

UNITED STATES MARSHALS SERVICE

AFFIDAVIT

STATE OF VIRGINIA

CITY OF Falls Church

I, Charles Smith, make the following statement freely and voluntarily without promise or coercion to Patrick Anderson, who has been identified to me as an Equal Employment Opportunity (EEO) Investigator, United States Marshals Service, knowing that this statement may be used in evidence. I understand that the information is given without a pledge of confidentiality and that it may be shown to parties with a need to know. The following statement is made 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 have been advised that the claim accepted for investigation is as follows:

Judge Tabaddor alleges that EOIR discriminated against her on the basis of national origin, religion, race, and reprisal related to the issuing of an ethics opinion to recuse herself from immigration cases involving Iranians. Judge Tabaddor further alleges that EOIR has retaliated against her for claiming that ethics opinion is discriminatory.

I hereby solemnly swear or affirm:

EEO Investigator's Narrative: National Origin

National Origin Discrimination The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

QUESTION #1: For the record, what is your full name and job title?

ANSWER: Charles F. Smith, Associate General Counsel, Executive Office for Immigration Review (EOIR).

QUESTION #2: Where were you employed at the time the complaint was filed? Please provide the name of the agency, division, and location. How long have you worked in your current position? How long have you worked for the agency?

ANSWER: At said time, I was employed at EOIR in the Office of the General Counsel, Employee and Labor Relations (ELR) Unit, 5107 Leesburg Pike, Suite 1900, Falls Church, VA 22041. I have been employed as an Associate General Counsel since about January 1999.

QUESTION #3: Who were your 1st and 2nd level supervisors? Please provide their names and job titles.

ANSWER: As of the date of the complaint, my first-line supervisor was Jeff Rosenblum, Chief of the ELR Unit, and my second-line supervisor was Jeanne King, Acting General Counsel.

QUESTION #4: What is your National Origin?

ANSWER: I have Irish, English, and German ancestry.

QUESTION #5: To your knowledge, what is Judge Tabaddor's National Origin? When and how did you become aware of her National Origin?

ANSWER: I first formed an opinion about Ms. Tabaddor's "National Origin" when she submitted an ethics inquiry about speaking to an Iranian-American women's group (said inquiry being submitted in or about August 2012).

QUESTION #6: To your knowledge, have other EOIR staff members been required to recuse themselves from cases involving members of their prospective National Origin? If so, who are they and what was their National Origin? When did this action take place?

ANSWER: I am unaware of any such "required" recusals based on "National Origin."

EEO Investigator's Narrative: On July 5, 2012, Judge Tabaddor received an email from Mr. Jeff Rosenblum, recommending that she disqualify herself from matters involving individuals from Iran due to her activity in the Iranian American community.

QUESTION #7: Has Judge Tabaddor spoken to you about the contents of this email? If so, why was this request made? Did you agree with the request?

ANSWER: No, she has not spoken to me.

QUESTION #8: What advice or directive did you provide to Judge Tabaddor with regards to the content of the email? Please provide specifics.

ANSWER: N/A (see answer to #7, above).

QUESTION #9: Have you discussed or sought advice from anyone else in the EOIR with regards to the recusal request? If so, who did you speak with? What advice or guidance did you receive?

ANSWER: Yes. I first became aware of the recusal matter at issue when Ms. Tabaddor (by and through her union representative) inquired of management about filing a negotiated grievance on the same matter. I assert attorney/client privilege over any such discussions I had with EOIR managers.

EEO Investigator's Narrative: On August 28, 2012, in response to Judge Tabaddor 's request for clarification, she alleges that the Mr. Rosenblum's recusal request was changed, and he mandated that she recuse herself from all cases involving respondents from Iran.

QUESTION #10: Has Judge Tabaddor spoken to you about the mandate received from Mr. Rosenblum? If so, did you agree with the mandate from Mr. Rosenblum?

