

ANALYSIS AND REVIEW OF SF 278 INFORMATION
BY PANEL MEMBERS

I. Reviewing the Form for Conflict Purposes

- A. Basic purpose - Determine if an interest or an activity disclosed on the form creates a potential, an actual, or an apparent conflict of interest. Remedies for different types of conflict may vary.
- B. Information necessary for review
1. Knowledge of duties of reporting individual
 - a. From job description
 - b. From supervisor if further information is needed
 2. Information on activities of entities listed on form
 - a. Published resources
 - (1) Moody's Manuals
 - (2) Standard & Poor's
 - (3) Daily Newspaper
 - (a) for stocks
 - (b) for money markets
 - (4) Dunn and Bradstreet
 - (5) CIA Contractor Listings
 - b. Reporting individual if published material is insufficient

3. Requests for Further Information

- a. A reviewing official need not audit the report to ascertain whether the disclosures are correct; disclosures are to be taken at "face value" unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report.
- b. If the reviewing official believes that additional information is required, the official shall request this information indicating a date by which the information must be submitted. This additional information shall be made a part of the report.

C. Analyze the duties of the employee and the functions of the agency in light of statutes and regulations applicable to all employees:

1. 18 U.S.C. §203 - Prohibits compensation for services rendered by an individual while an officer or employee of the U.S. Government in relation to any particular matter in which the U.S. is party.
2. 18 U.S.C. §205 - Prohibits acting as (1) agent or attorney for prosecuting any claim against the U.S. or (2) agent or attorney before any agency in

relation to any particular matter in which the U.S. is a party, with or without compensation, while the individual is an officer or employee of the U.S. Government.

3. 18 U.S.C. §208 - Prohibits participating personally and substantially as an officer or employee of the U.S. Government in a particular matter in which an individual (his or her spouse, a minor child, or an entity with whom he or she is negotiating or has any arrangement concerning prospective employment) has a financial interest.
4. 18 U.S.C. §209 - Prohibits receipt of any salary or supplementation of salary as compensation for services as an officer or employee of the U.S. Government from any source other than the Government.
5. 5 U.S.C. App. §201 et seq. - (in particular, Sec. 210) - No full-time Government employee appointed by the President, with the advice and consent of the Senate (DCI and DDCI only), who is compensated at a rate of pay equivalent to a GS-16 or greater can have outside earned income in excess of 15 percent of his or her Government salary in a calendar year.

6. 2 U.S.C. §441i - No officer or employee of the Government may accept an honorarium in excess of \$2,000 for an appearance, and \$25,000 in toto in any calendar year.
 7. Executive Order 11222 - Prohibits apparent conflicts as well as actual conflicts of interest and places restrictions on the receipt of gifts, outside employment, etc. (A copy of the above statutory provisions and Executive Order 11222 is attached)
- D. Review each interest or entry in light of the individual's duties and the above provisions to determine if there is:
1. A potential conflict which might arise:
 - a. When an incumbent reveals an interest in an entity which in all probability may be involved in actions he or she is required to take in the future, or
 - b. When a nominee or candidate for a new position reveals an interest which will be involved in actions he or she will be required to take once in that new position.

2. An actual conflict:
 - a. When an incumbent discloses an interest in the report, the holding of which is prohibited by law or regulation, or
 - b. When the incumbent has taken or is taking actions which affect the disclosed interest while owning the interest.
3. An apparent conflict of interest in circumstances in which an incumbent, a nominee, or candidate for a new position holds an interest which raises a reasonable question of a possible conflict, i.e., the interest might appear to be of the type involved in actions he or she may take in the future or one which simply because of its nature may adversely affect the confidence of the public in the integrity of the Government and the individual. For example, a DDI analyst with significant oil and gas holdings who has access to comprehensive data concerning actual and projected worldwide production might reasonably be perceived as being in a situation from which he could potentially benefit.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121, and amended Pub. L. 90-578, title III, § 301(b), Oct. 17, 1968, 82 Stat. 1115.)

REFERENCES IN TEXT

Section 29 (c) and (d) of the act of August 10, 1953, referred to in subsec. (a), was classified to former section 307 (c), (d) of Title 5, Executive Departments and Government Officers and Employees, and is now covered by sections 502, 2105 and 5534 of Title 5, Government Organization and Employees.

