

UNITED STATES DEPARTMENT OF JUSTICE, EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW

AFFIDAVIT

STATE OF VIRGINIA

COUNTY OF Fairfax

I, Marlene Wahowiak, make the following supplemental statement freely and voluntarily without promise or coercion in response to the EEO Complaint of Discrimination filed by A. Ashley Tabaddor against the U.S. Department of Justice, Executive Office for Immigration Review (EOIR) on November 29, 2012.

I am making this supplemental statement at the request of Robert K. Abraham, Supervisory Attorney with the Department of Justice's Complaint Adjudication Office. Specifically, Mr. Abraham has asked that I provide additional information regarding the results of an internet search I conducted in late June/early July 2012 concerning the Complainant and also, provide a summary of any advice or recommendations I made based upon those results. He has also asked that I "provide a more detailed explanation of [my] statement regarding Complainant ['] appearing before groups at events which seem to advocate a particular position.[']"

Regarding the request for advice I provided, I am attaching an email which I sent to Associate General Counsel Rena Scheinkman which contains the recommendation I gave. I have requested that Agency Counsel waive any privilege previously applied to this record and disclose it.

I have not saved the actual results of the internet search I conducted almost two years ago. In response to the request for a supplemental statement, however, I recreated the search by using the same search terms and discovered similar results. The following four results are samples from that search and which describe Complainant's prominence in the Iranian community. In particular, I recall in 2012 reviewing the first example cited below and also, the line which I have underlined:

Source: *Southern California Persian American Community Magazine* article on the 2010 *Public Affairs Alliance of Iranian Americans*, second annual "Passing the Torch of Success"

"Then there was the judge's panel that included two Iranian immigration judges: Ashley Tabaddor and Rodin Rooyani. They both talked about the importance of Iranians, especially Iranian women, in the judiciary branch and the imperative of Iranian-Americans to get involved in the politics of this country. They mentioned that we are a relatively young Immigrant group and thus, under-represented. Judge Tabaddor mentioned that they are creating change from within the system."

Source: *Public Affairs Alliance of Iranian Americans*

"Judge Tabaddor is an active member of the Iranian-American community, sitting on the Board of Advisors for the Iranian-American Bar Association and supporting the Public Affairs Alliance of Iranian-Americans."

Source: *Pacific Council on International Policy*, a website interview which identified Tabaddor as an Immigration Judge.

"Judge Tabaddor is an active member of the Iranian-American community in Los Angeles, sitting on the Board of Advisors for the Iranian-American Bar Association and supporting the Public Affairs Alliance of Iranian-Americans."

Source: *Salem-News*, online news article from 2009.

"The Stand With the Iranian People Act (SWIPA) enhances United States sanctions against Iran, [']by targeting Iranian governmental officials and prohibiting Federal procurement contracts with persons that provide censorship or surveillance technology to the Government of Iran, while also encouraging humanitarian and people-to-people assistance to the Iranian people.[']"

Many in Iran however, believe that sanctions do not in any way help the people there.

Are the new sanctions simply a way to keep the false information about Iran's nuclear program, erroneous information issued in an ongoing fashion by Israel, in front of the American public?

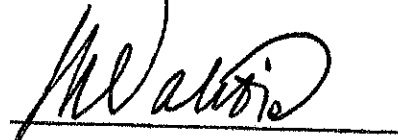
It seems a fair question.

In this remarkable gathering, some of the most accomplished Iranian Americans visited the Orange County Performing Arts Center January 17th, to share their experiences with the next generation. The event included former CNN anchor Rudi Bakhtiar and the popular comedian K-Von. They were joined by Reza Badiyi, Legendary Film and Television Director, Asieh Namdar, CNN Anchor and Senior Writer, Judge Ashley Tabaddor, Immigration Judge (In Personal Capacity), Judge Rodin Rooyani, Immigration Judge (In Personal Capacity), Banafsheh Akhlaghi, Former Western Regional Director of Amnesty International, Leila Vaziri, World Record Breaking Swimmer and Shardad Rohani, Composer, Conductor and Performer."

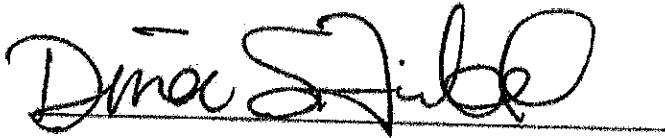
Lastly, I note that in my email to Ms. Scheinkman, I referenced Complainant's faculty profile on UCLA's website describing her as a "leader" in the Iranian American community. While trying to recreate my 2012 search for this supplemental statement, I reviewed her faculty profile and found that the statement describing her as a "leader" in the Iranian American community no longer appears.

OATH

I have read the above statement consisting of 3 pages, including this page. I declare under the penalty of perjury pursuant to 28 U.S.C. § 1746 that my statement is true, correct, and complete to the best of my knowledge, information, and belief. I understand that the information I have given is not to be considered confidential and that it may be shown to individuals with a right to know.



(Affiant's Signature and date)



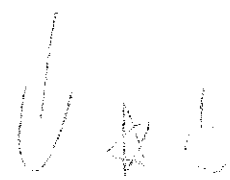
Signed before witness

ON THIS 18 DAY OF March, 2014

Wahowiak, Marlene (EOIR)

From: Wahowiak, Marlene (EOIR)
Sent: Wednesday, August 22, 2012 12:14 PM
To: Scheinkman, Rena (EOIR)
Subject: RE: Seeking Clarification

970 hits when you Google "Ashby Taboulet" and from
Her UCLA faculty profile lists her as a "lecturer" in the broader American community.



I would respond to her like this:

It is clear that you have a prominent role in the broader American community at large. As an adjudicator for a group which may have a direct interest in a matter before the immigration court, the issue of an appearance of impartiality arises. An appearance of impartiality does not in any way suggest that you have an actual bias. Rather, given that the agency has the resources to reassign cases to others within the court without creating an undue burden, it is the opinion of the Ethics Office that out of an abundance of caution the process be followed. Since this is only a recommendation, the final decision as to whether you should be recused from any cases ultimately rests with ACM Fong.

March 20, 2014

Robert K. Abraham
Supervisory Attorney
Complaint Adjudication Office

Re: Response to Request for Supplemental Information

Dear Mr. Abraham,

I hereby respond to your February 24, 2014 request for "supplemental information" in A. Ashley Tabbador v. EOIR, Agency Number EOI-2013-0081 (Request). I note that I received this request on March 12, 2014.

The Request asks that I provide the following:

- (1) "[S]pecific examples of complainant's 'high profile activities' that triggered [my] concerns regarding her impartiality in cases involving Iranian respondents." Request at 2.
- (2) "[S]pecific information (e-mails, written memoranda, etc.) supporting [my] August 28, 2012 statement that OGC recommended that other IJs disqualify themselves from particular classes of cases in circumstances similar to the facts in this matter." Request at 3.

Responses

(1) Attached please find documents responsive to your Request at Attachment 1. The fact that complainant requested to speak before the federal government, in particular the White House, compared to other organizations for which complainant had submitted previous, related requests, was the most significant factor we considered.

(2) The Request asks for documents "supporting [my] August 28, 2012 statement that OGC recommended that other IJs disqualify themselves from particular classes of cases in circumstances *similar to the facts in this matter*." Request at 3 (emphasis added). It is important to clarify that my August 28, 2012 statement actually reads "OGC has formally recommended that other IJs disqualify themselves from a particular class of matters *in similar circumstances*." (Emphasis added.)

The distinction between the Request and the statement in my August 28, 2012 e-mail is important because I was not then, nor am I now, aware of any cases "similar to facts in this matter." Complainant was asked to speak at a White House event in her personal capacity in relation to a topic that could implicate her official responsibilities. I am not aware of any other IJ (or other employee) that has submitted such a request. (The closest request I am aware of was the December 2012 request of an IJ to speak with an Ambassador, which I included in my 4/11/13 supplemental affidavit.)

Rather, the "similar circumstances" that I referred to in my statement was that OGC has formally recommended IJs disqualify themselves from a class of cases based on its analysis that, in light of an IJ's outside activities, a reasonable person with knowledge of the relevant facts could question the IJ's impartiality. Specifically, at the time I was thinking about two situations that I was aware of in which OGC formally recommended that specific IJs disqualify themselves from particular types of cases based on individuals whom they married. *See* Attachment 2. While these cases were not similar factually because they did not involve disqualification from cases involving a particular nationality, they were similar legally because OGC recommended disqualification based on its analysis of 5 C.F.R. § 2635.502. I note that OGC regularly recommends that IJs and other employees disqualify themselves from a particular case or matter; the opinions at Attachment 2 that I was referring to in my August 28, 2012 e-mail are ones that I was aware of, like this case, in which OGC recommended that an IJ disqualify himself from a class of cases.

I further note that the Request appears to presuppose that the Ethics Office's "legitimate, non-discriminatory reason" for its ethics advice was that "complainant had 'held herself out to be very active in the Iranian-American community'" and that "OGC has formally recommended that other IJs disqualify themselves from a particular class of matters in similar circumstances." Request at 1-2. To clarify, the Ethics Office's "legitimate, non-discriminatory reason" for its ethics advice was simply that, based on its interpretation of the facts of this case, 5 C.F.R. § 2635.502 would require disqualification from these types of matters. By way of further explanation, if an IJ stated publicly that she would never grant relief to individuals from a certain country, there would be virtually no question that her impartiality would be questioned, and that, based on an analysis of section 502, she should disqualify herself from matters involving individuals from that country. The Ethics Office in this case undertook the same type of analysis. Although complainant's participation in outside activities involving the Iranian-American community may not have been as stark as the hypothetical statement above, our analysis was the same. While one can disagree with the conclusion we came to, there is no evidence that I am aware of that anyone involved in issuing the opinion considered complainant's nationality or race in making the recommendation.

