



OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

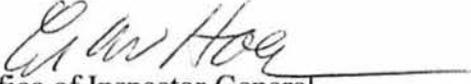
MEMORANDUM

July 15, 2013

TO: Anne K. Small
General Counsel, Office of the General Counsel

Jeffery Heslop
Chief Operating Officer, Office of the Chief Operating Officer

Tom Bayer
Director, Chief Information Office, Office of Information Technology

FROM: Carl W. Hoecker 
Inspector General, Office of Inspector General

SUBJECT: Investigative Memorandum IM-13-002: Disclosure of Nonpublic Information

The Office of Inspector General (OIG) recently conducted an investigation regarding a leak of nonpublic information. Specifically, articles published by a third-party media outlet contained information that was considered to be nonpublic and had been redacted from versions of a report made available to the public. In the course of its investigation, the OIG found evidence that the author of the articles received nonpublic information that had been made available only to Securities and Exchange Commission (SEC) employees, but did not identify the individual that leaked the information.¹

The U.S. Office of Government Ethics (“OGE”) Standards of Ethical Conduct for Employees of the Executive Branch state:

An employee shall not . . . allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure.

5 C.F.R. § 2635.703(a).

The SEC’s Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission provides that:

A member or employee of the Commission shall not . . .
[d]ivulge to any unauthorized person or release in advance of

¹ The OIG has identified the leaking of nonpublic information as a recurring problem; it had previously investigated other instances in which nonpublic SEC information was leaked to the press.

authorization for its release any nonpublic Commission document, or any information contained in any such document or any confidential information.

17 C.F.R. § 200.735-3(b)(2)(i).

SEC Administrative Regulation 18-2, Press Relations Policies and Procedures, provides guidance to SEC staff who may have occasion to deal with the news media. It states:

It is a violation of the SEC's conduct regulation, and may be a violation of other SEC rules and of provisions of the securities laws, for any employee to reveal nonpublic information unless specifically authorized to do so by formal SEC action, either directly or through delegated authority. This prohibition includes, but is not limited to, any information regarding an SEC law enforcement investigation, whether formal or informal; and any information regarding internal SEC documents, such as staff memoranda to the SEC.

SECR18-2, Section B.5 (Nonpublic Information) (July 31, 2005).

To ensure that all SEC employees continue to be aware of their duty to protect nonpublic SEC information from unauthorized disclosure, the OIG is making the following recommendations to the Office of General Counsel (OGC), the Office of the Chief Operating Officer (OCOO), and the Office of Information Technology (OIT). Within the next 45 days, please provide the OIG with a written corrective action plan (CAP) that addresses these recommendations. The CAP should include information such as the name of the designated responsible official or point of contact for the recommendations, estimated timeframes for completing required actions, and milestones identifying how the recommendations will be addressed.

Recommendation 1

The Office of the General Counsel, in consultation with the Ethics Counsel and other relevant divisions or offices, should advise employees, through training, correspondence, and other means, that Securities and Exchange Commission employees are expressly prohibited from disclosing nonpublic information unless specifically authorized to do so.

Recommendation 2

The Office of the General Counsel, in consultation with the Ethics Counsel and other relevant divisions or offices, should develop a schedule to provide periodic training and reminders to staff regarding their obligation to protect nonpublic information and prevent its unauthorized release.

Recommendation 3

The Office of the Chief Operating Officer, in consultation with the Office of the General Counsel, should review the agency's policies and procedures for safeguarding non-public and sensitive information to determine possible control improvements that could prevent and/or detect distribution of such information beyond that limited to those to which access is deemed necessary.

Recommendation 4

The Office of Information Technology, in consultation with the Office of the Chief Operating Officer and the Office of the General Counsel, should explore the development and implementation of an information technology control that would incorporate an audit feature for agency systems or shared drives that contain sensitive information.

cc: Mary Jo White, Chair
Elisse B. Walter, Commissioner
Luis A. Aguilar, Commissioner
Troy A. Paredes, Commissioner
Daniel M. Gallagher, Commissioner
Erica Williams, Deputy Chief of Staff, Office of the Chairman
Shira Pavis Minton, Ethics Counsel, Office of the Ethics Counsel
Darlene Pryor, Management and Program Analyst, Office of the Chief Operating Officer