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Civil Complaint 2:01-CV-179K

Exhibits in support of Memorandum of Plaintiff's Motion to Set Aside Judgement "FRAUD UPON THE COURT" Civil Procedure Rule 60

Docket Sheet:

Where Kurt Lusty's Address is 6021 S. Kamas Drive,
Salt Lake City, Utah, which is his home.

1

Documentation of court filings where Kurt Lusty suddenly
becomes Special Assistant US Attorney with a new
address: 9350 South 150 East, Suite 600 Sandy, Utah.

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U.S. Code 5 Ethical Conduct for the employees of the
Executive Branch.

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U.S. Code 5 Ethical Conduct for the employees of
the Department of Justice.

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Department of Justice Standards of Attorney Conduct
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US Department of Justice Ethics Handbook
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Moore's Federal Practice, The Federal Law of
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A- US Magistrate Samuel Alba notifying Kirk Lusty, Esq.
At address: USPS Law Dept., Sandy, Utah

B- US District Court Judge Dale Kimball notifies
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ABA's Model Code of Judicial Conduct
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US Supreme Court

William Marbury v. James Madison – Feb. 1803

Laws & rulings repugnant to the US Constitution are VOID

12

EXHIBIT

1

CLOSED

**Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:01-cv-00179-DAK**

Mauney v. USPS, et al
Assigned to: Judge Dale A. Kimball
Demand: \$51,000,000
Cause: 28:2201 Declaratory Judgment

Date Filed: 03/20/2001
Date Terminated: 01/11/2002
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

Fred W. Mauney, Jr

represented by **Fred W. Mauney, Jr**
50 W BROADWAY STE 100
SALT LAKE CITY, UT 84102-2006
(801)963-8731
PRO SE

V.

Defendant

United States Postal Service

represented by **Kirk C. Lusty**
6021 S KAMAS DR
SALT LAKE CITY, UT 84118
(801)891-6839
Email: kirk.c.lusty@usps.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

U.S. Postmaster General

represented by **Kirk C. Lusty**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Postal Inspector

represented by **Kirk C. Lusty**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Local Branch Main Office Inspector

represented by **Kirk C. Lusty**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/20/2001	<u>1</u>	Motion by Fred W. Mauney Jr to proceed in forma pauperis (jmr) (Entered: 03/20/2001)
03/20/2001	<u>2</u>	Order to proceed in forma pauperis. Signed by Judge Boyce, 3/19/01 cc: pla (jmr) (Entered: 03/20/2001)
03/20/2001	<u>3</u>	Complaint filed, assigned to Judge Dale A. Kimball Lodged/Filed on: 3/16/01 (jmr) (Entered: 03/20/2001)
03/28/2001	<u>4</u>	Order of Reference as authorized by 28 636(b)(1)(B). Case to be handled by magistrate judge upto and including the R&R on any dispositive motions. Signed by Dale A. Kimball on 3/28/01 (jmr) (Entered: 03/29/2001)
03/28/2001	<u>5</u>	Motion by Fred W. Mauney Jr for official service of process (jmr) (Entered: 03/29/2001)
04/09/2001	<u>6</u>	Case referred to Judge Samuel Alba cc: atty (jmr) (Entered: 04/09/2001)
05/17/2001	<u>7</u>	Motion by USPS, US Postmaster Gen, Postal Inspector, Local Br Main Off to quash the pla's attempt to affect service (jmr) (Entered: 05/17/2001)
05/17/2001	<u>8</u>	Memorandum by USPS, US Postmaster Gen, Postal Inspector, Local Br Main Off in support of [7-1] motion to quash the pla's attempt to affect service (jmr) (Entered: 05/17/2001)
05/17/2001	<u>9</u>	Declaration of Kirk C. Lusty Re: [7-1] motion to quash the pla's attempt to affect service (jmr) (Entered: 05/17/2001)
06/05/2001	<u>10</u>	Order granting [5-1] motion for official service of process by the US Marshall on Bill Susha, US Postal Service, F.J. Marion, William Henderson and Kenneth Weaver. It is further ordered that pla shall serve upon dfts, a copy of every pleading or documents submitted to the court. He shall include a certificate of service with every document submitted to the court. Any paper without a certificate of service will be disregarded by the court. Signed by Judge Samuel Alba, 6/1/01 cc:atty (jmr) (Entered: 06/07/2001)
06/05/2001	<u>11</u>	Order, for service re: directing parties as to service of pleadings signed by Judge Samuel Alba, 6/1/01 cc:atty (jmr) (Entered: 06/07/2001)
07/09/2001	<u>12</u>	Return of service executed re: Summons & Complaint served on Bill Susha c/o Sheila Young on 7/2/01. (jmr) (Entered: 07/10/2001)
07/09/2001	<u>13</u>	Return of service executed re: Summons & Complaint served on US Postal Service, Kenneth C. Weaver, Postal Inspector, F.J. Marion, William J. Henderson on 6/22/01 by Faye R. Hassan, Legal Clerk. (jmr) (Entered: 07/10/2001)
08/30/2001	<u>14</u>	Motion by USPS, US Postmaster Gen, Postal Inspector, Local Br Main Off to