Rather, the circumstances of this case, in which multiple individuals were consulted before an opinion was issued – including the Departmental Ethics Office (DEO) – demonstrate that the intent was to issue the proper interpretation of the ethics regulation, not to discriminate. Although DEO is technically not in EOIR's chain of command, in my 8+ years with the Department of Justice, having sought advice from DEO on dozens of occasions, the components I have worked for (EOUSA and EOIR) have never, to my knowledge, issued opinions contrary to DEO's advice, nor do I know that the components have the authority to do so. In this case, I consulted with DEO, and DEO agreed that EOIR should recommend disqualification. Had DEO disagreed with EOIR's interpretation of section 502, EOIR would not have issued an opinion contrary to DEO's position.

Please let me know if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Rosenblum". The signature is stylized and cursive.

Jeff Rosenblum

Attachment

1

From: Frantz, Brigitte (EOIR)
Sent: Thursday, July 26, 2012 1:06 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR); Riley, Crystal (EOIR)
Subject: RE: Speaking Engagement
 Hi Ashley,

Please consider this e-mail OGC's ethics approval of your request to participate in a panel discussion entitled "Consequences of Committing Fraud against U.S. Government in Immigration Matters" on August 15, 2012. The Iranian American Lawyers Association invited you to speak. You will discuss the court's commitment to combating notario fraud and the impact of submitting fraudulent information or documents to the court. Basic refreshments will be served. There will not be any fundraising at this event. You will not be compensated for your attendance at this event. You do not plan to distribute any personally-prepared written material incident to your speaking engagement, although you will distribute copies of fliers that the court provides to pro se respondents. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. You have approval to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.
- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.
- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.
- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. § 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." **Please coordinate with the sponsor to make certain that this occurs.** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.
- * You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. § 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."
- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. § 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. § 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. § 2635.204(a)
- * Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.
- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* I am copying Crystal Riley to make Public Affairs aware of this speaking engagement.

* Please refer to 5 C.F.R. § 2635.807, as well as 5 C.F.R. §§ 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,
Brigitte

Brigitte L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Thursday, July 26, 2012 12:57 PM
To: EOIR, Ethics (EOIR)
Subject: FW: Speaking Engagement

Good morning,
I have been asked to speak at a panel for IALA. ACIJ Fong has already approved the request. The event is scheduled for August 15th. I have attached the speaking engagement form. Please let me know if you have any questions.
Thank you,
Ashley Tabaddor

From: Fong, Thomas (EOIR)
Sent: Thursday, July 26, 2012 9:11 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: Speaking Engagement

ACIJ approval given for this engagement.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-2811
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Thursday, July 26, 2012 8:43 AM
To: Fong, Thomas (EOIR)
Subject: Speaking Engagement

Good morning Tom,
Per our conversation, I have attached the updated Speaking Engagement request to serve as a panelist at an upcoming IALA event. Please review and let me know if you have any questions.
Thanks for your help,
Ashley

From: Rosenblum, Jeff (EOIR)
Sent: Wednesday, February 22, 2012 6:04 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Billingsley, Kelly (EOIR); Riley, Crystal (EOIR); Fong, Thomas (EOIR)
Subject: RE: NPP Trade Show News: Guest Speakers

Attachments: Newpinkpages speaking engagement.wpd
Judge Tabaddor,

You have requested approval to speak at the "Annual New Pink Pages Trade fair." You will speak on the topic of the importance of women supporting one another, and the positive rewards of honoring our civic duties. (Your request form is attached hereto.) You will not be compensated or reimbursed for expenses, and your supervisor has approved your participation. Subject to the restrictions listed below, your participation in this event is approved in your personal capacity, with use of your title and a disclaimer.

* Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.

* You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

* Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

* The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. § 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." ***Please coordinate with the sponsor to make certain that this occurs.*** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case-by-case basis.

* If you decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. § 2635.807(b)(2). An example of an appropriate disclaimer follows:

The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice.

* There are limitations on accepting items of monetary value from prohibited sources or given to an employee because of your official position. See 5 C.F.R. § 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. § 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50 in a calendar year from a single source. See 5 C.F.R. § 2635.204(a).

* Unless your supervisor authorizes administrative leave or an excused absence, you may not use official

time in relation to this activity. Under no circumstances may you use the time of another employee in relation to this activity, even if the employee volunteers to assist you to prepare for this activity.

* The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* I am copying Crystal Riley to make Public Affairs aware of this speaking engagement.

* Please refer to 5 C.F.R. § 2635.807, as well as 5 C.F.R. §§ 2635.701-705 for general guidelines concerning outside activities.

Please let me know if you have any questions. Thanks.

Jeff Rosenblum
Executive Office for Immigration Review
Office of the General Counsel
(703) 305-0799

From: Tabaddor, A. Ashley (EOIR)
Sent: Wednesday, February 22, 2012 12:00 PM
To: EOIR, Ethics (EOIR)
Subject: FW: NPP Trade Show News: Guest Speakers

To whom it may concern,
It appears that Mr. Frantz is on a detail. So per her automatic reply email, I am forwarding this to your attention for consideration of any ethics issues. ACIJ Fong has already approved the request. Please let me know if you have any questions.
Thank you,
Ashley Tabaddor

From: Tabaddor, A. Ashley (EOIR)
Sent: Wednesday, February 22, 2012 8:51 AM
To: Frantz, Brigitte (EOIR)
Subject: FW: NPP Trade Show News: Guest Speakers

Good morning Brigitte,
I have been asked to speak at an Iranian-American women's trade fair. ACIJ Fong has already approved the request. I have attached the form and below you can see a copy of their flyer. Please let me know if you have any questions. As this is coming up relatively quickly, I would appreciate a prompt response.
Thank you!
Ashley Tabaddor

Ashley, Approved by ACIJ, but please forward the email flyer with your filled out speaker form. Tom

Thomas Y.K. Fong

Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-2811
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 21, 2012 6:44 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject:

Hi Tom,
I hope you had a great weekend. I have been asked to come and give a short speech at an Iranian-American trade fair that is scheduled on March 4th of this year. It is sponsored by the New Pink Pages organization. I have attached the completed form for your review. Please let me know if you have any questions.
Thank you,
Ashley

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 21, 2012 6:46 PM
To: Fong, Thomas (EOIR)
Subject: FW: NPP Trade Show News: Guest Speakers

Hi Tom,
Right after I sent you the previous email, I noticed the email below which should also give you some a better sense of the event. I hope this is helpful.
Thanks,
Ashley

From: NewPinkPages.com [mailto:newpinkpages@aol.com]
Sent: Monday, February 20, 2012 8:40 PM
To: Tabaddor, A. Ashley (EOIR)
Subject: NPP Trade Show News: Guest Speakers

Having trouble viewing this email? [Click here](#)



**The 4th Annual
NewPinkPages.com
Iranian-American Businesswomen
Trade Show
NEWS:
Guest Speakers**

Dear Friends,

**THE 4TH ANNUAL NEWPINKPAGES.COM IRANIAN-AMERICAN
BUSINESSWOMEN TRADE SHOW IS RIGHT AROUND THE CORNER!**

On March 4, 2012 at the Hilton Woodland Hills Hotel, come join in this spectacular event that unites the Iranian-American community.

This event will be filled with wonderful guest speakers such as Dr. Homa Mahmoudi, Dr. Foojan Zeine, Dr. Shirin Nooravi, Dr. Peyman Raoofi, Dr. Orly Saghian, Dr. Paris Noori, and Dr. Farhang Holakouee! You do not want to miss the chance to be greatly inspired by each and every one of these speakers. We are honored to have Glavizh Motamedi conduct the introductions for the exceptional guest speakers.

DON'T FORGET TO TUNE IN to MOJE BAMDADI's live radio show for more information about March 4th's trade show on 670 AM KIRN Radio IRAN on Wednesday, 02/22/2012 at 8:30am with Mr. Sasan Kamali and Mrs. Lida Hanaei!

Join us at NewPinkPages.com Annual Trade Show! If you are interested in being an exhibitor, we still have a few booths available, so please call me if you are interested. We look forward to seeing you there!

**GOOD NEWS: WE WILL BE SHOWING THE TRADE SHOW LIVE ON
WWW.TVOOP.COM.** During the trade show, you will be able to search NewPinkPages.com and click on the link to view the live footage of the trade show.

Date: Sunday, March 4, 2012

Time: 10am. Celebration starts at 7pm!

Location: Hilton Hotel, 6360 Canoga Ave. Woodland Hills, CA 91367

We, at NewPinkPages.com, look forward to seeing you on March 4, 2012!

Sincerely,

Barbara Ardalan
Founder of NewPinkPages.com
(818) 887-8888
newpinkpages@aol.com

Forward email

 SafeUnsubscribe



This email was sent to ashley.tabaddor@usdoj.gov by newpinkpages@aol.com |
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NewPinkPages.com | 20016 Ventura Blvd. Suite B | Woodland Hills | CA | 91364

From: Frantz, Brigette (EOIR)
Sent: Wednesday, September 28, 2011 3:50 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Riley, Crystal (EOIR)
Subject: RE: speaking engagement
 Hi Ashley,

Please consider this e-mail OGC's ethics approval of your request to speak at the second annual Iranian-American Women's Leadership Conference on October 23, 2011. You will discuss your personal and professional path in pursuing higher education, a law degree, and becoming a judge. You will not be compensated for this event. There is a \$100 fee to attend the event, and you have indicated that you will pay this general attendance fee. Accordingly, you may accept any meals, refreshments, or materials provided to attendees. There will not be any fund-raising at this event. You will not distribute any personally prepared written materials incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice.
- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR *and discussing hypothetical situations* relating to EOIR.
- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.
- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." ***Please coordinate with the sponsor to make certain that this occurs.*** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.
- * You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent the positions of EOIR or the U.S. Department of Justice."
- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a).
- * Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.
- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* I am copying Crystal Riley to make Public Affairs aware of this event.

