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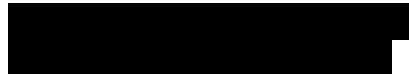


UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
STATION PLACE
100 F STREET, NE
WASHINGTON, DC 20549-2465

Office of FOIA Services

March 31, 2017

Mr. John Greenewald
The Black Vault



Re: Freedom of Information Act (FOIA), 5 U.S.C. § 552
Request No. 17-00042-OIG

Dear Mr. Greenewald:

This is the final response to your February 2, 2017 request for a copy of the Office of Inspector General (OIG) report 16-COM-0209-I.

Access is granted in part to OIG report, 16-COM-0209-I. Information within the report is being withheld under 5 U.S.C. § 552(b)(6), (7)(A) and (7)(C), 17 CFR § 200.80(b)(6), (7)(i) and (7)(iii).

Exemption 7(A) protects from disclosure records compiled for law enforcement purposes, the release of which could reasonably be expected to interfere with enforcement activities.

It is the general policy of the SEC to conduct its investigations on a non-public basis. Thus, subject to the provisions of FOIA, the SEC does not disclose the existence or non-existence of an investigation or information gathered unless made a matter of public record in proceedings brought before the SEC or in the courts. Accordingly, the assertion of this exemption should not be construed as an indication by the SEC or its staff that any violations of law have occurred with respect to any person, entity, or security.

Under Exemption 6 the release of the redacted information would constitute a clearly unwarranted invasion of personal privacy. Under Exemption 7(C) release of the information could reasonably be expected to constitute an unwarranted invasion of personal privacy. Further, public identification of Commission

staff could conceivably subject them to harassment and annoyance in the conduct of their official duties and in their private lives.

I am the deciding official with regard to this adverse determination. You have the right to appeal my decision to the SEC's General Counsel under 5 U.S.C. § 552(a)(6), 17 CFR § 200.80(d)(5)(iv). The appeal must be received within ninety (90) calendar days of the date of this adverse decision. Your appeal must be in writing, clearly marked "Freedom of Information Act Appeal," and should identify the requested records. The appeal may include facts and authorities you consider appropriate.

You may file your appeal by completing the online Appeal form located at https://www.sec.gov/forms/request_appeal, or mail your appeal to the Office of FOIA Services of the Securities and Exchange Commission located at Station Place, 100 F Street NE, Mail Stop 2465, Washington, D.C. 20549, or deliver it to Room 1120 at that address. Also, send a copy to the SEC Office of the General Counsel, Mail Stop 9612, or deliver it to Room 1120 at the Station Place address.

You also have the right to seek assistance from an SEC FOIA Public Liaison, whose contact information can be located at <https://www.sec.gov/oso/contact/foia-contact.html>. In addition, you may contact the Office of Government Information Services (OGIS) for dispute resolution services. OGIS can be reached at 1-877-684-6448 or <https://ogis.archives.gov/?p=/ogis/index.html>.

If you have any questions, please contact me by email at sifordm@sec.gov or by telephone at (202) 551-7201. If you cannot reach me please contact Mr. John J. Livornese, the SEC's FOIA Officer, by calling (202) 551-7900 or by sending an e-mail to foiapa@sec.gov.

Sincerely,



Mark P. Siford
Counsel to the Director/Chief FOIA Officer
Office of Support Operations

Enclosure

REPORT OF INVESTIGATION

CASE# 16-COM-0209-I



Office of Inspector General

U.S. Securities and Exchange Commission



U.S. Securities and Exchange Commission
Office of Inspector General



Report of Investigation

Subject: (b)(6), (b)(7)(C)
Title: [REDACTED]
SK-Level/Grade: (b)(6), (b)(7)(C)
Office: Office of the Chief Accountant
Region: Washington, D.C.

