



November 22, 2022

Emory A. Rounds, III  
Director  
U.S. Office of Government Ethics  
1201 New York Avenue, N.W., Suite 500  
Washington, DC 20005

*Submitted electronically via [contactoge@oge.gov](mailto:contactoge@oge.gov)*

Dear Director Rounds:

Campaign Legal Center (“CLC”) respectfully requests that the U.S Office of Government Ethics (“OGE”) use its authority under 5 C.F.R. § 2638.503 and 504 to investigate deficiencies in several agencies’ ethics programs. In addition, OGE should issue guidance to clarify how agency ethics officials must advise on the rule prohibiting actual and perceived conflicts of interest.

### **Pattern of Agency Ethics Programs Permitting Actual and Perceived Conflicts of Interest**

Four agencies, the Department of Defense (“DoD”), the Environmental Protection Agency (“EPA”), the Federal Trade Commission (“FTC”), and the Department of Health and Human Services (“HHS”) have repeatedly allowed senior officials to own and trade stock in companies that appear to create conflicts of interest with their official duties:<sup>1</sup>

- DoD permitted: the deputy assistant secretary of defense for south and southeast Asia and a senior cybersecurity official to trade stock in companies

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<sup>1</sup> *Capital Assets: A Wall Street Journal Investigation*, WALL ST. J., <https://www.wsj.com/articles/capital-assets-11665673055?mod=bigtop-breadcrumb> (last visited Nov. 15, 2022).

while the agency made blacklist decisions affecting those companies;<sup>2</sup> and the chief scientist for the director of operational test and evaluation to trade stock in a defense contractor while his division was overseeing the testing of planes made by that company;<sup>3</sup>

- EPA permitted: the spouse of a senior advisor to the Administrator to make hundreds of transactions in energy and mining firms;<sup>4</sup> and an official to work on renewable fuel standards involving oil refineries while their spouse held a financial interest in oil and gas wells;<sup>5</sup>
- FTC permitted: the director of the office coordinating an investigation into a tech company to sell the company's stock;<sup>6</sup> the director of the office investigating a manufacturing company to own the company's stock;<sup>7</sup> the associate director of the office that issued information requests to two media companies to own the companies' stock;<sup>8</sup> and the former FTC Chair involved in expanding the investigation into a company to sell the company's stock;<sup>9</sup> and
- HHS permitted: two senior officials to trade stock based on nonpublic information;<sup>10</sup> and one senior official to trade stock in companies that senior officials were prohibited from owning.<sup>11</sup>

The details of these alleged violations are summarized in the chart below, and our complaints to the agency Inspectors General are attached as appendices to this letter.

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<sup>2</sup> Rebecca Ballhaus, et. al., *Federal Officials Trade Stock in Companies Their Agencies Oversee*, WALL ST. J. (Oct. 11, 2022), <https://www.wsj.com/articles/government-officials-invest-in-companies-their-agencies-oversee-11665489653>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Brody Mullins, Rebecca Ballhaus, & Joe Palazzolo, *The \$1 Million Amazon Conflict: Washington's Ethics Czars Struggle to Enforce Stock-Trading Laws*, WALL ST. J. (Oct. 21, 2022), <https://www.wsj.com/articles/the-1-million-amazon-conflict-washingtons-ethics-czars-struggle-to-enforce-stock-trading-laws-11666360815>.

<sup>6</sup> Brody Mullins, et. al., *The Regulators of Facebook, Google and Amazon Also Invest in the Companies' Stocks*, WALL ST. J. (Oct. 13, 2022), <https://www.wsj.com/articles/the-regulators-of-facebook-google-and-amazon-also-invest-in-the-companies-stocks-11665670207>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Rebecca Ballhaus, et. al., *As Covid Hit, Washington Officials Traded Stocks With Exquisite Timing*, WALL ST. J. (Oct. 19, 2022), <https://www.wsj.com/articles/covid-washington-officials-stocks-trading-markets-stimulus-11666192404>.

<sup>11</sup> James V. Grimaldi, James Benedict, Coulter Jones, & Chad Day, *Wall Street Traders or Washington Officials? Sometimes It's Hard to Tell.*, WALL ST. J. (Oct. 18, 2022), <https://www.wsj.com/articles/wall-street-traders-or-washington-officials-sometimes-its-hard-to-tell-11666103385>.