		dismiss for lack of personal jurisdiction (ce) (Entered: 08/30/2001)
08/30/2001	<u>15</u>	Memorandum by USPS, US Postmaster Gen, Postal Inspector, Local Br Main Off in support of [14-1] motion to dismiss for lack of personal jurisdiction (ce) (Entered: 08/30/2001)
08/30/2001	16	Second Declaration of Kirk C. Lusty Re: [14-1] motion to dismiss for lack of personal jurisdiction (ce) (Entered: 08/30/2001)
10/29/2001	<u>17</u>	Ex parte motion by Fred W. Mauney Jr to extend time to answer or otherwise plead to defendants' motion to quash from 09/30/01 to 11/30/01 (asp) (Entered: 10/30/2001)
10/31/2001	<u>18</u>	Order granting [17-1] ex parte motion to extend time for pla to answer or otherwise plead to defendants' motion to quash from 09/30/01 to 11/30/01 signed by Judge Samuel Alba, 10/31/01 cc:atty (alt) (Entered: 11/01/2001)
11/01/2001	<u>19</u>	Memorandum by USPS, US Postmaster Gen, Postal Inspector, Local Br Main Off in opposition to [17-1] ex parte motion to extend time to answer or otherwise plead to defendants' motion to quash from 09/30/01 to 11/30/01 (ce) (Entered: 11/02/2001)
12/06/2001	<u>20</u>	Request for Ruling by defendant USPS, defendant US Postmaster Gen, defendant Postal Inspector, defendant Local Br Main Off RE: [14-1] motion to dismiss for lack of personal jurisdiction (blk) (Entered: 12/06/2001)
01/11/2002	<u>21</u>	Order granting [14-1] motion to dismiss for lack of personal jurisdiction; case is dismissed w/prej, each pty to bear own costs. Signed by Judge Dale A. Kimball, 1/10/02 cc:atty (alt) (Entered: 01/11/2002)
01/11/2002		CASE NO LONGER REFERRED TO Judge Samuel Alba (alt) (Entered: 01/11/2002)
01/11/2002		Case closed per order no. 21 (alt) (Entered: 01/11/2002)

EXHIBIT

2

PAUL M. WARNER (3389)
United States Attorney
KIRK C. LUSTY (3826)
Special Assistant United States Attorney
9350 South 150 East, Suite 800
Salt Lake City, Utah 84070-2702
Telephone: (801) 984-8401

FILED
CLERK, U.S. DISTRICT COURT
17 MAY 01 AM 11:32
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FRED W. MAUNEY, Jr.)

Plaintiff,)

v.)

UNITED STATES POSTAL SERVICE,)
et al.,)

Defendant.)

Civil No. 2:01CV-179K

DEFENDANT'S MOTION TO QUASH

The defendant, by counsel, pursuant to Rule 4, Federal Rules of Civil Procedure, hereby moves the Court for an order quashing the plaintiff's attempt to effect service of process upon the defendant on the ground that the plaintiff has failed to complete service of process in compliance with the requirements of Rule 4. The grounds for this motion are more fully set forth in the Memorandum in Support of Motion to Quash and the Declaration of Kirk C. Lusty filed herewith.

Paul M. Warner
United States Attorney


Kirk C. Lusty
Special Assistant United States Attorney

ORIGINAL

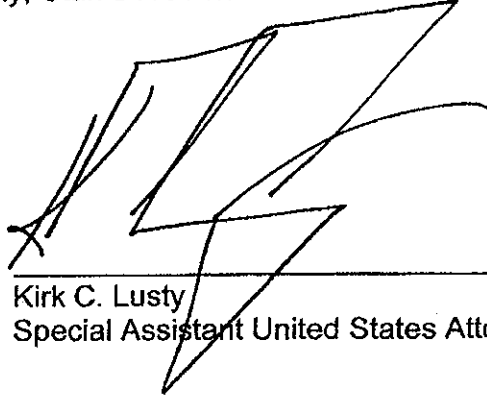
SCANNED

7

CERTIFICATE OF SERVICE

It is hereby certified that on May 15, 2001 a copy of the foregoing
MOTION TO QUASH was sent by first class mail to the following:

Fred W. Mauney
Suite 100
50 West Broadway
Salt Lake City, Utah 84101-2006



A handwritten signature in black ink, appearing to read 'Kirk C. Lusty', is written over a horizontal line. The signature is stylized and somewhat abstract.

Kirk C. Lusty
Special Assistant United States Attorney

PAUL M. WARNER (3389)
United States Attorney
KIRK C. LUSTY (3826)
Special Assistant United States Attorney
9350 South 150 East, Suite 800
Salt Lake City, Utah 84070-2702
Telephone: (801) 984-8401

FILED
CLERK U.S. DISTRICT COURT
17 MAY 01 AM 11:32
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

FRED W. MAUNEY, Jr.)

Plaintiff,)

v.)

UNITED STATES POSTAL SERVICE,)
et al.,)

Defendant.)

Civil No. 2:01CV-179K

DEFENDANT'S MEMORANDUM IN
SUPPORT OF MOTION TO QUASH

The defendant, by counsel, hereby submits the following memorandum in support of its Motion to Quash.

STATEMENT OF FACTS

The plaintiff brought the above-entitled action seeking to sue the United States Postal Service for failing to pay a reward.

1. The plaintiff's complaint contains a "Certificate of Mailing/Delivery" that states that a copy of the complaint was "mailed, postage prepaid" to "475 L'Enfant Plaza SW., Washington, D.C. 20260-0010."

2. The plaintiff did not serve a copy of a summons on the United States Postal Service.

ORIGINAL

SCANNED

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3. The plaintiff has not served a copy of the summons and complaint upon either the United States Attorney for the District of Utah or the Attorney General of the United States. See Declaration of Kirk C. Lusty.

ISSUE

Has the plaintiff effected service of process where he has not served a copy of the summons and complaint upon either the United States Attorney for the District of Utah or the Attorney General of the United States?