Case #: 16-COM-0209-I

Origin: Office of Inspector General

Security Clearance: Y ☐ / N ☒

Investigation Initiated: January 13, 2016

Investigation Completed: MAY 05 2016

Summary and Conclusion

On September 21, 2015, the U.S. Securities and Exchange Commission (SEC), Office of Inspector General (OIG), discovered that (b)(6), (b)(7)(C) Office of the Chief Accountant (OCA), may have transmitted nonpublic information from his personal Gmail e-mail account to his official SEC work e-mail account. Specifically, during the course of investigative activities related to OIG Case # 15-COM-0419-I, the OIG found (b)(6), (b)(7)(C) forwarded an internal SEC e-mail and attachment dated April 12, 2015, (b)(7)(A). It appeared (b)(6), (b)(7)(C) forwarded this e-mail from his personal Gmail address on April 12, 2015. The content in the e-mail attachment included a narrative of highlights of (b)(7)(A) (b)(7)(A) and recommendations to the Commission. As a result, on January 13, 2016, the OIG initiated a separate investigation concerning (b)(6), (b)(7)(C) improper handling of nonpublic SEC information.

The investigation determined that the information (b)(6), (b)(7)(C) transmitted from his personal non-secured Gmail e-mail account on April 12, 2015, (b)(7)(A) constituted nonpublic information. Furthermore, (b)(6), (b)(7)(C) admitted that he sent the e-mail and attachment which contained nonpublic information regarding (b)(7)(A) from his personal Gmail e-mail account to his SEC e-mail account. (b)(6), (b)(7)(C) admitted that he took work home and prepared the document on his personal computer, before e-mailing it to his SEC e-mail account. (b)(6), (b)(7)(C) acknowledged that he knew the SEC's Rules of the Road. The OIG confirmed that he deleted the e-mail and attachment from his Gmail e-mail account and personal computer.

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A cursory search by the OIG of (b)(6),(b)(7)(C) Gmail e-mail account yielded negative results for any additional SEC-related e-mail messages.

Relevant Authorities

- SEC Administrative Regulations (SECR) 23-2a, Safeguarding Non-Public Information
- Office of Information Technology Rules of the Road Concerning Use of E-mail
- SECR 5-10, Electronic Mail

Basis and Scope

While conducting investigative activities related to OIG Case # 15-COM-0419-I, the OIG discovered (b)(6),(b)(7)(C) sent nonpublic information from his personal Gmail e-mail account to his official SEC work e-mail. (EXHIBIT 1)

On September 21, 2015, during the course of reviewing e-mails for OIG Case # 15-COM-0419-I, the OIG revealed (b)(6),(b)(7)(C) sent an e-mail containing information related to Commission matters from his Gmail e-mail account (b)(6),(b)(7)(C)@gmail.com) which may have included nonpublic information to his official SEC e-mail. Specifically, on April 12, 2015, at 10:51 a.m., an e-mail that appeared to have been sent from (b)(6),(b)(7)(C) Gmail e-mail account regarding (b)(7)(A) to (b)(6),(b)(7)(C) SEC e-mail. The e-mail attachment stated (b)(7)(A)

(EXHIBIT 2)

Investigator's Note: According to (b)(7)(A)

During the course of the investigation, OIG interviewed the following individuals:

- (b)(6),(b)(7)(C) OCA
- (b)(6),(b)(7)(C) Office of the Associate General Counsel for Litigation and Administrative Practices, Office of General Counsel

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In addition, the SEC OIG reviewed documents relevant to the investigation, including:

- SEC Employee E-mail Records
- Gmail E-mail Account Records
- (b)(6),(b)(7)(C) eOPF
- The HUB

Investigative Activity

In an interview with the OIG (b)(6),(b)(7)(C) was provided a copy of the e-mail from (b)(6),(b)(7)(C) SEC account and upon initial review she determined that it contained nonpublic information in the form of SEC-related work product. (EXHIBIT 3)

In an interview with the OIG (b)(6),(b)(7)(C) confirmed (b)(6),(b)(7)(C)@gmail.com was his only personal e-mail account. (b)(6),(b)(7)(C) stated, "No one has regular access," to his personal e-mail. "I'm saying other than my spouse if I gave her the password."