**SENIOR OFFICIAL STOCK TRADING & CONFLICTS OF INTEREST**

*Source: The Wall Street Journal, [Capital Assets Investigation](#)*

AGENCY	OFFICIAL	STOCK	CONFLICT
<b>DoD</b>	Dep. Asst. Sec. of Defense for South and Southeast Asia	Alibaba	Traded stock while involved in decisions on whether to ban Americans from investing in Alibaba
	Dep. Chief Info. Officer for Cybersecurity and Chief Info. Security Officer	Alibaba, Baidu Inc. and China Petroleum & Chemical Corp.	Traded stock while involved in decisions on whether to ban Americans from investing in certain Chinese companies
	Chief Scientist for the Dir. of Operational Test and Evaluation	Lockheed Martin	Traded stock before the Pentagon announced \$1 billion contract with Lockheed Martin for planes his division was testing
<b>EPA</b>	Sr. Advisor to the Administrator/Dep. Chief of Staff	Cheniere Energy, Duke Energy Corp., NextEra Energy and BP	Spouse traded energy stocks while administration was promoting natural gas production new rules to help gas industry
	Unnamed Official	Oil and gas stocks	Worked on renewable fuel standards involving oil refineries while he and wife held in oil and gas stocks
<b>FTC</b>	Dir. Int'l Affairs	Facebook Amazon	Traded stock while involved in coordination of international investigations of Facebook and Amazon
	Dir. Bureau of Competition	Emerson Electric Co.	Held stock while bureau investigated Emerson Electric's acquisition of another company
	Assoc. Dir. Enforcement for Bureau of Competition	Comcast Corp. AT&T	Held stock while bureau investigated practices of Comcast and AT&T
	Former FTC Chair	Charter Comms.	Sold stock immediately before voting to expand investigation of Charter Comms.
<b>HHS</b>	Dep. Dir. of Pub. Health Service and Implementation Science	Unnamed stocks and bonds	Sold stocks and purchased bonds possibly based on nonpublic information about COVID-19
	Principal Dep. Dir. of the Nat'l Inst. Of Health's Nat'l Inst. of Allergy and Infectious Disease	Mutual funds	Sold mutual funds possibly based on nonpublic information about COVID-19
	Dir. of the Office of Planning	Unnamed stocks	Traded prohibited stock based on improper advice from ethics officials

**OGE's Authority and Responsibility to Ensure Agency Compliance with Ethics Rules**

As you know, under 5 C.F.R. § 2638.503, the OGE Director can make recommendations and provide advice to agencies as the “Director deems necessary to ensure compliance with applicable government ethics laws and regulations.”<sup>12</sup> Further, 5 C.F.R. § 2638.504 allows the Director to “recommend that the agency head or the Inspector General conduct an investigation” if an agency does not resolve the matter brought forth in § 2638.503.<sup>13</sup> If the agency does not conduct the

<sup>12</sup> 5 C.F.R. §2538.503.

<sup>13</sup> 5 C.F.R. §2538.504.

investigation in a reasonable time, then Director can notify the President of the United States.

Federal regulations clearly require Designated Agency Ethics Officials (“DAEOs”) to ensure that an employee does not have an interest that may create a conflict of interest, and to take action to resolve the appearance of a conflict if one is present.<sup>14</sup> The employees at issue were all high-ranking officials who held stock in companies directly affected by the actions their departments did or did not take. An investigation can determine whether the scope and severity of deficiencies in the ethics programs’ guidance on financial conflicts of interest is greater than currently publicly known.

### **OGE Should Investigate the Agency Ethics Programs and Issue New Guidance**

CLC requests that OGE exercise its authority to determine whether the agency heads and agency ethics officials took appropriate action to avoid employee conflicts of interest. OGE should evaluate whether these agency ethics programs are implemented properly in compliance with financial disclosure requirements and Standards of Conduct. We also request you issue guidance to provide ethics officials specific methods for determining unethical stock holdings resulting from actual and perceived conflicts of interest.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
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<sup>14</sup> 5 C.F.R. §2638.104(c)(6).