ANSWER: No, she has not spoken to me about any "mandate."

QUESTION #11: What advice or directive did you provide to Judge Tabaddor with regards to the mandate from Mr. Rosenblum? Please provide specifics.

ANSWER: See immediately previous answer, which I incorporate by reference.

QUESTION #12: Have you discussed or sought advice from anyone else in the EOIR with regards to the recusal request? If so, who did you speak with? What advice or guidance did you receive?

ANSWER: See my response to Question 9, above, which I incorporate by reference.

QUESTION #13: Has any other employee been mandated to recuse themselves from cases because of their personnel affiliations as Judge Tabaddor was? If so, please provide their name, affiliation and the person responsible for the mandate.

ANSWER: I have no knowledge of any "mandated" recusals.

QUESTION #14: Prior to these events, have you had any conversations with Judge Tabaddor about her social or political affiliations and their possible effect on her position as an Immigration Judge? If so, when did you speak with her?

ANSWER: No, I had no such conversations with Ms. Tabaddor.

QUESTION #15: To your knowledge, how many personal speaking engagements have Judge Tabaddor requested prior to the mandate from Mr. Rosenblum? Of those, how many did you approve?

ANSWER: I don't know how many speaking requests IJ Tabaddor has submitted for EOIR Ethics review prior to the time she received the ethics advice at issue from Mr. Rosenblum (i.e., based in part on recusal). For the time period requested (i.e., prior to July 2012), I administered only one speaking request for Ms. Tabaddor, in or about April 2012.

QUESTION #16: After receiving the mandate from Mr. Rosenblum, how many times has Judge Tabaddor requested to use her official title on person speaking engagements? Of those, how many have you denied?

ANSWER: I am unaware of any such "mandate." With respect to the numbers of speaking requests she has submitted for ethics review *after* July 2012, I don't know. In August 2012, I administered a speaking request for Ms. Tabaddor wherein her supervisor, Assistant Chief Immigration Judge Tom Fong, had limited her speaking capacity to "personal," without the use of title and disclaimer. In October 2012, I administered a speaking request for Ms. Tabaddor wherein her supervisor, Mr. Fong, had limited her speaking capacity to "personal, with the use of title and disclaimer" (or equivalent). In February 2013, I administered a speaking request for Ms. Tabaddor wherein her supervisor, Mr. Fong, had limited her speaking capacity to "personal, with the use of title and disclaimer" (or equivalent).

EEO Investigator's Narrative: Judge Tabaddor alleges that on September 7, 2012, Mr. Rosenblum confirmed the recusal order was the official position of the Office of General Counsel (OGC), and that the order was not reviewable by any other entity.

QUESTION #17: Was the aforementioned statement by Judge Tabaddor brought to your attention? If so, what was your response? To your knowledge, what OGC member was Mr. Rosenblum referring to in this conversation?

ANSWER: No. I have no knowledge of what, if any, OGC "member" (employee) determined an "official position," as alleged.

QUESTION #18: To your knowledge, does OGC have the final say on matters of this nature or are they reviewable by the EOIR Director?

ANSWER: With respect to all EOIR employees carrying out their official duties, EOIR's Director exercises broad and general supervisory authority, including over persons occupying positions in the Office of the General Counsel.

QUESTION #19: Based upon the recusal order, to your knowledge, how many of Judge Tabaddor's cases were reassigned to other judges? Did Judge Tabaddor object to the cases being reassigned?

ANSWER: I have no knowledge of either a "recusal order," or cases being so reassigned, or any objection on the part of Ms. Tabaddor to specific cases being reassigned.

QUESTION #20: Prior to these events, have you had any conversations with Judge Tabaddor about her social or political affiliations and their possible effect on her position as an Immigration Judge?

ANSWER: No.

QUESTION #21: To your knowledge, has Judge Tabaddor's work or personal association with members of the Iranian American community negatively affected her professional standing with the Agency? If so, please explain how?