(b)(6),(b)(7)(C) was shown the April 12, 2015, e-mail with the attachment and stated, "My speculation is that for some reason I had a document that I wanted to get onto the work folder, but SEC Anywhere wasn't working, and I couldn't get on -- because I always work on SEC Anywhere. And so I just sent it to my work e-mail so that I could get it onto my work drive." (b)(6),(b)(7)(C) admitted that the e-mail contained nonpublic information.

(b)(6),(b)(7)(C) stated, "I reviewed my work e-mail and recalled that I likely took home over the weekend a draft action memo of (b)(7)(A) and prepared a draft briefing of the case on my home computer. I believe I did this because the computer network was down at the time. Subsequently, I believe I e-mailed the draft summary to my work computer so that I could save the document to my work computer."

When asked have you ever sent any nonpublic information from your home previously to your SEC work e-mail or from his SEC e-mail to his home (b)(6),(b)(7)(C) responded "To the best of my recollection, I've never done that. It's not something I do. I always work on SEC Anywhere. I don't send stuff to and from personal e-mails. The only thing I could think of is that it was -- I couldn't get on my network and I had to get this done, so I sent it to my -- I worked on it from home and then e-mailed it to my work e-mail."

When asked if (b)(6),(b)(7)(C) was aware of the Rules of the Road about sending nonpublic information (b)(6),(b)(7)(C) responded, "Yes, I am." (b)(6),(b)(7)(C) was asked did the Rules of the Road cross his mind at any point when he was sending the April 12, 2015, e-mail (b)(6),(b)(7)(C) responded, "No, but it's crossing my mind now." (EXHIBITS 4 & 5)

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(b)(6),(b)(7)(C) provided the OIG with access to his personal computer and Gmail e-mail account. The OIG observed (b)(6),(b)(7)(C) still had the April 12, 2015, e-mail on his personal Gmail account (Google mail) with the attached (b)(7)(A). The OIG witnessed (b)(6),(b)(7)(C) delete the e-mail from his Gmail account after conducting a search through all of his e-mails. (b)(6),(b)(7)(C) stated that he did not send the e-mail anywhere else. Furthermore, (b)(6),(b)(7)(C) was instructed by the OIG to conduct a search on his personal laptop for the file and filename. The search revealed (b)(7)(A). (b)(7)(A) the OIG requested (b)(6),(b)(7)(C) to delete the file from his personal laptop. (b)(6),(b)(7)(C) moved the file to the trash folder and then the trash folder was emptied. A second search conducted by (b)(6),(b)(7)(C) did not locate any other file sent or received related to this matter. A cursory search by the OIG of (b)(6),(b)(7)(C) Gmail e-mail account yielded negative results for any SEC related e-mail messages. (EXHIBIT 5)

An OIG review of (b)(6),(b)(7)(C) complete training records for the period of September 26, 2011 through June 1, 2015, revealed the following relevant training taken by (b)(6),(b)(7)(C).

Table 1: Summary of (b)(6),(b)(7)(C) Relevant Training Courses

Course Title	Date Completed
2013 Cyber Security and Privacy Awareness Training	08/30/2013
Nonpublic Information	1/27/2014
2014 Cyber Security and Privacy Awareness Training	9/2/2014
Protecting Nonpublic Information at the SEC - 2015	4/28/2015

Source* Training Courses based on information compiled from OHR records. (EXHIBIT 6)

Findings

The investigation determined that the information (b)(6),(b)(7)(C) transmitted from his personal non-secured Gmail e-mail account on April 12, 2015, (b)(7)(A) constituted nonpublic information. Furthermore, (b)(6),(b)(7)(C) admitted that he sent the e-mail and attachment which contained nonpublic information regarding (b)(7)(A) from his personal Gmail e-mail account to his SEC e-mail account. (b)(6),(b)(7)(C) admitted that he took work home and prepared the document on his personal computer, before e-mailing it to his SEC e-mail account. (b)(6),(b)(7)(C) acknowledged that he knew the SEC's Rules of the Road. The OIG confirmed that he deleted the e-mail and attachment from his Gmail e-mail account and personal computer. A cursory search by the OIG of (b)(6),(b)(7)(C) Gmail e-mail account yielded negative results for any additional SEC-related e-mail messages.

