



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: David Fotouhi  
Deputy General Counsel

*DD FKH* 07/31/17

TO: Kevin S. Minoli  
Acting General Counsel  
Designated Agency Ethics Official

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

## *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, Gibson, Dunn & Crutcher LLP, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means five or more parties.

RECUSAL LIST	
In effect until March 26, 2019	
FORMER EMPLOYER: Gibson, Dunn & Crutcher LLP	
FORMER CLIENTS:	
Association of American Railroads Carnival Corporation (Princess Cruises) CEMEX CSX Corporation Daimler AG Electric Boat Corporation General Electric Company International Paper Company	Lockheed Martin Corporation Ligado Networks (formerly LightSquared) Matson Navigation Maxus Energy Corporation Taylor Fresh Foods, Inc. Tesoro Corporation Trout Unlimited WestRock Company

## *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

## *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above, I have asked Justin Schwab, Deputy General Counsel, and Richard Albores, Associate Deputy General Counsel, to assist in screening EPA matters directed to my attention that involve

my former employer or my former clients as a specific party. All inquiries and comments involving the entities on my recusal list should be directed to Justin and Rich without my knowledge or involvement until after my recusal period ends. If Justin or Rich determine that a particular matter will directly involve any of the companies on my “specific party” recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will distribute a copy of this memorandum within OGC with a copy to Justina Fugh, Senior Counsel for Ethics.

*UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to OGC.

cc: Elise Packard, Acting Principal Deputy General Counsel  
Erik Baptist, Senior Deputy General Counsel  
Justin Schwab, Deputy General Counsel  
Richard L. Albores, Associate Deputy General Counsel  
OGC Associate General Counsels and Directors  
Justina Fugh, Senior Counsel for Ethics  
Regional Counsels