ARGUMENT

The Plaintiff has Not Properly Effected Service of Process

As set forth herein, the plaintiff has failed to properly serve the defendant. Service of process is governed by Rule 4, Federal Rules of Civil Procedure. Rule 4(i), Federal Rules of Civil Procedure, requires that service of process be made upon the United States, its Agencies and Officers by delivering a copy of the summons and complaint to the United States attorney for the district in which the action is brought and by mailing a copy of the summons and complaint by certified or registered mail to the Attorney General of the United States at Washington, D. C. In addition, Rule 4(i)(2), also requires that:

Service upon an officer, agency, or corporation of the United States, shall be effected by serving the United States in the manner prescribed by paragraph (1) of this subdivision and by also sending a copy of the summons and of the complaint by registered or certified mail to the officer, agency or corporation. (Emphasis added)

In the present case, the plaintiff has neither served a copy of the summons and complaint upon the United States Attorney nor the Attorney General of the United States. Furthermore, the plaintiff did not serve a copy of the summons and

complaint upon the United States Postal Service. Consequently, the plaintiff has failed to effect service of process upon the defendant in the manner prescribed by Rule 4.

In Messenger v. United States, 231 F. 2d 328, 331 (2d Cir. 1956), the Second Circuit Court of Appeals, in discussing the effect of proper service under the Federal Rules of Civil Procedure, stated:

The rules do prescribe and permit a prescribed procedure which, if followed by plaintiff will give the Court the power to adjudicate the claim asserted by the plaintiff against the defendant. If the prescribed procedure is followed, jurisdiction over the person may follow; **otherwise the court has no power to act.** [Emphasis added].

The plaintiff has not complied with the requirements of Rule 4(i), Federal Rules of Civil Procedure. Thus, plaintiff's attempted service of process was ineffective and this Court does not have personal jurisdiction over the defendants. However, the 120 days for effecting service pursuant to Rule 4(m), Federal Rules of Civil Procedure has not expired; the plaintiff may still effect service of process in conformity with Rule 4(i), Federal Rules of Civil Procedure. Thus, the Court should grant the defendants' Motion to Quash Service of Process and quash the plaintiff's attempted service of process. The plaintiff may then, if he chooses, properly effect service upon the defendants.

CONCLUSION

Here, the plaintiff has neither served the United States Attorney for the District of Utah nor the Attorney General of the United States with a copy of his summons and complaint. All the plaintiff apparently did to effect service of process was to mail by first class mail, not certified or registered mail, a copy of

the complaint to Washington, D.C. That action is not sufficient to effect service of process pursuant to Rule 4, Federal Rules of Civil Procedure. Therefore, the Court does not have personal jurisdiction over the defendant. Therefore, the Court should quash the plaintiff's attempted service of process.

Respectfully submitted,

Paul M. Warner
United States Attorney



Kirk C. Lusty
Special Assistant United States Attorney

CERTIFICATE OF SERVICE

It is hereby certified that on May 15, 2001 a copy of the foregoing
MEMORANDUM IN SUPPORT OF MOTION TO QUASH was sent by first class
mail to the following:

Fred W. Mauney
Suite 100
50 West Broadway
Salt Lake City, Utah 84101-2006



Kirk C. Lusty
Special Assistant United States Attorney

EXHIBIT

3

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XVI--OFFICE OF GOVERNMENT
ETHICS**

**SUBCHAPTER B--GOVERNMENT ETHICS
PART 2635--STANDARDS OF ETHICAL
CONDUCT FOR EMPLOYEES OF THE
EXECUTIVE
BRANCH**

SUBPART A--GENERAL PROVISIONS

Current through December 5, 2000; 65

FR 76114

§ 2635.101 Basic obligation of public service.

(a) Public service is a public trust. Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.

(b) General principles. The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.

(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the

employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(5) Employees shall put forth honest effort in the performance of their duties.

(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

(7) Employees shall not use public office for private gain.

(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(c) Related statutes. In addition to the standards of ethical conduct set forth in this part, there are conflict of interest statutes that prohibit certain

conduct. Criminal conflict of interest statutes of general applicability to all employees, 18 U.S.C. 201, 203, 205, 208, and 209, are summarized in the appropriate subparts of this part and must be taken into consideration in determining whether conduct is proper. Citations to other generally applicable statutes relating to employee conduct are set forth in subpart I and employees are further cautioned that there may be additional statutory and regulatory restrictions applicable to them generally or as employees of their specific agencies. Because an employee is considered to be on notice of the requirements of any statute, an employee should not

rely upon any description or synopsis of a statutory restriction, but should refer to the statute itself and obtain the advice of an agency ethics official as needed.

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 2635.101

5 CFR § 2635.101

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XVI--OFFICE OF GOVERNMENT
ETHICS**

**SUBCHAPTER B--GOVERNMENT ETHICS
PART 2635--STANDARDS OF ETHICAL
CONDUCT FOR EMPLOYEES OF THE
EXECUTIVE
BRANCH**

SUBPART A--GENERAL PROVISIONS

Current through December 5, 2000; 65

FR 76114

§ 2635.102 Definitions.

The definitions listed below are used throughout this part. Additional definitions appear in the subparts or sections of subparts to which they apply. For purposes of this part:

(a) Agency means an executive agency as defined in 5 U.S.C. 105 and the Postal Service and the Postal Rate Commission. It does not include the General Accounting Office or the Government of the District of Columbia.

(b) Agency designee refers to any employee who, by agency regulation, instruction, or other issuance, has been delegated authority to make any determination, give any approval, or take any other action required or permitted by this part with respect to another employee. An agency may delegate these authorities to any number of agency designees necessary to ensure that determinations are made, approvals are given, and other actions are taken in a timely and responsible manner. Any provision that requires a determination, approval, or other action by the agency designee shall, where the conduct in issue is that of the agency head, be deemed to require that such determination, approval or action be made or taken by the agency head in consultation with the designated agency ethics official.