* Please refer to 5 C.F.R. § 2635.807, as well as 5 C.F.R. §§ 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thanks,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, September 27, 2011 3:34 PM
To: Frantz, Brigette (EOIR)
Subject: RE: speaking engagement

Hi Brigette,
Any news? Thanks!

From: Frantz, Brigette (EOIR)
Sent: Tuesday, September 20, 2011 3:25 PM
To: Tabaddor, A. Ashley (EOIR)
Subject: Re: speaking engagement

Will do Ashley.

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, September 20, 2011 02:31 PM
To: Frantz, Brigette (EOIR)
Subject: RE: speaking engagement

Hi Brigette,

I just received an out of office reply from your inbox. I understand you are returning on September 26th. I would appreciate it if you would give this priority consideration once you return, as they have asked me to get back to them asap. Thank you!
Ashley Tabaddor

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, September 20, 2011 11:29 AM
To: Frantz, Brigette (EOIR)
Subject: FW: speaking engagement

Hi Brigette,

I hope you are well. ACIJ Fong has approved this speaking engagement request. I have attached the email correspondence with ACIJ and the form. Please let me know if you have any questions.

Thank you!
Ashley Tabaddor

From: Fong, Thomas (EOIR)
Sent: Tuesday, September 20, 2011 11:25 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: speaking engagement

You have my approval, please clear with Brigette Frantz (Ethics).

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-2811
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, September 19, 2011 3:55 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject: speaking engagement

Hi Tom,
I hope you are well. I have been asked to serve as a panelist during a one day conference at the Iranian-American Women's Leadership Conference. This is their second annual conference. The goal of the conference is to inspire women to reach for their personal and profession goals. I attended their first conference last year which was a huge success. They have amazing people from all different backgrounds share their personal and professional experiences to inspire everyone to follow their dreams and make a positive difference in the community. I have now been asked to join their list of panelists to hopefully do the same for the younger generation. I have attached the request form with the information. For more information and a better sense of the program, please check out their website at

<http://www.cvent.com/events/2011-pathways-to-success-iranian-american-women-s-leadership-conference/event-summary-7d21cd4041ef460986e0f2a307d8f9a2.aspx>

Please let me know if you have any questions. Thanks!
Ashley

From: Frantz, Brigitte (EOIR)
Sent: Wednesday, February 17, 2010 8:19 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: UCLA event
Hi Judge Tabaddor,

Sorry for the delay, the week off from the snowstorms put me very behind on just about everything. You have ethics approval to participate in this activity in your personal capacity. You may make reference to your official position as long as it is included as one of several biographical details. See 5 C.F.R. § 2635.807(b). Your official title or position shouldn't be the feature of the exhibit. Second, you should be sure to avoid using your title to endorse any product or private enterprise (which includes schools). See 5 C.F.R. § 2635 Subpart G- Misuse of Position. Third, you should not discuss any EOIR or DOJ related policy matters. The exhibit is fine as long as its true focus is on your biography, rather than DOJ policy. Photos are fine, but you cannot be photographed in your robe or in the courtroom. Also, any caption on the photo should not include your title.

Please let me know if you have any questions.

Thanks,
Brigitte

Brigitte L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 16, 2010 3:39 PM
To: Tabaddor, A. Ashley (EOIR); Frantz, Brigitte (EOIR)
Subject: RE: UCLA event

Hi Brigitte,
Will you please kindly let me know if there is anything I need to know before my meeting with the UCLA student on this project? Thanks.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Tabaddor, A. Ashley (EOIR)
Sent: Friday, February 12, 2010 10:08 AM
To: Frantz, Brigitte (EOIR)
Subject: FW: UCLA event

Hi Brigitte,
Welcome back! I hope things are warming up a bit in D.C.
It looks like OLPA has cleared the project. You mentioned you may have some of the guidelines for me. I look forward to receiving them. I have already told them that if they use my title in the exhibit, they must indicate that it is in my personal capacity. But if there is anything else I need to be on the lookout for, please let me know.
Thanks!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Alder Reid, Lauren (EOIR)
Sent: Friday, February 12, 2010 9:07 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR); Frantz, Brigitte (EOIR)
Subject: RE: UCLA event

Good morning.

OLPA approves this request with the restriction that it remain strictly a personal piece and not include discussion about the IJ hiring process or DOJ/EOIR issues.

Thanks,

Lauren Alder Reid

Counsel for Legislative and Public Affairs
Executive Office for Immigration Review
703-305-0701
Lauren.Alder.Reid@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Thursday, February 04, 2010 6:01 PM
To: Frantz, Brigitte (EOIR)
Cc: Fong, Thomas (EOIR); Alder Reid, Lauren (EOIR)
Subject: RE: UCLA event

Hi Brigitte,
Thanks for the heads up. I look forward to hearing from Public Affairs as well. Please let me know if you have any further questions.
Thanks!

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Frantz, Brigitte (EOIR)
Sent: Thursday, February 04, 2010 2:46 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR); Alder Reid, Lauren (EOIR)
Subject: RE: UCLA event

Hi Judge Tabaddor,

Since you said "interview" I'm looping in Public Affairs for their thoughts. If Public Affairs gives it the go ahead, then I'll do an ethics review. Just off my initial read, it looks like the focus would be your personal career path/community as opposed to anything specifically related to your position as an IJ. That means I don't have any major concerns right now, but would still have some guidelines to give.

Thanks
Brigitte

Brigitte L. Frantz
Associate General Counsel

Ethics Officer
 USDOJ/EOIR/OGC
 703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Thursday, February 04, 2010 4:47 PM
To: Fong, Thomas (EOIR); Frantz, Brigitte (EOIR)
Subject: RE: UCLA event

Hi Tom,

Thank you for your reply. You are correct. The interview is to take place after hours. The time and date has not been chosen yet. In terms of the topics of interview, it is similar to the other speaking engagements I have had. There will be references to my personal experiences of coming to the U.S. and my professional path to my current position. In terms of questions about the community, it will be about the challenges that the Iranian-American community has experienced in immigrating to the U.S. If you recall, I did the moderating on a Q&A session with Professor Tehranian who wrote the book "Whitewashed" about the experiences of the middle-eastern community in the U.S. So any comments I make will be related to those areas.

I will not be discussing any pending cases or giving any legal advice, or anything similar per our rules. I have also explained that they can not take any pictures in the courtroom or use my title in a prominent fashion, per instructions we regularly receive.

I have cc'ed Brigitte with this email and the request so that she would have the full benefit of our discussion. Thanks again. Have a great day!

Dear Brigitte,

Per email below, please review the request for participation in the UCLA event. ACIJ Fong has already approved the request. If you have any questions, please let me know. I would appreciate a response as soon as you can because the project deadline is fast approaching.

Thanks!

*A. Ashley Tabaddor
 Immigration Judge
 Immigration Court
 Los Angeles, California
 (213) 534-4491*

From: Fong, Thomas (EOIR)
Sent: Thursday, February 04, 2010 11:32 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: UCLA event

Ashley, The only concerns I would have are the questions that might be couched in your "interview" for the exhibit. And I did not see in your attachment what day and time the interview will take place, but assuming it is after work hours of the work week or on the weekend, I do not see any other issues. But with those two comments, I am sure OGC/Ethics will in its standard warning provide guidance on issues and matters to avoid, but other wise, you have my clearance. ACIJ Fong

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 02, 2010 12:03 PM
To: Fong, Thomas (EOIR)
Subject: FW: UCLA event

Sorry I forgot to include the attachment!

A. Ashley Tabaddor

*Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 02, 2010 8:53 AM
To: Fong, Thomas (EOIR)
Subject: UCLA event

Hi Tom,

I hope you are doing well. I have been asked by a graduate student in connection with UCLA to participate in an exhibit she is putting together regarding second generation Iranian-Americans. The exhibit is scheduled for June through August of this year, but they are on a time deadline to finish the interview and the pictures by early next week. While it is not technically a "speaking" engagement, I went ahead and filled out the traditional form. Please let me know if you have any questions. Thanks! ☺

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Frantz, Brigette (EOIR)
Sent: Wednesday, July 28, 2010 6:10 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: RE: another speaking engagement
 Judge Tabaddor,

Please consider this e-mail OGC's ethics approval of your request to speak at the Coalition of Iranian Entrepreneurs (CIE) on September 13, 2010. You will speak about immigration court and immigration in general along with a discussion on personal and professional civic duties. You will not be compensated for this event. Cost of admission to the event is \$20 which includes dinner. You may accept their offer of dinner as this falls within the exception permitting gifts from outside sources with a value of \$20 or less. Please remember that this gift exception includes an annual cap of \$50 per year from a single source. There will not be an fund-raising at this event. You will not distribute any written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice.
- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.
- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.
- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." Please coordinate with the sponsor to make certain that this occurs. You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.
- * You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is a United States Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent the positions of EOIR or the U.S. Department of Justice."
- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a)
- * Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.
- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* Please refer to 5 C.F.R. § 2635.807, as well as 5 C.F.R. §§ 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thanks,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Wednesday, July 07, 2010 2:35 PM
To: Frantz, Brigette (EOIR)
Cc: Tabaddor, A. Ashley (EOIR); Fong, Thomas (EOIR)
Subject: FW: another speaking engagement

Hi Brigette,
I hope you are well. I have been asked by CIE to speak again before them. ACIJ Fong has approved my request. Attached please find the additional information you may need for ethics review. Thanks for your help!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Wednesday, July 07, 2010 11:31 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: another speaking engagement

This September 13th date has my clearance. Check with OGC Ethics. Aren't the regular rotary members of that chapter getting tired of hearing you speak on the same subject, they can probably give it by then?

