



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

INVESTIGATIVE REPORT OF ALLEGED ETHICS VIOLATION BY THE ASSISTANT SECRETARY FOR INSULAR AND INTERNATIONAL AFFAIRS

This is a revised version of the report prepared for public release.

SYNOPSIS

We investigated an allegation that Douglas Domenech, Assistant Secretary for Insular and International Affairs, U.S. Department of the Interior (DOI), violated his Federal ethics pledge under Executive Order No. 13770 by meeting with an official from his former employer, the Texas Public Policy Foundation (TPPF), during the required 2-year recusal period following Domenech's resignation from the TPPF.

Although we did not find that Domenech violated his ethics pledge as alleged, we determined that he violated Federal ethics regulations after he began working for the DOI as a special Government employee (SGE) in January 2017. The violation occurred when Domenech arranged and held two meetings with a TPPF attorney, at the attorney's request, in April 2017, during which issues in litigation between DOI bureaus and the TPPF were discussed. For 1 year after resigning from the TPPF, Domenech was prohibited from participating in any particular matters in which the TPPF was a specific party or represented a specific party; the litigation discussed in the meetings with the TPPF attorney constituted particular matters and involved the TPPF as a specific party.

Domenech admitted that he failed to consider whether his involvement in these meetings could cause a reasonable person to question his impartiality. This consideration is a requirement under 5 C.F.R. § 2635.502(a)(1) ("Impartiality in Performing Official Duties"). Domenech should not have met with the TPPF without considering the appearance issue and, if he believed there could potentially have been an appearance issue, he was required to seek approval from an ethics official before attending the meetings.

We found that because Domenech was an SGE when he met with the TPPF attorney, he was not subject to the Federal ethics pledge. Domenech signed the pledge in September 2017, after he became a permanent DOI employee.

We provided this report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

DETAILS OF INVESTIGATION

We initiated this investigation after receiving a complaint from the Campaign Legal Center (CLC) against Douglas Domenech, Assistant Secretary for Insular and International Affairs, U.S. Department of the Interior (DOI). The CLC alleged that Domenech violated his Federal ethics pledge under Executive Order No. 13770 by meeting with an official from his former employer, the Texas Public Policy Foundation (TPPF), during the required 2-year recusal period that followed Domenech's resignation from the TPPF in January 2017.

In its complaint, the CLC alleged that Domenech participated in two meetings with a TPPF attorney in April 2017, during which litigation between the TPPF and two DOI bureaus, the U.S. Fish and Wildlife Service (FWS) and the Bureau of Land Management (BLM), was discussed. According to the CLC, the TPPF's litigation concerned the Bone Cave harvestman (an arachnid species native to Texas that the FWS had declared endangered), and the "Red River case" (a

dispute between the BLM and local residents over land near the Red River in Texas). The complaint also alleged that Domenech participated by video teleconference in a “TPPF Energy and Climate Summit” with TPPF officials in November 2017.

The CLC complaint named other DOI executives who had also allegedly violated their ethics pledges. We focused this investigation on Domenech and will report our findings involving other subjects separately.

Domenech Violated Federal Ethics Regulations by Meeting With the TPPF

We found that Domenech’s two meetings with the TPPF attorney in April 2017 violated 5 C.F.R. § 2635.502 (“Impartiality in Performing Official Duties”), which requires that all Federal employees take appropriate steps to avoid any appearance of a loss of impartiality when performing their official duties. For 1 year after resigning from a non-Federal employer, Federal employees should not participate in any particular matter in which their former employer is a specific party or represents a specific party, unless (1) they consider whether their participation could cause a reasonable person to question their impartiality, and (2) they obtain approval from their agency’s ethics official before participating in the matter if a potential lack of impartiality appears to exist.

Domenech Received DOI Ethics Training Before Meetings Occurred

Interviews confirmed that Domenech received ethics training in January 2017 and again in February 2017 from an attorney-advisor and an ethics and financial disclosure specialist with the DOI’s Office of the Solicitor (SOL). In addition, a review of materials from both training sessions show that the training addressed the topics of impartiality and covered relationships, including the restrictions on contacting former employers within 1 year.

Domenech acknowledged to us that he had received ethics training on several occasions but said he did not “have a particular memory” of a discussion about interacting with former employers or clients. According to Domenech, he had misunderstood the meaning of particular matters involving specific parties and had believed this meant he could not meet with his former employer about matters on which he had worked when he was a TPPF employee. Since his prior work with the TPPF had not pertained to the April 2017 meeting topics, he said, he had believed at the time of the meetings that contact with the TPPF was permissible.

Domenech also acknowledged to us that he had worked for the DOI in the past and would have received annual ethics training from the DOI’s Ethics Office during that time. We confirmed that he worked for the DOI from July 2001 to January 2009.

Domenech Failed To Consider Potential Appearance Issue Before Organizing and Attending Meetings

Domenech told us he worked for the TPPF from March 2015 to January 2017 as the director of the Fueling Freedom Project, dealing with energy and U.S. Environmental Protection Agency matters. Therefore, under Federal ethics regulations, Domenech had a 1-year restriction,

beginning when he entered duty at the DOI as a special Government employee (SGE) in January 2017, on participating in particular matters involving specific parties in which the TPPF was a party or represented a party.

Domenech told us he scheduled the April 2017 meetings at the TPPF attorney's request. According to Domenech, he had done so believing that his arranging and joining the meetings was permissible because he had not worked on the Red River and Bone Cave harvestman issues while at the TPPF. Domenech told us he went to the meetings because he "was trying to be a good host," but, he said, he did not say anything substantive in the meetings. He said that he could not recall who else attended the meetings, but that they included other senior DOI officials.

