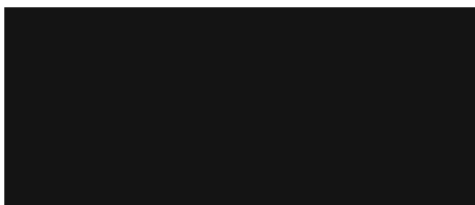


COMPLAINT TO THE INSPECTOR GENERAL - SUPPLEMENTAL



Dec. 9, 2013

Todd J. Zinser

Office of Inspector General
Department of Commerce
Complaint Intake Unit, Mail Stop 7886
1401 Constitution Avenue, N.W.
Washington, DC 20230
Hotline@oig.doc.gov

Dear Inspector General Counsel:

Re: Supplement to COMPLAINT against the U.S. Patent Office

I filed a complaint against the U.S. Patent Office on Oct. 31, 2013 (attached). Since that time, new information has emerged to further illustrate the suspected misconduct of Administrative Judges and the FOIA Counsel.

I would first like to bring your attention to several investigations involving the questionable conduct:

1. OBAMACARE WEBSITE MAKES CORRUPT CLAIMS ABOUT THE TECHNOLOGY, *Americans For Innovation*, **Nov. 8, 2013**
<<http://americans4innovation.blogspot.com/2013/11/obamacare-website-technology-based-on.html>>.
2. OBAMA'S CHIEF TECH OFFICER TODD Y. PARK MIRED IN CONFLICTS OF INTEREST, *Americans For Innovation*, **Nov. 15, 2013**
<<http://americans4innovation.blogspot.com/2013/11/obamas-chief-tech-officer-todd-y-park.html>>.
3. WHITE HOUSE FIFTH COLUMN UNCOVERED; HEALTHCARE.GOV MERELY COLLATERAL DAMAGE, *Americans For Innovation*, **Nov. 22, 2013**
<<http://americans4innovation.blogspot.com/2013/11/white-house-fifth-column-uncovered.html>>.
4. HEALTHCARE.GOV DOOMED BY WIDESPREAD UNETHICAL CONDUCT, *Americans For Innovation*, **Nov. 26, 2013**
<<http://americans4innovation.blogspot.com/2013/11/healthcaregov-doomed-by-widespread.html>>.
5. HEALTHCARE.GOV HAS EXPOSED WASHINGTON'S ETHICAL DISEASE, *Americans For Innovation*, **Dec. 3, 2013**
<<http://americans4innovation.blogspot.com/2013/12/healthcaregov-has-exposed-washingtons.html>>.

Supplement to Oct. 31, 2013 COMPLAINT SUPPLEMENT

I attach four waivers sought by members of the Obama cabinet. These cabinet members rightly disclosed their conflicts of interest regarding **Bill Gates and Microsoft**. Those individuals are:

1. *Philip R. Reiting*er, Director, National Cybersecurity Center, Department of Homeland Security, waiver, May 19, 2009.
2. *Margot Rogers*, Senior Counselor to the Secretary of Education, waiver, Mar. 23, 2009.
3. *Rajiv J. Shah*, Under Secretary for Research, Education and Economics, Department of Agriculture, waiver, Nov. 9, 2009.
4. *James (Jim) Shelton III*, Assistant Deputy Secretary for Innovation and Improvement, Department of Education, waiver, Apr. 28, 2009.

However, by comparison, not a single such waiver has been produced by any of the Patent Office employees who are the subject of this complaint. Therefore, one can only assume that no such waivers exist.

If no such waivers exist, then this absence is *prima facie* proof that these individuals have breached their duty of impartiality under [5 C.F.R. Part 2635](#)—Standards of Ethical Conduct for Employees of the Executive Branch in matters involving Facebook and Leader Technologies.

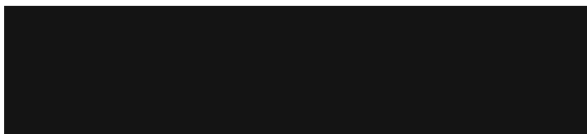
We now know from public disclosures by these individuals themselves that Patent Office FOIA Officer, **Kathryn W. Siehdnel**, worked for Facebook's law firm, **White & Case LLP**. We also know that Chief Administrative Judge **Stephen C. Siu** was assigned to an unprecedented third reexamination order by Director **David J. Kappos** of Leader Technologies' patent. Judge Siu worked for **Microsoft**, while Kappos worked for IBM. Both IBM and Microsoft are large Facebook stakeholders. This information was notoriously known.

These conflicts were identified *despite* Ms. Siehdnel's FOIA stonewalling.

The Gates/Microsoft waivers show that the Administration *knows* how to disclose conflicts of interest regarding Microsoft, so why don't we see any from the Patent Office re. Microsoft, IBM and Facebook?

Something is clearly amiss. I trust you will investigate and get to the bottom of this evident corruption.

Thank you for your assistance.



