



Office of Inspector General

Board of Governors of the Federal Reserve System
Bureau of Consumer Financial Protection

REPORT OF INVESTIGATION

DATE: May 7, 2019
AGENT: (b) (6), (b) (7)(C) Senior Special Agent
CASE: 18-0022-I
TITLE: Blankenstein, Eric

Synopsis

We initiated this investigation based on a September 28, 2018, referral from the Bureau of Consumer Financial Protection (Bureau) stating that Eric Blankenstein, Policy Associate Director, Supervision, Enforcement and Fair Lending (SEFL), requested that (b) (6), (b) (7)(C), provide a statement in support of him to the Washington Post. The referral alleged that Blankenstein abused his authority, misused his position, and/or engaged in gross mismanagement by requesting that (b) (6), (b) (7)(C) a subordinate employee, provide the statement on his behalf.

On September 25, 2018, Washington Post reporter Robert O’Harrow Jr. requested comments from the Bureau and Blankenstein for an article related to a 2004 post on Blankenstein’s former blog, Two Guys Chatting. On September 26, 2018, O’Harrow’s article was published. It states that Blankenstein was “responsible for enforcing laws against financial discrimination [but] once questioned in blog posts written under a pen name if using the n-word was inherently racist and claimed that the great majority of hate crimes were hoaxes.”

We conducted this investigation to determine whether Blankenstein’s request to (b) (6), (b) (7)(C) a subordinate employee, violated any policy, regulation, or law. Our investigation did not evaluate the content of

Table with 2 columns: Distribution (Kathy Kraninger, Director, Bureau of Consumer Financial Protection) and Approved (Signature of Gerald L. Maye, Assistant Inspector General for Investigations, (b) (6), (b) (7)(C))

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Blankenstein's blog, *Two Guys Chatting*, nor did it evaluate Blankenstein's decisions as Policy Associate Director for any potential bias.

Allegation

It is alleged that Blankenstein abused his authority, misused his position, and/or engaged in gross mismanagement by requesting that (b) (6), (b) (7)(C) provide a statement in his support to the *Washington Post*.

Potentially Applicable Laws, Regulations, or Policies

5 C.F.R. § 2635.705(b)—Misuse of subordinate's time

Use of a subordinate's time. An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

5 C.F.R. § 2635.702(a)—Use of public office for private gain

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

5 C.F.R. § 2635.101(b)(14)—Basic obligation of public service (Appearance of ethical violation)

Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.

Abuse of authority

Arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or results in personal gain or advantage to himself.
60 M.S.P.R. 226.

Gross mismanagement

A management action or inaction which creates a substantial risk of significant adverse impact upon the agency's ability to accomplish its mission. 63 M.S.P.R. 90.

5 U.S.C. § 2302—Whistleblower Protection Act

An employee's disclosure of information is protected if the employee discloses what he or she reasonably believes to be a violation of law, rule, or regulation; gross

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mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety.

Investigative Activity

During our investigation, we interviewed (b) (6), (b) (7)(C) (exhibit 1); (b) (6), (b) (7)(C) (exhibit 2); (b) (6), (b) (7)(C) (exhibit 3); Blankenstein (exhibit 4); and (b) (6), (b) (7)(C) (exhibit 5). The following information is a chronology of the relevant events and a summary of their statements about those events.

September 25, 2018

At 4:29 p.m. and 4:34 p.m., O'Harrow emailed Blankenstein and the Bureau's Press Office requesting information about "dozens of anonymous blog entries [Blankenstein] wrote about issues relating to race, discrimination, hate crimes and other matters" (exhibit 6). Blankenstein said that at the time of the email, he was at the airport on his way to the Bureau's Western Region all-hands meeting in San Diego, California. Blankenstein said that he did not contact O'Harrow, but he forwarded O'Harrow's emails to (b) (6), (b) (7)(C) and discussed the matter by telephone. (b) (6), (b) (7)(C) did not recall the timing of conversations with Blankenstein, (b) (6), (b) (7)(C) said they discussed O'Harrow's article.