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-2811 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, July 06, 2010 12:56 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)

Subject: another speaking engagement

Hi Tom

This is another request for speaking engagement. Similar to The Rotary Club, CIE's request is a second one. The first time I spoke to their organization was sometime in 2008. I have attached a completed request form. Please let me know if you have any questions. Thanks!

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Frantz, Brigitte (EOIR)
Sent: Friday, March 05, 2010 8:30 AM
To: Tabaddor, A. Ashley (EOIR); Rooyani, Rodin (EOIR)
Cc: Fong, Thomas (EOIR); Riley, Crystal (EOIR)
Subject: RE: Nerouz Event
 Judge Tabaddor and Judge Rooyani,

Please consider this e-mail OGC's ethics approval of your request to speak at the Glendale Community College Nerouz Event on March 11, 2010. You will speak to college students and members of the public with representatives from the Persian American Cancer Institute and the Census Bureau. Your comments will involve greeting the public and wishing everyone a happy new year. Food will be offered for sale at the event. There is no fee to attend the event. There will not be any fundraising at this event. You will not be compensated for your attendance at this event. You will not distribute any personally-prepared written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.

- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." **Please coordinate with the sponsor to make certain that this occurs.** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.

- * You indicated that you will not hand out any individually prepared materials. If you later decide distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a).

- * Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.

- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* I am copying Crystal Riley to make Public Affairs aware of this speaking engagement.

* Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, March 02, 2010 11:40 AM
To: Frantz, Brigette (EOIR)
Cc: Fong, Thomas (EOIR); Rooyani, Rodin (EOIR)
Subject: FW: Nerouz Event

Good morning Brigette,
Please see attached request for speaking engagement. ACIJ Fong has approved the request. Please let me know if you have any questions. Thanks!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Tuesday, March 02, 2010 8:32 AM
To: Tabaddor, A. Ashley (EOIR); Rooyani, Rodin (EOIR)
Subject: RE: Nerouz Event

You both have my clearance. Get Ethics/OGC.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, March 02, 2010 8:20 AM
To: Fong, Thomas (EOIR); Rooyani, Rodin (EOIR)
Subject: RE: Nerouz Event

Basically wishing everyone a happy new year and encouraging them to preserve the tradition of Norouz.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Tuesday, March 02, 2010 7:22 AM
To: Tabaddor, A. Ashley (EOIR); Rooyani, Rodin (EOIR)
Subject: RE: Nerouz Event

Topics of your speaking?

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213) 894-3906 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, March 01, 2010 4:01 PM
To: Fong, Thomas (EOIR); Rooyani, Rodin (EOIR)
Subject: Nerouz Event

Hi Tom,
Rodin and I were just asked to appear and briefly address the audience at the upcoming Glendale Community College Norouz (Persian New Year) festival. The event is scheduled for next Thursday, from 10 to 2. The college is a 10 minute drive from the court. We plan on being there from about 11:30 to 12:30. We will put in for 30 min. or one hour of leave for the additional time we may need to get there and come back in addition to our lunch time. We've both checked our calendars and this is not going to interfere with hearing any of the scheduled cases for the day; i.e. no cases will have to be rescheduled due to this. If you have any questions, please let me know.
Thanks!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Frantz, Brigitte (EOIR)
Sent: Thursday, February 18, 2010 2:28 PM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: Persian New Year

Thanks! Please consider this e-mail OGC's ethics approval of your request to speak at a cultural event at LA City Hall sponsored by the Norooz Celebration Foundation on March 19, 2010. You will speak about recognizing the Iranian cultural New Year celebration. You will not be compensated for this event. Some light refreshments will be served at the event. There will not be an fund-raising at this event. You will not distribute any written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice.
- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR *and discussing hypothetical situations* relating to EOIR.
- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.
- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." Please coordinate with the sponsor to make certain that this occurs. You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.
- * You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is a United States Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent the positions of EOIR or the U.S. Department of Justice."
- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a). You may accept the light refreshments being offered at this event as they fall within the exemption permitting modest items of food and refreshment.
- * Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.
- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.
- * Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.
- * Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thanks,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Thursday, February 18, 2010 2:15 PM
To: Frantz, Brigette (EOIR)
Subject: RE: Persian New Year

I was chosen as a representative of the community, but as part of the introductions, they would like to include a reference to my title or position.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Frantz, Brigette (EOIR)
Sent: Thursday, February 18, 2010 11:14 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: Persian New Year

Hi Judge Tabaddor,

I was just writing the opinion for this when I realized I had a question. Where you invited to speak at this event because you are an IJ? It will make a difference in whether you are approved to go in a strictly personal capacity or in personal capacity with use of title and a disclaimer.

Thanks
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, February 09, 2010 11:50 AM
To: Frantz, Brigette (EOIR)
Subject: FW: Persian New Year

Hi Brigette,
Hope you are well. ACIJ Fong has approved this engagement. Will you please take a look and let me know if there are any ethical issues I need to be aware of. Thanks.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Tuesday, February 09, 2010 8:49 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: Re: Persian New Year

Since you are on leave that day and taking your own time and the subject matter is not a legal issue you have my approval, get OGC/Ethics approval.

From: Tabaddor, A. Ashley (EOIR)
To: Fong, Thomas (EOIR)
Sent: Tue Feb 09 11:15:01 2010
Subject: Persian New Year

Hi Tom,
I hope things are melting down a bit in D.C. and that you're enjoying yourself. The Persian New Year is coming up. I've been asked by the Norooz celebration foundation to participate as a representative of the community in addressing the LA city council in a two minute speech about the cultural significance of Norooz and thanking them for recognizing the significance of the Persian New Year for the community. I have attached the request form. Please let me know if you have any questions. Thanks! ☺

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Frantz, Brigitte (EOIR)
Sent: Monday, November 16, 2009 11:19 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: Rooyani, Rodin (EOIR); Vahid, Gita (EOIR)
Subject: RE: speaking engagement
 Judges Tabaddor, Rooyani, and Vahid,

Please consider this e-mail OGC's ethics approval of your request to speak on the Judges' Panel at the "Passing of the Torch" event sponsored by the Public Affairs Alliance of Iranian Americans on January 17, 2010. I gather from your speaking engagement request form that you will speak mainly about your biographies and how you became Immigration Judges. There will not be any refreshments served at the event but there may be a reception for panelists. Please see below for advice regarding the reception. There will be several other individuals participating in the presentations and panels. Tickets for the event range from \$15 to \$50, and you have been offered a waived ticket fee worth less than \$20. Please see below for guidance regarding the fee waiver. There will not be any fundraising at this event. You will not be compensated for your attendance at this event. You will not distribute any personally-prepared written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.

- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." ***Please coordinate with the sponsor to make certain that this occurs.*** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.

- * You indicated that you will not hand out any individually prepared materials. If you later decide distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a). It is clear that you have been invited to this event because of your official position as Immigration Judges. Therefore, you may not accept a gift from the organization unless it fits within one of the exceptions noted here. The reception would likely fit within the exception permitting acceptance of modest items of food and refreshment offered other than as part of a meal. You may also accept the ticket waiver as the cost is less than \$20, but only so long as you have not accepted other gifts from this organization which would result in a total of more than \$50.

* Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.

* The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Friday, November 13, 2009 1:51 PM
To: Frantz, Brigette (EOIR)
Cc: Rooyani, Rodin (EOIR); Vahid, Gita (EOIR); Tabaddor, A. Ashley (EOIR)
Subject: FW: speaking engagement

Hi Brigette,
I hope you are doing well. ACIJ Fong has approved a speaking engagement for IJs Rooyani, Vahid and I for an upcoming PAAIA Judges' Panel. I have included a copy of the request form, and the invitation. The information in the request form and the invitation is identical for all of us. At this point, IJ Vahid does not believe she will be able to make it, but she has requested clearance in case her calendar opens up. The form includes all the questions from the form on line, with the exception of the personal biographical information, which is self evident. Please let me know if you have any questions.
Thank you for all your help!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Thursday, November 12, 2009 8:44 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: Rooyani, Rodin (EOIR); Vahid, Gita (EOIR)
Subject: RE: speaking engagement

It is cleared with me, please clear with OGC Ethics. I have not heard from IJ Vahid on this request.

Thomas Y.K. Fong
Assistant Chief Immigration Judge

Immigration Court/EOIR/DOJ
605 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, November 09, 2009 4:19 PM
To: Fong, Thomas (EOIR)
Subject: FW: speaking engagement

Just in case the last email didn't have the attachments.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, October 27, 2009 2:06 PM
To: Fong, Thomas (EOIR)
Cc: Rooyani, Rodin (EOIR); Vahid, Gita (EOIR); Tabaddor, A. Ashley (EOIR)
Subject: speaking engagement

Hi Tom,

I hope you are doing well. Rodin, Gita and I have been asked by Public Affairs Alliance of Iranian Americans (PAAIA), a non-profit organization to serve on a judges' panel in an upcoming event they are holding in Orange County. Gita is not sure if she will make it but asked that she be included in the request in case she decides to stay in town for that weekend. So attached is the request for the three of us to attend the event in our personal capacity. Let me know if you have any further questions. Thanks for your help.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Frantz, Brigitte (EOIR)
Sent: Wednesday, October 28, 2009 6:57 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: RE:
Judge Tabaddor,

Please consider this e-mail OGC's ethics approval of your request to speak during a teleconference entitled "The Last Minstrel Show? The War on Terrorism, Mass Media and the Middle Eastern Question" sponsored by the Pacific Council on International Policy on November 9, 2009 from 11:45am to 12:45pm. The teleconference will involve a discussion with John Tehranian, a law professor and author of "Whitewashed: America's Invisible Middle Eastern Minority." You will introduce Professor Tehranian, the speaker for the event, and conduct the initial Q&A regarding his book. As you will be appearing telephonically, there are no issues regarding any refreshments or reimbursements. There will not be any fundraising at this event. You will not be compensated for your participation in this event. You will not distribute any personally-prepared written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

* Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.