Attachments:

1. COMPLAINT, filed Oct. 31, 2013
2. Executive Branch MICROSOFT Conflicts Waiver re. **Philip R. Reiting**er, Director, National Cybersecurity Center, Department of Homeland Security, waiver, May 19, 2009.
3. Executive Branch BILL GATES Conflicts Waiver re. **Margot Rogers**, Senior Counselor to the Secretary of Education, waiver, Mar. 23, 2009.
4. Executive Branch BILL GATES Conflicts Waiver re. **Rajiv J. Shah**, Under Secretary for Research, Education and Economics, Department of Agriculture, waiver, Nov. 9, 2009.
5. Executive Branch BILL GATES Conflicts Waiver re. **James (Jim) Shelton III**, Assistant Deputy Secretary for Innovation and Improvement, Department of Education, waiver, Apr. 28, 2009.

Supplement to Oct. 31, 2013 COMPLAINT SUPPLEMENT

cc.

The Honorable Jim Jordan (4th Dist. OH)
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F (419) 999-4238

Teresa Stanek Rea
Deputy Undersecretary and Deputy Director
U.S. Patent & Trademark Office
600 Dulany Street
Alexandria, VA 22314
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The Honorable Luke Messer (6th Dist. IN)
2 Public Square
Shelbyville IN 46176
T (317) 421-0704
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Todd J. Zinser
Office of Inspector General
Department of Commerce
Complaint Intake Unit, Mail Stop 7886
1401 Constitution Avenue, N.W.
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COMPLAINT



October 31, 2013

Todd J. Zinser

Office of Inspector General
Department of Commerce
Complaint Intake Unit, Mail Stop 7886
1401 Constitution Avenue, N.W.
Washington, DC 20230
Hotline@oig.doc.gov

Dear Inspector General Counsel:

Re: COMPLAINT against the U.S. Patent Office

I am using your online form as the template for the information below
(<http://www.oig.doc.gov/Pages/online-hotline-complaint-form.aspx>)

Topic of my complaint:	U.S. Patent and Trademark Office
Subject of my allegations:	Employee Misconduct Conflict of Interest False Statements Hiring /Discipline False Claims Theft
Alleged violators:	Former Director David J. Kappos U.S. Patent & Trademark Office 600 Dulany Street Alexandria VA 22314 Telephone: (571)272-8700 Fax: (571) 273-0177 Stephen C. Siu Administrative Judge U.S. Patent & Trademark Office 600 Dulany Street Alexandria VA 22314 Telephone: (571)272-8700 Fax: (571) 273-0177

COMPLAINT AGAINST THE U.S. PATENT OFFICE

Allen R. MacDonald

Administrative Judge
U.S. Patent & Trademark Office
600 Dulany Street
Alexandria VA 22314
Telephone: (571)272-8700
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Meredith C. Petravick

Administrative Judge
U.S. Patent & Trademark Office
600 Dulany Street
Alexandria VA 22314
Telephone: (571)272-8700
Fax: (571) 273-0177

Kathryn W. Siehndel

FOIA Officer
Office of General Law
U.S. Patent & Trademark Office
600 Dulany Street
Alexandria VA 22314
Telephone: (571)272-8700
Fax: (571) 273-0177

I waive my confidentiality:

See my contact information on my letterhead.

Details of Allegations:

My efforts to obtain FOIA information have been stonewalled by parties within the Patent Office with evident *conflicts of interest* that I have been able to determine from public records. However, my attempts to investigate these conflicts further have been met with evident obfuscation.

The *Leader v. Facebook* matters referenced in my attached appeal are being adjudicated by individuals with *close personal and professional relationships to Facebook and its attorneys*. To make matters worse, Director David J. Kappos relied on Facebook as his USPTO newsletter out DURING the *Leader v. Facebook* proceedings. This is corrupt. It is even more corrupt when one considers that Mr. Kappos worked formerly for IBM, who sold 750 patents to Facebook during the *Leader v. Facebook* proceedings. Then, when he ordered an unprecedented 3rd patent reexam of Leader's patent, he assigned Judge Stephen C. Siu, who was former employed by Microsoft—one of Facebook largest stockholders.

COMPLAINT AGAINST THE U.S. PATENT OFFICE

As further illustration of how biased the Patent Office is in this matter, the FOIA Officer assigned to respond to my requests, as well as those of others—Kathryn W. Siehndel, is a former employee of one of Facebook's attorneys in this matter, White & Case LLP

The collusion among these parties to protect Facebook is apparent. It seems to me that at a minimum, a full investigation into whether or not conflicts of interest checks in matters related to Facebook and Leader Technologies were performed in order to insure unbiased judging. Then, if the USPTO failed to disclose their conflicts of interest, serious discipline and rescission of all decisions involving them is demanded.

Supporting documentation: Attached

I will make myself available to you. I specifically recommend that rather than me send each of the Requests, Appeals and Responses, you should obtain the files from the parties first. I would request a copy of that set of documents so that I can confirm to you that it is the same as the documents I have received.

USPTO FOIA Requests Nos. F-13-00218, F-13-00263; Appeal No. A-13-00027
Leader Technologies, Inc., v. Facebook, Inc.,
U.S. Pat. No. 7,139,761 and 3rd Reexam No. 95/001,261

Please investigate this matter and kindly report your findings to me as well as the House Oversight Committee on Government Reform, to whom I have provided regular briefings on this and related matters.