At 4:34 p.m., (b) (6), (b) (7)(C) spoke with O'Harrow for 19 minutes. (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) asked O'Harrow why Blankenstein's blog was newsworthy and about the timing of the article. O'Harrow told (b) (6), (b) (7)(C) that the blog postings used the "n-word explicitly" and this was newsworthy because of Blankenstein's role at the Bureau overseeing "Fair Housing." O'Harrow told (b) (6), (b) (7)(C) that he was trying to identify the other blog author. (b) (6), (b) (7)(C) viewed the article as a Bureau matter because of O'Harrow's attempt to connect Blankenstein's Bureau position to his old blog postings. (b) (6), (b) (7)(C) said that it was (b) (6), (b) (7)(C) decision for the Bureau to provide statements to the *Washington Post*. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) did not ask anyone to provide a statement for the article and (b) (6), (b) (7)(C) did not feel it was (b) (6), (b) (7)(C) role to get a statement from (b) (6), (b) (7)(C) because, as (b) (6), (b) (7)(C), a request for public statement "feels a little less than I'm looking for volunteers."

At 4:51 p.m., (b) (6), (b) (7)(C) forwarded (b) (6), (b) (7)(C) the September 24, 2018, correspondence from O'Harrow in which O'Harrow requested the Bureau's *Fair Lending Report* (exhibit 7). (b) (6), (b) (7)(C) did not recall if anything was done about the request for the report. (b) (6), (b) (7)(C) did not recall discussing O'Harrow's request for the report with Blankenstein.

At 7:33 p.m., (b) (6), (b) (7)(C) emailed Blankenstein and (b) (6), (b) (7)(C), statements (b) (6), (b) (7)(C) had drafted on behalf of Blankenstein, the coauthor of the blog, and Mick Mulvaney, Acting Director, for potential publication by the *Washington Post* (exhibit 8). (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) never spoken with the coauthor of the blog and did not speak to Mulvaney about the suggested statements. (b) (6), (b) (7)(C) explained that the statements were (b) (6), (b) (7)(C) attempt to provide possible response statements that could be helpful. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) did not intend for the coauthor's statement to be issued by the Bureau, but rather to help Blankenstein when he likely spoke with the coauthor that night. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C)

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included the statement from the coauthor stating, “Eric is my friend not because I am black but because he is good” because (b) (6), (b) (7)(C) thought it “was relevant to this discussion” with the reporter. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) did not recall discussing the proposed statement with Mulvaney and (b) (6), (b) (7)(C) did not ask Mulvaney to provide a statement because “it would have added legitimacy to a story that I didn’t think was worthy of very much legitimacy.”

At 11:06 p.m., Blankenstein emailed (b) (6), (b) (7)(C) a reviewed version of the *Fair Lending Report* (exhibit 9). (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) viewed the timing of the receipt of the report as “connected” to Blankenstein’s next email asking for a call in the morning and felt it was a “quid pro quo kind of message.” (b) (6), (b) (7)(C) felt Blankenstein finished his review in order to gain favor with (b) (6), (b) (7)(C) prior to his request for a public statement because (b) (6), (b) (7)(C) had repeatedly asked Blankenstein for his comments to the report over the course of several months. (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) viewed the report as a quid pro quo even though Blankenstein “gutted the thing . . . [striking] whole sections of it.” Blankenstein said the timing of his email was because he finished the report edits on the plane to San Diego. Blankenstein said there was “zero” correlation between him sending the report and asking (b) (6), (b) (7)(C) for a statement because it was a report “mandated by Congress.” Although we found Blankenstein’s email to (b) (6), (b) (7)(C) to be close in time to O’Harrow’s request to the Bureau for the *Fair Lending Report*, Blankenstein’s comments on the report appear to have been written primarily on September 20 and 21, 2018, suggesting that he edited the report before knowing about the *Washington Post* article.

September 26, 2018

At 1:24 a.m., Blankenstein emailed (b) (6), (b) (7)(C) stating, “I apologize for bugging you on a day you have more important things to do, but would you be able to give me a call on my cell tomorrow morning when you are first free?” (exhibit 10). Blankenstein said that he wanted to speak with (b) (6), (b) (7)(C) about potentially providing a statement to the *Washington Post*.

