I have to get first class tickets everywhere that I fly? What's required for that?

Mr. SULLIVAN. In this case, our investigation revealed that Mr. Beale presented a chiropractor note, and it was submitted to the travel office at EPA, and he was flagged and is being authorized for first class travel.

Mr. LANKFORD. Okay, was that because he was an executive or he was just traveling period?

Mr. SULLIVAN. Because he traveling. It is my understanding, whether you are an executive or not, if you submit a legitimate doctor's note and your supervisor approves it, you will be eligible for first class travel.

Mr. LANKFORD. Okay. So same thing dealing with getting a closer parking spot, he can walk in and say, I am a Vietnam vet and had malaria, and so I need a closer parking spot. Was there documentation that was required for that?

Mr. SULLIVAN. There is documentation that is required, but it's our understanding it was just his assertion. There was—no one from EPA asked him for a doctor's note to confirm his malaria.

Mr. LANKFORD. Okay, he walks in one day and says, I work for the CIA, I need a day off a week. What documentation is required for that?

Mr. SULLIVAN. Normally, there has to be an interagency agreement, and EPA would go to the other agency and sign a memorandum of understanding for the repayment. Currently, though, since 2008, there's a requirement now that if the CIA does recruit an employee from another agency, the director of the CIA is required to inform that of that agency as well as the general counsel, but that's in effect only from 2008 on.

Mr. LANKFORD. So no—everyone was grandfathered in that was already in, so it was just additional new hires at that point, so it wouldn't have been evaluated by EPA looking for this documentation, or that's everybody?

Mr. SULLIVAN. Well, it is my understanding from henceforth from 2008 on, but I don't know if anyone went back to look at Mr. Beale's case. If I could tell you no one did to our knowledge, no one went back and confirmed—

Mr. LANKFORD. So when the rule was changed in 2008, no one went back and confirmed it and said, hey, we need to get all of this paperwork cleaned up; we have a gap in the file—

Mr. SULLIVAN. That's correct.

Mr. LANKFORD. To be able to get all that done.

Mr. Perciasepe, how many staff does EPA have that worked full time for the EPA and also get paid by another agency?

Mr. PERCIASEPE. I don't know the answer to that. We do have interagency agreements. We even have EPA employees working here in Congress, but we can certainly get that for the record.

Mr. LANKFORD. No, no, I am not talking about they also do that, but they are getting paid. I am assuming that Mr. Beale was claiming that he was not just being paid by the EPA, but he was also employed by the CIA, being paid over there.

Mr. PERCIASEPE. I do not know that, what he claimed. I don't know what he claimed because I haven't seen the full investigative report yet.

Mr. LANKFORD. So the question is, is there any one that is paid by the EPA that is assigned to a location that is also paid by them, that is paid by two different agencies at the same time? So I understand you are saying some EPA folks are assigned to Congress.

Mr. PERCIASEPE. Yes, and then we pay those salaries. And it's usually one or the other is paying. I mean, somebody could go on an agreement, like Mr. Sullivan saying, or an interagency agreement of some kind and how the pay is distributed is often part of that discussion. But we certainly can get you information about how many are doing that, but it is—there are several kinds of agreements and how that goes, and it could go either way on how the pay is done.

Mr. LANKFORD. Mr. Sullivan, do we know of any employees that are with EPA that are also being paid by another agency at the same time; they are actually working for two agencies simultaneously?

Mr. SULLIVAN. Well, for example, we have an agent detailed to the Federal Enforcement Training Center. We have agreement. They reimburse us for that person's salary, but the employee would not receive both salaries at the same time; that would be illegal.

Mr. LANKFORD. That's what I'm getting at. I think it might be a little odd that the CIA was actually covertly having the EPA pay the salary of one of their secret agents to send them out there. I don't know whether we have a lot of EPA folks that are currently on the CIA task force, but again, the whole thing smells weird from the very beginning, trying to figure out where that works.

The other problem that I see in this is this constant statement over and over again that he was an executive, and so when he turned in travel vouchers, they weren't challenged.

Mr. SULLIVAN. That is absolutely correct. That is, the person who signed his travel vouchers told us point blank, she never reviewed the vouchers, never looked at the receipts; she accepted as fact whatever Mr. Beale put in because he was an executive and because he worked for the CIA.

Mr. LANKFORD. Okay, so it begs the issue of, who is supervising the supervisors at this point? And obviously, that's the task of the IG that we ask you to be able to do to be able to step in. In this case, the agency went around you to try to investigate it and have you last in line to be able to look at it rather than first in line, but we have a real break down of process here when supervisors just turn in stuff; all the people that work under them don't feel like they can actually respond back to it and challenge what's happening, and they just sign off, and expenses continue to fly. So this is not the end of this conversation because we do want to follow back up on the many issues of fraud that's here and how systemic this really is. And we hope we find nothing. But my fear is, there will be several more that we find in the process, probably with not stories as well written as this story but other issues that are out there.

With that, I yield back

Mr. GOWDY. The chair thanks the gentleman from Oklahoma and now recognizes the gentleman from North Carolina, Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman.

Mr. Perciasepe, I am intrigued by your testimony because you said earlier that Mr. Beale never represented to you that he worked for the CIA. So is that, to follow up, that you never heard of him working for the CIA, because there's a difference?

Mr. PERCIASEPE. When this unfolded.

Mr. MEADOWS. Before it unfolded, had you ever heard of that?

Mr. PERCIASEPE. No.

Mr. MEADOWS. So no one ever shared what he was doing?

Mr. PERCIASEPE. I didn't see Mr. Beale for 13 years. I don't know went on from 2001 to—or 2000 until I came back to the agency.

Mr. MEADOWS. But from 2009 on, he worked with you. Well, maybe not, because he wasn't really there; he was covertly in Pakistan?

Mr. PERCIASEPE. I don't know.

Mr. MEADOWS. You don't know.

Mr. PERCIASEPE. That's what we're—that's what we turned this over to the IG for.

Mr. MEADOWS. So tell me how the retention bonuses are supposed to work. How do they work?

Mr. PERCIASEPE. The basic premise is you have a person who is likely to leave because they have either a job offer or some other important financial reason and that they are critical to some of the work that they are doing. And then there is a process we go through where that is laid out; there are recommendations made.

Mr. MEADOWS. So you have been involved in those processes, and you are the one—

Mr. PERCIASEPE. Only once. I don't know if you were here when I mentioned earlier, there is currently no one at EPA that—

Mr. MEADOWS. So how long are they supposed to last?

Mr. PERCIASEPE. They are supposed to last 3 years. That's the policy, and they are supposed to be recertified every year.

Mr. MEADOWS. So, Mr. Sullivan, so, to your knowledge, how long did Mr. Beale actually receive his retention bonus?

Mr. SULLIVAN. The first series of retention bonuses went from 1991 to 1999. They should have stopped after 3 years. They did not. Then he was put in for a second round of incentive bonuses in 2000, and that was the same year he got promoted to the senior leader position. And so, during the course of his career, he received bonuses for 22 years and should not have received them for more than 6.

Mr. MEADOWS. Okay. So Mr. Perciasepe, after year 2000, he shouldn't have been receiving a retention bonus?

Mr. PERCIASEPE. He shouldn't—he should have had it recertified in 2001, 2002 and 2003.

Mr. MEADOWS. He just said 1999.

Mr. PERCIASEPE. No, no, he said it was redone in 2000, which I think we would be 3 more years, if I am not correct.

Mr. MEADOWS. So 2000 was the start of 3 years.

Mr. PERCIASEPE. Right.

Mr. MEADOWS. And you signed off on that; is that correct?

Mr. PERCIASEPE. Yes, I did.

Mr. MEADOWS. So what did you go through to sign off on it? Did you check with the CIA?

Mr. PERCIASEPE. No, as I have already mentioned—

Mr. MEADOWS. I am sorry.

Mr. PERCIASEPE. —he did not use that line with me. In the 1990s, and this is hard to believe—

Mr. MEADOWS. Thirteen years ago, I know.

Mr. PERCIASEPE. It is painful for me to go through this, but this was a person who had a reputation, a positive reputation in the Federal Government, both inside EPA and outside EPA, in that time period. It would not be—it's not outside the realm of possibility to me as the assistant administrator that this person could be getting offers from other entities.

Mr. MEADOWS. But I thought we had a guideline that said it stops at 3 years.

Mr. PERCIASEPE. Right. Well, I—

Mr. MEADOWS. So you just have to have a good reputation to be able to exceed the guideline?

Mr. PERCIASEPE. I had no knowledge of any previous one at this particular moment I am talking about in the year—

Mr. MEADOWS. So how did you approve one without having previous knowledge, that just says when it comes to your desk, if they have a good reputation, you sign off on it?

Mr. PERCIASEPE. Well, it's not just a good reputation. There has to be a case laid out by the career leaders in the agency, which was done in this case and then.

Mr. MEADOWS. Wouldn't that case have previous retention bonuses that would have been paid?

Mr. PERCIASEPE. They were not included, I don't recall them being included.

Mr. MEADOWS. Really?

Mr. PERCIASEPE. So when Mr. Sullivan says there were 6 years out of the number of years, one was based on the original one, and one was based on the one that I did. Those were legitimate years that he could have gotten a retention bonus under the rules of the agency. The problem we have is there was nothing that stopped it; it just kept going. And that's what I have changed. I changed the system so there is a hard stop.

Mr. MEADOWS. So there is a hard stop. All right. Let me go over, I guess, to Mr. Brenner because didn't you sign off on it as well? And you were his friend so you knew he was in the CIA, and you were signing off on a retention bonus I guess to keep him working at the CIA? Because you were very close—you have an intimate relationship with him; is that not true?

Mr. BRENNER. I am a close friend of Mr. Beale's, but I had never heard from Mr. Beale that he worked for the CIA.

Mr. MEADOWS. But you knew he was not showing up for work. You knew he was somewhere other than being at work.

Mr. BRENNER. No, the period we are talking about is 1991 and the 2000—

Mr. MEADOWS. That is not the—no, I am talking in general. I'm not just saying that one period. You knew that there was something that he wasn't showing up, but he was still getting retention bonuses because you had to sign off on them. In 2000, I have got your signature right here.

Mr. BRENNER. And in 2000, I believe he was showing up. I certainly was not aware of any problem with Mr. Beale's attendance in the year 2000 or in the decade prior to that.

Mr. MEADOWS. I appreciate the chair's indulgence let me finish with this question. Both of you Mr. Perciasepe and Mr. Brenner, both of you knew that he retired. You knew that, and yet we still continued to give him retention bonuses to retain him to make sure that he wouldn't retire a second time? How—can either one of you explain that and justify that?