ANSWER: I have no knowledge of any such information.

QUESTION #22: Do you have any documentation support the decision to have Judge Tabaddor recused from cases involving Iranian American citizens? If so, please provide a copy for the record?

ANSWER: Yes, I possess some responsive documentation dating from about the time that I learned of Ms. Tabaddor's interest in filing a grievance on the "recusal" issue.

QUESTION #23: Are you aware of the agency's anti-discrimination policy? Was Judge Tabaddor ordered to recuse herself from cases involving Iranian Americans based solely on her National Origin (Iranian)? If not, why was she asked to recuse herself?

ANSWER: I am aware that the DOJ has anti-discrimination policies. I have no reason to believe that Mr. Rosenblum considered Iranian national origin when he provided ethics advice to Ms. Tabaddor, including the matter at issue.

QUESTION #24: In the past 2 years, how many requests for personal speaking engagements has Judge Tabaddor been allowed to use her official title? To your knowledge, how many times has Judge Tabaddor been informed that she could not use her official title during these engagements?

ANSWER: I lack information to respond to this question, except that I hereby incorporate my answer to Questions 15 and 16, above, by reference. Additionally, I am aware of perhaps two or three additional instances when other OGC/EOIR employees administered speaking requests wherein Mr. Fong determined that Ms. Tabaddor should be permitted only "personal capacity" speaking, and thus could only make limited use her official title in connection with a speaking opportunity.

EEO Investigator's Narrative: On August 27, 2012, Judge Tabaddor states that her request use her official title while speaking at the Iranian Women's Leadership Conference (The "Conference") was denied.

QUESTION #25: Was Judge Tabaddor's requests to use her official title denied? Who denied the request? Was the denial based on Judge Tabaddor's National Origin (Iranian American)?

ANSWER: In August 2012, I administered a speaking request for Ms. Tabaddor in connection with the Conference, wherein Mr. Fong had limited her speaking capacity to "personal," without the use of title and disclaimer. I have no reason to believe that Mr. Fong considered Ms. Tabaddor's national origin when he approved her speaking capacity for the Conference.

EEO Investigator's Narrative:

Race:

Race discrimination involves treating someone (an applicant or employee) unfavorably because he/she is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion.

QUESTION #26: What is your race?

ANSWER: My "race" is generally regarded as "Caucasian."

QUESTION #27: To your knowledge, what is Judge Tabaddor's race? When and how did you become aware of her race?

ANSWER: I have no knowledge of Ms. Tabaddor's "race."

QUESTION #28: Have other staff members been required to recuse themselves from cases involving members of their prospective race? If so, who are they and what is their race? When did this action take place?

ANSWER: I have no knowledge of any “required” recusals, and no knowledge of any recusals based upon “race.”

QUESTION #29: Was Judge Tabaddor ordered to recuse herself from cases involving Iranian Americans based solely on her race (Iranian American)?

ANSWER: I am not aware of any “order” that Ms. Tabaddor recuse herself. Further, I hereby incorporate my answer to the immediately preceding question, by reference.

QUESTION #30: Was the decision to not allow Judge Tabaddor to speak at, or use her official title at the Iranian Women’s Leadership Conference (The “Conference”) denied because of her race?

ANSWER: I disagree with the assertion that Ms. Tabaddor was “not allow[ed]” to speak or use her title at the Conference. Further, I did not take Ms. Tabaddor’s “race” into consideration when administering her Conference speaking request.

EEO Investigator’s Narrative:

Religion

Religious discrimination involves treating a person (an applicant or employee) unfavorably because of his or her religious beliefs. The law protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical or moral beliefs

QUESTION #31: For the record, what is your religion?

ANSWER: I am a-religious (I do not subscribe to any religion).

QUESTION #32: To your knowledge, what is Judge Tabaddor’s religion?

ANSWER: I have no knowledge of Ms. Tabaddor’s religion.