(c) Agency ethics official refers to the designated agency ethics official or to the alternate designated agency ethics official, referred to in § 2638.202(b) of this chapter, and to any deputy ethics official, described in § 2638.204 of this chapter, who has been delegated authority to assist in carrying out the responsibilities of the designated agency ethics official.

(d) Agency programs or operations refers to any program or function carried out or performed by an agency, whether pursuant to statute, Executive order, or regulation.

(e) Corrective action includes any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution, change of assignment, disqualification, divestiture, termination of an activity, waiver, the creation of a qualified diversified or blind trust, or counseling.

(f) Designated agency ethics official refers to the official designated under § 2638.201 of this chapter.

(g) Disciplinary action includes those disciplinary actions referred to in Office of Personnel Management regulations and instructions implementing provisions of title 5 of the United States Code or provided for in comparable provisions applicable to employees not subject to title 5, including but not limited to reprimand, suspension, demotion, and removal. In the case of a military officer, comparable provisions may include those in the Uniform Code of Military Justice.

(h) Employee means any officer or employee of an agency, including a special Government employee. It includes officers but not enlisted members of the uniformed services. For purposes other than subparts B and C of this part, it does not include the President or Vice President. Status as an employee is unaffected by pay or leave status or, in the case of a special Government employee, by the fact that the individual does not perform official duties on a given day.

(i) Head of an agency means, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

(j) He, his, and him include she, hers and her.

(k) Person means an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this part, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The

term is all-inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity.

(l) Special Government employee means those executive branch officers or employees specified in 18 U.S.C. 202(a). A special Government employee is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for

a period not to exceed 130 days during any consecutive 365-day period.

(m) Supplemental agency regulation means a regulation issued pursuant to § 2635.105.

<General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 2635.102

5 CFR § 2635.102

END OF DOCUMENT

EXHIBIT

4

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
JUSTICE
PART 3801--SUPPLEMENTAL STANDARDS
OF ETHICAL CONDUCT FOR EMPLOYEES
OF THE
DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65

FR 76114

§ 3801.106 Outside employment.

(a) Definition. For purposes of this section, outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review § 2635.807 of this title.

(b) Prohibited outside employment.

(1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of

paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) Prior approval for outside employment.

(1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

(i) The practice of law; or

(ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

(3) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct that is prohibited by statute or Federal regulation.

[62 FR 31865, June 11, 1997]

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 3801.106

5 CFR § 3801.106

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
JUSTICE
PART 3801--SUPPLEMENTAL STANDARDS
OF ETHICAL CONDUCT FOR EMPLOYEES
OF THE
DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65

FR 76114

§ 3801.105 Personal use of Government property.

Employees are prohibited by part 2635 of this title

from using Government property for other than authorized purposes. The Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees is at 28 CFR 45.4.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.105

5 CFR § 3801.105

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
JUSTICE
PART 3801--SUPPLEMENTAL STANDARDS
OF ETHICAL CONDUCT FOR EMPLOYEES
OF THE
DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65

FR 76114

§ 3801.104 Purchase or use of certain forfeited and other property.

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the

employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or to the agent of either.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.104

5 CFR § 3801.104

END OF DOCUMENT

Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in § 2635.807 of this title.

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 3801.103

5 CFR § 3801.103

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
JUSTICE
PART 3801--SUPPLEMENTAL STANDARDS
OF ETHICAL CONDUCT FOR EMPLOYEES
OF THE
DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65
FR 76114

§ 3801.103 Designation of separate Departmental
components.

(a) Pursuant to § 2635.203(a) of this title, each of
the following components is designated as a separate
agency for purposes of the regulations contained in
subpart B of part 2635 of this title governing gifts
from outside sources, and, accordingly, § 2635.807
of this title governing teaching, speaking, and
writing:

Antitrust Division

Bureau of Prisons

(including Federal Prison Industries, Inc.)

Civil Division

Civil Rights Division

Community Relations Service

Criminal Division

Drug Enforcement Administration

Environment and Natural Resources Division

Executive Office for Immigration Review

Executive Office for United States Attorneys

(The Executive Office for United States Attorneys
shall not be considered separate from any Office of
the United States Attorney for a judicial district, but
only from other designated components of the
Department of Justice.)

Executive Office for United States Trustees

(The Executive Office for United States Trustees
shall not be considered separate from any Office of
the United States Trustee for a region, but only from
other designated components of the Department of
Justice.)

Federal Bureau of Investigation

Foreign Claims Settlement Commission

Immigration and Naturalization Service

Independent Counsel appointed by the Attorney
General

INTERPOL

National Drug Intelligence Center

Justice Management Division

Office of Information and Privacy

Office of Intelligence Policy and Review

Office of Community Oriented Policing Services

Office of Justice Programs

Office of the Pardon Attorney

Office of Policy Development

Offices of the United States Attorney (94)

(Each Office of the United States Attorney for a
judicial district shall be considered a separate
component from each other such office.)

Offices of the United States Trustee (21)

(Each Office of the United States Trustee for a
region shall be considered a separate component
from each other such office.)

Tax Division

United States Marshals Service

United States Parole Commission

(b) Employees serving in positions within the

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
JUSTICE
PART 3801--SUPPLEMENTAL STANDARDS
OF ETHICAL CONDUCT FOR EMPLOYEES
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§ 3801.102 Detailed or assigned special agents of certain Departmental components.

Notwithstanding a detail or assignment to another

entity, any special agent of the Federal Bureau of Investigation or Drug Enforcement Administration who is subject to the regulations or standards of ethical conduct of that entity pursuant to § 2635.104 of this title shall also remain subject to the regulations in this part.