Yours sincerely,



Enclosure: USPTO FOIA Appeal, Oct. 31, 2013

cc.

The Honorable Jim Jordan (4th Dist. OH)
3121 West Elm Plaza
Lima, OH 45805
T (419) 999-6455
F (419) 999-4238

COMPLAINT AGAINST THE U.S. PATENT OFFICE

Teresa Stanek Rea
Deputy Undersecretary and Deputy Director
U.S. Patent & Trademark Office
600 Dulany Street
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The Honorable Luke Messer (6th Dist. IN)
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FREEDOM OF INFORMATION ACT (FOIA) APPEAL



October 31, 2013

General Counsel

United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
efoia@uspto.gov

Dear General Counsel:

*Re: USPTO FOIA Requests Nos. F-13-00218, F-13-00263; Appeal No. A-13-00027
Leader Technologies, Inc., v. Facebook, Inc.,
U.S. Pat. No. 7,139,761 and 3rd Reexam No. 95/001,261*

I wish to appeal Kathryn Siehndel's Oct. 4, 2013 response (attached). Please excuse the bold underlines, but my requests are very evidently being stonewalled and I wish to make my points as clear as I can.

Firstly, I pointed out in my Aug. 21, 2013 request that Ms. Siehndel has a serious conflict of interest in this matter. She was formerly employed by a Facebook attorney in the *Leader v. Facebook* matter, White & Case LLP. Therefore, she is not an honest broker.

Ms. Siehndel has systematically failed to disclose this conflict and recuse herself. This conduct is an evident breach of **5 C.F.R. PART 2635: STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH**, especially **SUBPART E, IMPARTIALITY IN PERFORMING OFFICIAL DUTIES**.

I believe it is incumbent upon the USPTO to remand my requests and appeals to a restart, with unbiased FOIA officers.

Secondly, I asked for Ms. Siehndel's biographical and financial information, especially since it relates directly to her evident bias in this matter. That request has been ignored.

Thirdly, I asked for:

"All communications and posts related to the **Patent Office Facebook Page** (www.facebook.com/uspto.gov) which began on or about May 20, 2010. Please include all internal communications suggesting and editing content for the posts.

"All communications and posts related to the **Patent Office Facebook Page** (www.facebook.com/UsptoApanet) which began on or about January 2012.

Please include all internal communications suggesting and editing content for the posts.

In addition, I asked for conflicts of interest checks regarding the *Leader v. Facebook* matters, including but not limited to Judges Stephen C. Siu, Meredith C. Petravick and Alan R. MacDonald.

In response to my appeal, Ms. Siehndel sent only *one* document — a single David Kappos’s resume that is already available on the USPTO public website.

Ms. Siehndel stated “Your request is considered complete with full disclosure.” Really? Who considered it “complete with full disclosure?” Any reasonable person can see I am being stonewalled **by Facebook-biased USPTO personnel**. Therefore, I am left with no choice but to escalate this matter to include the Inspector General.

This response is not reasonable when considering the extensive information available from the USPTO Facebook Page that shows much involvement by Director David Kappos in the development of the USPTO Facebook presence – **during the *Leader v. Facebook* proceedings**. Indeed, here is a summary of his Facebook posts from May 14, 2010 to Nov. 9, 2012.

Source: USPTO Facebook page at www.facebook.com/uspto.gov; also at: <http://www.scribd.com/doc/161483620/U-S-Patent-Office-Facebook-Page-joined-Apr-01-2010-accessed-Aug-19-2013>

Abstract: U.S. Patent Office Director David J. Kappos has used Facebook as a Director’s exclusive newsletter. Director Kappos has made a total of 303 Facebook entries since May 14, 2010. Director Kappos is mentioned by name in 40 Facebook entries. His photo appears in 15 Facebook entries. His video appears in 2 Facebook entries.

Summary of posts that mention Director Kappos by name, and identified if the post is accompanied by a Kappos photo or video.

Nov. 09, 2012	Kappos thanks veterans on Veterans Day
Oct. 1, 2012	Kappos promoting innovation (PHOTO)
Sep. 12, 2012	Kappos promotes his blog and opening of USPTO offices in Dallas-Ft. Worth, Denver and Silicon Valley (PHOTO)
Jul. 13, 2012	Kappos opens Detroit office
Jul. 12, 2012	Kappos promotes plan for new Denver office
Jul. 12, 2012	Kappos promotes opening of Detroit office
Jul. 6, 2012	Kappos: “I think this is really is the best time there’s ever been to be an inventor”
May 3, 2012	Kappos speaks at National Inventors Hall of Fame (VIDEO)
Mar. 14, 2012	Kappos writes about Industry Day
Sep. 16, 2011	Kappos promotes his blog about the America Invests Act (PHOTO)
Sep. 16, 2011	Kappos at the White House promotes a live chat about the America Invents Act (PHOTO)
Sep. 9, 2011	Kappos congratulates the U.S. Senate on passing the America Invents Act

