



March 21, 2014

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
2471 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman and Congressman Cummings:

I am writing to inform you that the Department of Justice Office of the Inspector General (OIG) has completed its investigation of the decision by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to permit William McMahon, then Deputy Assistant Director of ATF's Office of Professional Responsibility and Security Operations, to engage in full-time outside employment with JPMorgan Chase (JPMorgan) in its Global Security and Investigations Division while still employed full-time by ATF. The OIG reviewed the ATF's approval of McMahon's outside employment, as well as the approval of his proposed use of leave for a period of several months through the date of his retirement eligibility. The OIG initiated this investigation following an inquiry to ATF by Senator Charles Grassley and Congressman Darrell Issa.

The OIG completed its investigation and provided its report to the ATF on March 12, 2014. Enclosed is a summary of our findings. The OIG concluded that Mr. McMahon's supervisor at the time, ATF Assistant Director Julie Torres, ATF Deputy Director Thomas Brandon, and ATF's then-Deputy Chief Counsel and Deputy Designated Agency Ethics Official Melanie Stinnett inappropriately approved Mr. McMahon's request to engage in full-time outside employment with JPMorgan for an indefinite period while also collecting his full-time pay from ATF. In addition, the same ATF officials were unaware of an ATF Order prohibiting "terminal leave."

If you have any questions, please feel free to contact me or Chief of Staff Jay Lerner, at (202) 514-3435.

Sincerely,



Michael E. Horowitz
Inspector General

Enclosure

cc: B. Todd Jones
Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives

SUMMARY OF OIG INVESTIGATIVE FINDINGS

Following an inquiry to ATF by Senator Charles Grassley and Congressman Darryl Issa, the OIG initiated this investigation of ATF's decision to permit William McMahon, then Deputy Assistant Director of ATF's Office of Professional Responsibility and Security Operations (OPRSO), to engage in full-time outside employment with JPMorgan Chase (JPMorgan) while still employed full-time by ATF. McMahon is no longer an ATF employee. The OIG reviewed the ATF's approval of McMahon's outside employment, as well as the approval of his proposed use of sick leave (SL) and annual leave (AL) for a period of several months through the date of his retirement eligibility.

Chronology of Significant Events

Late June 2012: McMahon orally requested that his supervisor, OPRSO Assistant Director Julie Torres, approve his use of SL for the month of July, and AL and leave without pay (LWOP) through the end of December; Torres told McMahon she would approve the request.

June 25, 2012: McMahon submitted to Torres the ATF form requesting approval for full-time outside employment at JPMorgan beginning in July 2012 for an "indefinite" duration. The form notes that McMahon would be on "extended leave" from ATF, but does not indicate what type of leave he intends to use.

June 27, 2012: Torres signed the form approving McMahon's outside employment request; ATF Deputy Director Thomas Brandon conditioned his approval of the request on McMahon specifying a retirement date; McMahon designated his retirement date as December 31, 2012 in ATF's human resources system.

July 1, 2012: McMahon sent an e-mail to Torres requesting that, "as recently discussed," he be permitted to take extended leave until his retirement in December – SL for the month of July, AL for August through December, and LWOP if necessary for some of the time in December; Torres responded by e-mail that she would approve McMahon's extended leave request. In the same e-mail, Torres stated that she had also approved McMahon's outside employment request, and expected Brandon to approve it the next day.

July 2, 2012: Brandon signed the form approving McMahon's outside employment request and Torres informed McMahon of Brandon's approval.

July 9, 2012: McMahon reportedly began working at JPMorgan.

July 23, 2012: ATF's then-Deputy Chief Counsel and Deputy Designated Agency Ethics Official, Melanie Stinnett, approved McMahon's outside employment with JPMorgan.

According to ATF records, on July 5, 2012, McMahon validated his time and attendance (T&A) record for the period July 1 to July 14, 2012. McMahon took 72 hours of SL and 8 hours of holiday time off (for the July 4 holiday) during the pay period. The record further indicates that, on July 2, Torres had approved McMahon's use of SL and that, on July 13, Torres certified the

T&A record as McMahon's supervisor. Similarly, on July 21, 2012, McMahon validated his T&A record for the period July 15 to July 28. McMahon took 80 hours of SL during the pay period. The record further indicates that, on July 2, Torres had approved McMahon's use of SL and that, on July 30, Torres certified the T&A record as McMahon's supervisor.

August 21, 2012: Letter from Congressman Issa and Senator Grassley to ATF regarding approval by ATF to allow McMahon to work full-time for JPMorgan while also employed full-time by ATF.

August 22, 2012: Torres notified ATF Internal Affairs that McMahon had violated his outside employment authorization by starting employment with JPMorgan after being informed of its approval by Torres and Brandon, but prior to his request being approved by ATF counsel. Torres further reported that McMahon violated ATF policy by conducting outside employment while on sick leave from ATF.

September 11, 2012: Torres cancelled McMahon's approved leave; McMahon was ordered to report for duty to ATF Headquarter no later than September 17, 2012.

Findings and Conclusions

The OIG found that Torres exercised poor judgment and failed to responsibly perform her duties when she approved McMahon's written request to engage in outside employment, and when she separately approved McMahon's written request to use SL during July 2012 after having already approved his written request to engage in full-time employment with JPMorgan beginning in July 2012. Among other reasons, Torres's action approving McMahon's use of extensive leave knowing that it was being done in order to gain sufficient tenure to obtain law enforcement retirement benefits and that McMahon planned to retire at the end of the leave period violated ATF Order 2650.1A, paragraph 27, which prohibits the use of "terminal leave." In addition, Torres should not have approved the use of SL without reconciling the obvious conflict between McMahon's written outside employment request and his SL request. Absent approval by Torres, McMahon's employment by JPMorgan while on SL from his federal government position would have clearly constituted fraud.

The OIG found that Brandon was not made aware by Torres of McMahon's intention to use SL for the entire month of July, the same period McMahon was seeking approval to engage in outside employment. Nevertheless, Brandon knew of McMahon's intention to use an extended period of annual leave for the several months leading up to his retirement in December. Brandon stated that he did not know at that time of ATF Order 2650.1A, paragraph 27, which prohibited such terminal leave. The OIG found that Brandon should have recognized the significant issues raised by McMahon's outside employment request, regardless of the type of leave he intended to use, particularly given that McMahon's conduct in Operation Fast and Furious was under review by the OIG. Brandon should have considered the pendency of the OIG's report on the Operation Fast and Furious matter, and the potential that it would include a negative assessment of McMahon's conduct, before deciding whether he should be allowed to engage in full-time outside employment for an indefinite period while also collecting his full-time pay from ATF.

The OIG found that Stinnett, who is no longer an ATF employee, exercised poor judgment and failed to responsibly perform her duties by approving McMahon's outside employment request. Stinnett's approval letter did not analyze or address in any substantive way, as required by ATF Order 2130.2, and 5 CFR 3801.106(b)(iii), whether McMahon's proposed position in JPMorgan's Global Security and Investigations Division conducting internal investigations presented a conflict with Department of Justice financial investigations and asset seizure matters. Moreover, Stinnett's approval letter neglected to address the clear violation of ATF Order 2650.1A, paragraph 27, which prohibits the use of terminal leave.

The OIG has completed its investigation and provided its Report of Investigation to ATF for appropriate action.