QUESTION #33: At the time of the alleged discriminatory event, which is the foundation of this complaint, were you aware of Judge Tabaddor’s religious beliefs?

ANSWER: I have no knowledge of Ms. Tabaddor’s religious beliefs.

QUESTION #34: Did Judge Tabaddor’s religious belief factor into any decisions or recommendations made by you with regard to her personal appearance requests?

ANSWER: No.

EEO Investigator’s Narrative:

Reprisal

Reprisal discrimination makes it illegal to fire, demote, harass, or otherwise "retaliate" against people (applicants or employees) because they filed a charge of discrimination, because they complained to their employer or other covered entity about discrimination on the job, or because they participated in an employment discrimination proceeding (such as an investigation or lawsuit).

QUESTION #35: For the record, do you have any prior EEO activity or have you express concerns to management regarding personnel policies or procedures?

ANSWER: I have not been an EEO complainant. In the course of carrying out my duties in EOIR's ELR Unit, I have occasion to counsel management regarding personnel policies and procedures.

QUESTION #36: To your knowledge, did Judge Tabaddor express opposition to the recusal order she received? Were any actions taken against Judge Tabaddor, by you, based upon her opposition to the recusal order?

ANSWER: I am not aware of any such recusal "order." I am aware that Ms. Tabaddor was dissatisfied with Mr. Rosenblum's ethics advice in the matter at issue. I have not considered her dissatisfaction with Mr. Rosenblum's ethics advice as a factor when taking any official actions (e.g., in providing her with unrelated ethics advice).

QUESTION #37: Also, did Judge Tabaddor's opposition to the recusal factor into any decisions or recommendations made by you with regards to her personal appearance requests?

ANSWER: No.

QUESTION #37: Do you have anything else to add?

ANSWER: No.

OATH

I have read the above statement consisting of 9 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.

Charles F. Sm 3/25/13

(Affiant's Signature and date)

Matt Brady

Signed before witness

ON THIS 25th DAY OF March, 2013

From: McGoings, Michael (EOIR) <Michael.McGoings@EOIR.USDOJ.GOV>
Sent: Tuesday, October 02, 2012 4:12 PM
To: Slavin, Denise (EOIR)
Cc: Marks, Dana (EOIR); Keller, Tabaddor, A. Ashley (EOIR)
Subject: FW: Extension Request

Judge Slavin:

I have reviewed the underlying matter and your request for an extension of time to file a grievance thereon. I have also considered that under Article 8 of the CBA, a grievance must be initiated within 30 work days of the allegedly grievable incident.

In sum, setting aside for now the issue of whether the matter is covered under Article 8, given that far more than 30 work days have elapsed since July 5, 2012, when the ethics advice was provided to IJ Tabaddor (and here I emphasize the term advice, as opposed to what you have characterized as an "instruction" on the part of an Agency ethics official), I decline to grant any extension request to file a grievance.

Michael C. McGoings
Deputy Chief Immigration Judge

From: Slavin, Denise (EOIR)
Sent: Monday, October 01, 2012 11:13 AM
To: McGoings, Michael (EOIR)
Cc: Slavin, Denise (EOIR); Marks, Dana (EOIR); Tabaddor, A. Ashley (EOIR); Keller, Mary Beth (EOIR)
Subject: Extension Request

Dear Judge McGoings

In an abundance of caution, and in order to research and reflect upon the matter in light of our conversation on Thursday, September 27 with ACIJ Keller and Jeff Rosenblum, we are requesting an extension of any deadline to file a grievance regarding the instruction that Judge Tabaddor recuse herself from cases involving Iranian nationals until October 31, 2012.

Thank you for your attention to this matter.