USPTO FOIA Requests Nos. F-13-00218, F-13-00263; Appeal No. A-13-00027

Jun. 20, 2011	Kappos promotes his blog about pro bono work for independent inventors (PHOTO)
Jun. 16, 2011	Kappos promotes LEGO league (PHOTO)
Mar. 13, 2011	Kappos promotes new quality measurements
Feb. 17, 2011	Kappos discusses Teresa Stanek Rea appointment as Deputy Director
Feb. 10, 2011	Kappos promotes his blog about ex parte rejections
Jan. 25, 2011	Kappos promotes his blog about computer system upgrades at the USPTO
Jan. 21, 2011	Kappos promotes his speech on innovation (PHOTO)
Jan. 15, 2011	Kappos promotes reengineering of the patent examiner's manual
Jan. 4, 2011	Kappos promotes his speech at UConn School of Law (PHOTO)
Dec. 10, 2010	Kappos promotes his blog on first action pendency
Dec. 6, 2010	Kappos promotes his blog on a roundtable public discussion
Nov. 16, 2010	Kappos promotes his blog the Board's sole authority to hold an appeal brief
Nov. 9, 2010	Kappos promotes 15 th Annual Independent Inventors Conference (PHOTO)
Oct. 8, 2010	Kappos promotes his blog about USPTO staff meetings
Sep. 9, 2010	Kappos promotes appearance on Bloomberg TV about reducing patent pendency (VIDEO)
Sep. 8, 2010	Kappos promotes his blog about subscriptions to his blog (PHOTO)
Aug. 26, 2010	Kappos discusses the role of minority inventors
Aug. 19, 2010	Kappos promotes interview on NPR about patent applications (PHOTO)
Aug. 15, 2010	Kappos promotes his blog giving a pep talk to personnel
Jul. 26, 2010	Kappos promotes his blog about RCE filings
Jul. 20, 2010	Kappos promotes his blog about telecommuting (PHOTO)
Jun. 28, 2010	Kappos highlights the Bilski vs. Kappos case
Jun. 25, 2010	Kappos highlight meetings with the President of the German Patent Office (PHOTO)
Jun. 23, 2010	Kappos promotes his interview with Intellectual Assets Management magazine
May 29, 2010	Kappos promotes his blog on about patent examination
May 26, 2010	Kappos highlights his speech to a DOJ, FTC, USPTO workshop (PHOTO)
May 20, 2010	Kappos invites USPTO employees to visit and "like" on Facebook daily (PHOTO)
May 14, 2010	Kappos promotes his interview on CBS
<i>Statistics:</i>	
Total Posts.....302	
David J. Kappos mentioned by name40	
David J. Kappos photo posted.....15	
David J. Kappos video posted.....2	

Therefore, it is inconceivable that Director Kappos could have made these 302 personal Facebook posts without even a single communication with staff members on the content, **including the contents of any secret email accounts used by USPTO personnel**. I wish to see all the communications among the staff and with Director Kappos regarding these Facebook posts. Ms. Siehdnel did not provide a single document in response to this request.

I also renew my request for the biographical and financial information of the USPTO personnel identified in my Aug. 7, 2013 request.

I renew my request for all **conflicts of interest checks** performed by USPTO personnel during the prosecution of all matters related to Leader Technologies, Inc. and inventors Michael T. McKibben and Jeffrey R. Lamb.

In addition, I renew my request for a full explanation for why Ms. Siehdnel falsely claimed to have called me on July 9, 2013, and then used that fictitious conversation as the excuse to redact the judicial conflicts log. I wish to see the complete, *unredacted* judicial conflicts log for USPTO Administrative Judges and other personnel

Thank you for your assistance.



cc.

The Honorable Jim Jordan (4th Dist. OH)
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Teresa Stanek Rea
Deputy Undersecretary and Deputy Director
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Todd J. Zinser
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UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

October 04, 2013

VIA U.S. MAIL

Ms. Nina Muccillo
25078 Stipps Hill Rd.
Laurel, IN 47024

Re: Freedom of Information Act (FOIA) Request No. F-13-00291

Dear Ms. Muccillo:

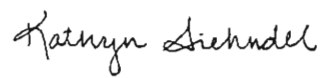
As you know, the United States Patent and Trademark Office (USPTO or Agency) issued its decision in Appeal No. A-13-00027 on September 26, 2013. As part of the decision, the Agency remanded to the USPTO FOIA Office the item related to biographical information for David Kappos. Under the provisions of the Freedom of Information Act, 5 U.S.C. § 552, the USPTO FOIA Office assigned this remand a new request number, no. F-13-00291.

The USPTO identified one record that is responsive to your request. A copy of this material is enclosed.

Your request is considered complete with full disclosure. However, you have the right to appeal this initial determination to the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. An appeal must be received within 30 calendar days from the date of this letter. See 37 C.F.R. § 102.10(a). The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why this response is deficient. Both the letter and the envelope must be clearly marked "Freedom of Information Appeal".

The processing fee for this request has been waived. See 37 C.F.R. § 102.11(d)(4).

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Siehndel".

Kathryn Siehndel
USPTO FOIA Officer
Office of General Law

Enclosure



David Kappos, Under Secretary of Commerce for Intellectual Property and Director of the USPTO

David Kappos is the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. In this role, he advises the President, the Secretary of Commerce, and the Administration on intellectual property matters.