Mr. PERCIASEPE. Well, first of all, he did have a retirement party, but based on what I am now—what I now know, he never, to my knowledge, never submitted the retirement papers.

Mr. MEADOWS. I understand, but in your mind, you went to the retirement party, I think, didn't you?

Mr. PERCIASEPE. Yes.

Mr. MEADOWS. So how could you justify going to his retirement party and then making—him getting a retention bonus to make sure that he stayed retired? I mean, what is it?

Mr. PERCIASEPE. This is—this is the change I have made in the system.

Mr. MEADOWS. I am not asking about the change. I mean, how could you have not seen that?

Mr. PERCIASEPE. I don't see his paycheck. I don't see his time sheet.

Mr. MEADOWS. But you had to sign off on it, on the retention bonus.

Mr. PERCIASEPE. Thirteen years before.

Mr. MEADOWS. I understand 13, but—

Mr. PERCIASEPE. It would have been my assumption that it had expired 10 years earlier.

Mr. MEADOWS. So you manage by assumption?

Mr. PERCIASEPE. Well, there's 17,000 employees. I am not looking at their paychecks.

Mr. MEADOWS. All right, I yield back.

Thank you for the indulgence, Mr. Chairman.

Chairman ISSA. [presiding.] I thank the gentleman.

Have we completed the first round?

Okay, we will now go to the gentleman from South Carolina. I think he's the last—

Mr. CHAFFETZ. Mr. Chairman, a point of inquiry for a moment. I just wanted to indicate to the chair that I was hopeful that we would have a second round. I would like an opportunity—

Chairman ISSA. We will have a short second round. It's the chair's intention to get out of here at close to 12:30 as possible.

Mr. Perciasepe, you had originally wanted to leave at 12:30, but we had said it might take a little longer. We will get you out close to it.

Mr. PERCIASEPE. Mr. Chairman, I am at your disposal.

Chairman ISSA. Okay, then, moving along, the last questions on the first round, the gentleman from South Carolina.

Mr. GOWDY. Thank you, Mr. Chairman, just initially, I wanted to make the observation, Mr. Chairman, according to the percentage report, Mr. Beale is looking at between 30 and 37 months in Federal prison for about a \$900,000 loss.

You get more time in prison for that for—than that for stealing a six pack of beer if you threaten you have a weapon, which you really don't have. You get more time in prison for that for a very small amount of certain controlled substances.

Even though he refused to answer our questions, Mr. Sullivan, did you interview Mr. Beale?

Mr. SULLIVAN. My staff did, sir.

Mr. GOWDY. Did you advise him of his Fifth Amendment right?

Mr. SULLIVAN. At the time of the interview with him, it was with counsel. It was in the U.S. Attorney's Office proffering, and it was not necessary—it was per written agreement that he would cooperate with us.

Mr. GOWDY. All right. You had an agreement with him that he would cooperate. Did that agreement also include that he would cooperate with other entities that were investigating wrongdoing?

Mr. SULLIVAN. At the time the agreement was—the proffer meaning, and it was up to the U.S. attorney whether he would accept it or not. It was a limited agreement.

Mr. GOWDY. Well, he is getting a three level reduction in his guideline range for cooperation. That's super acceptance of responsibility. And yet this morning, he wouldn't answer is single one of Chairman Issa's questions. So I guess my question is, is anyone going to go before the district court judge and make sure he or she knows that Mr. Beale wouldn't even answer this branch of government's questions? He answered—you can't plead guilty without waiving your Fifth Amendment privilege. So he waived it for the judge, and he waived it for the executive branch when you wanted to talk to him or when the U.S. attorney wanted to talk to him, but he wouldn't waive it for Darryl Issa when he wanted to talk to him. Can I rest assured that the sentencing judge will be made aware of that?

Mr. SULLIVAN. What we will do, Mr. Gowdy, is we will brief the attorney AUSA on the case, and we will bring your concerns forward to the U.S. attorney assigned to the case.

Mr. GOWDY. I just find it stunning that you would want to avail yourself of the maximum departure from the guidelines that you could get for acceptance of responsibility and still sit here and not answer a single solitary question from a coequal branch of government.

Ms. Maloney asked a question that I thought it was an extremely good question. Actually, she asked a bunch of really good questions, but I never heard an answer to this one. Is there a policy or procedure in place to investigate conflicts of interest between those who approve bonuses and those who receive bonuses? Not all at once.

Mr. PERCIASEPE. The only requirement I know of, Congressman, is a financial disclosure requirement of all the senior officials.

Mr. GOWDY. So, in theory, Mr. Brenner could be approving financial bonuses or other financial incentives for someone that he has a financial stake in whether or not they get more money, is that within the realm of the possible, because it certainly sounds like that's what went on.

Mr. PERCIASEPE. I am not going to speculate on what's possible, but—

Mr. GOWDY. Why not?

Mr. PERCIASEPE. Because I am going to wait to read what the IG investigative report—

Mr. GOWDY. Well, if you are not going to speculate on what's possible my next question is this, if Mr. Chaffetz or Jimmy Jordan told Chairman Issa that they weren't going to be here for a couple of weeks because they were CIA operatives, how would Mr. Issa go about verifying whether or not—I want to be very clear, to date, neither Mr. Chaffetz nor Mr. Jordan have alleged that they are CIA operatives—but if that were to happen, how would Mr. Issa go about investigating whether or not that was true?

Mr. PERCIASEPE. I can't answer that.

Mr. GOWDY. Well, the next person who claims it in your agency how will you go about investigating whether it's true?

Mr. PERCIASEPE. Under the current rules, as Mr. Sullivan pointed out, if there is an interagency relationship with that agency, the general counsel and the head of the agency would know.

Mr. GOWDY. So, what, a phone call?

Mr. PERCIASEPE. I don't know what the process is.



Mr. GOWDY. Is that what we are talking about, Mr. Sullivan, a phone call to verify whether or not someone really is a secret agent with the CIA?

Mr. SULLIVAN. Well, I testified earlier, sir, that in 2008, a new directive came out; I think it was Intelligence Directive 304, which requires the Director of National Intelligence to inform the head of an agency and the agency's general counsel if one of their employees is working undercover for the CIA.

Mr. GOWDY. Mr. Sullivan, I appreciate that. And it really doesn't matter whether you are a new Earth guy or an old Earth guy, but 2008 just seems a little late to be figuring out that with one phone call, you can decide whether or not someone claiming to be a spy and traveling first class and racking up \$900,000 in unwarranted compensation really does work for another agency. I mean, look, I understand technology has progressed a lot; 2008 just seems a little late for to us figure that out. There was nothing in place prior to that?

Mr. SULLIVAN. Well, sir, clearly the officials at the time, going back to the 1990s through the 2000s, could have checked his story; no one did. It took us in the IG about a week, using our contacts at the CIA to positively confirm he had absolutely no relationship with the CIA. We were able to determine early on he has never had a security clearance. So, right now, when he was an employee, he was not allowed to see classified material, because there was no security clearance on file with the EPA office of security.

Chairman ISSA. I thank the gentleman. I just want to hear one more time, since 2008, the head of each agency is given a list of anyone who is a clandestine agent working under their cover.

Mr. SULLIVAN. That's my understanding, Mr. Chairman, from an Intelligence Directive 304. It's on the Internet, and it pretty much explains the requirement of the Director of National Intelligence and the CIA to inform executive branch agencies.

Chairman ISSA. So Secretary Clinton would know every one at the State Department and her deputy would know everyone who was CIA implant. The EPA directors, each of them—or administrators, each would have been given this information. So if the administrator had even one person who was embedded, they would know that. We don't need to know if they had one, but if any agency had an embedded CIA person, they would have, in fact, had a list, and he would not have been on it, since 2008.

Mr. SULLIVAN. That's right. That's my understanding, Mr. Chairman,

Chairman ISSA. Well, I share with the gentleman from South Carolina his outrage, but 2008 was a long time ago, too. I seem to remember George W. Bush was President then.

Mr. GOWDY. I defer to the chairman's recollection.

Chairman ISSA. With that, we go to the gentleman from Maryland.

Mr. CUMMINGS. I understand that Mr. Beale's fraud was initially uncovered by the EPA current Administrator Gina McCarthy back when she was assistant administrator of the Office of Air and Radiation. Is that right? Is that correct?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. I understand that the Administrator McCarthy started asking questions about Mr. Beale's employment status after she discovered that Mr. Beale was still being paid many months after she had attended his retirement party. Is that right?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. Mr. Sullivan, I understand that your investigators interviewed the administrator. Is that right?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. At the time that the Administrator McCarthy started asking questions about Mr. Beale's status, can you tell us whether she believed that Mr. Beale was a CIA agent, and why did she think that was the case, if she thought that was the case?

Mr. SULLIVAN. Yes, she most definitely thought Mr. Beale worked for the CIA. When she was confirmed by the Senate and was—had her in-briefing in 2009, she was told she had a member of her staff who was on the CIA, and that was Mr. Beale, and indeed, when she met Mr. Beale, he told her he worked for the CIA.

Mr. CUMMINGS. So who would have told her that?

Mr. SULLIVAN. It was during her in-briefing process. She couldn't recall exactly who told her, but she remembered distinctly being told that during the in-briefing process.

Mr. CUMMINGS. So it would not be unusual for somebody coming in to be confirmed in a position comparable to hers to be told that you have got somebody here that's with the CIA or any other agency?

Mr. SULLIVAN. Yes, sir. She assumed that was part of the regular process, that's what she was briefed on.

Mr. CUMMINGS. Now the inspector general has criticized the EPA for not referring Mr. Beale to him earlier. Mr. Perciasepe, can you tell us why there was a delay in the referral to inspector general, what was EPA doing during that period, and why did it take so long? It's kind of crucial because I am seeing where some of the questioning is going, and I think they are fair questions, and if you have an answer, I want to know the answer.

Mr. PERCIASEPE. Well, I can give you an explanation. When Assistant Administrator McCarthy, who I want to point out, once again, no one ever questioned this for over a decade, questioned this, the first thing she wanted to do and the first thing she wanted to see was whether or not this person had any of these relationships that are being discussed. So she asked the general counsel and the Office of Resource Management, where our personnel folks are; they asked the Office of Homeland Security, who has relationships with the intelligence community. And when nothing could be found there, I think it was quickly confirmed and then quickly, as Mr. Sullivan just mentioned, it was quickly referred to the inspector general. That is what happened. Those are facts, that is what happened. There was no—there was absolutely no attempt to go around the IG at all. It wasn't only an attempt to verify the story. And once it was not verifiable, then it became a matter that needed to be investigated.