Denise Slavin, Exec. Vice President

From: EOIR, Ethics (EOIR) <Ethics.EOIR@EOIR.USDOJ.GOV>
Sent: Thursday, April 12, 2012 4:36 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Billingsley, Kelly (EOIR); Smith, Charles (EOIR)
Subject: RE: PCIP speaker engagement
Attachments: DOC000.pdf; Speaking Engagement PCIP 2012.doc; PCIP Working agenda - 4.10.12.pdf

IJ Tabaddor,

You have requested ethics advice regarding a proposed speaking engagement at the Spring Conference of the Pacific Counsel on International Policy (PCIP), scheduled for April 20, 2012. You have submitted the attached form and other information detailing your moderator/speaking role on a panel titled "Democracy, Corruption and Law Across Borders." You will not receive any compensation for this event, and you have paid the full conference attendance fee. Also, your supervisor, ACIJ Fong, has approved your request to participate in your personal capacity (I telephoned ACIJ Fong to clarify that he had only approved your personal capacity participation as a speaker).

Your speaking request is approved in your personal capacity, subject to the following guidelines:

- When speaking in a purely personal capacity, you *cannot* be listed by or with your official title or affiliation. See 5 C.F.R. § 2635.807(b). This general rule provides that if an employee's speaking endeavor is private, it should be disassociated from the employee's position. This avoids the possibility of Governmental sanction of the speech (or the appearance thereof). Please note that your title and affiliation have been listed in the PCIP draft agenda that you provided – however, the ethics limitation on using your DOJ title/affiliation applies to such a listing. Accordingly, you must take affirmative steps with PCIP to remove that information. *Please coordinate with the sponsor to make certain that this does not occur with other materials that might be used at the conference.*

Notwithstanding, please also note that when speaking in a personal capacity, your position with EOIR may be listed in a biographical sketch, along with several other biographical facts, provided that it is no more prominent than any other biographical detail. The ethics rule allowing the listing of your current position only as one of several biographical facts permits important information about you to be revealed in a manner that does not suggest Governmental sanction of the speech or the conference.

- Throughout the presentation, you may not create or allow the impression that you are speaking officially, i.e., on behalf of EOIR or the Department of Justice.

- You may not disclose nonpublic information that you acquire in connection with your official duties.

See generally 5 C.F.R. Part 2635, subpart G; 5 C.F.R. § 2635.807(b). In addition, please note the following restrictions applicable to all outside activities:

- The outside activity must not, in any manner, interfere with the proper and effective performance of your official duties and responsibilities;

- The outside activity must not create, nor appear to create, a conflict of interest with your official duties;

- The outside activity must not reflect adversely upon the Department of Justice or the EOIR;
- You generally must participate in the outside activity either during off-duty hours, or take leave for any participation that occurs during duty hours (you indicated that you have already obtained annual leave for the day of the event);
- If matters relating to this outside activity arise in relation to your official duties, you should seek further ethics guidance.

See 5 C.F.R. §§ 2635.702, .704, .705, and .802.

Finally, as a general rule employees may use Government property only for official business or as authorized by the Government. 5 C.F.R. §§ 2635.101(b)(9), 704(a); 28 C.F.R. § 45.4. Department policy provides, however, that you may use the Government office, the library, word processing, and other similar office equipment and facilities on your own time in connection with this outside activity, if there is only negligible expense to the Government (such as electricity, ink, small amounts of paper, and ordinary wear and tear). See 28 C.F.R. § 45.4. Under no circumstances may work from this outside activity be assigned to, or be otherwise required of, Government clerical or support staff. 5 C.F.R. § 2635.705(b).

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 by e-mail or at (703) 605-1280, or submit your question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you.

Charles F. Smith, Associate General Counsel
Executive Office for Immigration Review
(703) 605-1280

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, April 10, 2012 6:50 PM
To: Fong, Thomas (EOIR)
Cc: Rosenblum, Jeff (EOIR); EOIR, Ethics (EOIR); Kok, Sharon (EOIR)
Subject: FW: PCIP speaker engagement

Thank you!