Over a 20-year career in intellectual property, Mr. Kappos has accrued deep knowledge of the intellectual property system and broad respect from professionals across the field. Mr. Kappos directs an office that provides incentives to encourage technological advancement and helps businesses protect their investments, promote their goods and services and safeguard against deception in the marketplace. The Office continues to deal with a patent application backlog of more than 700,000, long waiting periods for patent review, information technology systems that are regarded as outdated and an application process in need of reform.

Before joining the USPTO, Mr. Kappos served as Vice President and Assistant General Counsel for Intellectual Property at IBM. Mr. Kappos managed IBM's patent and trademark portfolios – protecting and licensing intellectual property worldwide. He has served on the Board of Directors of the American Intellectual Property Law Association, the Intellectual Property Owners Association, and the International Intellectual Property Society. He has held various other leadership positions in intellectual property law associations in Asia and the U.S. and has spoken widely in Asia, Europe and the U.S. on intellectual property topics.

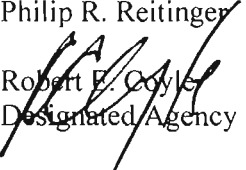
Mr. Kappos received his Bachelor of Science degree in electrical and computer engineering from the University of California-Davis in 1983, and his law degree from the University of California Berkeley in 1990.



Homeland Security

May 19, 2009

TO: Janet A. Napolitano
Secretary

FROM: Philip R. Reitinger

Robert E. Coyle
Designated Agency Ethics Official

SUBJECT: Amended Certification of Public Interest Waiver for Philip R.
Reitinger

Pursuant to the authority in Section 3 of Executive Order 13490 delegated to me by the Director, Office of Management and Budget, and for the reasons stated in the attached two memoranda dated March 24, 2009 and May 18, 2009, and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Philip R. Reitinger in the positions of Deputy Under Secretary for National Protection and Programs Directorate and Director of the National Cybersecurity Center, in the Department of Homeland Security. This certification amends and supersedes the certification dated March 24, 2009. Philip R. Reitinger shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to his former employer Microsoft Corporation, or the Software Assurance Forum for Excellence in Code and the Information Technology Information Sharing and Analysis Center. This waiver does not otherwise affect Mr. Reitinger's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.



Homeland Security

May 18, 2009

MEMORANDUM FOR: Robert E. Coyle
Designated Agency Ethics Official

FROM: Janet Napolitano

SUBJECT: Appointment of Philip R. Reitingger as Director, National
Cybersecurity Center

I intend to designate Philip R. Reitingger as the Director of the National Cybersecurity Center (NCSC) as provided in National Security Presidential Directive-54/Homeland Security Presidential Directive-23. Mr. Reitingger is currently the Deputy Under Secretary for the Department of Homeland Security's (DHS) National Protection and Programs Directorate (NPPD), a position for which he has previously been granted a waiver from paragraph 2 of Executive Order 13490, the revolving door ban for entering appointees. His waiver addresses the fact that his DHS responsibilities would require him to participate in particular matters involving Microsoft, SAFECode, or the Information Technology Information Sharing and Analysis Center (ITISAC). As discussed below, while the duties of this position have a significantly lower likelihood that "particular matters involving specific parties" that would be likely to involve any of those three entities as a party or the representative of a party, such matters could be encountered. Therefore, please advise whether the waiver given for his duties as Deputy Under Secretary will permit Mr. Reitingger to serve as NCSC Director without facing an unresolved conflict. If the existing waiver does not cover Mr. Reitingger as the Director of the Center, I request that the bar imposed by paragraph 2 of Executive Order 13490 in connection with his duties as Director of the Center be waived.

Mr. Reitingger holds a Bachelor of Engineering degree in Electrical Engineering and Computer Science from Vanderbilt University (1984, first in graduating engineering class with a 4.0 grade point on a 4.0 scale). He also holds a Juris Doctor degree from Yale (1987). Mr. Reitingger's former employer was Microsoft, where he was employed as the Chief Trustworthy Infrastructure Strategist from 2003 to his appointment in March 2009 to his current position. Mr. Reitingger was not a lobbyist, but an executive in Microsoft. Prior to his service with Microsoft, Mr. Reitingger was employed principally in various roles in the Executive Branch of the Federal Government, with duties largely related to criminal law enforcement, most recently computer and intellectual crimes.

Since the NCSC was established in March 2008, it has been responsible for promoting collaboration and consultation among numerous Federal cybersecurity centers to improve situational awareness of cyber threats to federal networks. As described in the NCSC Concept of

Operations, the NCSC also encourages sharing and collaboration of information gained through engagement with private sector and foreign partners. The Director reports directly to me and provides support to the Secretary of Defense, Attorney General, Director of National Intelligence, and assistants to the President in performance of their respective cybersecurity responsibilities. The Director is expected to remain apprised of state-of-the-art information technology and analytics tools and methodologies, but his interaction with the private sector and foreign entities is not to conflict with or be independent of the work and processes of existing U.S. Government relationships and frameworks. The Director also shares responsibility with the Office of the Director of National Intelligence (ODNI) to oversee the network that connects member cybersecurity centers. The ODNI maintains technical and budget responsibilities, oversees implementation of network connectivity, and coordinates budgetary and programmatic reporting to the Office of Management and Budget. Once the network is operational, the Director will maintain the architecture for day-to-day collaboration. Mr. Reitinger's responsibilities will not include matters related to award of contracts to his former employer or others; nevertheless, NCSC functions may involve Microsoft, SAFECode, or the ITISAC as parties to particular matters involving specific parties or as a representative of members of the broader communications sector to such matters.