CODIFICATION

A prior section 202, act June 25, 1948, ch. 645, 62 Stat. 691, which prescribed penalties for any officer or other person who accepted or solicited anything of value to influence his decision, was eliminated in the general amendment of this chapter by Pub. L. 87-849, and is substantially covered by revised section 201.

AMENDMENTS

1969—Subsec. (3). Pub. L. 90-578 substituted "a part-time United States commissioner, or a part-time United States magistrate" for "or a part-time United States Commissioner".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

Standards of ethical conduct for special government employees, see Part III of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of this title.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 sections 209, 1457; title 26 section 4746; title 40 App. section 108; title 42 section 3188.

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government.

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect; or

(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Delegate, Commissioner, officer, or employee—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121, and amended Pub. L. 91-405, title II, § 204(d) (2), (3), Sept. 22, 1970, 84 Stat. 853.)

CODIFICATION

A prior section 203, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance or demand by district attorneys, or marshals and their assistants of any fee other than provided by law, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

AMENDMENTS

1970—Subsec. (a) (1). Pub. L. 91-405, § 204(d) (2), included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

Subsec. (b). Pub. L. 91-405, § 204(d) (3), included reference to Delegate.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 203(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCE

Activities of officers and employees in matters affecting the Government, see section 205 of this title.
Definitions, see section 202 of this title.

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

§ 205

Exemption of retired officers of the uniformed services, see section 204 of this title.
 Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.
 Partners subject to section, see section 207 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202, 203, 308, 207 of this title; title 5 section 5374; title 12 section 1457; title 29 sections 337, 667b; title 38 section 3402; title 40 App. section 108; title 42 sections 243, 317E.

§ 205. Practice in Court of Claims by Members of Congress.

Whoever, being a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect, practices in the Court of Claims, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122, and amended Pub. L. 91-405, title II, § 204(d)(2), Sept. 22, 1970, 84 Stat. 532.)

CODIFICATION

A prior section 204, act June 25, 1949, ch. 545, 62 Stat. 692, which related to an offer to influence a Member of Congress, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

AMENDMENTS

1970—Pub. L. 91-405 included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 204(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 108; title 42 section 318B.

§ 205. Activities of officers and employees in claims against; and other matters affecting the Government.

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, ar-

rest, or other particular matter in which the United States is a party or has a direct and substantial interest—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

Such certification shall be published in the Federal Register.

Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122.)

CODIFICATION

A prior section 205, act June 25, 1949, ch. 545, 62 Stat. 692, which related to the acceptance by a Member of Congress of anything of value to influence him, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 sections 3374; title 12 section 1437; title 20 sections 857, 859b; title 38 section 3402; title 40 App. section 108; title 42, sections 246, 3128.

§ 209. Acts affecting a personal financial interest.

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 78 Stat. 1124.)

CODIFICATION

A prior section 209, act June 25, 1948, ch. 645, 62 Stat. 693, which related to the acceptance of solicitation of a bribe by a judicial officer, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

DELEGATION OF AUTHORITY

Authority of the President under subsec. (b) of this section delegated to department or agency heads, see Part V of Ex. Ord. No. 11722, May 8, 1955, 30 P.R. 6669, set out as a note under section 201 of this title.

CROSS REFERENCES

Definition, see section 202 of this title.
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 sections 3374; title 12 section 1437; title 20 sections 857, 859b; title 40 App. section 108; title 42 sections 246, 3128.

§ 209. Salary of Government officials and employees payable only by United States.

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-307, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958). (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 78 Stat. 1124.)

CODIFICATION

A prior section 209, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer of a bribe to a witness, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 sections 3102, 3313, 3374, 4111; title 12 section 1437; title 20 sections 857, 859b; title 40 App. section 108; title 42 sections 246, 3128.

§ 209

TITLE 5—APPENDIX I

(9) "Secretary concerned" has the meaning set forth in section 101(8) of Title 10, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service;

(10) "designated agency official" means an officer or employee who is designated to administer the provisions of this title within an agency; and

(11) "executive branch" includes each Executive agency (as defined in section 105 of Title 5) and any other entity or administrative unit in the executive branch unless such agency, entity, or unit is specifically included in the coverage of title I or III of this Act.