From: Fong, Thomas (EOIR)
Sent: Tuesday, April 10, 2012 3:02 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Kok, Sharon (EOIR)
Subject: FW: PCIP speaker engagement

Judge Tabaddor, based on the submission attached and you being on annual leave that day you have my approval. Sharon K. will be prepare it for further review and approval by OGC Ethics.

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

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, April 10, 2012 2:28 PM
To: Fong, Thomas (EOIR)
Subject: PCIP speaker engagement

Hi Tom,

I hope you are doing well. I have been asked to moderate a panel during a day long conference that I'm attending on April 20th. This with the Pacific Council on International Policy. I have moderated another panel for them before. Please see the attached speaking engagement form along with a copy of the draft agenda. Please let me know if you have any questions.

Thanks!
Ashley

From: EOIR, Ethics (EOIR) <Ethics.EOIR@EOIR.USDOJ.GOV>
Sent: Tuesday, August 28, 2012 4:18 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR); Billingsley, Kelly (EOIR)
Subject: RE: speaking engagement
Attachments: Iranian American WLC speaking engagement 2.wpd

Hi Ashley,

You have requested ethics advice in connection with a speaking opportunity at the Iranian-American Women's Leadership Conference on Sunday, September 23, 2012. In support of your request, you have submitted the attached form detailing your moderator/speaking role, and provided additional information (below).

You have indicated that you will not receive any compensation for this event, and that you intend to pay the full conference fee. Also, your supervisor, ACIJ Fong, has approved your request to participate in your personal capacity (per his e-mail, also below).

Your speaking request is approved in your personal capacity, subject to the following guidelines:

- When speaking in a purely personal capacity, you *cannot* be listed by or with your official title or affiliation. See 5 C.F.R. § 2635.807(b). This general rule provides that if an employee's speaking endeavor is private, it should be disassociated from the employee's position. This avoids the possibility of Governmental sanction of the speech (or the appearance thereof).

Please note, however, that under the circumstances your position with EOIR may be listed in a biographical sketch, along with several other biographical facts, provided that it is no more prominent than any other biographical detail. The ethics rule allowing the listing of your current position only as one of several biographical facts permits important information about you to be revealed in a manner that does not suggest Governmental sanction of the speech or the conference.

- Throughout your presentation, you may not create or allow the impression that you are speaking officially, i.e., on behalf of EOIR or the Department of Justice.
- You may not disclose nonpublic information that you acquire in connection with your official duties.

See generally 5 C.F.R. Part 2635, subpart G; 5 C.F.R. § 2635.807(b). In addition, please note the following restrictions applicable to all outside activities:

- The outside activity must not, in any manner, interfere with the proper and effective performance of your official duties and responsibilities;
- The outside activity must not create, nor appear to create, a conflict of interest with your official duties;
- The outside activity must not reflect adversely upon the Department of Justice or the EOIR;

If matters relating to this outside activity arise in relation to your official duties, you should seek further ethics guidance.

See 5 C.F.R. §§ 2635.702, .704, .705, and .802.

Finally, as a general rule employees may use Government property only for official business or as authorized by the Government. 5 C.F.R. §§ 2635.101(b)(9), 704(a); 28 C.F.R. § 45.4. Department policy provides, however, that you may use the Government office, the library, word processing, and other similar office equipment and facilities on your own time in connection with a personal use, if there is only negligible expense to the Government (such as electricity, ink, small amounts of paper, and ordinary wear and tear). See 28 C.F.R. § 45.4. Under no circumstances may work from this outside activity be assigned to, or be otherwise required of, Government clerical or support staff. 5 C.F.R. § 2635.705(b).

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 by e-mail or at (703) 605-1280, or submit your question to the EOIR ethics mailbox by using the address book in Outlook.

Thank you.