<General Materials (GM) - References, Annotations, or Tables>

5 C. F. R. § 3801.102

5 CFR § 3801.102

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
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Current through December 5, 2000; 65
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§ 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards

of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.101

5 CFR § 3801.101

END OF DOCUMENT

(x) The prohibition against counterfeiting or forging transportation requests (18 U.S.C. 508).

(y) The restrictions on disclosure of certain sensitive Government information under the Freedom of Information Act and the Privacy Act (5 U.S.C. 552 and 552a).

(z) The prohibitions against disclosure of classified information (18 U.S.C. 798 and 50 U.S.C. 783(a)).

(aa) The prohibition against disclosure of proprietary information and certain other information of a confidential nature (18 U.S.C. 1905).

(bb) The prohibitions on disclosing and obtaining certain procurement information (41 U.S.C. 423(a) and (b)).

(cc) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(dd) The prohibition against certain personnel practices (5 U.S.C. 2302).

(ee) The prohibition against interference with civil service examinations (18 U.S.C. 1917).

(ff) The restrictions on use of public funds for lobbying (18 U.S.C. 1913).

(gg) The prohibition against participation in the

appointment or promotion of relatives (5 U.S.C. 3110).

(hh) The prohibition against solicitation or acceptance of anything of value to obtain public office for another (18 U.S.C. 211).

(ii) The prohibition against conspiracy to commit an offense against or to defraud the United States (18 U.S.C. 371).

(jj) The prohibition against embezzlement or conversion of Government money or property (18 U.S.C. 641).

(kk) The prohibition against failing to account for public money (18 U.S.C. 643).

(ll) The prohibition against embezzlement of the money or property of another person that is in the possession of an employee by reason of his employment (18 U.S.C. 654).

[62 FR 48748, Sept. 17, 1997; 64 FR 2422, Jan. 14, 1999; 65 FR 69657, Nov. 20, 2000]

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 2635.902

5 CFR § 2635.902

END OF DOCUMENT

CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
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Current through December 5, 2000; 65

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§ 2635.902 Related statutes.

- (a) The prohibition against solicitation or receipt of bribes (18 U.S.C. 201(b)).
- (b) The prohibition against solicitation or receipt of illegal gratuities (18 U.S.C. 201(c)).
- (c) The prohibition against seeking or receiving compensation for certain representational services before the Government (18 U.S.C. 203).
- (d) The prohibition against assisting in the prosecution of claims against the Government or acting as agent or attorney before the Government (18 U.S.C. 205).
- (e) The post-employment restrictions applicable to former employees (18 U.S.C. 207, with implementing regulations at parts 2637 and 2641 of this chapter).
- (f) The prohibition on certain former agency officials' acceptance of compensation from a contractor (41 U.S.C. 423(d)).
- (g) The prohibition against participating in matters affecting an employee's own financial interests or the financial interests of other specified persons or organizations (18 U.S.C. 208).
- (h) The actions required of certain agency officials when they contact, or are contacted by, offerors or bidders regarding non-Federal employment (41 U.S.C. 423(c)).
- (i) The prohibition against receiving salary or any contribution to or supplementation of salary as compensation for Government service from a source other than the United States (18 U.S.C. 209).
- (j) The prohibition against gifts to superiors (5 U.S.C. 7351).
- (k) The prohibition against solicitation or receipt of gifts from specified prohibited sources (5 U.S.C. 7353).
- (l) The prohibition against fraudulent access and related activity in connection with computers (18 U.S.C. 1030).
- (m) The provisions governing receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342).
- (n) [Reserved]
- (o) The prohibitions against certain political activities (5 U.S.C. 7321 through 7326 and 18 U.S.C. 602, 603, 606 and 607).
- (p) The prohibitions against disloyalty and striking (5 U.S.C. 7311 and 18 U.S.C. 1918).
- (q) The general prohibition (18 U.S.C. 219) against acting as the agent of a foreign principal required to register under the Foreign Agents Registration Act (22 U.S.C. 611 through 621).
- (r) The prohibition against employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313).
- (s) The prohibition against employment of an individual who habitually uses intoxicating beverages to excess (5 U.S.C. 7352).
- (t) The prohibition against misuse of a Government vehicle (31 U.S.C. 1344).
- (u) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).
- (v) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).
- (w) The prohibition against concealing, mutilating or destroying a public record (18 U.S.C. 2071).

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
CHAPTER XXVIII--DEPARTMENT OF
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OF ETHICAL CONDUCT FOR EMPLOYEES
OF THE
DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65
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§ 3801.106 Outside employment.

(a) Definition. For purposes of this section, outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review § 2635.807 of this title.

(b) Prohibited outside employment.

(1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of

paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) Prior approval for outside employment.

(1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

(i) The practice of law; or

(ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

(3) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct that is prohibited by statute or Federal regulation.

[62 FR 31865, June 11, 1997]

<General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.106

5 CFR § 3801.106

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
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DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65

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§ 3801.105 Personal use of Government property.

Employees are prohibited by part 2635 of this title

from using Government property for other than authorized purposes. The Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees is at 28 CFR 45.4.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.105

5 CFR § 3801.105

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
TITLE 5--ADMINISTRATIVE PERSONNEL
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DEPARTMENT OF JUSTICE**

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§ 3801.104 Purchase or use of certain forfeited and other property.

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the

employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or to the agent of either.

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 3801.104

5 CFR § 3801.104

END OF DOCUMENT

Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in § 2635.807 of this title.

<General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.103

5 CFR § 3801.103

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
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Current through December 5, 2000; 65
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§ 3801.103 Designation of separate Departmental
components.

(a) Pursuant to § 2635.203(a) of this title, each of
the following components is designated as a separate
agency for purposes of the regulations contained in
subpart B of part 2635 of this title governing gifts
from outside sources, and, accordingly, § 2635.807
of this title governing teaching, speaking, and
writing:

Antitrust Division

Bureau of Prisons

(including Federal Prison Industries, Inc.)