Mr. CUMMINGS. Now, Mr. Sullivan, I know that the Inspector General's Office has criticized the EPA for referring Mr. Beale's case to the IG's Office no sooner. We fully support the IG's efforts,

so I want to give you a chance to explain in more detail why this was a problem.

Mr. SULLIVAN. Mr. Cummings, it was a problem because Mr. Beale, based on the evidence that—based on the suspicions given to us on February 11th, it was clear to us there was a lot of evidence pointing to massive fraud against the agency. And a lot of this evidence was available, should have been referred to us much, much earlier. Specifically, the problem we had with Department of Homeland Security, the gentlemen or representatives of that office interviewed Mr. Beale twice and had three other contacts with him. And that's basic 101 in law enforcement investigations; you never interview the target of the investigation until you have all your facts in a row. And our investigation was severely hampered because Mr. Beale was alerted—

Mr. CUMMINGS. He had a heads up.

Mr. SULLIVAN. Exactly.

Mr. CUMMINGS. And finally, just to give credit where credit is due, this fraud had been going on for decades under both Republican and Democratic administrations. Is that right?

Mr. SULLIVAN. That is correct, sir.

Mr. CUMMINGS. But it was Administrator McCarthy who finally exposed it. Is that right?

Mr. SULLIVAN. To my knowledge, Ms. McCarthy was the first person, executive at EPA that ever questioned Mr. Beale's relationship to the CIA.

Mr. CUMMINGS. And so you credit her for exposing it. Is that right?

Mr. SULLIVAN. Yes, sir.

Mr. CUMMINGS. In your opinion, is it possible that this fraud could have gone undiscovered if it were not for Administrator McCarthy's actions? That's my last question.

Mr. SULLIVAN. I think it's highly likely had it not been Ms. McCarthy raising the alarm, this never would have been discovered.

Mr. CUMMINGS. So Beale would even still be getting money, big time.

Mr. SULLIVAN. Yes, sir.

Chairman ISSA. If I could follow up on the gentleman very briefly, because it is the same exact question, slightly differently. If Mr. Beale had simply retired and not tried to get greedy and keep taking a full paycheck, he also would never have been discovered because he would have been gone for over a year before the administrator would have even thought to ask. Is that right?

Mr. SULLIVAN. That is 100 percent correct, Mr. Chairman.

Chairman ISSA. So is that the old "pigs get fat, hogs get slaughtered." I guess we should be happy he was that greedy.

We now go to the gentleman from Utah, Mr. Chaffetz.

Mr. CHAFFETZ. I thank you, Mr. Chairman, I appreciate it.

Mr. Perciasepe, I hope I am pronouncing your name properly. When did—

Mr. PERCIASEPE. Just pretend an "h" after the "c."

Mr. CHAFFETZ. Thank you.

When did you—you said that the first time you had heard about it, there was some scuttle or some discussion with senior administrators about Mr. Beale, when did that happen?

Mr. PERCIASEPE. Some time in 2012, the idea of trying to find out what the real arrangements were here.

Mr. CHAFFETZ. So can you give me—2012, is it the beginning year, spring, beginning of the year, fall?

Mr. PERCIASEPE. It wasn't at either end, so it must have been somewhere in the middle. Probably—

Mr. CHAFFETZ. So—probably when?

Mr. PERCIASEPE. I was going to say probably say that it was probably more than the middle of the year, but I don't really know.

Mr. CHAFFETZ. Okay so June, July-ish, is that fair? Okay, middle of the year. And Ms. McCarthy was aware of that as well? Gina McCarthy was aware of that as well?

Mr. PERCIASEPE. That—the conversation was about—the conversation was about whether or not we should proceed with trying to figure out—not whether or not, but that she was going to proceed and I encouraged her to proceed to find out what was going on.

Mr. CHAFFETZ. So, at the middle of 2012, you encouraged her to proceed to figure out whether or not this is accurate.

Mr. PERCIASEPE. I was agreeing with her.

Mr. CHAFFETZ. You were agreeing with her.

Now, go back. If you could put back up slide 4D.

The date on this is March 2011, pull out here. This is from Mr. Beale to Gina McCarthy, you mentioned—and so he is sending his notes back to her via email: "You mentioned the meeting you have with Intel, et cetera, tomorrow. Do you want to see if I can break away from Langley to attend that meeting with you? I am not sure, but I will try if you want."

So it's out there. He is perpetuating the myth that he is at the CIA. By mid-2012, Gina McCarthy knows about it. He directly reports to Gina McCarthy. You are encouraging Gina McCarthy to pursue this. But it's not until spring or until late winter—it's in the January or February, March, time frame of 2013 that she actually inquires about this, and the IG is telling us they figured it out in a week.

I don't understand it, again, Mr. Chairman—this why I think why I think we need Gina McCarthy here—why it took her 8 months, at least, if not more; it looks like she had known about this for a couple years. It's her direct report. And remember, Mr. Chairman, during this time, he is never even showing up to work. The guy didn't show up for years, not a single day, and he's being paid at a pay level above and beyond what is allowed by statute. I think she has at least some responsibility and some questions to answer.

Now—my time is short, I'm sorry. Mr. Brenner, what was the purchase—when you bought the home with Mr. Beale back in the early 1980s, what was the purchase price?

Mr. BRENNER. I am sorry, I don't remember what.

Mr. CHAFFETZ. Can you please put the microphone on? You'd think you would have that by now.

Mr. BRENNER. I am sorry, I don't remember the purchase price of the home.

Mr. CHAFFETZ. Come on. You don't have any clue what the purchase price of that home was. What was the selling price?

Mr. BRENNER. And I don't remember the selling price.

Mr. CHAFFETZ. When did you sell that home?

Mr. BRENNER. All I remember is it was done at market value. Mr. Beale purchased my share of the house.

Mr. CHAFFETZ. How much did he pay you for that house?

Mr. BRENNER. He paid me somewhere on the order of \$30,000 or \$40,000.

Mr. CHAFFETZ. So your original purchase price, you have no idea, and you don't know what the sale price is, but he wrote you a check for \$30,000 or \$40,000. When did you get that \$30,000 or \$40,000?

Mr. BRENNER. I am sorry. I misunderstood your question. You asked about the price of the house. The portion that I put into the purchase of the house was somewhere around \$10,000 in 1983 or 1984, somewhere in there. And then, when Mr. Beale decided to purchase my share of the house, it was for a number like \$30,000 or \$40,000 about 14 years later.

Mr. CHAFFETZ. So you get \$30,000 or \$40,000 from this person. Are you still friends?

Mr. BRENNER. We are.

Mr. CHAFFETZ. When's the last time you saw him, besides today?

Mr. BRENNER. I have seen Mr. Beale periodically over the last—well, actually, I have seen him a lot over the last 2 weeks because when he left the hospital after his throat problems, because he had rented out his house in Arlington, he's staying in my guest room now.

Mr. CHAFFETZ. Mr. Chairman, this is just an unbelievable story. I yield back.

Chairman ISSA. I thank the gentleman.

Mr. CUMMINGS. What did you say? Beale is staying—wait a minute. I just—I know I didn't hear that. Beale is staying in your guesthouse?

Mr. BRENNER. Mr. Cummings, Mr. Beale needed a place to live in the area as he goes through these court proceedings, and his house that he had is rented out. And so—

Mr. CUMMINGS. You mean this is the guy that just paid the Federal Government \$850,000-some. He didn't have no place to go? And he's about to pay another \$500,000-some. He didn't have anyplace to go, so he came to you?

Mr. BRENNER. That's correct, that he is—I agreed that he could stay in our guest room when he has either court proceedings, hearings, medical issues in the area.

Mr. CUMMINGS. Are you married?

Mr. BRENNER. I am.

Mr. CUMMINGS. Your wife agreed to that?

Mr. BRENNER. Yes, she did.

Mr. CUMMINGS. Okay.

Chairman ISSA. You have a very understanding wife.

Mr. BRENNER. I do.

Chairman ISSA. The gentlelady from New York.

Mrs. MALONEY. Thank you. Thank you.

Mr. Elkins and Mr. Sullivan, would you look into the house since Mr. Brenner can't remember what he paid for it, when he sold it, the money involved? Could you get us a report on the house arrangement?

And I want to look to the timing on the house. There appears to be a discrepancy in the testimony that I was reading from you. The IG has testified that you owned the house together until 1999, and I believe that you said you owned the house together until 1989. I want to give both of you a chance to explain the discrepancy in your testimonies.

How long did you own the house together? Did you own it until 1999 or 1989?

Mr. BRENNER. I think I just said that it was about 14 years later. So my recollection is the late '90s. If I said late '80s, that's not consistent with the 14 years.

Mrs. MALONEY. Okay. Then you have cleared that up.

Well, Mr. Brenner, do you think that you had a conflict of interest in your recommending Mr. Beale to be hired to work in your department in 1989, as he owned the house together with you?

Mr. BRENNER. I do not think I had—

Mrs. MALONEY. Why not?

Mr. BRENNER. —a conflict of interest. Because the way the process works is I could go through the process of recommending that Mr. Beale be rehired—be hired, but there are several reviews that needed to occur throughout the—

Mrs. MALONEY. But you recommended him as he was living in the house with you. And you say you didn't know that he was lying about the CIA, about everything else he was doing.

Mr. BRENNER. We were not living in the house at the—

Mrs. MALONEY. Well, you said—you recommended him, I believe, in 1989. And I think you testified you bought the house in 1983 and that he paid you \$30,000 for it. So you were involved in the house together. We'll get Mr. Sullivan to get the information, and Mr. Elkins on this, exactly how it happened. But you saw no conflict of interest.

Well, did you see a conflict of interest when you were recommending him for a retention bonus, the bonus for which he didn't show up for work for 2-1/2 years? Did you see any conflict of interest when you were recommending for the retention bonus?

Mr. BRENNER. When I recommended Mr. Beale for the retention bonus, as I think both Mr. Sullivan and Mr. Perciasepe have mentioned, he had an outstanding record during the 1990s as a civil servant at EPA. And those recommendations were based on a record that was then reviewed by others—

Mrs. MALONEY. What was his title? What was his title at EPA?

Mr. BRENNER. I believe it was a senior policy analyst. And then in the year 2000 he—

Mrs. MALONEY. If he was a senior policy analyst, I'd like to see what reports he gave the EPA. What did he analyze? I'd like to see it.