Charles F. Smith
Associate General Counsel
Executive Office for Immigration Review
(703) 605-1280

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, August 27, 2012 6:20 PM
To: EOIR, Ethics (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject: FW: speaking engagement

Good afternoon,
I have been asked to return as a participant in the Iranian American Women's Leadership Conference. ACIJ Fong has already approved my speaking engagement. I have attached the form with the updated information. The only addition is that the session will likely be entitled- "From Law School to the Bench- How to Create Your Own Path to Becoming a Judge." ACIJ Fong has been informed of the proposed title as well. Please let me know if you have any questions.

Thank you,
Ashley Tabaddor

From: Fong, Thomas (EOIR)
Sent: Monday, August 27, 2012 2:27 PM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: speaking engagement

ACIJ approval given.

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, August 27, 2012 12:17 PM
To: Fong, Thomas (EOIR)
Subject: speaking engagement

Hi Tom,

I have been asked to return as a speaker at the 4th Iranian American Women's Leadership Conference. The topic of my conversation is basically the same as last year, except that I will be leading a roundtable discussion during the mentorship phase of the conference rather than part of a panel discussion at a breakout session. I have attached the request form that includes the updated information. Please let me know if you have any questions.

Thanks!

Ashley

From: Smith, Charles (EOIR) <Charles.Smith@EOIR.USDOJ.GOV>
Sent: Wednesday, October 03, 2012 2:15 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Billingsley, Kelly (EOIR); Riley, Crystal (EOIR); Smith, Charles (EOIR); Fong, Thomas (EOIR)
Subject: RE: UCLA speaking engagement
Attachments: UCLA Law Class Speaking Engagement 4.wpd

Hi Ashley,

Thanks for your ethics inquiry about a speaking opportunity at a UCLA immigration law class, scheduled for November 7, 2012 (see attached).*** In sum, your remarks will concern a "day-in-the-life-of" an IJ, and touch upon typical matters that come before the immigration court.

You will not be compensated for this speaking opportunity and there is no fundraising at the event. Further, no food will be served, and you do not plan to distribute any personally prepared material. Your supervisor, ACIJ Fong, has approved your proposed speaking role.

Subject to the following, this e-mail constitutes ethics approval for you to speak at this event in your personal capacity, with limited use of your title and a disclaimer (explained more fully below):

* 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 Los Angeles Immigration Court, Executive Office for Immigration Review (EOIR), U.S. Department of Justice. The author prepared this outline

in his personal capacity, and the views expressed herein are solely his views and do not necessarily represent positions of EOIR or the U.S. Department of Justice."

* You may not accept a gift that is given because of your official position. See 5 C.F.R. 2635.202(a)(2). However, 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 attend, prepare for, and/or otherwise in connection with, this speaking engagement.

* 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. In this instance, the provision of parking at the event is considered to be an incident of attendance for speaking, and is therefore not compensation.

* 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.

*** I note that you have submitted your ethics inquiry using a superceded speaking request form. In the future, kindly use the current, form-fillable version of the form. You can access the current form here: <http://eoirweb/component/ogc/ethics/forms/Speaking%20Engagement%20Form%20Filable.pdf> Thank you for your attention to that detail.

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.

Charles F. Smith
Associate General Counsel
Executive Office for Immigration Review
Office of the General Counsel
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041
P - 703/605.1280

From: Tabaddor, A. Ashley (EOIR)
Sent: Tuesday, October 02, 2012 11:45 AM
To: EOIR, Ethics (EOIR)

Cc: Tabaddor, A. Ashley (EOIR)
Subject: FW: UCLA speaking engagement

Good morning,

I have been asked to return as a guest speaker for Professor Motomura's immigration law class at UCLA. ACIJ Fong has already approved the request. Attached you will find the completed request form. Please let me know if you have any questions.