At 7:06 a.m., Blankenstein emailed (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) edited versions of the statements for himself and the coauthor of the blog, as well as a statement he drafted for (b) (6), (b) (7)(C) (exhibit 8). Blankenstein noted that (b) (6), (b) (7)(C) would be out of the office that day. Blankenstein guessed that he authored the statement for (b) (6), (b) (7)(C) before speaking with (b) (6), (b) (7)(C) because he “thought it would be a good idea to write down what I was thinking I might ask (b) (6), (b) (7)(C) to say.” Blankenstein did not recall any conversation or decision to remove the proposed statement (b) (6), (b) (7)(C) had drafted for Mulvaney from the email. Blankenstein said that he wrote the part of the coauthor’s statement that said, “I have known Eric 20 years, he’s a great friend. One of his admirable qualities is that he does not see me as a black man, but just a person who is his friend.” When asked whether he thought it was important to identify the coauthor as a black man, Blankenstein said that he was “editing it based on what (b) (6), (b) (7)(C) had put (b) (6), (b) (7)(C) original proposed statement.”

At 9:55 a.m., (b) (6), (b) (7)(C) called Blankenstein. At the time of the call, (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) was on sick leave to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) said that Blankenstein knew (b) (6), (b) (7)(C) was on leave but he emailed (b) (6), (b) (7)(C) to request a statement to the *Washington Post* on his behalf. (b) (6), (b) (7)(C) described Blankenstein as very nervous, anxious, and wanting the statement to convince the *Washington Post* not to run the story. (b) (6), (b) (7)(C) said the request was voluntary but “there was no question that I was going to give a statement. I didn’t feel I could say no because I

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needed to do that in order to preserve my program” of Fair Lending. (b) (6), (b) (7)(C) said (b) (6), (b) (7) believed the statement request was in performance of (b) (6), (b) (7) official duties and (b) (6), (b) (7) recorded the 1 hour (b) (6), (b) (7) worked on the statement as official time, which was approved by (b) (6), (b) (7)(C) (exhibit 11). (b) (6), (b) (7) said that (b) (6), (b) (7)(C) (b) (6), (b) (7) drove home instead (b) (6), (b) (7)(C) so that (b) (6), (b) (7) could provide a statement to Blankenstein by 11:30 a.m. (b) (6), (b) (7) said that Blankenstein described the *Washington Post* article as relating to one blog post involving “an intellectual argument about whether or not there should be different penalties for hate crimes.”

Blankenstein said that he told (b) (6), (b) (7)(C) the article “related to some things I had written 15 years prior, that hit on hate crimes and the distinction between hate crimes and regular crimes,” and he asked (b) (6), (b) (7) if (b) (6), (b) (7) “would be willing to provide a statement about my work at the Bureau on fair lending matters.” Blankenstein described the request for a statement as a “favor” and “not giving (b) (6), (b) (7) an order,” but he said he “can’t say” whether (b) (6), (b) (7)(C) felt the request was voluntary. Blankenstein said that he probably knew at the time that (b) (6), (b) (7)(C) was on leave and he thought he told (b) (6), (b) (7) “I know you have better things to do” when asking about the statement. Blankenstein also said that he did not recall telling (b) (6), (b) (7)(C) that providing the statement could convince the journalist not to run the story, nor did he recall telling (b) (6), (b) (7)(C) that he did not want the story to be printed. Blankenstein said he did not recall that (b) (6), (b) (7)(C) expressed any reservations about providing a statement.

At 11:07 a.m., Blankenstein called (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) said that Blankenstein told (b) (6), (b) (7)(C) “I don’t want to sell you a pig in a poke” and asked if (b) (6), (b) (7) would like to read the blog post before (b) (6), (b) (7) provided the statement. (b) (6), (b) (7)(C) told Blankenstein that (b) (6), (b) (7) would caveat (b) (6), (b) (7) statement that (b) (6), (b) (7) had not read the blog because (b) (6), (b) (7) did not have time to read the blog posts before 11:30 a.m. (b) (6), (b) (7) said (b) (6), (b) (7) requested Blankenstein provide the link to the blog so that (b) (6), (b) (7) could read the blog posts at a later time.