Mr. Sullivan, Mr. Elkins, could you get us a report on what was his outstanding work and why did he receive a gold medal? I want to know, did he do anything—what did he do? I want to see his re-

ports. We have policy analysts that work for us. They do a great job; they deserve their pay.

I want to see what this scam artist, who got away with a parking lot for \$18,000 that he didn't deserve because he wasn't handicapped—and no one checked on him. And then he got a retention bonus that you recommended, which is documented that he didn't even work for 2-1/2 years. Then we know that he lied and said he was running around Pakistan doing CIA work, when he's down at your home resting and having fun. Maybe you were with him. I think that his times that he said he was working when he was at his joint home with you, we should get a report on it.

And I fail to understand why you think he deserved a retention bonus. Were you aware he didn't work for 2-1/2 years? Was he out at your house when he wasn't showing up for work?

Mr. BRENNER. At the time—I think you're talking about the period after he received the 2000 retention bonus. We no longer owned the house together. He was not with me at the house during that period.

And, as I said, the retention bonus is based on a solid record of achievement that is——

Mrs. MALONEY. But we know from your——

Mr. BRENNER. —laid out in my testimony——

Mrs. MALONEY. —prior testimony his retention bonus was based on fraud. You never checked to see if he had another job offer. You never called him. You never put in writing who it is. I'll ask for you now to place before the chairman who it was that he had this wonderful job offer.

But I'm concerned about—I think handicapped people are entitled to special treatment, but he abused the system, and I want to make sure other people aren't abusing it. He got an \$18,000 handicapped parking lot based on fraud.

And what are you doing to make sure that this abuse doesn't continue, Mr. Perciasepe? What are you doing to make sure that other people aren't ripping off the public and undermining respect for government?

Mr. PERCIASEPE. Well, on all the issues that the IG has already identified in their initial—in this part of the investigation, but not everything that they are going to recommend in their administrative recommendation, but on everything—on all the points they've made, we've already instituted initial additional controls.

Mrs. MALONEY. Okay. Can you present to this committee the additional controls that you've put in place in writing?

Mr. PERCIASEPE. Yes.

Mrs. MALONEY. And, Mr. Sullivan, you also in your report said that Mr. Beale claimed that he worked for the late Senator Tunney of California. Now, did anyone verify his employment history at—did anyone do a background check? He didn't work for Senator Tunney.

Mr. SULLIVAN. That's correct.

Mrs. MALONEY. So did anyone do a background check on him to make sure that what he was saying was true?

Mr. SULLIVAN. Well, that is part of the audit review. We had a very difficult time going back to 1988 and '89 when he was origi-

nally hired. Frankly, we don't know if EPA did any background check on Mr. Beale when he was hired.

Mrs. MALONEY. So, Mr. Brenner, did you ever check any of the information on his resume to see if it was true? Did you check any of the information, the Tunney claim and other stuff?

Mr. BRENNER. I would have, as part of the process, checked. Either I or people in the personnel office would have checked things that—

Mrs. MALONEY. Was that part of the requirements when you hired people, to check their resumes and make sure they are accurate? Was that part of the protocol?

Mr. BRENNER. Part of the protocol is either the hiring office or the personnel office would do checks. I don't remember—

Mrs. MALONEY. But, obviously, you didn't do them because Mr. Sullivan's report says you didn't do it.

And so, Mr. Sullivan, what changes do you suggest that the EPA implement to prevent a repeat of this type of problem, that a complete fraud comes in, rips off the government for \$800,000?

Another question I have: He has paid back the government \$800,000 and an additional \$500,000. Where is all this money coming from?

Mr. SULLIVAN. During the plea agreements between Mr. Beale's attorney and the U.S. Attorneys' Office, it was clear that he had those type of assets, that he could indeed repay the government the amount of money he signed in the plea agreement.

Mrs. MALONEY. Well, how did he have the income on a government salary to buy those kinds of assets? Who else was he working for?

Mr. SULLIVAN. I don't know that, ma'am, but I do know that he is married and his spouse is employed. So that is all I can say, ma'am.

Mrs. MALONEY. Okay.

I understand, Mr. Perciasepe, that the EPA has pledged to do everything possible to prevent these abuses. You have a tremendously important agency that is supposed to be protecting our clean air, our clean water, and it apparently was protecting a complete fraud, a complete fraud claiming he worked for the CIA, and no one even bothered to check whether he worked for the CIA. He is flying all around in first class, and he is getting all kinds of benefits and not showing up for 2-1/2 years.

So what are you doing to make sure this kind of fraud doesn't happen again?

Chairman ISSA. The gentlelady's time has expired. You may answer.

Mr. PERCIASEPE. Excuse me?

Chairman ISSA. You may answer.

Mr. PERCIASEPE. Okay. Thank you, Mr. Chairman.

We have—on travel, on use of parking spaces, on retention bonuses, on time and attendance, all of these things we have put additional controls in place. In part, some of the things we are learning, working with the IG on this case. But there are other reasons that the Agency needed to be updating these systems regardless.

So, whether it is enough, I think it is a good start. I think it is really—it will make a difference. It will make it very difficult for



anybody to do what happened here. But I do want to keep saying, because I believe this completely, that I know that the IG's office will be looking at what we have already done and what we are working on and what more might need to be done.

I think the combination of us doing commonsense, important things now to make sure we are in good shape and building on what their recommendations will be—and I hope to see their investigative report soon, which I have not—personally I have not yet seen, which might give me more insight. But I can assure the committee that I am aggressively going to pursue additional controls where necessary.

Chairman ISSA. I thank the gentleman.

We now recognize the gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Just for a question or two.

Mr. Brenner, I have to tell you, I was sitting here feeling kind of sorry for you earlier when you talked about basically how you had been betrayed by your friend. I have to tell you, though, my sorrow has turned into something else now because I am just wondering how much information you might have.

You know, the chairman and I had a colloquy about 2 hours ago now where we were talking about bringing Mr. Beale back after he is sentenced so we can get additional information so we could get to the bottom of some of this. But now I am wondering how much information you might have since you all are such good buddies and since he is laying in your house and since this is somebody who, apparently, based on your testimony, has betrayed at least your trust, but still you guys seem to be doing pretty good.

So I am wondering if there is any additional information that you might be able to help this committee with or help the IG with with regard to how some of this stuff may have happened so that we can make sure it doesn't happen again. Would you have information that might be helpful to us?

Mr. BRENNER. No, sir, I don't think I do because Mr. Beale and I have not been talking about this investigation, and—

Mr. CUMMINGS. How long has he been staying at your house? I mean, this most recent situation.

Mr. BRENNER. Since he came out of the hospital a couple weeks ago.

And as I said in my testimony, I am very disappointed and saddened about what has happened. And, yes, I am angry at Mr. Beale for that kind of behavior.

Mr. CUMMINGS. So, but all this time you all—you have never—you haven't discussed this case? You didn't say, "Man, you know, how did you do that? How did you pull that one off?" You never had that kind of discussion?

Mr. BRENNER. No, because once the investigation started off, it was clear from our attorneys, they told us we should not be talking to each other about the investigation. And, in fact, we avoided seeing each other for a long time. Only now when he—

Mr. CUMMINGS. But he was in your house.

Mr. BRENNER. And only now when he—no, I said the time at my house was just over the last couple weeks, not during the investigation.

Mr. CUMMINGS. I see. Okay.

All right. Thank you, Mr. Chairman.

Chairman ISSA. Thank you.

Mr. PERCIASEPE. I came out of the electronics business, and it hasn't changed a lot. When you go through ISO 9000, any of the other standards for quality control, they won't accept that if something doesn't get caught by one person, you put a second person on the line; they won't accept that you put a third person on the line.

How does this committee know that the steps that are being taken now—and this is also a question for the IGs—are automated? In other words, that they don't depend on somebody who, as in the past, simply had a rule and they didn't check or didn't enforce?

Thank you.

Mr. PERCIASEPE. Well, I think my initial work here, working with our personnel offices and some of the other offices that are covered by some of these policies, is to create automated output. We are still at a step, though, Mr. Chair, that a human will have to look at that output to verify. So there is an additional output of a printout, and then there is an additional eyes-on step.

I think we may need to do more in several cases—we may need to do more in several cases, but this was one that I could do now and get it done. And then I don't want to go too far down the road without—

Chairman ISSA. Sure.

Mr. PERCIASEPE. —further work with the IG.

Chairman ISSA. Well, I think for people in, sort of, the public audience, they can probably understand that if you took all of the year-to-date pay in your HR department and said, "Give me the grand total year-to-date on the last day of the year for every employee last year, and tell me anyone in the Excel spreadsheet that is above this number"—

Mr. PERCIASEPE. Yes.

Chairman ISSA. —which is the absolute number, Mr. Beale would have shown up.

Mr. PERCIASEPE. Yes, he would have.

Chairman ISSA. So is there an automated check—

Mr. PERCIASEPE. Yes.

Chairman ISSA. —even for that today?

Mr. PERCIASEPE. Yes. I have that now.

Chairman ISSA. Okay. Our committee had a document request, which is now overdue. Are you familiar with that document request, and will we receive it today?

It is one of those challenges where we do the hearing and then we get documents we would like to have had for the hearing.

Mr. PERCIASEPE. Yeah, I don't know the status of the document request. I do know there is one, though, Mr. Chairman.

Chairman ISSA. Okay. Well, we would appreciate it if you would follow up.

Mr. PERCIASEPE. I will follow up to make sure it is expedited.

Chairman ISSA. Before I go to the IGs, Mr. Brenner, have you ever received gifts of any type from Mr. Beale?

Mr. BRENNER. I cannot remember any gifts that I have received from Mr. Beale, unless it was some small gift at the time of a birthday or—

Chairman ISSA. We will exempt everything \$50 and below. Do you remember a gift above \$50 in value ever?

Mr. BRENNER. I don't remember anything like that.

Chairman ISSA. Did you pay him for your joint vacations, all of your share of the cost? Many of those occurred after you no longer owned the home, so that is why I am asking.

Mr. BRENNER. I don't remember how many might have occurred after I no longer shared ownership of the home.

And the agreement with the home was that, even after he had bought it back from me, bought back my share, that I would be able to visit from time to time. I think there have been very few visits, maybe two or three, since the time the home was repurchased from me by Mr. Beale.

Chairman ISSA. So your testimony today is you bought the home for approximately \$10,000, sold it a little over a decade later for about \$30,000, and had the right to use it for periodic vacations?

Mr. BRENNER. Those are my recollections of the numbers. I can't say for sure how accurate those numbers are, but that is what I remember.