Civil Division

Civil Rights Division

Community Relations Service

Criminal Division

Drug Enforcement Administration

Environment and Natural Resources Division

Executive Office for Immigration Review

Executive Office for United States Attorneys

(The Executive Office for United States Attorneys
shall not be considered separate from any Office of
the United States Attorney for a judicial district, but
only from other designated components of the
Department of Justice.)

Executive Office for United States Trustees

(The Executive Office for United States Trustees
shall not be considered separate from any Office of
the United States Trustee for a region, but only from
other designated components of the Department of
Justice.)

Federal Bureau of Investigation

Foreign Claims Settlement Commission

Immigration and Naturalization Service

Independent Counsel appointed by the Attorney
General

INTERPOL

National Drug Intelligence Center

Justice Management Division

Office of Information and Privacy

Office of Intelligence Policy and Review

Office of Community Oriented Policing Services

Office of Justice Programs

Office of the Pardon Attorney

Office of Policy Development

Offices of the United States Attorney (94)

(Each Office of the United States Attorney for a
judicial district shall be considered a separate
component from each other such office.)

Offices of the United States Trustee (21)

(Each Office of the United States Trustee for a
region shall be considered a separate component
from each other such office.)

Tax Division

United States Marshals Service

United States Parole Commission

(b) Employees serving in positions within the

**CODE OF FEDERAL REGULATIONS
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Current through December 5, 2000; 65

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§ 3801.102 Detailed or assigned special agents of certain Departmental components.

Notwithstanding a detail or assignment to another

entity, any special agent of the Federal Bureau of Investigation or Drug Enforcement Administration who is subject to the regulations or standards of ethical conduct of that entity pursuant to § 2635.104 of this title shall also remain subject to the regulations in this part.

<General Materials (GM) - References, Annotations, or Tables>

5 C. F. R. § 3801.102

5 CFR § 3801.102

END OF DOCUMENT

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§ 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards

of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.101

5 CFR § 3801.101

END OF DOCUMENT

(x) The prohibition against counterfeiting or forging transportation requests (18 U.S.C. 508).

(y) The restrictions on disclosure of certain sensitive Government information under the Freedom of Information Act and the Privacy Act (5 U.S.C. 552 and 552a).

(z) The prohibitions against disclosure of classified information (18 U.S.C. 798 and 50 U.S.C. 783(a)).

(aa) The prohibition against disclosure of proprietary information and certain other information of a confidential nature (18 U.S.C. 1905).

(bb) The prohibitions on disclosing and obtaining certain procurement information (41 U.S.C. 423(a) and (b)).

(cc) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(dd) The prohibition against certain personnel practices (5 U.S.C. 2302).

(ee) The prohibition against interference with civil service examinations (18 U.S.C. 1917).

(ff) The restrictions on use of public funds for lobbying (18 U.S.C. 1913).

(gg) The prohibition against participation in the

appointment or promotion of relatives (5 U.S.C. 3110).

(hh) The prohibition against solicitation or acceptance of anything of value to obtain public office for another (18 U.S.C. 211).

(ii) The prohibition against conspiracy to commit an offense against or to defraud the United States (18 U.S.C. 371).

(jj) The prohibition against embezzlement or conversion of Government money or property (18 U.S.C. 641).

(kk) The prohibition against failing to account for public money (18 U.S.C. 643).

(ll) The prohibition against embezzlement of the money or property of another person that is in the possession of an employee by reason of his employment (18 U.S.C. 654).

[62 FR 48748, Sept. 17, 1997; 64 FR 2422, Jan. 14, 1999; 65 FR 69657, Nov. 20, 2000]

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 2635.902

5 CFR § 2635.902

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**CODE OF FEDERAL REGULATIONS
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AUTHORITIES**

Current through December 5, 2000; 65

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§ 2635.902 Related statutes.

- (a) The prohibition against solicitation or receipt of bribes (18 U.S.C. 201(b)).
- (b) The prohibition against solicitation or receipt of illegal gratuities (18 U.S.C. 201(c)).
- (c) The prohibition against seeking or receiving compensation for certain representational services before the Government (18 U.S.C. 203).
- (d) The prohibition against assisting in the prosecution of claims against the Government or acting as agent or attorney before the Government (18 U.S.C. 205).
- (e) The post-employment restrictions applicable to former employees (18 U.S.C. 207, with implementing regulations at parts 2637 and 2641 of this chapter).
- (f) The prohibition on certain former agency officials' acceptance of compensation from a contractor (41 U.S.C. 423(d)).
- (g) The prohibition against participating in matters affecting an employee's own financial interests or the financial interests of other specified persons or organizations (18 U.S.C. 208).
- (h) The actions required of certain agency officials when they contact, or are contacted by, offerors or bidders regarding non-Federal employment (41 U.S.C. 423(c)).
- (i) The prohibition against receiving salary or any contribution to or supplementation of salary as compensation for Government service from a source other than the United States (18 U.S.C. 209).
- (j) The prohibition against gifts to superiors (5 U.S.C. 7351).
- (k) The prohibition against solicitation or receipt of gifts from specified prohibited sources (5 U.S.C. 7353).
- (l) The prohibition against fraudulent access and related activity in connection with computers (18 U.S.C. 1030).
- (m) The provisions governing receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342).
- (n) [Reserved]
- (o) The prohibitions against certain political activities (5 U.S.C. 7321 through 7326 and 18 U.S.C. 602, 603, 606 and 607).
- (p) The prohibitions against disloyalty and striking (5 U.S.C. 7311 and 18 U.S.C. 1918).
- (q) The general prohibition (18 U.S.C. 219) against acting as the agent of a foreign principal required to register under the Foreign Agents Registration Act (22 U.S.C. 611 through 621).
- (r) The prohibition against employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313).
- (s) The prohibition against employment of an individual who habitually uses intoxicating beverages to excess (5 U.S.C. 7352).
- (t) The prohibition against misuse of a Government vehicle (31 U.S.C. 1344).
- (u) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).
- (v) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).
- (w) The prohibition against concealing, mutilating or destroying a public record (18 U.S.C. 2071).