Mr. Reitinger's service as NCSC Director is essential to the efficient and effective conduct of the Department's cybersecurity responsibilities because of his unique expertise, industry perspective, and responsibilities for cyber programs with NPPD. It is the public interest that he serve as the NCSC Director. The Secretary of Defense, Attorney General, and Director of National Intelligence support this appointment.



Homeland
Security

March 24, 2009

TO: Janet A. Napolitano
Secretary

Philip R. Reitinger

FROM: Robert E. Come
Designated Agency Ethics Official

SUBJECT: Certification of Public Interest Waiver For Philip R. Reitinger


Pursuant to the authority in Section 3 of Executive Order 13490 delegated to me by the Director, Office of Management and Budget, and for the reasons stated in the attached memorandum and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Philip R. Reitinger in the position of Deputy Under Secretary for National Protection and Programs Directorate in the Department of Homeland Security. Philip R. Reitinger shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to Microsoft Corporation, the Software Assurance Forum for Excellence in Code, or the Information Technology Information Sharing and Analysis Center. This waiver does not otherwise affect Mr. Reitinger's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.



Homeland Security

March 24, 2009

MEMORANDUM FOR: Robert E. Coyle
Designated Agency Ethics Official

FROM: Janet Napolitano 

SUBJECT: Waiver of Ethics Commitment

I intend to appoint Philip R. Reitingger to the position of Deputy Under Secretary for National Protection and Programs Directorate (NPPD). Microsoft is Mr. Reitingger's current employer. In addition, he is a member of the board of directors of the Software Assurance Forum for Excellence in Code (SAFECode) and he is an officer in the Information Technology Information Sharing and Analysis Center (ITSAC). A significant portion of the duties of this position relate to cybersecurity and necessarily involve Microsoft, SAFECode, and ITSAC in a number of ways. Consequently, Mr. Reitingger will be barred by the Ethics Commitment from being involved with certain matters in which any of these entities has an interest or is represented. Pursuant to Section 3 of Executive Order 13,490, I request the prohibition of Section 1, paragraph 2 of Executive Order 13,490, the revolving door ban for all entering appointees, be waived in Mr. Reitingger's case because it is in the public interest to do so. Mr. Reitingger would bring essential private sector experience in critical infrastructure, focused on cybersecurity and infrastructure protection to Department of Homeland Security (DHS). Despite a diligent search, no candidate has been identified who would not bring similar conflicts with him or her. No identified candidate would bring with him or her the native ability, training, and experience that Mr. Reitingger offers.

Mr. Reitingger holds a Bachelor of Engineering degree in Electrical Engineering and Computer Science from Vanderbilt University (1984, first in graduating engineering class with a 4.0 grade point on a 4.0 scale). He also holds a Juris Doctor degree from Yale (1987). He has been employed with Microsoft since 2003 as the Chief Trustworthy Infrastructure Strategist. Mr. Reitingger is not a lobbyist; he is an executive in Microsoft. Prior to his service with Microsoft, Mr. Reitingger was employed principally in various roles in the Executive Branch of the Federal Government with duties largely related to criminal law enforcement, most recently computer and intellectual crimes.

DHS is responsible for working a new cybersecurity public/private sector partnership, which is a high priority for the Department, the Administration, and the Nation. Mr. Reitingger has broad and deep experience working within the important and complex government and private industry partnership organizations and will be key to rapidly affecting change. This experience is critical to our ability to defend public and private critical infrastructure. Specifically, his work on the

CSIS Commission on Cybersecurity for the 44th Presidency, on the President's National Security Telecommunications Advisory Committee (NSTAC) and the ITU High Level Experts Group on Cybersecurity demonstrate his unique background. He brings a combination of government and private sector views drastically needed in DHS for the cybersecurity mission. His past experience with the Information Technology Sector Coordinating Council, including its creation, and as the sector's Information Sharing and Analysis Center President, is critical to moving DHS's capabilities and capacity to meet its requirements.