Chairman ISSA. And I presume you didn't disclose that equity interest, that capability of taking a vacation without pay at his home?

Mr. BRENNER. I disclosed the mortgage during the years that it was required to show the mortgage on my disclosure form.

Chairman ISSA. So there was a mortgage on the home during the time the two of you owned the home that you bought it?

Mr. BRENNER. That is correct.

Chairman ISSA. So your going from \$10,000 to \$30,000 was an equity share? The home was not owned outright?

Mr. BRENNER. That is right.

Chairman ISSA. You received this \$8,000 VIP loan, or VIP discount, from somebody representing Mercedes-Benz or Daimler. Have you received any similar discounts during your career from any entity?

Mr. BRENNER. Nothing that I can remember, sir.

Chairman ISSA. Mr. Sullivan, Mr. Elkins, this is going to conclude this portion of the hearing. There have been a lot of claims made. I want to set a tone, and then I would like you to really represent the close, because it is your investigation and your work.

But I believe that what we have heard today is that we had an agency that didn't think anything of somebody saying they were a secret agent for the CIA but in unclassified emails—they would refer to their CIA activities in emails that were obviously not being sent in a protected way, so that when they say they are at Langley, if you are a covert agent, your email is now out in the open, and other things of that sort.

Somebody could ride their bicycle to work but have a handicapped parking space, and it didn't seem to bother anyone. Somebody could fly first class at 14 times the amount of coach, and it got overridden because somebody did a good job and/or they were at the CIA. And, by the way, I was on the Select Intelligence Committee. The CIA does not get to fly first class as the CIA.

All of these were in a culture at the EPA that preceded President Obama and continued, presumably, until January of this year. Is

that a fair characterization of some of the problems that can exist, not just with this individual, but with the nature of the Senior Executive Service sometimes being exempted from the rules because somebody thinks they have done a good job or there is some other reason to exempt them?

Mr. ELKINS. The facts in this case speak for themselves, and I think your characterization is clearly one assumption that could be drawn.

Chairman ISSA. And I am doing this really for Mr. Perciasepe, who talks about 14,000 people at the EPA. Thirteen thousand five hundred of them have no idea how you get any of these perks—maybe 13,550, 600, 700. There has to be a very few people at the EPA that have ever seen any set of perks similar to what Mr. Beale got in the way of a lack of accountability. But it did exist, and it appeared to exist at this top strata, just as at the GSA when somebody was taking trips to Las Vegas and cobbling together or at some of these other agencies, where it is not the person at bottom. It is not even the person at the middle. It is these people that we trust most to be fiduciaries of our money.

And that is part of the reason that we called out Mr. Beale and had him here. He is in that top three people reporting directly to the Administrator for years. Isn't that a fair statement?

Mr. ELKINS. That is what the facts show, yes.

Chairman ISSA. Okay.

Mr. Sullivan, I am going to ask you just one thing, and your lieutenants. You took an investigation on after a series of events had occurred. Mr. Beale was made aware that he was obviously a target and that the jig was up. A general counsel outside of EPA had been contacted and had begun doing activities that rightfully would normally have been yours.

Did this—even though you were successful, is this the kind of thing that compromises the work of the IG?

Mr. SULLIVAN. Well, in this case, our work was clearly harmed, at least initially harmed. We were able to recover. We get very concerned whenever allegations of criminal activity are not referred to us immediately.

Chairman ISSA. Okay.

I am going to close with just one statement, and I hope that I will—

Mr. CUMMINGS. I have one.

Chairman ISSA. Okay, and then Mr. Cummings will make a last statement, too. But I hope I am speaking for Mr. Cummings and myself both.

This kind of event, where abuse of discretion, abuse of the taxpayers' money, very likely criminal—and, of course, this one turned out to be criminal—when these first occur and there is any possibility that what you see in your lane—and although your lane is broad, it is still about 1/74th of the government—I have sent letters, Mr. Cummings has been involved in this, saying, "We need a heads-up," the chairman and the ranking member, and over in the Senate our counterparts, so that we can begin evaluating whether or not, in these months that intervene in your investigation, we need to take action.

And I would only ask you today to remember that, had this committee had input into some of these details and the lack of control systems, our committee could have begun working on either legislation or oversight many months ago. And that is what we ask you for, is to give us a heads-up.

And I will pledge to you today, and let Mr. Cummings speak for himself, but for both of us, that when that information needs to remain only with the chairman and ranking member, it will remain only with the chairman and ranking member.

But IGs were created by Congress to be eyes both to the executive branch and to this branch. And, in this case, we could have done more sooner, which we will now do, had we been given a heads-up sooner. And this has been a pattern that Mr. Cummings and I have tried to change.

Tell us at the beginning of an investigation that lasts 10 months so we can start looking—something you can't necessarily easily do—at 73 other IGs and see if we can get them looking at the same problem.

And, you know, we are working on IG modernization and reform, and we want to formalize some of this. But for right now, a heads-up to us and our Senate counterparts can really go a long way. And I am just saying this for you and all of your brothers and sisters in the IG community.

Mr. Cummings?

Mr. CUMMINGS. Just one thing.

What is the deadline—I mean, you may have said this earlier, but when do you expect to be finished your work, Mr. Elkins? Because I am just wondering how long this is going to go on.

I am not trying to rush you, but I want to have some kind of idea, because my next question is for Mr. Perciasepe.

Mr. ELKINS. Sure. I want to answer that question in maybe two parts.

A typical audit could take us anywhere from 6 months to a year. It depends on what we find once we pull back the sheets.

However, though, we have a vehicle which is called an early warning report or quick action report. And to the extent that we find instances that suggest an extreme risk to the agency, we will issue a report quickly to the agency. And we have done that in the past with EPA so that they can react to it quickly. So—

Mr. CUMMINGS. Is that the kind of information that the chairman and I would get quickly, like you—

Mr. ELKINS. Oh, yes, absolutely.

Mr. CUMMINGS. Okay. All right. Go ahead.

Mr. ELKINS. We can make that happen.

Mr. CUMMINGS. You said there are two parts.

Mr. ELKINS. That—the first part is the regular audit, which is about—

Mr. CUMMINGS. I see.

Mr. ELKINS. —6 months to a year, and the second part is the quick action report.

Mr. CUMMINGS. Mr. Perciasepe, I have to tell you, as I have listened to the testimony, I am not sure that we have—I know you are waiting for the work to be completed, but I am not sure that we have in place right now and we have done all that we could do

in EPA to prevent this type of thing from happening. I know you need more information; I got that.

Mr. PERCIASEPE. I am happy to give the committee more information. I believe, based on what I currently know, that we have put in enough checks and balances and additional controls, with the provisos I gave to the chairman earlier that there still will be a requirement for another set of eyes on a couple of these, that something like we are talking about today couldn't happen in the way that we are talking.

Mr. CUMMINGS. Do we know whether we have anybody else in your agency who is allegedly doing this dual kind of agency—

Mr. PERCIASEPE. Well, we have people in the Agency that are working at other agencies or that were sharing their salary, no overlap, but sharing—

Mr. CUMMINGS. I am praying that this is just an aberration. But, you know, a lot of times people will say, well, you know, Beale is doing it, and then they say, well, how did he do it, and then you have some copycats. Again, I assuming that is not the case.

Mr. PERCIASEPE. Well—

Mr. CUMMINGS. But a lot of times people will look and they will say, well, you know—and \$900,000 is not a little bit of money.

And then I think people—and I think the chairman was alluding to this—people begin to find holes in a system. And when I practiced law, I found that you could have any kind of law but people find a way to get around it. And if they find out that there is somebody that is doing it and has a way of getting around it, a lot of times, you know, people who are inclined to do that—

Mr. PERCIASEPE. Right.

Mr. CUMMINGS. —then they begin to follow.

So I am just—so we are waiting for the audit. And we want a thorough job, and so—I got that. But I want to make sure in the meantime we are covering our bases.

Mr. PERCIASEPE. I want to make sure both of you know, and the whole committee through you two, that I am not waiting, but I am not going to go too far—I am going far enough to make sure that I can catch this, but I don't want to go too far until I see more of their work. And I may see that sooner than later. Because, as I pointed out, we talk not infrequently, and I feel like I have a pretty good working relationship here.

So, you know, I am as appalled as anybody that this could have happened. And we have already put in place some quick checks to make sure we are there. We will probably need to do more. I would be remiss if I didn't say that.

Mr. CUMMINGS. And so I am hoping, Mr. Chairman, that other IGs that are watching this, that they might take a look at some things that may be going on in their various agencies. I think that we have gotten some clues of red-flag types of things that may happen, and I am sure that you all will be open to letting those other IGs know what kind of red flags, you know, they might be looking for.

Is that a reasonable request, Mr. Elkins?

Mr. ELKINS. That is a fair request, yes.

Mr. CUMMINGS. Okay.

Again, I want to thank all of you for your testimony.

Mr. Chairman, I agree with you, we do need to have as early notice as we possibly can. I think it would be very helpful, and I am in total agreement.

We are just trying to be effective and efficient in what we do. And I think the hearing has been very revealing. And hopefully, you know, we won't be in this same position a year from now, not having made all of the changes that need to be made to safeguard the people's money.

Thank you very much, Mr. Chairman.

Chairman ISSA. I thank you.

And in closing, I will be speaking to my leadership about the DATA Act, something that would create structured data so that the entire government could be viewed from a standpoint of some of these statutory requirements that we keep seemingly discover somehow could just be bypassed without an audit picking it up.

So, with that, I thank you again, and we stand adjourned.

[The information follows:]

[Whereupon, at 1:06 p.m., the committee was adjourned.]





## **APPENDIX**

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MATERIAL SUBMITTED FOR THE HEARING RECORD

*Beutovich, Kerry MI-11 Oct 1, 2013*

"Secret Agent Man?"