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DEPARTMENT OF JUSTICE**

Current through December 5, 2000; 65

FR 76114

§ 3801.106 Outside employment.

(a) Definition. For purposes of this section, outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review § 2635.807 of this title.

(b) Prohibited outside employment.

(1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of

paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) Prior approval for outside employment.

(1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

(i) The practice of law; or

(ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

(3) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct that is prohibited by statute or Federal regulation.

[62 FR 31865, June 11, 1997]

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.106

5 CFR § 3801.106

END OF DOCUMENT

**CODE OF FEDERAL REGULATIONS
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Current through December 5, 2000; 65

FR 76114

§ 3801.105 Personal use of Government property.

Employees are prohibited by part 2635 of this title

from using Government property for other than authorized purposes. The Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees is at 28 CFR 45.4.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.105

5 CFR § 3801.105

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Current through December 5, 2000; 65

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§ 3801.104 Purchase or use of certain forfeited and other property.

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the

employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or to the agent of either.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.104

5 CFR § 3801.104

END OF DOCUMENT

Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in § 2635.807 of this title.

<General Materials (GM) - References, Annotations, or Tables>

5 C. F. R. § 3801.103

5 CFR § 3801.103

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Current through December 5, 2000; 65

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§ 3801.103 Designation of separate Departmental components.

(a) Pursuant to § 2635.203(a) of this title, each of the following components is designated as a separate agency for purposes of the regulations contained in subpart B of part 2635 of this title governing gifts from outside sources, and, accordingly, § 2635.807 of this title governing teaching, speaking, and writing:

Antitrust Division

Bureau of Prisons

(including Federal Prison Industries, Inc.)

Civil Division

Civil Rights Division

Community Relations Service

Criminal Division

Drug Enforcement Administration

Environment and Natural Resources Division

Executive Office for Immigration Review

Executive Office for United States Attorneys

(The Executive Office for United States Attorneys shall not be considered separate from any Office of the United States Attorney for a judicial district, but only from other designated components of the Department of Justice.)

Executive Office for United States Trustees

(The Executive Office for United States Trustees shall not be considered separate from any Office of the United States Trustee for a region, but only from other designated components of the Department of Justice.)

Federal Bureau of Investigation

Foreign Claims Settlement Commission

Immigration and Naturalization Service

Independent Counsel appointed by the Attorney General

INTERPOL

National Drug Intelligence Center

Justice Management Division

Office of Information and Privacy

Office of Intelligence Policy and Review

Office of Community Oriented Policing Services

Office of Justice Programs

Office of the Pardon Attorney

Office of Policy Development

Offices of the United States Attorney (94)

(Each Office of the United States Attorney for a judicial district shall be considered a separate component from each other such office.)

Offices of the United States Trustee (21)

(Each Office of the United States Trustee for a region shall be considered a separate component from each other such office.)

Tax Division

United States Marshals Service

United States Parole Commission

(b) Employees serving in positions within the

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§ 3801.102 Detailed or assigned special agents of certain Departmental components.

Notwithstanding a detail or assignment to another

entity, any special agent of the Federal Bureau of Investigation or Drug Enforcement Administration who is subject to the regulations or standards of ethical conduct of that entity pursuant to § 2635.104 of this title shall also remain subject to the regulations in this part.

<General Materials (GM) - References, Annotations, or Tables>

5 C. F. R. § 3801.102

5 CFR § 3801.102

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§ 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards

of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

<General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.101

5 CFR § 3801.101

END OF DOCUMENT

(x) The prohibition against counterfeiting or forging transportation requests (18 U.S.C. 508).

(y) The restrictions on disclosure of certain sensitive Government information under the Freedom of Information Act and the Privacy Act (5 U.S.C. 552 and 552a).

(z) The prohibitions against disclosure of classified information (18 U.S.C. 798 and 50 U.S.C. 783(a)).

(aa) The prohibition against disclosure of proprietary information and certain other information of a confidential nature (18 U.S.C. 1905).

(bb) The prohibitions on disclosing and obtaining certain procurement information (41 U.S.C. 423(a) and (b)).

(cc) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(dd) The prohibition against certain personnel practices (5 U.S.C. 2302).

(ee) The prohibition against interference with civil service examinations (18 U.S.C. 1917).

(ff) The restrictions on use of public funds for lobbying (18 U.S.C. 1913).

(gg) The prohibition against participation in the

appointment or promotion of relatives (5 U.S.C. 3110).

(hh) The prohibition against solicitation or acceptance of anything of value to obtain public office for another (18 U.S.C. 211).

(ii) The prohibition against conspiracy to commit an offense against or to defraud the United States (18 U.S.C. 371).

(jj) The prohibition against embezzlement or conversion of Government money or property (18 U.S.C. 641).

(kk) The prohibition against failing to account for public money (18 U.S.C. 643).

(ll) The prohibition against embezzlement of the money or property of another person that is in the possession of an employee by reason of his employment (18 U.S.C. 654).

[62 FR 48748, Sept. 17, 1997; 64 FR 2422, Jan. 14, 1999; 65 FR 69657, Nov. 20, 2000]

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 2635.902

5 CFR § 2635.902

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SUBCHAPTER B--GOVERNMENT ETHICS
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§ 2635.902 Related statutes.