[REDACTED]

The need for this waiver is driven by the fact that Microsoft, SAFECODE, and ITSAC are entities governed by the critical infrastructure role of DHS. Mr. Reiteringer's work at DHS would require that he participate in particular matters involving a specific party that is directly and substantially related to these three entities in connection with the Department's regulatory function. In addition, it is likely that Microsoft and ITSAC will be represented in meetings that are not open to the public that the Deputy, NPPD, would attend, for example, the FOIA-exempt Critical Infrastructure Partnership Advisory Council (CIPAC). Due to the level of the position and the structure of the work, Mr. Reiteringer is not expected to be involved in matters related to award of contracts to his former employer or otherwise, however his regulatory and coordination roles may have impact in Microsoft, SAFECODE, ITSAC, and the associated industry sector. Cybersecurity and Federal governance is an emerging field. It is critical to the public and the country that the regulatory work in this area produces effective regulations that can be implemented by the industry sector and work in concert with the Administration's efforts to stabilize the economy. Mr. Reiteringer's unique perspective coming from the industry will ensure the effectiveness of the Federal Government's regulatory work.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE GENERAL COUNSEL

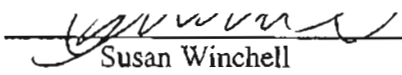
March 23, 2009

CERTIFICATION OF PUBLIC INTEREST WAIVER FOR MARGOT ROGERS

FROM: Susan Winchell
Designated Agency Ethics Official, Department of Education

SUBJECT: Waiver from Restrictions Related to the Bill and Melinda Gates Foundation

Pursuant to the authority delegated under Section 3 of Executive Order 13490 and for the reasons stated in the attached memorandum and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Margot Rogers in the position of Senior Counselor to the Secretary of Education in the Department of Education. Margot Rogers shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to her former employer, the Bill and Melinda Gates Foundation. This waiver does not otherwise affect Ms. Rogers's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.

Signed 
Susan Winchell
Designated Agency Ethics Official
Department of Education

Date 3/23/09

Processes and controls are in place that will review Mr. Reitingen's role in this position. Mr. Reitingen will report to the Under Secretary for NPPD, a position requiring Senate confirmation. All regulatory work is thoroughly reviewed by Office of General Counsel, an independent authority within DHS that does not report to NPPD. Additionally, Mr. Reitingen's work would affect the entire sector, not just these entities. Therefore the industry itself is in a position to play the watch dog role to DHS's work in the cyber sector.



United States
Department of
Agriculture

Office of the
Assistant Secretary
for Administration

Office of Ethics
Office of the Director

1400 Independence
Avenue SW
Washington, DC
20250-2110

MEMORANDUM FOR UNDER SECRETARY FOR RESEARCH, EDUCATION AND
ECONOMICS RAJIV J. SHAH

FROM: Raymond J. Sheehan
Designated Agency Ethics Official

SUBJECT: Waiver of Paragraph 2 of the Ethics Pledge

I have determined that it is in the public interest to grant a waiver of paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009) to Rajiv J. Shah as Under Secretary for Research, Education and Economics (REE), U.S. Department of Agriculture (USDA).

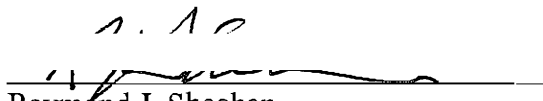
USDA's mission is to provide leadership on food, agriculture, natural resources, and related issues based on sound public policy, the best available science, and efficient management. In order to accomplish this mission, USDA partners with a large number of non-Federal entities, including charitable, non-profit foundations that participate substantially in activities that align with USDA's mission. This waiver addresses Dr. Shah's relationship with The Bill & Melinda Gates Foundation (Gates Foundation), his former employer and a potential partner in USDA's Global Food Security Initiative. The Gates Foundation is a potential funding source for the Initiative but not a recipient of USDA grants and funding.

Dr. Shah came to USDA after having served in a variety of roles at the Gates Foundation, including as Director of Strategic Opportunities and as Director of the Agricultural Development Program. The Foundation is significantly involved in national and international efforts to alleviate hunger and poverty and to improve health around the world. Support for agricultural initiatives is a major component of the Foundation's Global Development Program (Program). Dr. Shah, while at the Gates Foundation, led the agricultural development aspects of that Program.

Currently, based specifically upon his extensive experience in the Program at the Gates Foundation, Dr. Shah has been assigned by Secretary Vilsack to serve as the chief USDA representative in the Global Food Security Initiative (Initiative) which is driven by a "Whole of Government" approach and is led collectively by the Department of State, the National Security Council, USAID, the Treasury Department and USDA. The Initiative involves a collaboration with multiple partners, including public-private partnerships that implicate the Federal Government and various non-governmental entities, including, but not limited to, foundations, including the Gates Foundation. Ultimately, these non-governmental entities will work to provide both technical expertise and financial assistance in which the non-governmental entities

provide the funding. In connection with the Initiative, Dr. Shah needs to engage in meetings- both one-on-one and in group settings, involving Federal agencies, foreign countries, grantees, and non-Federal entities to assess the most efficient and effective means for distributing the technical and financial assistance committed by these various parties. The non-federal entities he needs to engage with include the Gates Foundation. In these efforts, the Gates Foundation is expected to be a major participant through its Global Development and Global Health programs. Other collaborations with the Gates Foundation on national agricultural policy goals are anticipated.

In light of the importance of the aforementioned efforts to the U.S. Department of Agriculture, I have determined that it is in the public interest to grant Dr. Shah a waiver of the provisions of paragraph 2 of Executive Order 13490. Accordingly, I authorize Dr. Rajiv J. Shah to participate personally and substantially in all matters affecting the Gates Foundation including particular matters involving specific parties, in connection with the development and implementation of the Food Security Initiative and other national and international food, agricultural and health initiatives and other programs to which he is assigned as Under Secretary for REE. However, he is not authorized to participate in any grants or procurement contracts given by USDA to the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation.