Chairman Issa, Ranking Member Cummings and Members of the Committee:

*Thank you*

1. I've been in Congress almost 10 months. By far the most frustrating thing is coming to these hearings and having federal employee after federal employee tell us they didn't know something was going on; or it wasn't their responsibility to deal with the problem; or my favorite, how issues are found by Inspector Generals with recommendations that are rarely implemented.
2. Its become quite clear to me that although there are some exceptional federal employees, there is also a culture of entitlement that has gone on far too long. No wonder the American people are fed up with all of us. I'm fed up!
3. It's the same story over and over again: do wrong, wait until you get caught, then retire with full benefits.
4. This behavior would not be tolerated in the private sector, and it surely is not tolerated by the hard working people of the 11<sup>th</sup> district of Michigan.
5. For the record, I also want to apologize to the hard working employees of the EPA who have come to work every day and have done their jobs. How frustrating it must be for them to know some can do what they want, when they want, and get a bonus out of it.
6. Leadership starts at the top. Our government is out of control. This is sadly just another example of what happens when government becomes too big with little to no accountability.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

|                                 |   |                                             |
|---------------------------------|---|---------------------------------------------|
| <b>UNITED STATES OF AMERICA</b> | : | <b>Criminal Number:</b>                     |
|                                 | : | <b>Violation:</b>                           |
|                                 | : |                                             |
| <b>v.</b>                       | : |                                             |
|                                 | : |                                             |
| <b>JOHN C. BEALE</b>            | : | <b>18 U.S.C. § 641 (Theft of Government</b> |
|                                 | : | <b>Property)</b>                            |
| <b>Defendant.</b>               | : |                                             |

**STATEMENT OF THE OFFENSE**

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant John C. Beale ("BEALE") and the United States agree and stipulate that, at all relevant times:

## INDIVIDUALS AND ENTITIES

1. From approximately in or around 1989 until April 30, 2013, BEALE was employed by the United States Environmental Protection Agency ("EPA").
2. At the EPA, BEALE was assigned to the EPA Office of Air and Radiation ("EPA-OAR"), a division of the EPA responsible for the development of national programs, policies, and regulations designed to control air pollution and radiation exposure. For much of his time at EPA, BEALE was a Senior Policy Advisor. BEALE's specific duties within EPA-OAR included assisting the Assistant Administrator of EPA-OAR in planning, policy implementation, direction, and control of EPA programs.

3. While working at EPA-OAR, BEALE attended and participated in several international conferences regarding air quality issues. Many of these conferences were held in foreign countries.

4. On or about August 23, 2000, BEALE received a promotion to Senior Level ("SL") employee, making BEALE among the highest paid, non-elected federal government employees.

5. In or around June 2000, BEALE received authorization and was awarded a 25% Retention Incentive Bonus for three years. The purpose of the Retention Incentive Bonus was to ensure BEALE continued to work at EPA-OAR, rather than leave the federal government and seek employment elsewhere. The Retention Incentive Bonus was supposed to expire after 2003, but BEALE nevertheless continued to receive the Retention Incentive Bonus through 2013.

#### **Fraudulently Obtained Parking Benefits**

6. In or around January 2002 BEALE claimed that because he had contracted malaria while serving in the U.S. Army in Viet Nam, he needed a parking spot within EPA's Ronald Reagan building. BEALE was awarded a parking spot due to his claimed medical condition, and the EPA subsidized the payment for the parking spot at a rate of approximately \$200 per month.

7. BEALE never served in Viet Nam and never contracted malaria. BEALE maintained and used the parking spot at the Ronald Reagan building until on or about June 1, 2005, at a cost of approximately \$8,000 to the EPA.

#### **Unauthorized Absences**

8. Beginning in early 2000, BEALE began to take approximately one day a week off of work. BEALE did not submit request for annual leave for this time, and did not inform his supervisors as to the reason for his absences. Rather, BEALE included weekly entries on his EPA electronic calendar that BEALE titled "DO oversight." This entry intended to identify

those days that BEALE was purportedly working at the Central Intelligence Agency ("CIA"), Directorate of Operations.

9. Sometime in 2001, BEALE had a meeting with EPA MANAGER # 1 and told EPA MANAGER # 1 that he had been, and would continue to be, out of the office approximately one day a week, during which time BEALE would be working at the CIA. BEALE told EPA MANAGER # 1 that he was assigned to an inter-agency, special advisory group working on a project with the Directorate of Operations at the CIA. EPA MANAGER # 1 agreed to BEALE's request.

10. Thereafter, BEALE continued to include weekly entries on his EPA calendar that BEALE titled "DO oversight." Starting in approximately 2000 until in or around June 2008, BEALE took approximately 102 days off under the auspices of his work for the CIA. For these days, BEALE never submitted a request for annual leave or sick leave. BEALE simply did not show up to work at the EPA-OAR on days he claimed he was working at the CIA, yet still received his EPA salary as if he had performed his EPA-assigned duties for each of those days.

11. In or around June 2005, BEALE discussed a long-term research project with EPA MANAGER # 1. EPA MANAGER # 1 approved, BEALE proposed research project, despite the fact that it contained no internal controls or oversight

12. Between 2005 and 2007, BEALE took approximately five trips to Los Angeles, California, purportedly for work on the research project. While in California, BEALE stayed in Bakersfield and visited family members who lived nearby. For the five trips, BEALE was reimbursed by the EPA in the amount of \$57,235. BEALE did not need to travel to California to work on the research project, which could have been done at his home or at his office at the

EPA. BEALE used the research project as the means to have the EPA pay for his personal travel.

13. BEALE never produced any written work product regarding the research project and the research project was never completed.

14. In June 2008, BEALE failed to report to the EPA offices for approximately six months. BEALE told EPA managers and employees that he was either working on the research project or spending time working for "Langley." Using these excuses, BEALE was absent from the EPA from in or around June 2008 through in or around December 2008 and never submitted a leave request for this time. During this lengthy unexcused absence, BEALE continued to receive his EPA salary.

15. From in or around January 2010 until in or around May 2011, BEALE failed to report to work at the EPA on approximately 9 days, claiming that he was working with the CIA for those days. BEALE never submitted a leave request for these days, but was paid his salary as if he had performed his EPA-assigned duties.

16. In or around May 2011, BEALE announced that he was retiring from the EPA.

17. In and around June 2011, BEALE informed EPA MANAGER # 2 that his work at the CIA would require him to be out of the EPA office for extended periods of time. Without ever receiving approval or submitting a request for leave, from in or around June 2011 until in or around December 2012, BEALE did not come to work at the EPA. During that time, BEALE sent several emails to EPA MANAGER # 2 and others at the EPA claiming that he could not come to work because of his CIA matters. In several of these emails, BEALE stated that he was away on international travel, but was in fact in the Washington, D.C. metropolitan area or at his vacation home in Truro, Massachusetts.

The "Retirement" Cruise

18. On or about September 22, 2011, BEALE and two other long-term EPA employees celebrated a retirement party on a dinner cruise on the Potomac River. Several high ranking EPA managers attended the party, including EPA MANAGER # 2. Following the party, EPA MANAGER # 2 believed that BEALE had retired, and EPA MANAGER # 2 did not see BEALE at the EPA offices after the party.

19. On or about November 11, 2011, BEALE told EPA MANAGER # 2 that he would be using the remainder of his annual leave for approximately two months and would be officially retired from the government sometime in January or February, 2012.

20. In or around April 2012, EPA MANAGER # 2 inquired about BEALE's retirement status with EPA human resources managers.

21. In or around November 2012, EPA MANAGER # 2 discovered that BEALE's time and attendance records were still being approved and BEALE was still receiving a paycheck from the EPA. As a result, EPA MANAGER # 2 learned that despite his announcement and participation at the retirement party, BEALE had not retired and was still an EPA employee.

22. On or about November 6, 2012, after EPA MANAGER # 2 asked BEALE about his employment status, BEALE responded in an email stating "I just got back into the country from a too long trip yesterday and tonight's outcome will have a significant impact on those 'Plans' of mine." Contrary to BEALE's claim that he was out of the country, BEALE never left the United States in or around November 2012.

23. On or about November 30, 2012, BEALE informed EPA MANAGER # 2 that "[t]oday is my last day of what I consider substantive work in the government. I still have to

spend some time . . . out processing and being debriefed . . . I will have a much better idea of how long this will take after I . . . get briefed on the debriefing process.”

#### Conclusion

24. Contrary to his statements to EPA managers and supervisors, BEALE never worked with any element or department of the Central Intelligence Agency. BEALE was never assigned to an inter-agency advisory group working with the Directorate of Operations. BEALE was never extended a top secret clearance by any agency of the United States government.

25. For more than ten years, BEALE engaged in a pattern and scheme of deception during which he lied to the United States government, his supervisors, friends, and family about a position he claimed he had with the Central Intelligence Agency. BEALE lied to avoid performing his assigned duties at the EPA. From in or around 2000, continuing until April 30, 2013, BEALE failed to report to work for extended periods of time and failed to submit required requests for leave for these periods of time. Rather, BEALE simply claimed that he was working at the CIA, and claimed that his time away from his EPA duties should be therefore excused. In total, BEALE took approximately 2 ¼ years off from his work at the EPA.

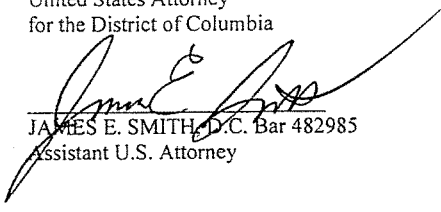


26. From in or around January 2000 until on or about April 30, 2013, BEALE knowingly and willfully did steal and convert to his own use property of the United States of the value of \$886,186, which said property had come into the possession and under the care of BEALE as his salary, Incentive Retention Bonuses, travel reimbursement, and parking expenses for his employment as a Senior Policy Advisor, Department of Environmental Protection Agency, but which BEALE had not, in fact, earned by providing employment services to the EPA.

Respectfully submitted,

RONALD C. MACHEN JR.  
United States Attorney  
for the District of Columbia

By:

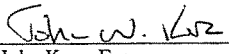
  
JAMES E. SMITH, D.C. Bar 482985  
Assistant U.S. Attorney

DEFENDANT'S ACCEPTANCE

I have read this Statement of the Offense and carefully reviewed every part of it with my attorney. I am fully satisfied with the legal services provided by my attorney in connection with this Statement of the Offense and all matters related to it. I fully understand this Statement of the Offense and voluntarily agree to it because I am in fact guilty of the crimes charged. No threats have been made to me, nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully. No agreements, promises, understandings, or representations have been made with, to, or for me other than those set forth above. This Statement of the Offense is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. It does not include all of the facts known to me regarding these offenses.

Date: 9/27/13  
John C. Beale  
Defendant

I am John Beale's attorney. I have reviewed every part of this Statement of the Offense with him. It accurately and completely sets forth the Statement of the Offense agreed to by the defendant and the Office of the United States for the District of Columbia.

Date: 9/27/13  
John Kern, Esq.  
Attorney for the Defendant



U.S. Department of Justice

Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

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*Judiciary Center  
335 Fourth St., N.W.  
Washington, D.C. 20530*

August 2, 2013

**VIA EMAIL**

John Kern, Esq.