- (a) The prohibition against solicitation or receipt of bribes (18 U.S.C. 201(b)).
- (b) The prohibition against solicitation or receipt of illegal gratuities (18 U.S.C. 201(c)).
- (c) The prohibition against seeking or receiving compensation for certain representational services before the Government (18 U.S.C. 203).
- (d) The prohibition against assisting in the prosecution of claims against the Government or acting as agent or attorney before the Government (18 U.S.C. 205).
- (e) The post-employment restrictions applicable to former employees (18 U.S.C. 207, with implementing regulations at parts 2637 and 2641 of this chapter).
- (f) The prohibition on certain former agency officials' acceptance of compensation from a contractor (41 U.S.C. 423(d)).
- (g) The prohibition against participating in matters affecting an employee's own financial interests or the financial interests of other specified persons or organizations (18 U.S.C. 208).
- (h) The actions required of certain agency officials when they contact, or are contacted by, offerors or bidders regarding non-Federal employment (41 U.S.C. 423(c)).
- (i) The prohibition against receiving salary or any contribution to or supplementation of salary as compensation for Government service from a source other than the United States (18 U.S.C. 209).
- (j) The prohibition against gifts to superiors (5 U.S.C. 7351).
- (k) The prohibition against solicitation or receipt of gifts from specified prohibited sources (5 U.S.C. 7353).
- (l) The prohibition against fraudulent access and related activity in connection with computers (18 U.S.C. 1030).
- (m) The provisions governing receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342).
- (n) [Reserved]
- (o) The prohibitions against certain political activities (5 U.S.C. 7321 through 7326 and 18 U.S.C. 602, 603, 606 and 607).
- (p) The prohibitions against disloyalty and striking (5 U.S.C. 7311 and 18 U.S.C. 1918).
- (q) The general prohibition (18 U.S.C. 219) against acting as the agent of a foreign principal required to register under the Foreign Agents Registration Act (22 U.S.C. 611 through 621).
- (r) The prohibition against employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313).
- (s) The prohibition against employment of an individual who habitually uses intoxicating beverages to excess (5 U.S.C. 7352).
- (t) The prohibition against misuse of a Government vehicle (31 U.S.C. 1344).
- (u) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).
- (v) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).
- (w) The prohibition against concealing, mutilating or destroying a public record (18 U.S.C. 2071).

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§ 3801.106 Outside employment.

(a) Definition. For purposes of this section, outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review § 2635.807 of this title.

(b) Prohibited outside employment.

(1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of

paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) Prior approval for outside employment.

(1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

(i) The practice of law; or

(ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

(3) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct that is prohibited by statute or Federal regulation.

[62 FR 31865, June 11, 1997]

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.106

5 CFR § 3801.106

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§ 3801.105 Personal use of Government property.

Employees are prohibited by part 2635 of this title

from using Government property for other than authorized purposes. The Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees is at 28 CFR 45.4.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.105

5 CFR § 3801.105

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§ 3801.104 Purchase or use of certain forfeited and
other property.

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the

employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or to the agent of either.

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 3801.104

5 CFR § 3801.104

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Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in § 2635.807 of this title.

<General Materials (GM) - References, Annotations, or Tables >

5 C. F. R. § 3801.103

5 CFR § 3801.103

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§ 3801.103 Designation of separate Departmental
components.

(a) Pursuant to § 2635.203(a) of this title, each of
the following components is designated as a separate
agency for purposes of the regulations contained in
subpart B of part 2635 of this title governing gifts
from outside sources, and, accordingly, § 2635.807
of this title governing teaching, speaking, and
writing:

Antitrust Division

Bureau of Prisons

(including Federal Prison Industries, Inc.)

Civil Division

Civil Rights Division

Community Relations Service

Criminal Division

Drug Enforcement Administration

Environment and Natural Resources Division

Executive Office for Immigration Review

Executive Office for United States Attorneys

(The Executive Office for United States Attorneys
shall not be considered separate from any Office of
the United States Attorney for a judicial district, but
only from other designated components of the
Department of Justice.)

Executive Office for United States Trustees

(The Executive Office for United States Trustees
shall not be considered separate from any Office of
the United States Trustee for a region, but only from
other designated components of the Department of
Justice.)

Federal Bureau of Investigation

Foreign Claims Settlement Commission

Immigration and Naturalization Service

Independent Counsel appointed by the Attorney
General

INTERPOL

National Drug Intelligence Center

Justice Management Division

Office of Information and Privacy

Office of Intelligence Policy and Review

Office of Community Oriented Policing Services

Office of Justice Programs

Office of the Pardon Attorney

Office of Policy Development

Offices of the United States Attorney (94)

(Each Office of the United States Attorney for a
judicial district shall be considered a separate
component from each other such office.)

Offices of the United States Trustee (21)

(Each Office of the United States Trustee for a
region shall be considered a separate component
from each other such office.)

Tax Division

United States Marshals Service

United States Parole Commission

(b) Employees serving in positions within the

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§ 3801.102 Detailed or assigned special agents of
certain Departmental components.

Notwithstanding a detail or assignment to another

entity, any special agent of the Federal Bureau of
Investigation or Drug Enforcement Administration
who is subject to the regulations or standards of
ethical conduct of that entity pursuant to § 2635.104
of this title shall also remain subject to the
regulations in this part.

<General Materials (GM) - References,
Annotations, or Tables>

5 C. F. R. § 3801.102

5 CFR § 3801.102

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§ 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards

of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

< General Materials (GM) - References,
Annotations, or Tables >

5 C. F. R. § 3801.101

5 CFR § 3801.101

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