* You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

* Since you are not participating in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

* The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." ***Please coordinate with the sponsor to make certain that this occurs.*** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.

* You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

* Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.

* The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, October 27, 2009 5:24 PM
To: Frantz, Brigette (EOIR)
Cc: Fong, Thomas (EOIR); Tabaddor, A. Ashley (EOIR)
Subject: FW:

Hi Brigette,
I hope you are doing well. I am forwarding a request for a speaking engagement that has already been approved by ACIJ Fong. I have attached a copy of the request form. There has been no formal written invitation. It came through a series of emails and phone calls. Since it is a short timeline, I would request a response as soon as possible. Thank you for your help! ☺

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Tuesday, October 27, 2009 2:18 PM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE:

Approved.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, October 27, 2009 2:14 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject:

Hi Tom,
It's me again with another request for a speaking engagement. ☺ This one came up in the last 48 hours and is set on a short timeline. For the past few years, I have been an active member of the Pacific Council on

International Policy, a non-profit organization founded by Warren Christopher (former Sec. of State). They just asked me to moderate a Q&A session with an author in an upcoming teleconference meeting on November 9th. I have attached a copy of the request form for your review. Please let me know if you have any further questions. Thanks for your help.

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Frantz, Brigitte (EOIR)
Sent: Thursday, August 20, 2009 4:28 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: RE:
 Judge Tabaddor,

Please consider this e-mail OGC's ethics approval of your request to speak at the monthly meeting of the Empowered Women United (EWU). The meeting will take place on a Sunday August 30, 2009. You will discuss both your personal background and career path, the importance of community involvement, and immigration law and the immigration court. Mrs. Babaie from the Census Bureau will also speak at this event. There is a \$20 fee to attend this event which includes lunch. Please see below for advice regarding the lunch. There will not be any fundraising at this event. You will not be compensated for your attendance at this event. You will not distribute any personally-prepared written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Smith, approves your attendance. We grant ethics approval for you to attend this event in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

- * Be careful not to give legal advice. You may discuss the procedures before the immigration court, but you do not want to give the appearance of partiality by offering legal advice.

- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

- * Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

- * The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." **Please coordinate with the sponsor to make certain that this occurs.** You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.

- * You indicated that you will not hand out any individually prepared materials. If you later decide to distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

- * There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a). It is clear that you have been invited to this event because of your official position as an Immigration Judge. Therefore, you may not accept a gift from the organization. Lunch is considered a gift. However, you may accept the lunch if the lunch is under \$20, as it fits into the exception stated above (5 C.F.R. 2635.204(a)). If the lunch is more than \$20, you should pay for it yourself.

- * You may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.

* The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Wednesday, August 19, 2009 12:07 PM
To: Frantz, Brigette (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: RE:

Please see attached. There was no formal invitation. WE have several email discussions for me to get the information that is included in the attached form. Thanks.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Frantz, Brigette (EOIR)
Sent: Wednesday, August 19, 2009 9:04 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: RE:

Thanks Judge Tabaddor. Please complete the Speaking Engagement Form located on the intranet at <http://eoirweb/component/ogc/ethics/outside/SpeakingEngagementsFillable2009.pdf> and either e-mail it to me or fax it to my attention at 703/305-0443. Also, please be sure to send me a copy of the invitation to the speaking engagement.

Thank you, and if you have any questions please let me know.
Brigette

Brigette L. Frantz
Associate General Counsel
Ethics Officer
USDOJ/EOIR/OGC
703/605-1281

From: Tabaddor, A. Ashley (EOIR)
Sent: Wednesday, August 19, 2009 11:44 AM
To: Fong, Thomas (EOIR)
Cc: Frantz, Brigitte (EOIR)
Subject: RE:

Good morning Tom,
Thanks for the quick reply. I have cc'ed Ms. Frantz for the next step. Have a great day. ☺

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Fong, Thomas (EOIR)
Sent: Wednesday, August 19, 2009 8:43 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: FW:

Based on your answers to the attachment you have my approval. Brigitte Frantz is the new Ethics officer replacing Barbara Leen.

Thomas Y.K. Fong
Assistant Chief Immigration Judge
Immigration Court/EOIR/DOJ
606 South Olive Street, 15th Floor
Los Angeles, CA 90014
(213)894-3906 (ext. 342)
thomas.fong@usdoj.gov

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, August 18, 2009 3:04 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject:

Hi Tom,
I hope this finds you well. I have been asked to speak at a luncheon for the Empowered Women United organization, a relatively recently created organization of mostly Iranian-American women. The speaking engagement is scheduled for Sunday August 30th. I have included a copy of the request form which should hopefully give you all the information you need. Please let me know if there are any problems. Also, would you happen to remember the name of the new Ethic counsel to whom we're supposed to email these requests as well?

Thanks!
Ashley ☺

*A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491*

From: Leen, Barbara (EOIR)
Sent: Thursday, June 18, 2009 11:16 AM
To: Tabaddor, A. Ashley (EOIR); Vahid, Gita (EOIR); Rooyani, Rodin (EOIR)
Cc: Fong, Thomas (EOIR)
Subject: IABA Speaking Engagement
 Judges Tabaddor, Vahid, and Rooyani,

Please consider this e-mail OGC's ethics approval of your request to speak at the Iranian-American Bar Association (IABA) Orange County Chapter's Judges' Panel on August 12, 2009. The event is intended to provide law students and recent members of the bar an opportunity to interact with judges and gain insight as to how to best make decisions about their own careers. I gather from your speaking engagement request form that you will speak mainly about your biographies and how you became Immigration Judges. This is a two-part event- the first part will be a dinner where the judges in attendance will be seated at different tables and the second part will be a more formal panel presentation focusing on your biographies. Please see below for advice regarding the dinner. You will speak alongside Hakhamanesh Mortezaie, the Chief Hearing Officer at the LA Department of Housing. There is a \$35 fee for attendance at the event, you have been offered a reduced fee but plan to pay the full \$35 fee for your attendance. There will not be any fundraising at this event. You will not be compensated for your attendance at this event. You will not distribute any personally-prepared written material incident to your speaking engagement. We understand your supervisor, Assistant Chief Immigration Judge Fong, approves your attendance. We grant ethics approval for you to attend in your personal capacity with use of your title and a disclaimer.

As you prepare for the presentation, please remember the following guidelines:

* Be careful not to give legal advice. You may discuss the procedures before the Immigration court, but you do not want to give the appearance of partiality by offering legal advice.

* You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.

* Since you are not attending in your official capacity, you must provide the appropriate disclaimer at the beginning of your remarks to indicate that the views expressed are your own and not those of EOIR or the Department of Justice. It is very important that you provide this disclaimer, particularly in light of the next item.

* The general rule is that when you are not appearing in your official capacity, you should not use your official title except as part of other biographical information. See 5 C.F.R. 2635.807(b). This rule applies to any announcements, brochures, flyers, etc. related to the event. Under these specific facts, you are permitted to use your official title "Immigration Judge" on written materials associated with this event so long as it is followed immediately by the following parenthetical: "(personal capacity)." *Please coordinate with the sponsor to make certain that this occurs.* You may be introduced with your official title. Please note that ethics permission granting use of your title in your unofficial capacity is specific to this case ONLY; we address this issue on a case by case basis.

* You indicated that you will not hand out any individually prepared materials. If you later decide distribute materials that you prepare personally, the written materials must contain a printed disclaimer clarifying that they were prepared in your personal capacity, as required by 5 C.F.R. 2635.807(b)(2). An example of an appropriate disclaimer follows: "The author is an Immigration Judge with the X Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline in her personal capacity, and the views expressed herein are solely her views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

* There are limitations on accepting items of monetary value from prohibited sources, which include organizations comprised of individuals seeking official action from the agency, such as AILA. In addition, you may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). You are free to accept "modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as a part of a meal." 5 C.F.R. 2635.203(b)(1). Additionally, an applicable exception permits unsolicited gifts with a market value of \$20.00 or less per occasion, not to exceed \$50.00 in a calendar year from a single source. See 5 C.F.R. 2635.204(a). It is clear that you have been invited to this event because of your official position as Immigration Judges. Therefore, you may not accept a gift from the organization. A gift would include dinner and a reduced fee for attendance at the event. You should pay the full entrance fee for the event and make sure that

it covers the cost of your meal.

* Unless your supervisor authorizes administrative leave or an excused absence, you may not use official time or that of another employee even if the employee volunteers to assist you to prepare for this activity.

* The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.

* Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.

* Please refer to 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

We encourage you to continue to seek ethics advice in the future. If you have any questions about this event or future situations, please feel free to contact me or submit the question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you,

Barbara

Barbara J. Leen
Ethics Officer
EOIR- OGC
Phone: (703) 605-0281

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, June 16, 2009 3:19 PM
To: Leen, Barbara (EOIR)
Cc: Fong, Thomas (EOIR); Vahid, Gita (EOIR); Rooyani, Rodin (EOIR)
Subject:

Dear Ms. Leen,
I hope you are doing well. Judges Rooyani and Vahid-Tehrani along with myself have been asked to speak at a bar association event. Judge Fong has already approved the request. So the final stage is your office. I have attached the request which includes all the relevant information. The request is on behalf of all three of us. Please let me know if you need anything else.
Have a great day!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Villageliu, Gustavo (EOIR)
Sent: Tuesday, September 16, 2008 10:28 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: EOIR, Ethics (EOIR); Fong, Thomas (EOIR); Hill, Kelly (EOIR)
Subject: RE:Tabaddor Speaking engagement

Dear Judge Tabaddor:

Please consider this e-mail OGC's ethics approval of your request to speak at the Coalition of Iranian Entrepreneurs' ("CIE") weekly guest speaker event as the keynote speaker, on a Monday night (TBD) in the month of November 2008. CIE is a non-profit, non-political and non-religious organization which has been duly organized under the laws of the State of California. This organization consists of Iranian-American businesspeople who gather every Monday night for exchange of information and enhancement of friendship and entrepreneurship among themselves. The topic of your presentation is your personal background of fleeing Iran, a general discussion about what the immigration court and immigration in general, and the importance of one's community and civic duties.