Blankenstein said that he asked (b) (6), (b) (7)(C) “Do you want me to send [the blog] to you to make sure you are not buying a pig in a poke?” Blankenstein said that (b) (6), (b) (7)(C) told him that (b) (6), (b) (7) did not need it and (b) (6), (b) (7) had already written (b) (6), (b) (7) statement with a caveat that (b) (6), (b) (7) had not read the blog. Blankenstein said that he provided (b) (6), (b) (7)(C) the link to the blog the next day. Blankenstein said he did not know why he did not provide (b) (6), (b) (7)(C) the link until the next day but he thought it was related to being in San Diego without access to a computer. Blankenstein did not recall whether he asked anyone else to provide a statement. Blankenstein did not know why he did not ask anyone else for a statement. Blankenstein explained, “[t]o the extent the article was implicating the Bureau’s fair lending function, having (b) (6), (b) (7)(C) provide a statement would be probably the best way to address that.”

At 11:10 a.m., (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) spoke on the phone for 19 minutes. (b) (6), (b) (7)(C) said that (b) (6), (b) (7) read (b) (6), (b) (7) draft of (b) (6), (b) (7) statement, which (b) (6), (b) (7)(C) provided feedback on. (b) (6), (b) (7)(C) recalled asking (b) (6), (b) (7)(C) “Do you think I should call [Blankenstein] back and tell him no?” (b) (6), (b) (7)(C) did not recall (b) (6), (b) (7)(C) response but (b) (6), (b) (7) said, “We both came to the conclusion that I really . . . I kind of really had to do it.” (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) told (b) (6), (b) (7) that (b) (6), (b) (7)(C) thought I was doing the right thing,” “it was important for me to do it,” and “my judgment call was the right call.” (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) that Blankenstein had not told (b) (6), (b) (7)(C) about the *Washington Post* article and

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that (b) (6), (b) (7)(C) did not intend to bring it up to Blankenstein because “I’m not supposed to know, evidently, because Eric [Blankenstein] has deliberately not told us any of this.”

At 11:35 a.m., (b) (6), (b) (7)(C) emailed Blankenstein and (b) (6), (b) (7)(C) with the following quote for the *Washington Post* (exhibit 12):

I am not familiar with any statements Eric has made prior to his tenure at the CFPB. What I can say is that in his nine months as Policy Associate Director overseeing the Bureau’s fair lending work, Eric has told me repeatedly that he is committed to enforcing the fair lending laws. While Eric and I have had disagreements on policy and legal issues related to fair lending, I have found him to be collegial, thoughtful and meticulous in our interactions. Under his tenure he has allowed us to continue to advance our fair lending supervisory and enforcement work and approved proposed new matters as well.

At 11:36 a.m., (b) (6), (b) (7)(C) forwarded two photos picturing Blankenstein’s wedding party, which included two African American males, from (b) (6), (b) (7)(C) personal email account to (b) (6), (b) (7)(C) Bureau email account (exhibit 13). The email chain shows that the photos were originally sent on September 25, 2018, at 8:06 p.m. by (b) (6), (b) (7)(C) to Blankenstein’s personal email account, then to (b) (6), (b) (7)(C) personal email account. Blankenstein did not know why he used (b) (6), (b) (7)(C) personal email account and was not aware of any other communications between them on personal email accounts. Blankenstein said that (b) (6), (b) (7)(C) wanted the photos “to get them to not run the article.” Blankenstein said his understanding was that (b) (6), (b) (7)(C) thought “to the extent the *Post* reporters think I’m a racist person, having two African Americans in my wedding party would hopefully disabuse them of that notion.” (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) thought this was the only email exchange using their personal email accounts, and (b) (6), (b) (7)(C) provided us with a copy of the email.

At 11:39 a.m., Blankenstein replied to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) stating, “[t]his is very helpful.” At 11:42 a.m., (b) (6), (b) (7)(C) replied “Great! I’m assuming my quote will be given to the Post without changes. If (b) (6), (b) (7)(C) or someone wants to change any part of my quote, will you ask them to speak to me first?”