References in Text. The Federal Election Campaign Act of 1971, referred to in par. (4), is Pub.L. 92-225, Feb. 7, 1972, 88 Stat. 3. For distribution of this Act to the Code, see Short Title note set out under section 431 of Title 2, The Congress, and Tables volume.

Titles I and III of this Act, referred to in par. (11), mean Titles I and III of Pub.L. 95-521, Oct. 26, 1978, 92 Stat. 1824, the provisions of which are set out in section 701 et seq. of Title 2, The Congress, and in the Appendix to Title 28, Judiciary and Judicial Procedure, under the heading "Judicial Personnel Financial Disclosure Requirements."

Change of Name. The Department of Health, Education, and Welfare was redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare was redesignated the Secretary or official, as appropriate, of Health and Human Services, with any reference to the Department of Health,

Education, and Welfare, the Secretary of Health, Education, and Welfare, or any official of the Department of Health, Education, and Welfare, in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of Pub.L. 95-521, as prescribed by section 601 of Pub.L. 96-53, Title VI, Oct. 17, 1979, 93 Stat. 698, set out as a note under section 2401 of Title 20, Education, deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary of Education or the Department of Education under Pub.L. 93-83, Title III, §§ 301-307, Oct. 17, 1979, 93 Stat. 677-681. See section 3441 to 3447 and 3503 of Title 20, Legislative History. For legislative history and purpose of Pub.L. 95-521, see 1978 U.S.Code Cong. and Adm.News, p. 4210. See, also, Pub.L. 93-19, 1979 U.S. Code Cong. and Adm.News, p. 144.

§ 210. Outside earned income

Except where the employee's agency or department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of grade 16 or above and who occupy nonjudicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary.

References in Text. The General Schedule, referred to in text, is set out as a note under section 5332 of Title 5, Government Organization and Employees.

Legislative History. For legislative history and purpose of Pub.L. 95-521, see 1978 U.S.Code Cong. and Adm.News, p. 4210.

§ 211. Effective date

The provisions made by this title shall take effect on January 1, 1979, and the reports filed under section 201(d) on May 15, 1979, shall include information for calendar year 1978.

Legislative History. For legislative history and purpose of Pub.L. 95-521, see

1978 U.S.Code Cong. and Adm.News, p. 4210.

OFFI

Pub.L.

Sec. 401. Establishment and Management Director.
402. Authority and

§ 401. Establishment of Director

(a) There is office to be know

(b) There shall Director (hereinafter referred to as the Director) be appointed by the President

Short Title. For 95-521, Oct. 26, 1978, "Ethics in Government" section 1 of Pub.L. note under section Congress.

§ 402. Authority

(a) The Director shall be responsible for the Office of Personnel Management policies related to the Department of Health and Human Services and employees of

(b) The respective

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THE CONGRESS

2 § 451

§ 441i. Acceptance of excessive honorariums—Prohibited practices

(a) No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than \$2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$25,000 in any calendar year.

Payment of honorarium to charitable organizations; definition

(b) If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a) of this section, as accepting that honorarium. For purposes of this subsection, the term "charitable organization" means an organization described in section 170(c) of Title 26.

Aggregate amount received during any calendar year

(c) For purposes of determining the aggregate amount of honorariums received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

Time of acceptance of honorarium

(d) For purposes of paragraph (2) of subsection (a) of this section, an honorarium shall be treated as accepted only in the year in which that honorarium is received.

Pub.L. 92-225, Title III, § 323, formerly § 328, as added Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494, and amended Pub.L. 95-216, Title V, § 502(a), Dec. 20, 1977, 91 Stat. 1565, renumbered Pub.L. 96-187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1365.

1977 Amendment. Pub.L. 95-216 designated existing provisions as subsec (a), and added subsecs. (b) to (d). Effective Date of 1977 Amendment. Section 502(b) of Pub.L. 95-216 provided that: "The amendments made by subsection (a) [to this section] shall apply with respect to any honorarium received after December 31, 1976." Legislative History. For legislative history and purpose of Pub.L. 95-216, see 1977 U.S.Code Cong. and Adm.News, p. 4155.