We were informed by your ACIJ, Thomas Fong, that attendance in your unofficial capacity has been approved from a supervisory perspective.

While you are granted ethics approval to participate in this activity, you should consider the following advice:

- * You should refrain from disclosing non-public information. This would include discussing any matters pending before EOIR and discussing hypothetical situations relating to EOIR.
- * The approval of this activity only extends to a determination concerning the ethical guidelines for such activities. Your participation in the requested activity, and any annual or other leave taken, must be approved by your supervisor.
- * Except in limited circumstances, (e.g., teaching approved courses) you cannot receive compensation for speaking, teaching, or writing which relates to the agency's mission or to your official capacity.
- * Please see 5 C.F.R. 2635.807, as well as 5 C.F.R. 2635.701-705 for general guidelines.

If you have any questions you can contact me, or submit them to the EOIR ethics mailbox at EOIR.Ethics@usdoj.gov

*Gustavo D. Villageliu
Senior Associate General Counsel
Executive Office for Immigration Review
Phone 703-305-1189
Fax 703-305-0443*

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, September 15, 2008 5:23 PM
To: Villageliu, Gustavo (EOIR)
Subject: RE: Speaking engagement

Greetings!

I just received an automatic reply email from Barbara Lee. Apparently she is out all this week. So are you the correct contact person for this request at this time, or should I be forwarding it to another person? I have included the info. on the speaking engagement in case you don't have it handy. Thanks.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, September 15, 2008 2:20 PM
To: Villageliu, Gustavo (EOIR); Leen, Barbara (EOIR)
Subject: RE: Speaking engagement

Good afternoon. Hope you had a great weekend. Just checking in to make sure that you received Judge Fong's approval email. I have told the organization that I would respond to their request this week. Thank you.

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

From: Fong, Thomas (EOIR)
Sent: Friday, September 12, 2008 8:46 AM
To: Tabaddor, A. Ashley (EOIR); Villageliu, Gustavo (EOIR); Leen, Barbara (EOIR)
Subject: RE: Speaking engagement

Approved. ACIJ Fong

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, September 09, 2008 11:14 AM
To: Villageliu, Gustavo (EOIR); Leen, Barbara (EOIR); Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject: Speaking engagement

Hi Tom,

Hope you are doing well. The Coalition of Iranian Entrepreneurs has asked me to speak at one of their weekly dinner events. I have completed the request form which has greater detail about the organization and the event. I have also cc'ed OGC, which I believe is the next step after your approval. Let me know if you have any further questions. Thanks!

A. Ashley Tabaddor
Immigration Judge
Immigration Court
Los Angeles, California
(213) 534-4491

Attachment

2

From: Rosenblum, Jeff (EOIR)
Sent: Wednesday, May 30, 2012 4:48 PM
To: Billingsley, Kelly (EOIR)
Subject: FW: Ethics Opinion
FYI

From: Weisel, Robert (EOIR)
Sent: Wednesday, May 30, 2012 4:33 PM
To: [REDACTED] (EOIR)
Cc: O'Leary, Brian (EOIR); McGoings, Michael (EOIR); Keller, Mary Beth (EOIR); [REDACTED] (EOIR)
Subject: Ethics Opinion

Judge [REDACTED]:

As you are aware, a request was made by the Chief Immigration Judge for an ethics opinion from the office of General Counsel (OGC). OGC issued an opinion, which was provided to you by the Office of the Chief Immigration Judge, concerning your recent marriage to a Peruvian national, [REDACTED] ([REDACTED]). [REDACTED] overstayed his visa and, thus is not a legal resident of the United States. The OGC opinion makes recommendations concerning cases in which you should recuse yourself. I discussed this opinion with you today. The opinion shall be implemented today in the following manner. I direct you recuse yourself from all cases involving marital adjustment of status as well as cases involving visa overstay. Should your spouse file an application for political asylum, you are to inform me as soon as possible and we shall conform to the opinion's recommendations in that regard.

Robert D. Weisel
Assistant Chief Immigration Judge
[REDACTED]



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

5107 Leesburg Pike, Suite 2400
Falls Church, Virginia 22041

November 7, 2000

MEMORANDUM TO: Michael J. Creppy
Chief Immigration Judge

FROM: Charles K. Adkins-Blanch
General Counsel/Deputy Designated Agency Ethics Officer

SUBJECT: Ethics Opinion Regarding Immigration Judge
[REDACTED]

This responds to your request for an opinion regarding Immigration Judge [REDACTED] recent marriage to a Colombian national who overstayed her visa – and thus, is not a legal resident of the United States. After evaluating the circumstances pursuant to 5 CFR §§ 2635.501 and 2635.502, and consulting with Mary Braden, Director of the Department of Justice Ethics Office, we have determined that Judge [REDACTED] has violated neither law nor regulation. We base this opinion on the fact that Judge [REDACTED] met his wife outside of his official duties. In addition, because the EOIR is not a law enforcement component, Judge [REDACTED] did not have the obligation to report his wife to the INS for the institution of immigration proceedings against her.

Glenn A. Fine, Acting Inspector General, issued a memorandum on September 15, 2000, also finding that Judge [REDACTED] did not violate any law or regulation by his conduct in this matter. However, the Office of the Inspector General (OIG) is concerned, as are we, about the appearance of impropriety. He recommends that EOIR, in consultation with the Department, determine the categories of cases Judge [REDACTED] should not handle, if he is to return to the bench while his wife's adjustment application is pending with the INS. We have discussed our recommendations with Ms. Braden and Janice Rodgers of the Ethics Office, and so informed Patricia Sumner of the OIG. This ethics opinion addresses the alternatives available to OCIJ in light of the OIG memorandum and investigation, and our conversations with the Department Ethics Office.

Factual circumstances. The following are the facts of this matter as I understand them to have been given to your office through conversations with Judge [REDACTED] and the [REDACTED] family's immigration attorney. The OIG has gathered additional facts, which I am incorporating. Judge [REDACTED] met his wife, [REDACTED], on July 8, 2000, at a dinner offered by [REDACTED] a friend and business associate of Judge [REDACTED]. An attraction developed quickly

between them; they went out to dinner, to play pool, and to see the horses at the local stockyards several times during the following week. Judge [REDACTED] soon met the [REDACTED] family. At some point, apparently during dinner on July 15, Judge [REDACTED] asked [REDACTED] about her circumstances as an immigrant; he had his suspicions. She was candid and told him that she had entered the United States on a visitor's visa in 1994. Judge [REDACTED] realized that he had two options -- to either run away from her, or to marry her. They went to church together the next day, and to play tennis. Judge [REDACTED] proposed marriage to [REDACTED] on July 17, 2000.

Judge [REDACTED] and [REDACTED] made arrangements to be married, and also hired [REDACTED] a [REDACTED] immigration practitioner, to file the following: I-130 (petition for alien relative), I-485 (application for adjustment of status) and I-765 (application for employment authorization). These forms were completed on July 20, 2000. Judge [REDACTED] wrote to you on July 21, 2000, stating that he was going to marry a woman who had overstayed her visa. He added that they had met through a mutual friend, and not in connection with any official activity. Judge [REDACTED] noted that although he did not "believe that [his] choice of a wife will affect [his] ability to enforce the laws of the United States as a neutral and detached adjudicator, [he] recognize[s] that appearances are important in [his] work." Judge [REDACTED] concluded by requesting approval to use accrued annual leave, and noted that he was prepared to tender his resignation as Immigration Judge should that be in the best interest of the Department. The [REDACTED] were married on July 22, 2000; the request for annual leave was granted. Judge [REDACTED] was on annual leave until September 15, 2000. He has been on administrative leave since that date to the present.

Attorney [REDACTED] spoke with Assistant Chief Immigration Judge [REDACTED]. She indicated that the three INS applications were filed by mail at the end of July, and that, based on her experience in other cases, it would take as long as 18 months before the visa petition and adjustment application are adjudicated. She added that, to her knowledge, there is no reason why the visa petition and the adjustment application would not be granted.

As indicated above, [REDACTED] is not in proceedings before the Immigration Court -- she did not even have an A-number. She has a social security number and card because at the time she entered the United States, the law allowed individuals with visitor's visas to obtain social security numbers.

[REDACTED] sister, [REDACTED] (A [REDACTED]), is in removal proceedings before the [REDACTED] Immigration Court. [REDACTED] broke up with her boyfriend, a [REDACTED] police officer, who reported her and [REDACTED] to the INS. The INS alleges in [REDACTED] Notice to Appear that she was admitted to the United States in 1999 as a visitor, yet had remained in the country without authorization. Her case had been set for a master calendar hearing on October 5, 2000, before Judge [REDACTED] -- as with other master calendar hearings, the case was scheduled

automatically by computer. Your office has informed me that this case was reassigned to another Immigration Judge.¹

Applicable provisions. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 CFR § 2635.101(b)(14). "Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts." *Id.*

Section 2635.501 of Title 5, Code of Federal Regulations, provides in its pertinent part that an employee should not participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member or his household, or in which he knows a person with whom he has a covered relationship is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter. The regulation further provides that an employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in § 2635.502 to determine whether he should or should not participate in a particular matter.