At 11:47 a.m., (b) (6), (b) (7)(C) forwarded the email exchange to (b) (6), (b) (7)(C) asking, “will you let me know if there’s a proposal to change or shorten my quote in any way?”

At 12:03 p.m., (b) (6), (b) (7)(C) replied, “(b) (6), (b) (7)(C) your words are your words. I would not change a syllable. Authenticity is everything here. That being said, what you said happens to be terrific. :-) As long as you’re okay, what you shared with Eric is what I am planning to share with the Post around 1:30 p.m.”

(b) (6), (b) (7)(C) told us that (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) was sending (b) (6), (b) (7)(C) statement to the reporter to let (b) (6), (b) (7)(C) know that if (b) (6), (b) (7)(C) was uncomfortable in any way, there was time to stop it from being sent to the *Washington Post*.

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At 1:37 p.m., (b) (6), (b) (7)(C) emailed O’Harrow with (b) (6), (b) (7)(C) quote identified above and the following quote for Blankenstein (exhibit 14):

The insight to be gained about how I perform my job today - by reading snippets of 14 year old blog posts that have nothing to do with consumer protection law - is exactly zero. Any attempt to do so is a naked exercise in bad faith, and represents another nail in the coffin of civil discourse and the ability to reasonably disagree over questions of law and policy. The need to dig up statements I wrote as a 24 year old, show that in the eyes of my critics I am not guilty of a legal infraction or neglect of my duties, but rather just governing while conservative.

(b) (6), (b) (7)(C) email asks O’Harrow, given the quotes from both Blankenstein and (b) (6), (b) (7)(C) “what really is the story?” (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) thought “the quotes given would make this not worthy of their paper. However, that was not to be the case.” (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) expected Blankenstein’s statement would be consistent with (b) (6), (b) (7)(C) and address that the Fair Lending program was “alive and well.” Blankenstein said that he addressed Fair Lending in his statement because of his functions “overseeing fair lending, the enforcement and supervision and fair lending laws.”

That evening, the *Washington Post* published the article “Trump Anti-discrimination Official Once Called Most Hate Crimes Hoaxes,” by O’Harrow, Shawn Boburg, and Renae Merle (exhibit 15). We found that the reporters did not include the part of (b) (6), (b) (7)(C) statement that stated, “I am not familiar with any statements Eric has made prior to his tenure at the CFPB.” (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) did not know why that part of (b) (6), (b) (7)(C) statement was not included, but (b) (6), (b) (7)(C) believed it was unfair to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) was upset that (b) (6), (b) (7)(C) statement was changed and did not know why the reporters removed the part about (b) (6), (b) (7)(C) not reading the blog. Following the article, (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) received many phone calls from people asking, “[a]re you okay? Because that quote doesn’t sound like you.”

September 27, 2018

At 8:31 a.m., Blankenstein emailed (b) (6), (b) (7)(C) a link to the *Two Guys Chatting* blog post “Hate Crimes vs. Crimes” (exhibit 16). Blankenstein told us that he spoke with (b) (6), (b) (7)(C) before this email because (b) (6), (b) (7)(C) requested the link when they spoke on the phone the morning of September 26. Blankenstein said that he called (b) (6), (b) (7)(C) about the *Washington Post* truncating (b) (6), (b) (7)(C) statement and he felt it was unfair to (b) (6), (b) (7)(C). Blankenstein recalled that (b) (6), (b) (7)(C) said, “this is so much worse than I thought it would be” and “a number of people in (b) (6), (b) (7)(C) group were very upset.” Blankenstein said he did not recall what he told (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) told Blankenstein, “I’ve seen your view bleed over into your work,” and he asked for an example. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) provided him with an example of “a redlining investigation [that] involved the circulation of a patently racist email and you were still saying that you’re not sure that that’s evidence of racism.” (b) (6), (b) (7)(C) said that (b) (6), (b) (7)(C) review of his blog resonated with “things that he has said in discussions and meetings around Fair Lending matters.”

