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OFFICE OF THE INSPECTOR GENERAL
NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE



(b) (3) - P.L. 86-36

To: (U//FOUO) Chief, D14 [redacted] **Date:** 14 July 2015

From: (U//FOUO) [redacted] Investigator, D14

Subject: (U//FOUO) [redacted] Alleged representation of his personal business to the [redacted] with intent to promote sale of his company's product.

File No: (U//FOUO) IV-14-0038

Precedence: (U//FOUO) Routine

Purpose: (U//FOUO) Provide case summary and to recommend that this case be closed.

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I. (U//FOUO) **Background:** [redacted] is an NSA employee who has been assigned to the [redacted] since entering on duty on [redacted]. On 25 November 2013, he established a personal business, [redacted].

II. (U//FOUO) **Issue:** On 18 December 2013, the Office of the Inspector General (OIG) received notification from the Office of General Counsel (OGC) that [redacted] reported representing his personal business to the [redacted] with the intent to promote the sale of his company's product, which may have violated statutory prohibitions against personally representing an entity before a Federal department or agency contained in 18 U.S. Code § 205.

III. (U//FOUO) **Applicable Standard(s):** 5 CFR 2635.401(b) (14) and PMM 366 Section 1-2.J.¹

IV. (U) **Investigative Activity:** The OIG reviewed documentary evidence concerning [redacted] personal business as well as numerous emails between [redacted] and individuals in OGC, OIG, and [redacted]. The OIG also obtained sworn testimony from [redacted] on 12 August 2014.

(U//FOUO) **Summary of Evidence:**

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(U//FOUO) [redacted] created a personal business, [redacted] in November 2013 and he is the sole owner. The business [redacted]

[redacted] On 6 December 2013, he visited the [redacted] to solicit the sale of his company's [redacted]. The visit was arranged by [redacted].

¹ (U//FOUO) The OIG reported the potential violation of 18 U.S. Code § 205 to the United States Attorney's Office (USAO) for the District of Maryland on 1 July 2015. This report does not analyze the potential criminal violation.

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[redacted] During the visit, [redacted] demonstrated [redacted]. Several expressed interest in the product, and he left two behind for testing. On 9 December 2013, [redacted] sent [redacted] vendor forms he needed to complete to begin doing business with [redacted]. Upon reviewing the forms, he read a clause which caused him concern. The clause prohibited contracts between the Federal Government and a company owned by a Government employee or substantially controlled by Government employees, except for a most compelling reason, such as the need of the Government cannot be met otherwise.

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(U//FOUO) On 18 December 2013, he contacted the OGC about his contact with [redacted] his subsequent email interaction, and his intent to solicit the sale of his company's product to [redacted]. The OGC advised he was prohibited by NSA policy from solicitation and from representing his company back to any Government official or agency with the intent to influence. Additionally, the OGC advised him the Government is prohibited from contracting with a company owned or substantially controlled by a Federal employee. As a result of this guidance, he self-reported to the OIG Hotline that he represented his business to [redacted] not knowing this was prohibited activity and was seeking advice as to how he could operate in the future.

(U//FOUO) As a result of the OGC advisement and his reporting to the OIG Hotline, he ceased attempts to conduct business with the [redacted].

V. (U//FOUO) **Analysis:** 5 CFR 2635.101(b) (14) and PMM 366 Section 1-2 J state that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards of public service. By representing his company to [redacted] a Federal agency, [redacted] may have violated 18 U.S. Code § 205 and at a minimum created the appearance that he was violating this criminal statute. By creating this appearance, [redacted] violated 5 CFR 2635.101(b) (14) and PMM 366 Section 1-2 J.

VI. (U//FOUO) **Conclusion:** The preponderance of the evidence supports the conclusion that during December 2013 [redacted] solicited his company's product with the intent to sell it to [redacted]. His actions violated 5 CFR 2635.101(b) (14) and PMM 366 Section 1-2 J. Once he understood his activities were improper and violated NSA policy, he took proper action to self-report his activities to the OIG and ceased action to conduct business with [redacted].

VII. (U//FOUO) **Recommendation(s)** Advise [redacted] of the tentative conclusions of the OIG investigation. Once he responds to the tentative conclusions provide Employee Relations with a summary report of the investigative findings and close this case.

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(U//FOUO) On 9 July 2015, [redacted] was informed of the tentative conclusions. On 14 July 2015, he advised the OIG of his concurrence with the findings.

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