The illustrative examples in the regulation describe instances in which an employee's relatives or business associates have dealings with the government, and a reasonable person would question the employee's impartiality if he were to participate in an agency decision having a direct and predictable effect on the relatives' or associates' finances or welfare. As will be explained below, in Immigration Judge [REDACTED] case the issue is not whether he could hear his wife's particular and specific removal case if the INS were to deny her applications, but whether he may continue to perform his official duties, even though the INS -- before which his wife has pending applications for relief -- is always a party in proceedings before the Immigration Court.

Ethics analysis.

[REDACTED] Relatives

After consulting with the OIG and the Ethics Office, we recommend that none of the [REDACTED] Immigration Judges hear [REDACTED] case given their longstanding professional and personal relationship with Judge [REDACTED]. Although the Department initially suggested that [REDACTED] case be transferred to another location, the closest Immigration Court to [REDACTED] is [REDACTED] --

¹ Judge [REDACTED] has a covered relationship pursuant to 5 CFR 2635.502(b)(1)(ii) with his wife, who is a member of his household. He also has a covered relationship with his sister-in-law [REDACTED]. Therefore, he cannot hear [REDACTED] removal case, nor that of other [REDACTED] relatives. These removal proceedings would be "particular and specific cases" in which Judge [REDACTED] decision would have a direct and predictable effect on the [REDACTED] relatives' continued presence in this country. Pursuant to 5 CFR §§ 2635.501 and 2635.502, Judge [REDACTED] must disqualify himself from [REDACTED] removal case.

almost six hours away by car. The transfer of the case would have imposed a burden on respondent [REDACTED]. The OIG understood this concern, and agreed that by bringing an out-of-town Immigration Judge to adjudicate the [REDACTED] case in [REDACTED], the impartiality of the [REDACTED] Immigration Judges would not be questioned. Judge [REDACTED] as should be expected, must have no role in the adjudication of the [REDACTED] case.

Regarding other [REDACTED] relatives, the OIG reported in its memorandum of September 15, 2000, that another sister, [REDACTED] is in the country legally on a H-1B visa, and teaches English as a second language in [REDACTED], [REDACTED]. Shortly before Judge [REDACTED] met [REDACTED], INS agents went to the apartment where she lived with [REDACTED], and arrested [REDACTED]. [REDACTED] was not at the apartment when this happened; she did not return, and went to stay with [REDACTED] instead. The other two [REDACTED] siblings, two brothers, do not live in the United States. The [REDACTED] parents are currently staying with [REDACTED]; they have valid visitors' visas. If the [REDACTED] parents or other relatives are placed in removal proceedings, their cases should not be adjudicated by the [REDACTED] Immigration Judges.

• Judge [REDACTED]

Departmental Ethics Office Director Mary Braden is of the opinion that, just because an Immigration Judge marries an illegal alien, the judge should not automatically have to resign; particularly if he is an excellent judge and has been candid about his wife's immigration problem. Judge [REDACTED] did not meet his wife while performing his official duties and, because EOIR is not a law enforcement component, he was not under the obligation to report her to the INS for the institution of immigration proceedings. Judge [REDACTED] has violated neither law nor regulation. However, there is the concern about the appearance of impropriety.

Section 2635.502 recommends disqualification from particular matters involving specific parties when the employee's decisional role will have a direct and predictable effect on his relatives (or associates) finances or welfare. Ms. Braden and her Deputy Director, Janice Rodgers agree with this Office that the "particular matters" language of the regulation was not intended to apply to situations as broad as the hundreds of immigration cases filed by the INS before Judge [REDACTED] every year. Although there is an appearance of impropriety issue in Judge [REDACTED] case, section 2635.502 gives the ethics officers and managers the tools and analysis to evaluate whether some measures can be taken to eliminate or minimize the appearance of lack of impartiality, or if the employee should be assigned to other duties (and when this is not an option, be required to resign). Before setting forth my recommendations pursuant to section 2635.502, let me briefly address some additional facts discussed with Ms. Braden and Ms. Rodgers relevant to this case.

We explained to Ms. Rodgers that the [REDACTED] have filed three applications with the [REDACTED] INS Office. The I-130 was filed by Judge [REDACTED] on behalf of his alien relative, [REDACTED]. That Judge [REDACTED] filed this form -- and not his wife -- is not significant, as that is the proper course of action when filing such petition. On Form G-325A (biographic information),

which must be filed with the I-130, Judge [REDACTED] indicates that he works as a "judge" with the Department of Justice. The other two applications (adjustment of status and employment authorization) were filed under [REDACTED] name.

We also noted that Judge [REDACTED] retained an attorney to assist his wife to resolve her immigration problem. By so doing, Judge [REDACTED] is not violating the ethics rules - there are regulatory and statutory provisions which bar employees from engaging in outside legal work before other federal agencies, save for very limited circumstances. Section 205 of Title 18 is the criminal provision which prohibits employees from acting as agents or representatives before the federal government. Had Judge [REDACTED] decided to take an active role in his wife's application process before the INS, it could have not only led to the perception that he was using his position at EOIR to influence the INS in a private matter, but it could have been contrary to the criminal statute. It is my understanding that Judge [REDACTED] has not contacted anyone at INS in reference to his wife's immigration applications, and has been advised by his supervisors not to do so in the future.

We further explained to Ms. Rodgers that the INS District Counsel's Office is separate and apart from the INS examiners who will adjudicate [REDACTED] applications. The INS examiners who will adjudicate the visa petition and adjustment application do not appear in Immigration Court, and the INS employees who do appear (the Trial Attorneys and District Counsel) are under an entirely different and separate managerial structure. Given the size of the INS and its complex operations, it could be argued that there is a wall between the INS examiners and the Trial Attorneys. However, because there is the possibility, however slight, that the INS examiners might seek the legal advice of the District Counsel when adjudicating an adjustment application, such as the one filed by the [REDACTED], we recommend that the three applications be transferred to the INS [REDACTED] Regional Office for adjudication. The OIG memo also recommends such a transfer. We are providing Brad Glassman, Counsel to the Deputy Attorney General, copies of said applications so that he may coordinate with the INS for their transfer.

Recommendations if Judge [REDACTED] returns to the bench. Applying section 2635.502 to the factual circumstances in this case and based on our conversations with the Department Ethics Office, the following are my recommendations. Ultimately, this is a management call, and you might decide that there is no accommodation that could eliminate or sufficiently diminish the appearance of impropriety issue to your satisfaction.

- **Categories of cases Judge [REDACTED] should not handle.** The OIG memorandum recommends that EOIR, in consultation with the Department, determine the categories of cases Judge [REDACTED] should not handle pending the adjudication of the three INS applications. When discussing with the Department Ethics Office and the OIG which categories of cases Judge [REDACTED] should definitely not handle, two were identified: cases involving marital adjustment and/or visa overstays. One possible way to ensure that fewer cases involving marital adjustment or visa overstays would come before Judge [REDACTED] would be to assign him a docket of mostly detained cases, given that these

normally center on issues pertaining to the type of criminal convictions and the length and validity of the sentences imposed. If practicable, a mostly detained docket would help minimize the appearance of impropriety. If cases (detained or non-detained) involving marital adjustment and/or visa overstay issues come before Judge [REDACTED], he must be required to immediately disclose to the parties his pending requests with the INS. The parties can then decide if they want to move for his recusal. He would be expected to grant such motion if one were filed. Disclosure would not be required in cases where there is no relationship with the applications Judge [REDACTED] and his wife have filed with the INS.

Conclusion. Given Judge [REDACTED] prompt and candid disclosure of his wife's immigration status, the fact that he met her outside of his official duties, the fact that he retained an attorney to handle his wife's immigration applications (and is neither doing so himself, nor contacting the INS in an attempt to obtain preferential treatment because of his position), and the fact that the INS examiners who will adjudicate the visa petition and adjustment application are not based in [REDACTED] (since the transfer of the applications will be arranged forthwith), I conclude that he has violated neither law nor regulation. As noted above, the Department Ethics Office and the OIG have arrived at the same conclusion.

Section 2635.502 gives managers and ethics officers the tools to deal with appearance of impropriety issues – disqualification, reassignment, or termination. I have discussed some of the options available in Judge [REDACTED] situation. However, as I indicated before, because Judge [REDACTED] actions do not constitute an ethics violation, it is a management decision as to how to proceed in this matter. Any management decision should take into account not only the administrative needs of the [REDACTED] Immigration Court, but also the integrity of Court, and should strive to avoid compromising public confidence in Judge [REDACTED] impartiality – and that of other Immigration Judges.

If you have any questions or wish to explore any of these options further, please contact me or Associate General Counsel Maria Rios at (703) 305-0470.

cc: Mary Braden, Departmental Ethics Office
Brad Glassman, Counsel to the Deputy Attorney General
Patricia Sumner, Office of the Inspector General

mhr/CKA



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

July 11, 2011

MEMORANDUM TO: Brian M. O'Leary
Chief Immigration Judge

THROUGH: Robin M. Stutman *JMS/RS*
General Counsel

JuanCarlos M. Hunt *JMH*
Deputy General Counsel

FROM: Brigette L. Frantz *BJF*
Ethics Officer

SUBJECT: Ethics Opinion Regarding Immigration Judge
[REDACTED]

This responds to your request for an opinion regarding Immigration Judge [REDACTED] recent marriage to a Peruvian national, [REDACTED], who overstayed his visa and, thus, is not a legal resident of the United States. After evaluating the circumstances pursuant to 5 C.F.R. §§ 2635.501 and 2635.502, and consulting with Janice Rodgers, Director of the Department of Justice Ethics Office, we have determined that Judge [REDACTED] has violated neither law nor regulation. We base this opinion on several facts, including that Judge [REDACTED] met [REDACTED] outside of his official duties. In addition, because the EOIR is not a law enforcement agency, Judge [REDACTED] did not have an affirmative obligation to report [REDACTED] to the Department of Homeland Security (DHS) for the initiation of removal proceedings against him.