That morning, Blankenstein said he asked Mulvaney whether he should resign. Blankenstein recalled that Mulvaney told Blankenstein he “wasn’t going anywhere.” Blankenstein said Mulvaney was “fine with it, he said, ‘you got smeared by the *Washington Post*.’” (b) (6), (b) (7)(C) said Blankenstein described this encounter to

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him as Mulvaney giving “him a high-five that morning in sort of, celebration of the article that had come out the night before.” Blankenstein said that (b) (6), (b) (7)(C) was “upset” that the *Washington Post* was “treating me unfairly.”

Blankenstein said that the article running “had a substantial effect on my life” and views himself as “perhaps unemployable for the rest of my life.” We found that during the time of the article, Blankenstein had a pending job application for the Chief Deputy Comptroller and Chief Counsel at the Office of the Comptroller of the Currency. Blankenstein denied that the application had any effect on his decision to request a statement from (b) (6), (b) (7)(C) and his attempt to convince the *Washington Post* not to print the article. Blankenstein denied receiving any personal gain from (b) (6), (b) (7)(C) statement because the article was still published. Blankenstein said that he “can’t disaggregate a personal gain from a Bureau gain.” Blankenstein said that his “motivations were about the Bureau and the allegations that the Bureau would not be fulfilling its mission.”

At 5:14 p.m., (b) (6), (b) (7)(C) Allied Progress, emailed all Bureau staff, stating (exhibit 17):

We believe it is essential that you know about the types of people Mick Mulvaney has brought into the CFPB. As you may have seen, last night the Washington Post reported on the racist and sexist writings of Eric Blankenstein, Mulvaney's handpicked political appointee leading the CFPB's supervision, enforcement, and fair lending division. In the aftermath of the Post's reporting, we unearthed more toxic writing from Blankenstein and are calling on Mulvaney to fire him.

Blankenstein said that he did not know how Allied Progress was able to send this email to all Bureau staff.

At 5:46 p.m., (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) spoke on the phone for 25 minutes. (b) (6), (b) (7)(C) did not specifically recall the conversation but said that they likely discussed (b) (6), (b) (7)(C) morning conversation with Blankenstein about the article. (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) needed to “say something to say how I feel now that I have seen this. Consequences be what they are, but I feel like I have to, even if it does mean ultimately that I am terminated.” (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) decided to sleep on the decision and (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) would support me whatever I did.”

At 8:07 p.m., (b) (6), (b) (7)(C) emailed Blankenstein about the *Washington Post* article (exhibit 18). In the email, (b) (6), (b) (7)(C) stated in part, “You need to address this head on with our staff and in a more transparent and sensitive way than you did in your statement. I would recommend an email and/or an immediate all hands call, and I am available to talk this through with you.” Blankenstein forwarded the email to (b) (6), (b) (7)(C), stating “Unhelpful.” Blankenstein explained by “unhelpful” he meant (b) (6), (b) (7)(C) and I have an uneasy working relationship and I didn’t feel as though the tone of (b) (6), (b) (7)(C) email was helpful to making that better.” Blankenstein said he and (b) (6), (b) (7)(C) have “different views of how the Bureau should operate.”

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(b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) “woke up with this unwavering conviction . . . to speak [through] an email to [SEFL] all-hands.”

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At 11:03 a.m., (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) and others a draft SEFL all-hands email (exhibit 19). (b) (6), (b) (7)(C) replied, recommending (b) (6), (b) (7) discuss it with (b) (6), (b) (7)(C) and Blankenstein while others provided feedback on the statement.

At 12:46 p.m., Blankenstein sent his own draft all-hands email to (b) (6), (b) (7)(C) (exhibit 20). The email appears to address the issues raised in the *Washington Post* article. At 1:30 p.m., (b) (6), (b) (7)(C) replied to hold off on sending the email until there was a legal review of it.

At 1:32 p.m., (b) (6), (b) (7)(C) emailed Blankenstein and (b) (6), (b) (7)(C) a draft of the SEFL all-hands email that (b) (6), (b) (7) intended to send at 2:00 p.m. (exhibit 21).