Re: John C. Beale

Dear John:

This letter sets forth the full and complete plea offer to your client, John C. Beale (hereinafter referred to as “your client” or “defendant”), from the Office of the United States Attorney for the District of Columbia (hereinafter also referred to as “the Government” or “this Office”). This plea offer expires at the close of business on August 9, 2013. If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the Plea Agreement. The terms of the offer are as follows:

**1. Charges and Statutory Penalties**

Your client agrees to waive grand jury indictment, waive any objections to venue, and plead guilty to a criminal Information, a copy of which is attached, which charges one count of Theft of Government Property, a felony violation of Title 18, United States Code, Section 641. Your client understands that this charge carries a maximum sentence of 10 years of imprisonment pursuant to 18 U.S.C. § 641; a fine of up to \$250,000 or a fine of twice the pecuniary gain or loss, pursuant to 18 U.S.C. § 3571(b) and (d); a three-year term of supervised release; an order of restitution, pursuant to 18 U.S.C. §§ 3663, 3663A *et seq.*; and an obligation to pay any applicable interest or penalties on fines or restitution not timely made.

In addition, your client agrees to pay a special assessment of \$100 per felony conviction to the Clerk of the United States District Court for the District of Columbia prior to the date of sentencing. Your client also understands that, pursuant to 18 U.S.C. § 3572 and § 5E1.2 of the

United States Sentencing Guidelines, the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release, and period of probation. Further, your client understands that, if your client has two or more convictions for a crime of violence or felony drug offense, your client may be subject to the substantially higher guideline penalties provided for in the career-offender statutes and provisions of the Sentencing Guidelines.

## **2. Factual Stipulations**

Your client agrees that the attached "Statement of Offense" fairly and accurately describes your client's actions and involvement in the offenses to which your client is pleading guilty. It is anticipated that, prior to or during the plea hearing, your client will adopt and sign the Statement of Offense as a written proffer of evidence.

## **3. Additional Charges**

In consideration of your client's plea to the above offense, your client will not be further prosecuted criminally by this Office for the conduct set forth in the attached Statement of Offense. Your client agrees that, with respect to any and all dismissed charges, your client is not a "prevailing party" within the meaning of the "Hyde Amendment," § 617, P.L. 105-119, Title VI (Nov. 26, 1997), and will not file any claim under that law.

After the entry of your client's plea of guilty to the offense identified in paragraph (1) above, your client will not be charged with any non-violent criminal offense in violation of Federal or District of Columbia law which was committed within the District of Columbia by your client prior to the execution of this agreement and about which the United States Attorney's Office for the District of Columbia was made aware by your client prior to the execution of this agreement. However, the United States expressly reserves its right to prosecute your client for any crime of violence, as defined in 18 U.S.C. § 16 and/or 22 D.C. Code § 4501, if in fact your client committed or commits such a crime of violence prior to or after the execution of this agreement.

## **4. Sentencing Guidelines Stipulations**

Your client understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the applicable guidelines and policies promulgated by the United States Sentencing Commission, Guidelines Manual (hereinafter "Sentencing Guidelines" or "U.S.S.G."). Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties stipulate to the following:

**A. Offense Level under the Guidelines**

The parties agree that the following Sentencing Guidelines sections apply:

|                                                    |           |
|----------------------------------------------------|-----------|
| (a) Base Offense Level                             |           |
| 2B1.1(a)(1) – Statutory maximum less than 10 years | 6         |
| (b) Specific Offense Characteristics               |           |
| 2B1.1(b)(H) – Loss of more than \$400,000          | 14        |
| (c) 3B1.3 Abuse of a position of Trust             |           |
|                                                    | 2         |
| <b>TOTAL</b>                                       | <b>22</b> |

**Acceptance of Responsibility: 3-Level Reduction.** This Office agrees that a 2-level reduction would be appropriate, pursuant to U.S.S.G. § 3E1.1(a), provided that your client clearly demonstrates acceptance of responsibility, to the satisfaction of this Office, through your client's allocation, adherence to every provision of this Agreement, and subsequent conduct prior to the imposition of sentence. Furthermore, assuming your client has accepted responsibility as described in the previous sentence, this Office agrees that an additional 1-level reduction would be appropriate, pursuant to § 3E1.1(b), U.S.S.G., because your client has assisted authorities by providing timely notice of your client's intention to enter a plea of guilty, thereby permitting this Office to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

Nothing in this Plea Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, pursuant to U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should your client move to withdraw his guilty plea after it is entered, or should it be determined by the Government that your client has either (a) engaged in conduct, unknown to the Government at the time of the signing of this Plea Agreement, that constitutes obstruction of justice, or (b) engaged in additional criminal conduct after signing this Plea Agreement.

In accordance with the above, the applicable Guidelines Offense Level will be at least 19.

**B. Criminal History Category**

The parties agree that your client's criminal history score is 1.

**C. Applicable Guidelines Range**

If your client's criminal history score is I, then your client's Sentencing Guidelines range would be 30 months to 37 months (the "Stipulated Guidelines Range"). In addition, the parties agree that, should the Court impose a fine, at Guidelines level 19, the applicable fine range is \$6,000 to \$60,000.

**D. Guideline Departures**

The parties agree that under the Sentencing Guidelines neither a downward nor an upward departure from the applicable Guidelines Range is warranted. Accordingly, neither party will seek such a departure. Nor will either party suggest that the Court consider such a departure.

**5. Agreement as to Sentencing Allocation**

The parties further agree that a sentence within the applicable Guidelines Range established by the Sentencing Guidelines, if determined in accordance with the parties' stipulations in this Agreement, would constitute a reasonable sentence in light of all of the factors set forth in Title 18, United States Code, Section 3553(a). In addition, neither party will seek a sentence outside of the Stipulated Guidelines Range or suggest that the Court consider a sentence outside of the Stipulated Guidelines Range.

Your client understands that subject to the provisions of this Plea Agreement, this Office reserves its full right of allocation for purposes of sentencing in this matter. In addition, if in this Plea Agreement the Government has agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the Government reserves its right to full allocation in any post-sentence litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocation in connection with any post-sentence motion that may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons.

Nothing in this Agreement limits the right of this Office to seek denial of the adjustment for acceptance of responsibility, *see* U.S.S.G. §3E1.1, and/or imposition of an adjustment for obstruction of justice, *see* U.S.S.G. §3C1.1, regardless of any stipulation set forth above, should your client move to withdraw your client's guilty plea once it is entered, or should it be determined that your client has either (i) engaged in conduct, unknown to this Office at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) engaged in additional criminal conduct after signing this Agreement.

**6. Court Not Bound by the Plea Agreement or the Sentencing Guidelines**

Your client understands that the sentence in this case will be imposed in accordance with 18 U.S.C. § 3553(a), upon consideration of the Sentencing Guidelines. Your client further

understands that the sentence to be imposed is a matter solely within the discretion of the Court. Your client understands that neither the Government's recommendation nor the Sentencing Guidelines are binding on the Court. In the event that the Court considers any Sentencing Guidelines adjustments, departures, or calculations different from any stipulations contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in 18 U.S.C. § 3553(a), the parties reserve the right to answer any related inquiries from the Court.

Your client acknowledges that your client's entry of a guilty plea to the charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence, which may be greater than the applicable Guidelines range. The Government cannot, and does not, make any promise or representation as to what sentence your client will receive. Moreover, it is understood that your client will have no right to withdraw your client's plea of guilty should the Court impose a sentence that is outside the Guidelines range or if the Court does not follow the Government's sentencing recommendation.

#### **7. Conditions of Release**

Your client acknowledges that, although the Government will not seek a change in your client's release conditions pending sentencing, the final decision regarding your client's bond status or detention will be made by the Court at the time of your client's plea of guilty. The Government may move to change your client's conditions of release, including requesting that your client be detained pending sentencing, if your client engages in further criminal conduct prior to sentencing or if the Government obtains information that it did not possess at the time of your client's plea of guilty and that is relevant to whether your client is likely to flee or pose a danger to any person or the community.

#### **8. Waiver of Rights**

Your client understands that by pleading guilty in this case he agrees to waive certain rights afforded by the Constitution of the United States and/or by statute or rule. Your client agrees to forego the right to any further discovery or disclosures of information not already provided at the time of the entry of your client's guilty plea. Your client also agrees to waive, among other rights, the right to be indicted by a Grand Jury, the right to plead not guilty, and the right to a jury trial. At trial, your client would have the right to be represented by counsel, to confront and cross-examine witnesses against him, to compel witnesses to appear for the purpose of testifying and presenting other evidence on your client's behalf, and to choose whether to testify herself. If your client chose not to testify at a jury trial, your client would have the right to have the jury instructed that his failure to testify could not be held against him. Your client would further have the right to have the jury instructed that your client is presumed innocent until proven guilty, and that the burden would be on the United States to prove his guilt beyond a reasonable doubt. If your client was found guilty after a trial, your client would have the right to appeal his conviction. Your client understands that the Fifth Amendment to the Constitution of the United States protects your client from the use of self-incriminating statements in a criminal

prosecution. By entering a plea of guilty, your client knowingly and voluntarily waives or gives up his right against self-incrimination.

## **9. Financial Arrangements**

### **A. Restitution**

Your client understands that the Court has an obligation to determine whether, and in what amount, mandatory restitution applies in this case under 18 U.S.C. § 3663A. Your client agrees to pay restitution in the amount of \$886,186 to the Clerk of Court for the United States District Court for the District of Columbia within 90 days of his plea in this matter. The Clerk will forward the payments to the United States Environmental Protection Agency.

Your client agrees that he will submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. Your client promises that his financial statement and disclosures will be complete, accurate, and truthful.

Your client expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate your client's ability to satisfy any financial obligations imposed by the Court or agreed to herein.

Your client understands and agrees that any restitution or fines imposed by the Court will be due and payable immediately and subject to immediate enforcement by the United States. If the Court imposes a schedule of payments, your client understands that the schedule of payments is merely a minimum schedule of payments and will not be the only method, nor a limitation on the methods, available to the United States to enforce the criminal judgment. If your client is sentenced to a term of imprisonment by the Court, your client agrees to participate in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the court specifically directs the participation or imposes a schedule of payments.

Your client certifies that he has made no transfer of assets in contemplation of this prosecution for the purpose of evading or defeating financial obligations that are created by the Agreement and/or that may be imposed upon him by the Court. In addition, your client promises that he will make no such transfers in the future until he has fulfilled the financial obligations under this agreement.