Thanks,
Ashley Tabaddor

From: Fong, Thomas (EOIR)
Sent: Tuesday, October 02, 2012 8:23 AM
To: Tabaddor, A. Ashley (EOIR)
Cc: Kok, Sharon (EOIR)
Subject: RE: UCLA speaking engagement

ACIJ Approval given and as noted you are on leave that day so it will not impact court dockets. ACIJ Fong

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, October 01, 2012 3:39 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject: UCLA speaking engagement

Hi Tom,

I hope you are well. Professor Motomura at UCLA Law school has asked me to come back to speak to his immigration law class. Attached please find the updated request form. I believe this is the 4th year I'll be returning to his class. Also, I should note that on November 7th I'm on scheduled leave. So there shouldn't be any issues on that front.

Thanks,
Ashley

From: Smith, Charles (EOIR) <Charles.Smith@EOIR.USDOJ.GOV>
Sent: Monday, February 25, 2013 4:33 PM
To: Tabaddor, A. Ashley (EOIR)
Cc: Fong, Thomas (EOIR); Riley, Crystal (EOIR); Billingsley, Kelly (EOIR); Smith, Charles (EOIR)
Subject: RE: speaking engagement
Attachments: Speaking Engagement IABA norooz 2013.doc

Ashley,

Thank you for your ethics inquiry about attending an Iranian American Bar Association (IABA) gala on March 14, 2013 (see speaking request form, attached). The event is sponsored in part by various law firms.

During the IABA gala, it appears that you will receive an award for public service, and make brief acceptance remarks. You indicate that the sponsor has not offered you a speaking fee, and that you will personally pay the fee for attendance (that will include a meal). You anticipate no fund-raising during the gala, and that you will not distribute any written materials.

Your supervisor, ACIJ Tom Fong, has approved your speaking at the event in your personal capacity, with title and disclaimer (see attached).

Subject to the following guidelines and limitations, this e-mail constitutes ethics approval for you to speak at the IABA galas in your personal capacity, with limited use of your title and a disclaimer (explained more fully below):

* Do not provide any legal advice. You must not engage in any activity that might constitute the practice of law.

* You cannot disclose 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 such written materials associated with this event, so long as it is followed immediately by the following parenthetical: "(personal capacity)" – and for the appropriate disclaimer on any written materials that you might distribute that are you prepare personally, please see the next paragraph. *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; as we address this issue on a case by case basis.

* Although you indicate an intent to the contrary, please be advised that if you publish (e.g., project or distribute PowerPoint slides at the speaking event) or distribute any other written materials at the CLE that you prepare personally, such 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 includes individuals appearing before you, and/or organizations comprised of individuals seeking official action from the agency (e.g., AILA or a bar association). 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).

* 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.

* 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 attend, prepare for, and/or otherwise in connection with, this speaking engagement.

* 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.

* 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.

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.

Charles F. Smith
Associate General Counsel
Executive Office for Immigration Review
Office of the General Counsel
5107 Leesburg Pike, Suite 2600
Falls Church, VA 22041
P - 703/605-1280

From: Tabaddor, A. Ashley (EOIR)
Sent: Monday, February 25, 2013 11:19 AM

To: EOIR, Ethics (EOIR)
Subject: FW: speaking engagement

Good morning,
Please see attached and ACIJ approval below. Please let me know if you have any questions.
Thank you,

Ashley Tabaddor

From: Fong, Thomas (EOIR)
Sent: Monday, February 25, 2013 7:36 AM
To: Tabaddor, A. Ashley (EOIR)
Subject: RE: speaking engagement

Judge Tabaddor,

Congratulations. You have ACIJ Approval to attend. Please obtain ethics office approval and guidance.

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: Friday, February 22, 2013 1:34 PM
To: Fong, Thomas (EOIR)
Cc: Tabaddor, A. Ashley (EOIR)
Subject: speaking engagement

Hi Tom,

I hope you are well. I was just told last night that I have been selected to be a recipient of an award by IABA in their upcoming Annual Gala. Since they've asked that all the award recipient speak a few minutes when they receive their award, I went ahead and completed the form with all the information. Please let me know if you have any questions.
Thank you,
Ashley