At 1:38 p.m. and 1:41 p.m., Blankenstein replied, “I intend to send an all-hands email at some point this afternoon, and hope that you would consider holding off sending this email until you have had a chance to review . . . I also would appreciate the opportunity to discuss these issues with you before you send this email. Our relationship so far has been nothing but cordial and respectful, and I would hope that you would afford me the opportunity to discuss your concerns directly before you share them with the entire office.”

At 1:43 p.m., Blankenstein emailed (b) (6), (b) (7)(C) and others his draft all-hands email for comments (exhibit 22).

At 1:52 p.m., (b) (6), (b) (7)(C) emailed Mulvaney, (b) (6), (b) (7)(C), Blankenstein, (b) (6), (b) (7)(C) and others a draft of (b) (6), (b) (7) SEFL all-hands email (exhibit 23). (b) (6), (b) (7)(C) requested that Mulvaney “pause the reorganization of the Office of Fair Lending and Equal Opportunity to allow time to consider the implications of the concerns I have expressed.”

At 1:55 p.m., (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) Mulvaney, (b) (6), (b) (7)(C), Blankenstein, (b) (6), (b) (7)(C) and others, telling (b) (6), (b) (7)(C) “I am trying to reach you. Please do not send this until we’ve had the chance to connect” (exhibit 24).

At 1:58 p.m. and 2:06 p.m., (b) (6), (b) (7)(C) emailed Blankenstein, (b) (6), (b) (7)(C) stating “Stand down. [Mulvaney] doesn’t want you to send anything out . . . until we have had the chance to discuss with him” (exhibit 25).

At 2:01 p.m., (b) (6), (b) (7)(C) sent (b) (6), (b) (7) email to all SEFL employees (exhibit 26). (b) (6), (b) (7)(C) email stated in part:

I have had experiences that have raised concerns that are now quite alarming in light of the content of [Blankenstein’s] blog posts—experiences that call into question Eric’s ability and intent to carry out his and the Acting Director’s repeated yet unsubstantiated commitment to a continued strong fair lending program under governing legal precedent. In light of my concerns I am asking the Acting Director to pause the proposed reorganization of the Office of Fair Lending and Equal Opportunity. I no longer have faith that the Bureau’s obligation to enforce the fair lending laws will be faithfully discharged in the currently-contemplated reorganized structure.

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At 2:10 p.m., (b) (6), (b) (7)(C) forwarded the 1:38 p.m. and 1:41 p.m. emails from Blankenstein and the 1:55 p.m. email from (b) (6), (b) (7)(C) to the Fair Lending Office group email (exhibit 27).

At 2:12 p.m., (b) (6), (b) (7)(C) replied to all SEFL employees, stating, “I wholeheartedly support you and your statement. Thank you for your courage and commitment to the Bureau’s mission” (exhibit 28).

That evening, the *Washington Post* published an article by O’Harrow, Boburg, and Merle, “Trump Anti-discrimination Official Faces Rebellion at Agency Over Racially Tinged Blog Posts.” The article quoted (b) (6), (b) (7)(C) SEFL all-hands email, the 1:38 p.m. email from Blankenstein, the 1:55 p.m. email from (b) (6), (b) (7)(C) and the 2:12 p.m. email from (b) (6), (b) (7)(C) (exhibit 29). We identified one individual who provided information to Boburg for this article, and this individual claimed whistleblower status related to the disclosure.

Conclusion

We evaluated the facts in the timeline above and applied them to the elements in the section “Potentially Applicable Laws, Regulations, or Policies.”

Abuse of Authority

We found that Blankenstein may have abused his authority. Blankenstein used his position as Policy Associate Director to request that (b) (6), (b) (7)(C) a subordinate, provide a statement in his support.

Arbitrary and Capricious Exercise of Power

Blankenstein’s request may not have been an arbitrary and capricious exercise of power because Blankenstein and (b) (6), (b) (7)(C) both drew a connection between (b) (6), (b) (7)(C) statement and the Fair Lending program. However, the impetus for Blankenstein’s request for a public statement was blog posts written in his personal capacity over a decade prior to his employment with the Bureau.