We interviewed two of the DOI officials who had been invited to the meetings—Principal Deputy Assistant Secretary for Land and Minerals Management Casey Hammond and Associate Deputy Interior Secretary James Cason—and asked them about Domenech's participation. Hammond, who at the time of the meetings was a special assistant to the Secretary of the Interior stationed at the FWS, told us he did not specifically recall a meeting with Domenech in April, but said he had attended discussions about the Bone Cave harvestman with Cason and another Office of the Secretary official. Cason, who at the time of the meetings was the Acting Deputy Secretary, said he remembered attending the meetings with Domenech, but that Domenech did not facilitate the discussions or advocate for either side of the issues. Cason said Domenech did not speak at all during most of the discussions.

According to Domenech, he followed the meetings with the TPPF attorney with an email in May 2017. In the email, which focused on the Bone Cave harvestman, Domenech wrote, "Keep fighting." Domenech told us this comment was his way of encouraging the TPPF to continue to pursue its constitutional rights, and he denied that he was commenting on the litigation in any way.¹

When we interviewed Domenech, he admitted he had understood before the meetings that his relationship with the TPPF, as his former employer, was covered under the regulations, and that he had believed the ethics rules limited his interaction with the TPPF only on the matters he had worked on while employed there. Domenech violated the ethics regulations because, regardless of whether he believed he could or could not meet with the TPPF, he still had a duty to consider whether doing so would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, in light of the following factors:

- Domenech had a covered relationship with the TPPF.
- Domenech was prohibited from working on any particular matter in which the TPPF was a specific party or represented a specific party.

¹ As of the date of this report, the Bone Cave harvestman litigation has not been resolved, but the Red River litigation was settled in Federal district court on November 8, 2017.

- The meetings Domenech organized, in which litigation was discussed, constituted Domenech participating in a particular matter involving specific parties and thus created the appearance of impropriety.²

Domenech admitted he did not consider the issue of how his actions might appear to a reasonable person. His failure to do so violated 5 C.F.R. § 2635.502(a)(1).³

We attempted to speak with the TPPF attorney, but our requests for an interview went unanswered.

Domenech Reported the TPPF Meetings to DOI Officials in 2018

Domenech told us that in the spring or summer of 2018 he saw a newspaper article that described a meeting a current DOI employee had had with her former employer; the article stated this was considered inappropriate. Domenech told us he then realized that his meetings with the TPPF attorney might have constituted a problem, so he told then DOI Principal Deputy Solicitor Daniel Jorjani about the meetings, and he and Jorjani contacted an SOL ethics counselor.

Jorjani recalled that Domenech came to him about the TPPF meetings, that he referred Domenech to the SOL ethics counselor, and that the ethics counselor later discussed the matter with Scott de la Vega, Director of the Departmental Ethics Office and Designated Agency Ethics Official (DAEO). We also interviewed the ethics counselor, who remembered discussing the TPPF meetings with Domenech but said that Domenech did not disclose what he discussed with the TPPF attorney. The ethics counselor reminded Domenech that he must abide by the ethics pledge, and the counselor advised him to “be very cautious about any requests from his previous employer and that he couldn’t . . . have any contact with respect to the employer.” The counselor then told Jorjani and de la Vega what Domenech disclosed.

DOI DAEO Agreed That Domenech Violated Ethics Regulations

We spoke with de la Vega, who told us he met with Domenech about the April 2017 meetings after the CLC complaint became public. De la Vega also confirmed that after meeting with Domenech he drafted a memorandum, dated March 26, 2019, to the Chief of Staff for the Office of the Secretary; the memo stated that under 5 C.F.R. § 2635.502, Domenech was obligated to recuse himself from participating in particular matters involving specific parties related to his former employer.

De la Vega told us that Domenech’s meetings with the TPPF attorney violated 5 C.F.R. § 2635.502 because of the covered relationship between Domenech and the TPPF and because the litigation discussed in the meetings constituted particular matters and involved the TPPF as a specific party. According to de la Vega, since the meetings created an appearance of impropriety,

² Not all participation rises to the level of personal and substantial participation; depending on the factual circumstances, however, any participation—whether personal and substantial or not—could create an appearance of impropriety under 5 C.F.R. § 2635.502. See [Office of Government Ethics \(OGE\) Opinion 98 x 11: Letter to a Deputy Ethics Official, dated July 17, 1998](#).

³ See [OGE Opinion 97 x 8: Letter to a U.S. Senator, dated April 22, 1997](#).

Domenech should have sought a waiver from the DOI Ethics Office before meeting with any TPPF official.

Domenech Did Not Participate in November 2017 TPPF Conference

Domenech told us he did not attend the TPPF's Energy and Climate Summit in November 2017 even though the event was on his official DOI calendar. He said he had planned to attend because when he worked for the TPPF he had been responsible for hosting the summit, but his DOI work schedule prevented his attendance. We confirmed with a TPPF official who planned the event that Domenech did not attend the summit because of a schedule conflict. We also reviewed Domenech's official DOI calendar entries for the date of the conference and noted that he attended other meetings and official activities on that date.

Domenech Did Not Violate His Ethics Pledge in the April 2017 Meetings

We found that Domenech did not violate the ethics pledge because he was not subject to it until several months after he met with the TPPF attorney. When Domenech came to work at the DOI in January 2017, he was hired as an SGE and therefore was not required to sign the pledge. De la Vega explained that SGEs are considered short-term employees and confirmed that Domenech would not have been subject to the pledge at the time of the meetings with the attorney.

Domenech did sign the pledge in September 2017 after becoming a permanent DOI employee.

SUBJECT

Douglas Domenech, Assistant Secretary for Insular and International Affairs (SES), DOI.

DISPOSITION

We provided this report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

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