Although the Ethics Office finds that Judge [REDACTED] has not violated ethics laws or regulations, we are still concerned about the appearance of a loss of impartiality and the appearance of impropriety. Due to a similar situation, this office previously provided recommendations to the Office of the Chief Immigration Judge (OCIJ) regarding the categories of cases an immigration judge should not handle while the judge's spouse had immigration

applications pending. This ethics opinion addresses the alternatives available to OCIJ in these particular circumstances.

Factual Circumstances

Judge [REDACTED] is an immigration judge in the [REDACTED] Immigration Court [REDACTED] (C). Judge [REDACTED] also volunteers at a local cultural community group in a purely personal capacity, which is not related to his official duties. Judge [REDACTED] met [REDACTED] in November 2008, while volunteering at the community group. On May 25, 2011, Judge [REDACTED] married [REDACTED] in [REDACTED] [REDACTED], where same-sex marriages are legal.

However, [REDACTED] was admitted to the United States on an R-1 religious worker visa and he has overstayed that visa. [REDACTED] does not have an alien number, and the Department of Homeland Security (DHS) has not processed him or placed him in removal proceedings. At the time of issuance of this memorandum, the Ethics Office is not aware of any applications or petitions [REDACTED] may have pending with DHS. [REDACTED] has hired an attorney and intends to file an affirmative asylum application with DHS. Judge [REDACTED] will submit an affidavit with the asylum application in his personal capacity, because he has factual information relevant to the one-year filing deadline. Judge [REDACTED] will also file an I-130 Petition for Alien Relative on [REDACTED] behalf, but will not represent [REDACTED] before DHS in regard to this petition. If the I-130 is approved, [REDACTED] would seek to adjust his status to that of a permanent resident through the filing of an I-485 Application to Register Permanent Residence or Adjust Status.

Applicable Provisions

One of the core general principles of the Standards of Conduct is that an employee shall act impartially and not give preferential treatment to any private organization or individual. 5 C.F.R. § 2635.101(b)(8). Additionally, employees should take appropriate steps to avoid an appearance of a loss of impartiality in the performance of official duties. 5 C.F.R. § 2635.501(a).

Section 2635.501 of Title 5 of the Code of Federal Regulations provides, in pertinent part, that an employee should not participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member of his household, or in which he knows a person with whom he has a covered relationship is or represents a party, if a reasonable person with knowledge of the relevant facts would question his impartiality in the matter. The regulation further provides that an employee who is concerned that circumstances other than those specifically described in the regulations would raise a question regarding his impartiality should also consider whether a reasonable person with knowledge of the relevant facts would question his impartiality. See 5 C.F.R. § 2635.502(a)(2).

The illustrative examples in the regulation describe instances in which an employee's relatives or business associates have dealings with the government, and a reasonable person would question the employee's impartiality if he were to participate in an agency decision having

a direct and predictable effect on the relatives' or associates' finances or welfare. In Judge [REDACTED] case the issue is not whether he could hear his spouse's particular and specific removal case if the DHS were to place [REDACTED] in removal proceedings (which, of course, he could not); rather, the issue is whether Judge [REDACTED] may continue to perform his official duties when [REDACTED] will have applications for relief before DHS, which is always a party in proceedings before Judge [REDACTED].

Also instructive on this issue is Canon 2 of the Model Code of Judicial Conduct (MCJC).¹ Canon 2 states that "a judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." This canon encompasses both actual improprieties, such as violations of law, and the appearance of impropriety, which is a more elastic but objective standard. The test for "appearance of impropriety" is whether conduct would "create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired." Commentary, Canon 2.

Ethics Analysis

At present, [REDACTED] is not in removal proceedings before EOIR, although it is possible that he could be placed in proceedings in the future. In the event that [REDACTED] is placed in proceedings before EOIR's [REDACTED] IC, either through the referral of his asylum application by USCIS or other issuance of a Notice to Appear, Judge [REDACTED] should not hear the case. It would be a direct personal conflict for Judge [REDACTED] to hear the immigration case of the individual to whom he is married. Further, Judge [REDACTED] has a covered relationship with [REDACTED] who is a member of Judge [REDACTED] household. See 5 C.F.R. § 2635.502(b). Additionally, we recommend that none of the immigration judges at the [REDACTED] IC hear [REDACTED] case to avoid the appearance of a loss of impartiality due to their professional relationship with Judge [REDACTED]. For example, OCIJ may consider assigning a non-[REDACTED] IC judge to hear the case by video teleconference or transferring the case to another immigration court. In the event that [REDACTED] case is docketed at a court other than the [REDACTED] IC, no action seems necessary.

With regard to Judge [REDACTED], he did not meet [REDACTED] while performing his official duties. Judge [REDACTED] has had no interaction or communication with DHS regarding [REDACTED] immigration issues and, thus, there is no appearance of a misuse of position. See 5 C.F.R. § 2635 Subpart G - Misuse of Position. Further, Judge [REDACTED] has been advised by OCIJ, to continue to refrain from contacting DHS regarding [REDACTED] upcoming immigration case. [REDACTED] has retained an attorney to assist him with his asylum application. Judge [REDACTED] will file the I-130 petition with [REDACTED] listed as the beneficiary, as is the normal process for such petitions. It is permissible for Judge [REDACTED] to submit an affidavit averring to his personal knowledge of relevant facts pertaining to [REDACTED] asylum application before DHS.

¹The MCJC is not binding upon EOIR adjudicators, but its canons and commentary provide relevant aspirational guidance given the duties of an immigration judge.

Judge [REDACTED] has violated neither law nor regulation. However, Judge [REDACTED] has placed himself and the Agency in a position that creates a serious concern about the appearance of a loss of impartiality and the appearance of impropriety. 5 C.F.R. § 2635.502 recommends disqualification from particular matters involving specific parties when the employee's decisional role will have a direct and predictable effect on an individual or organization with whom the employee has a covered relationship. The "particular matters" language of the regulation was not intended to apply to situations as broad as the hundreds of immigration cases filed by DHS before Judge [REDACTED] every year. Although there are issues of the appearance of a loss of impartiality and appearance of impropriety in Judge [REDACTED] situation, section 2635.502 gives ethics officers and managers the tools and analytic framework to evaluate whether they can take measures to eliminate or minimize the appearance concerns, or if they should assign other duties to the employee.

Because Judge [REDACTED] actions do not constitute an actual ethics violation, management must ultimately decide the categories of cases from which they should screen Judge [REDACTED]. Management may also decide that there is no accommodation that could eliminate or sufficiently diminish the appearance concerns. As a guide, we have applied 5 C.F.R. § 2635.502 and the MCJC's test for an appearance of impropriety to Judge [REDACTED] situation. We have also considered a similar past opinion from this office that involved an immigration judge who married an individual who was not a legal resident of the U.S. and had overstayed a visa. That immigration judge also filed an I-130 petition and his wife submitted an I-485 adjustment of status application. Based on our analysis, we recommend that management screen Judge [REDACTED] from the following categories of cases during the pendency of [REDACTED] immigration case:

- **Cases involving marital adjustment of status.** Judge [REDACTED] intends to submit an I-130 petition requesting a visa for [REDACTED] based upon their marriage. If that petition is approved, [REDACTED] would seek adjustment of status based upon his marriage to a United States citizen. This could create an appearance that Judge [REDACTED] could not impartially adjudicate cases where individuals also seek to adjust their status based upon marriage.
- **Cases involving visa overstay.** [REDACTED] has overstayed the visa on which he was initially admitted to the United States. For Judge [REDACTED] to hear cases involving visa overstay could create an appearance of impropriety and loss of impartiality.
- **Similar asylum claims.** This office is not aware of the specific ground(s) on which [REDACTED] will seek asylum. It is, therefore, difficult to determine the precise category of asylum claims Judge [REDACTED] should not hear. Nevertheless, Judge [REDACTED] should not hear asylum claims that are similar to [REDACTED] claim. This category of asylum claims must be sufficiently narrowed without being so narrow as to make the screening irrelevant. Accordingly, the Ethics Office suggests that Judge [REDACTED] not hear any asylum claims in which an alien is seeking asylum on the same ground(s) as [REDACTED]. For instance, if [REDACTED] seeks asylum based on religion, Judge [REDACTED] should not hear religion-

based asylum claims.

One potential way to limit conflicting cases coming before Judge [REDACTED] is to assign him a docket of mostly detained cases, given that these normally center on issues pertaining to the type of criminal convictions and the length and validity of the sentences imposed. If practicable, a mostly detained docket would help minimize the appearance of impropriety and loss of impartiality. If cases (detained or non-detained) involving marital adjustment, visa overstay issues, or similar asylum claims come before Judge [REDACTED] despite any screening procedures implemented, he should immediately disclose to the parties that he has a potential conflict and needs to recuse himself. Of course, disclosure and recusal is not required in cases where there is no relationship with the applications Judge [REDACTED] and [REDACTED] have filed with DHS.

Conclusion

Given Judge [REDACTED] affirmative and candid disclosure of [REDACTED] immigration status, the fact that he met [REDACTED] outside of his official duties, the fact that he is not personally handling [REDACTED] immigration applications or contacting DHS in an attempt to obtain preferential treatment because of his position, we conclude that he has violated neither law nor regulation.

The regulations give managers and ethics officials the tools to deal with appearance of a loss of impartiality issues – disqualification, reassignment, or termination. Above, we have discussed some of the options available in Judge [REDACTED] situation. However, because Judge [REDACTED] actions do not constitute an ethics violation, it is a management decision as to how to proceed in this matter. Any management decision should take into account not only the administrative needs of the [REDACTED] IC, but also the integrity of the Agency and the Department, and should strive to avoid compromising public confidence in Judge [REDACTED] impartiality – and that of other immigration judges.