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CRIMES

Part 1

such trial, hearing, or proceeding, or in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(k) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

Added Pub.L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1119.

Historical Note

Prior Provisions. Provisions similar to those comprising this section were contained in former sections 201-213 of this title, prior to the general amendment of this chapter by Pub.L. 87-849.

Codification. A prior section 201, Act June 25, 1948, c. 645, 62 Stat. 691, which prescribed penalties for anyone who offered or gave anything of value to an officer or other person to influence his decisions, 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 4 of Pub.L. 87-849 provided that: "This Act [adding sections 201-209, and 218 of this title,

redesignating sections 214, 215, 217-222 as 210, 211, 212-217 of this title respectively, repealing sections 223, 281-284, 434, and 1914 of this title, and section 99 of Title 5, and enacting provisions set out as notes under sections 281 and 282 of this title] shall take effect ninety days after the date of its enactment [Oct. 23, 1962]."

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

Legislative History. For legislative history and purpose of Pub.L. 87-849, see 1962 U.S. Code Cong. and Adm. News, p. 3852.

EXECUTIVE ORDER NO. 11222

May 8, 1965, 30 F.R. 6469

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 [section 301 of Title 3, The President], 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 [section 202 of this title], 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.

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.

(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 incon-

sistent 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 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 [sections 205 and 208 (b) of this title], 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) [now covered by sections 3301 and 7301 of Title 5, Government Organization and Employees] 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.

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. 11125 of October 20, 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 Govern-

ment 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.

LYNDON B. JOHNSON

MEMORANDUM OF ATTORNEY GENERAL REGARDING CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849

Feb. 1, 1963, 28 F.R. 985

January 23, 1963

Public Law 87-849, "To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes," came into force January 21, 1963. A number of departments and agencies of the Government have suggested that the Department of Justice prepare and distribute a memorandum analyzing the conflict of interest provisions contained in the new act. I am therefore distributing the attached memorandum.

One of the main purposes of the new legislation merits specific mention. That purpose is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For the most part the conflict of interest statutes superseded by Public Law 87-849 imposed the same restraints on a person serving the Government temporarily or intermittently as on a full-time employee, and those statutes often had an unnecessarily severe impact on the former. As a result, they impeded the departments and agencies in the recruitment of experts for important work. Public Law 87-849 meets this difficulty by imposing a lesser array of prohibitions on temporary and intermittent employees than on regular employees. I believe that a widespread appreciation of this aspect of the new law will lead to a significant expansion of the pool of talent on which the departments and agencies can draw for their special needs.

ROBERT F. KENNEDY,
Attorney General.

Memorandum re the Conflict of Interest Provisions of Public Law 87-849, 76 Stat. 1119, Approved October 23, 1962

INTRODUCTION

Public Law 87-849, which came into force January 21, 1963, affected seven statutes which applied to officers and employees of the Government and were generally spoken of as the "conflict of interest" laws. These included six sections of the criminal code, 18 U.S.C. 216, 281, 283, 284, 434 and 1914 [sections 216, 281, 283, 284, 434 and 1914 of this title], and a statute containing no penalties, section 190 of the Revised Statutes (5 U.S.C. 99) [former section 99 of Title 5, now covered by section 207 of this title]. Public Law 87-849 (sometimes referred to hereinafter as "the Act") repealed section 190 and one of the criminal statutes, 18 U.S.C. 216, without replacing them.¹ In addition it repealed and supplanted the other five criminal statutes. It is the purpose of this memorandum to summarize the new law and to describe the principal differences between it and the legislation it has replaced.

The Act accomplished its revisions by enacting new sections 203, 205, 207, 208 and 209 of title 18 of the United States Code [sections 203, 205, 207, 208 and 209 of this title] and providing that they supplant the above mentioned sections 281, 283, 284, 434 and 1914 of title 18 [sections 281, 283, 284, 434 and 1914 of this title] respectively.² It will be convenient, therefore, after summarizing the principal provisions of the new sections, to examine each section separately, comparing it with its precursor before passing to the next. First of all, however, it is necessary to describe the background and provisions of the new 18 U.S.C. 202(a) [section 202(a) of this title], which has no counterpart among the statutes formerly in effect.

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CHAPTER 11—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Sec. 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.

1978 Amendment. Pub.L. 95-521, Title V, § 501(b), Oct. 26, 1978, 92 Stat. 1897, in item 207 struck out "in matters connected with former duties or official responsibilities" following "officers and employees" and inserted "of current officers and employees" following "partners of".

§ 201. Bribery of public officials and witnesses

(a) For the purpose of this section:

"public official" means Member of Congress, the Delegate from the District of Columbia, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government or a juror; and

"person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that he will be so nominated or appointed; and

"official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit.

[See main volume for text of (b) to (k).]

As amended Pub.L. 91-405, Title II, § 204(d) (1), Sept. 22, 1970, 84 Stat. 853.

1970 Amendment. Subsec. (a), Pub.L. 91-405 included Delegate from District of Columbia in definition of "public official". Effective Date of 1970 Amendment. Amendment by Pub.L. 91-405 effective on Sept. 22, 1970, see section 208(b) of Pub.L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress. Legislative History. For legislative history and purpose of Pub.L. 91-405, see 1970 U.S.Code Cong. and Adm.News, p. 3333.

EXECUTIVE ORDER NO. 11222

May 8, 1965, 30 F.R. 6469, as amended by Ex.Ord.No.11590, Apr. 23, 1971, 36 F.R. 7831.

STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

Sec. 706. This Order shall be applicable to the United States Postal Service established by the Postal Reorganization Act of 1970 [Title 39, Postal Service].

Redesignation. Section 2-101 of Ex. Ord.No.12197, Dec. 28, 1978, 44 F.R. 1055, substituted the words "Office of Personnel Management" for the words "Civil Service Commission" or "United States Civil Service Commission"; substituted

the word "Office" for the word "Commission" wherever the word "Commission" is used as a reference to United States Civil Service Commission; and substituted the words "Director, Office of Personnel Management" for the words "Chairman, Civil Service Commission", "Chairman, United States Civil Service Commission", "Commissioners" or "Commissioner" wherever said word or words appeared in this Executive Order.

Code of Federal Regulations

Employee responsibilities and conduct—

- Advisory Commission on Intergovernmental Relations, see 5 CFR 1700.735-101 to 1700.735-109.
Appalachian Regional Commission, see 5 CFR 1900.735-101 to 1900.735-108.
Department of Housing and Urban Development, see 24 CFR 0.735-101 to 0.735-401 et seq. and App.
Department of State, see 21 CFR 10.735-101 to 10.735-401 et seq.
District of Columbia Redevelopment Land Agency, see 5 CFR 2200.735-101 to 2200.735-401 et seq.
General Accounting Office, see 4 CFR 6.1 to 6.58.
National Capital Housing Authority, see 5 CFR 2000.735-101 to 2000.735-109.
National Commission on Product Safety, see 5 CFR 2300.735-101 to 2300.735-110.
Office of Management and Budget, see 5 CFR 1300.735-1 et seq.
Overseas Private Investment Corporation, see 22 CFR 730.735-101 to 730.735-110.
Peace Corps, see 22 CFR 301.735-1 to 301.735-14.
United States Arms Control and Disarmament Agency, see 22 CFR 601.735-1 to 601.735-76.
United States Soldiers' Home, see 5 CFR 2100.735-101 to 2100.735-108.