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On the basis of the findings of our investigation, it appears that the following pertinent authorities were violated or could be applied to the case:

- **SECR 23-2a, Safeguarding Non-Public Information**

Non-Public information is information generated by or in the possession of the SEC that is commercially valuable, market sensitive, proprietary, related to an enforcement or examination matter, subject to privilege, or otherwise deemed non-public by a division director or office head, and not otherwise available to the public. This policy applies to non-public information in any form including documents, electronic mail, computer files, conversations, and audio or video recordings.

- **Office of Information Technology Rules of the Road Concerning Use of E-mail**

All users of SEC computing and network facilities, including Federal employees and contractors, must follow the SEC Rules of the Road, issued March 1, 2004, and updated on June 23, 2010, when using any SEC information technology source, including e-mail. See Rules of the Road, available at http://wapps.sec.gov/oitintranet/oit_learn/rules.html. The SEC Rules of the Road require SEC users to protect SEC networks and automated system assets and prohibit them from processing nonpublic information on non-SEC workstations unless such workstations are equipped with SEC-approved protection software. Rule No. 3 of the Rules of the Road, "Use E-mail Responsibly and Sensibly," specifically prohibits users from sending material that is sensitive or that contains personally identifiable information to their personal e-mail accounts. Id. Similarly, Rule No. 7, "Don't Transmit Nonpublic or Sensitive Information over Non-secure Systems" prohibits the transmission of nonpublic information or sensitive data through the Internet or via e-mail, unless it is encrypted using the SEC's approved encryption software.

- **SECR 5-10, Electronic Mail**

SECR 5-10, Electronic Mail, provides the policies, standards, responsibilities, and procedures for all personnel who utilize the SEC e-mail system and directs, in relevant part, that users will ensure sensitive information is not entered, stored, or transmitted through Internet e-mail further defining sensitive information as any information which could adversely affect the privacy to which individuals are entitled under Title 5 United States Code 552a, Privacy Act. (Section A(3)(j)(1), Responsibilities, Electronic Mail Users)

SECR 5-10 provides, in relevant part, that e-mail users must exercise common sense, good judgment, and propriety in the use of e-mail, and use Internet mail responsibly and in accordance with the guidelines in Section D of this regulation. (Section (A)(3)(j)(6), Responsibilities, Electronic Mail Users)

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SECR 5-10 also provides, in relevant part, that it is unacceptable to use Internet mail for the purpose of transmitting confidential, non-public, or sensitive information. (Section (D)(13)(b), Use of Internet Electronic Mail, Unacceptable uses)

Distribution

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Anne K. Small, General Counsel

Jeff Rosenblum, Deputy General Counsel

James Schnurr, Chief Accountant, OCA

Lacey Dingman, Chief Human Capital Officer

Signatures

Case Agent:

(b)(6), (b)(7)(C)



5/3/16
Date

5/3/16
Date

Approved:

P. Brian Crane, Assistant Inspector General
for Investigations

5/8/2016
Date

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Exhibits

1. **OIG Lead Initiation, dated January 12, 2016.**
2. **Memorandum of Activity, Review of Records of (b)(6),(b)(7)(C) dated September 21, 2015.**
3. **Memorandum of Activity, Interview of (b)(6),(b)(7)(C) dated September 30, 2015.**
4. **Memorandum of Activity, Interview of (b)(6),(b)(7)(C) dated February 29, 2016.**
5. **Memorandum of Activity, Computer Forensics and Sworn Statement of (b)(6),(b)(7)(C) dated March 1, 2016.**
6. **Memorandum of Activity, Document Review, dated March 9, 2016.**

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Office of Inspector General – Investigations
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