### **B. Forfeiture**

Your client agrees to the forfeiture set forth in the Forfeiture Allegation in the Information to which he is pleading guilty. Specifically, your client agrees to the forfeiture of a money judgment in favor of the United States for \$507,207, and he agrees to satisfy this forfeiture money judgment within 90 days of the entry of judgment in this matter.



Your client agrees that the proffer of evidence supporting your client's guilty plea is sufficient evidence to support this forfeiture. Your client agrees that the Court may enter a preliminary Consent Order of Forfeiture for this property at the time of his guilty plea or at any time before sentencing. Your client agrees that the Court will enter a Final Order of Forfeiture for this property as part of his sentence.

Your client agrees that this Plea Agreement permits the government to satisfy the referenced money judgment through forfeiture of any of your client's assets, real or personal, regardless of whether a specific asset is identified in this Plea Agreement. Regarding any asset or property not identified specifically in this Plea Agreement, your client agrees to forfeiture of all interest in: (1) any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of the offense alleged in Count One of the Information; and (2) any substitute assets for property otherwise subject to forfeiture. See 18 U.S.C. § 981(a)(1)(C); 21 U.S.C. § 853(p).

Your client agrees that the Government may choose in its sole discretion how it wishes to accomplish forfeiture of the property whose forfeiture he has consented to in this Plea Agreement, whether by criminal or civil forfeiture, using judicial or non-judicial forfeiture processes. If the Government chooses to effect the forfeiture provisions of this Plea Agreement through the criminal forfeiture process, your client agrees to the entry of orders of forfeiture for such property and waives the requirements of Rule 32.2 regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Your client understands that the forfeiture of assets is part of the sentence that may be imposed in this case, and he waives any failure by the Court to advise him of this, pursuant to Rule 11(b)(1)(J), at the time of his guilty plea.

Your client agrees to take all necessary actions to identify all assets over which your client exercises or exercised control, directly or indirectly, at any time since January 1, 2000, or in which your client has or had during that time any financial interest. Your client will complete and provide to the undersigned Assistant United States Attorneys a standard financial disclosure form, which has been provided to you with this Plea Agreement, no later than one week after your client enters into this plea agreement. Your client agrees to take all steps as requested by this Office to obtain from any other parties by any lawful means any records of assets owned at any time by your client. Your client agrees to provide and/or consent to the release of your client's tax returns for the previous five years. Your client agrees to take all steps as requested by this Office to pass clear title to forfeitable interests or property to the United States and to testify truthfully in any judicial forfeiture proceeding.

Your client agrees to waive all constitutional and statutory challenges in any manner (including but not limited to direct appeal) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment.

#### **10. Breach of Agreement**

Your client understands and agrees that if, after entering this Plea Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client's obligations under this Plea Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Plea Agreement. In the event of such a breach: (a) the Government will be free from its obligations under the Agreement; (b) your client will not have the right to withdraw the guilty plea; (c) your client shall be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the Government will be free to use against your client, directly and indirectly, in any criminal or civil proceeding, all statements made by your client and any of the information or materials provided by your client, including such statements, information and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of this Agreement, whether or not the debriefings were previously characterized as "off the record" debriefings, and including your client's statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

Your client acknowledges discussing with you Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights that arise under these rules in the event your client withdraws his guilty plea.

Your client understands and agrees that the Government shall only be required to prove a breach of this Plea Agreement by a preponderance of the evidence. Your client further understands and agrees that the Government need only prove a violation of federal, state, or local criminal law by probable cause in order to establish a breach of this Plea Agreement.

Nothing in this Agreement shall be construed to permit your client to commit perjury, to make false statements or declarations, to obstruct justice, or to protect your client from prosecution for any crimes not included within this Agreement or committed by your client after the execution of this Agreement. Your client understands and agrees that the Government reserves the right to prosecute your client for any such offenses. Your client further understands that any perjury, false statements or declarations, or obstruction of justice relating to your client's obligations under this Agreement shall constitute a breach of this Agreement. However, in the event of such a breach, your client will not be allowed to withdraw this guilty plea.

#### **11. Waiver of Statute of Limitations**

It is further agreed that, should the conviction following your client's plea of guilty pursuant to this Agreement be vacated for any reason, any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed not to prosecute or to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against your client, notwithstanding the

expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

#### **12. Waiver of Appeal**

Your client understands that federal law, specifically 18 U.S.C. § 3742, affords defendants the right to appeal their sentences in certain circumstances. Your client agrees to waive the right to appeal the sentence in this case, or the manner in which it was determined, except to the extent that (a) the Court sentences your client to a period of imprisonment longer than the statutory maximum, or (b) the Court departs upward from the applicable Sentencing Guideline range pursuant to the provisions of U.S.S.G. § 5K2.0, or based on a consideration of the sentencing factors set forth in 18 U.S.C. § 3553(a). In agreeing to this waiver, your client is aware that your client's sentence has yet to be determined by the Court. Realizing the uncertainty in estimating what sentence the Court ultimately will impose, your client knowingly and willingly waives your client's right to appeal the sentence, to the extent noted above, in exchange for the concessions made by the Government in this Plea Agreement. Your client reserves the right to make a collateral attack upon your client's sentence, pursuant to 28 U.S.C. § 2255, if new and currently unavailable information becomes known to him.

#### **13. Complete Agreement**

No agreements, promises, understandings, or representations have been made by the parties or their counsel other than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by your client, defense counsel, and an Assistant United States Attorney for the District of Columbia.

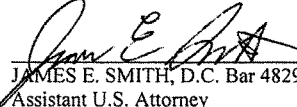
Your client further understands that this Agreement is binding only upon the Criminal and Superior Court Divisions of the United States Attorney's Office for the District of Columbia. This Agreement does not bind the Civil Division of this Office or any other United States Attorney's Office, nor does it bind any other state, local, or federal prosecutor. It also does not bar or compromise any civil, tax, or administrative claim pending or that may be made against your client.

If the foregoing terms and conditions are satisfactory, your client may so indicate by signing the Agreement in the space indicated below and returning the original to me once it has been signed by your client and by you or other defense counsel.

Sincerely yours,

  
RONALD C. MACHEN JR.  
United States Attorney  
D.C. Bar No. 498610

By:

  
JAMES E. SMITH, D.C. Bar 482985  
Assistant U.S. Attorney  
555 Fourth Street Northwest  
Room 5231  
Washington, DC 20530  
(202) 252-6976  
[james.smith9@usdoj.gov](mailto:james.smith9@usdoj.gov)

**DEFENDANT'S ACCEPTANCE**

I have read this Plea Agreement and have discussed it with my attorney, John Kern, Esquire. I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offense identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Plea Agreement. I am satisfied with the legal services provided by my attorneys in connection with this Plea Agreement and matters related to it.

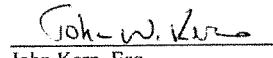
Date: 8/22/13

  
 John C. Beale  
 Defendant

**ATTORNEY'S ACKNOWLEDGMENT**

I have read each of the pages constituting this Plea Agreement, reviewed them with my client, John C. Beale, and fully discussed the provisions of the Agreement with my client. These pages accurately and completely set forth the entire Plea Agreement.

Date: 8/22/13

  
 John Kern, Esq.  
 Attorney for the Defendant

**U.S. House of Representatives**  
**Committee on Oversight and Government Reform**  
**Darrell Issa (CA-49), Chairman**



**A Dismissal of Safety, Choice, and Cost:**  
**The Obama Administration's New Auto Regulations**

Staff Report  
U.S. House of Representatives  
112th Congress  
August 10, 2012

### EXECUTIVE SUMMARY

In the wake of a massive taxpayer-funded bailout and effective government control of General Motors and Chrysler, the Obama Administration took unprecedented action to extract agreement for strict new fuel economy standards from auto manufacturers. This places ideology over science and politics over process. This action has serious consequences for consumers in the choice, cost, and safety of vehicles.

While the Obama Administration has told the public and Congress it followed the statutory rulemaking process in developing these regulations, material produced by the Committee on Oversight and Government Reform documents how the Administration under an imperial presidency performed an end-run around the law and ran a White House-based political negotiation, led by “czars” who marginalized federal agencies charged in statute with setting fuel economy standards. Regulatory expertise from Department of Transportation officials, the agency charged with protecting automotive safety, were frequently mocked and belittled.

This Committee Staff Report sheds new light on the extent to which the Obama Administration strong-armed auto manufacturers at the expense of consumer choice, safety, and affordability.

For nearly four decades, the federal rulemaking process of enacting new fuel economy standards impacting domestic and foreign auto manufacturers has relied on a balanced and deliberative approach—respecting the safety requirements of consumers, the abilities of auto makers to produce products to meet these needs, and measuring the capabilities of current and next-generation technology to improve over time.

This process, known as Corporate Average Fuel Economy (CAFE) standards, is managed by the National Highway Traffic Safety Administration (NHTSA) and has produced steady improvements in fuel economy as well as significant increases in vehicle and overall roadway safety.

Under the Obama Administration, that “balanced approach” was abandoned in favor of a raw political process designed to appease environmental extremists. These special interest groups were given unprecedented and powerful seats at the table, while regulatory experts with the most expertise in this area, as well as non-partisan government policy professionals, were sidelined. White House political appointees and “czars” partnered with environmental extremists to de-emphasize NHTSA’s primary, and statutorily required, role in the process.

The result of the Obama Administration’s machinations was a drastic reconfiguration of the regulatory landscape for vehicle fuel economy and emissions never intended by Congress when it created the process in 1975.

As a result, the Environmental Protection Agency (EPA) became the lead agency and NHTSA was sidelined. At the same time, the California Air Resources Board (CARB) became a “major player” and an “aggressive participant in the process,” allowing unelected state regulators in Sacramento to set national policy outside the federal rulemaking process.

The Obama Administration also allowed environmental extremists to push a radical agreement that forced new technology requirements on the auto industry regardless of technological feasibility and a lack of consumer interest in purchasing such products. The standards require high gasoline prices – as high as \$5 or \$6 per gallon – to support consumer acceptance of advanced technology. Further, the Administration took a “divide and conquer” approach to securing automaker support and in the process provided favorable treatment to recently bailed-out domestic firms at the expense of foreign firms, even while foreign firms employ nearly as many American workers as the traditional “big three.”

This report is based on information provided by those involved in the standards process and reveals for the first time their direct, personal, and contemporaneous notes and communications. The result is a behind-the-scenes look at what many observers suspected – but heretofore could not document – to be true.

The impact of this process will not be immediate, but will be felt by manufacturers forced to make, dealers forced to sell, and consumers forced to purchase far different, more expensive, and less safe vehicles.