§ 441j. Repealed. Pub.L. 96-187, Title I, § 105(1), Jan. 8, 1980, 93 Stat. 1365

Section. Pub.L. 92-225, Title III, § 329, as added Pub.L. 94-283, Title I, § 112(2), May 11, 1976, 90 Stat. 494, set forth provisions respecting penalties for violations of the Federal Election Campaign Act of 1971.

Effective Date of Repeal. Section repealed effective Jan. 8, 1980, see section 301(a) of Pub.L. 96-187, set out as a note under section 431 of this title.

1. Burden of proof. Defendants, who were charged with willful violations of this chapter, who

could not be convicted unless the government proved that violations, if any, were in fact knowing and willful, would not be denied due process by fact that they had no conciliation agreement to introduce into evidence, there being no guarantee that they would have obtained one had matter been initially investigated by Federal Election Commission and there being no possibility of conviction unless jury determined that element of intent was satisfied beyond reasonable doubt. U. S. v. Touhy, D.C.La.1977, 433 F.Supp. 629.

§ 451. Extension of credit by regulated industries; regulations

Termination of Civil Aeronautics Board and Transfer of Certain Functions. All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by Pub.L. 95-501, § 40(a), Oct. 21, 1978, 92 Stat. 1741, effective on or before Jan. 1, 1983. See section 1551 of Title 49, Transportation.

E.O. 11222

Title 3--Chapter II

E.O. 11222

Executive Order 11222

PRESCRIBING STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—POLICY

SECTION 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

PART II—STANDARDS OF CONDUCT

SECTION 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which—

- (1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;
- (2) conducts operations or activities which are regulated by his agency; or
- (3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;

- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the Government.

Sec. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

Sec. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

Sec. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

Sec. 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

Sec. 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law.

PART III—STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

SECTION 301. This part applies to all "special Government employees" as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

Sec. 302. A consultant, adviser or other special Government employee must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties.

Sec. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

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Sec. 304. An adviser, consultant, or other special Government employee shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

Sec. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

Sec. 306. Each agency shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a statement of all other employment. The statement shall list the names of all the corporations, companies, firms, State or local governmental organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, adviser, or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform. The appointee may, but need not, be required to reveal precise amounts of investments. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

PART IV—REPORTING OF FINANCIAL INTERESTS

SECTION 401. (a) Not later than ninety days after the date of this order, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and each full-time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions—

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

(C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.

(2) A list of the names of his creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.

(3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

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(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis.

SEC. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

SEC. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

SEC. 404. The Chairman of the Civil Service Commission shall report to the President any information contained in statements required by Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

SEC. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission (or the head of the agency concerned) may determine for good cause shown.

SEC. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed

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to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

PART V--DELEGATING AUTHORITY OF THE PRESIDENT UNDER SECTIONS 205 AND 208 OF TITLE 18 OF THE UNITED STATES CODE RELATING TO CONFLICTS OF INTEREST

SECTION 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

SEC. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

SEC. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

SEC. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

SEC. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

PART VI--PROVIDING FOR THE PERFORMANCE BY THE CIVIL SERVICE COMMISSION OF CERTAIN AUTHORITY VESTED IN THE PRESIDENT BY SECTION 1753 OF THE REVISED STATUTES

SECTION 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) as relates to establishing regulations for the conduct of persons in the civil service.

SEC. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

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PART VII--GENERAL PROVISIONS

SECTION 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

(a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;

(b) To review agency regulations from time to time for conformance with this order; and

(c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

SEC. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section, and (2) the availability of counseling for those employees who request advice or interpretation.

SEC. 703. The following are hereby revoked:

(a) Executive Order No. 10939 of May 5, 1961.

(b) Executive Order No. 11123 of October 29, 1963.

(c) Section 2(a) of Executive Order No. 10530 of May 10, 1954.

(d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."

(e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701(a) of this order.

SEC. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect of such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

THE WHITE HOUSE,
May 8, 1965.

LYNDON B. JOHNSON