Raymond J. Sheehan
Designated Agency Ethics Official

Dated: 11/9/2009



January 12, 2010

MEMORANDUM FOR THE ADMINISTRATOR

FROM: James M. Peters, Alternate Designated Agency Ethics Official 

SUBJECT: Waiver Pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of the President's Ethics Pledge

I have determined that it is in the public interest to grant a waiver pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009) to Rajiv J. Shah as Administrator of the United States Agency for International Development (USAID).

This waiver addresses Dr. Shah's relationship with the Bill & Melinda Gates Foundation (Gates Foundation), his former employer and a partner in USAID's mission to provide economic, development, and humanitarian assistance around the world. The Gates Foundation is a funding source for projects in which the two organizations share the same objectives, but generally not a recipient of USAID grants or other funding. Dr. Shah has a "covered relationship" with the Gates Foundation based solely upon his former employment, which ended in June 2009. Pursuant to 5 C.F.R. §2635.502(b)(iv) this covered relationship will last until June 2010. In addition, under Paragraph 2 of the President's Ethics Pledge, a similar relationship will last until June 2011.

Dr. Shah previously served in a variety of roles at the Gates Foundation, including as Director of Strategic Opportunities and as Director of the Agricultural Development Program. The Gates Foundation is significantly involved in national and international efforts to alleviate hunger and poverty and to improve health around the world, and as such shares many of the same objectives as USAID. While at the Gates Foundation, Dr. Shah led the agricultural development aspects of its mission. In his most recent position as the Under Secretary for Research, Education and Economics at the U.S. Department of Agriculture (USDA), Dr. Shah was responsible for similar efforts. The Designated Agency Ethics Official at USDA granted a waiver for these purposes.

In his capacity as the Administrator, Dr. Shah needs to engage in communications and meetings – both one-on-one and in group settings – involving Federal agencies, foreign countries, grantees, and non-Federal entities to assess the most efficient and effective means for distributing the technical and financial assistance committed by these various parties. The non-Federal entities he needs to engage with include the Gates

Foundation. In these efforts, the Gates Foundation is expected to be a major participant through its Global Development and Global Health programs. Other collaborations with the Gates Foundation are anticipated.

In light of the importance of the aforementioned efforts by USAID, I have determined that it is in the public interest to grant Dr. Shah a waiver pursuant to 5 C.F.R. §2635.502(d) and of Paragraph 2 of Executive Order 13490, "Ethics Commitments by Executive Branch Personnel" (January 21, 2009). This is based upon my consideration of: 1) the nature of the covered relationship (a former employer, with no continuing financial interests); 2) the potential effect any given matter will have on the financial interests of the Gates Foundation (none are foreseen); 3) the nature and importance of Dr. Shah's role in the matter (potentially significant, but with no financial impact on the Gates Foundation); 4) the sensitivity of the matter (potentially sensitive, but with no financial impact on the Gates Foundation); 5) the difficulty of reassigning the matter to another employee (difficult to reassign the role of the Administrator); and 6) adjustments that may be made in Dr. Shah's duties (difficult to make adjustments to the role of the Administrator).

Accordingly, I authorize Dr. Rajiv J. Shah to participate personally and substantially in all matters affecting the Gates Foundation, including particular matters involving specific parties, in connection with the development and implementation of partnerships and in connection with shared USAID and Gates Foundation objectives. This includes all communications with the Gates Foundation that do not have a direct and predictable financial impact upon the Gates Foundation, as well as public meetings and public recognition of the Gates Foundation.

This waiver does not include authorization for participation in any grants or procurement instruments between USAID and the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation. In the event that a particular matter should arise in which Dr. Shah may be personally and substantially involved, and which would require his authorization for participation in any grants or procurement instruments between USAID and the Gates Foundation, or in any similar transactions that would result in a transfer of Federal funds to the Gates Foundation, Karen Turner or Jerry O'Brien, of USAID's Office of Development Partners, will screen such matters and consult with me as USAID's Assistant General Counsel for Ethics and Administration. At that point, a determination will be made that 1) the legal disqualification does not apply; 2) that a specific waiver is appropriate; or 3) that Dr. Shah must be recused from the specific matter.



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

April 28, 2009

JAMES (Jim) H. SHELTON III
[Signature]

CERTIFICATION OF PUBLIC INTEREST WAIVER FOR ~~MARGOT ROGERS~~

FROM: Susan Winchell
Designated Agency Ethics Official, Department of Education

SUBJECT: Waiver from Restrictions Related to the Bill and Melinda Gates Foundation

Pursuant to the authority delegated under Section 3 of Executive Order 13490 and for the reasons stated in the attached memorandum and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee James (Jim) H. Shelton III in the position of Assistant Deputy Secretary for Innovation and Improvement in the Department of Education. Jim Shelton shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to his former employer, the Bill and Melinda Gates Foundation. This waiver does not otherwise affect Mr. Shelton's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.

Signed

[Signature]
Susan Winchell

Date

4/28/09

Designated Agency Ethics Official
Department of Education