Rights Adversely Affected or Personal Gain

We found no evidence that (b) (6), (b) (7)(C) rights were adversely affected. However, (b) (6), (b) (7)(C) statement may have benefited Blankenstein’s personal reputation because (b) (6), (b) (7)(C) publicly described him as “collegial, thoughtful and meticulous in our interactions.” Blankenstein denied any personal gain and said that any personal gain was combined with a gain to the Bureau. (b) (6), (b) (7)(C) statement may have also benefited the Bureau because (b) (6), (b) (7)(C) stated that Blankenstein “has allowed us to continue to advance our fair lending . . . work,” contrary to the article’s attempt to draw a connection between comments in Blankenstein’s blog and his inability to carry out his official duties at the Bureau.

Use of Public Office for Private Gain

We found that Blankenstein may have misused his position for private gain. Blankenstein used his position as Policy Associate Director to request that (b) (6), (b) (7)(C) a subordinate, provide a statement in his support.

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Coercion or Inducement

We found no evidence that Blankenstein coerced (b) (6), (b) (7)(C) to provide a statement in his support. However, Blankenstein may have induced (b) (6), (b) (7)(C) to provide the statement. (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) felt (b) (6), (b) (7)(C) had to provide the statement to preserve (b) (6), (b) (7)(C) program. In addition, the request was not made by (b) (6), (b) (7)(C) direct supervisor, but by Blankenstein, a senior agency official and (b) (6), (b) (7)(C) second-level supervisor. (b) (6), (b) (7)(C) was aware that Blankenstein made his request to (b) (6), (b) (7)(C) despite his knowledge that (b) (6), (b) (7)(C) was on leave to (b) (6), (b) (7)(C). Moreover, Blankenstein requested that (b) (6), (b) (7)(C) draft the statement in a short time frame, which added urgency to the situation. Finally, at the time of Blankenstein's request, a proposed reorganization of the Fair Lending Program that would directly affect (b) (6), (b) (7)(C) roles and responsibilities was pending.

However, (b) (6), (b) (7)(C) did not raise any concern with Blankenstein's request until after the *Washington Post* printed a truncated version of (b) (6), (b) (7)(C) statement (which clarified that (b) (6), (b) (7)(C) had not read Blankenstein's blog) and (b) (6), (b) (7)(C) read and understood the nature of Blankenstein's posts. Blankenstein offered to provide (b) (6), (b) (7)(C) with a link to the blog posts, but (b) (6), (b) (7)(C) declined this offer because (b) (6), (b) (7)(C) did not feel (b) (6), (b) (7)(C) had enough time to read the blog posts and write a statement in the time frame Blankenstein requested. In addition, prior to sending (b) (6), (b) (7)(C) statement to the *Washington Post*, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) and stated, "[a]s long as you're okay, what you shared with Eric is what I am planning to share with the Post around 1:30 p.m." (emphasis added). (b) (6), (b) (7)(C) stated that this email was intended to give (b) (6), (b) (7)(C) a final opportunity to object to (b) (6), (b) (7)(C) statement being provided to the *Washington Post*.

Personal Benefit

(b) (6), (b) (7)(C) statement may have benefited Blankenstein's personal reputation because (b) (6), (b) (7)(C) publicly described him as "collegial, thoughtful and meticulous in our interactions." Blankenstein denied any personal gain and said that any personal gain was combined with a gain to the Bureau. (b) (6), (b) (7)(C) statement may have also benefited the Bureau because (b) (6), (b) (7)(C) stated that Blankenstein "has allowed us to continue to advance our fair lending . . . work," contrary to the article's attempt to draw a connection between comments in Blankenstein's blog and his inability to carry out his official duties at the Bureau.

Basic Obligation of Public Service (Appearance of Ethical Violation)

Even if there is no determination that Blankenstein misused his position for private gain, we found that Blankenstein created the appearance of a violation of the *Standards of Ethical Conduct for Employees of the Executive Branch* when he requested that (b) (6), (b) (7)(C) provide a public statement in his support. As discussed above, there was a dual benefit when Blankenstein received a statement from (b) (6), (b) (7)(C). Although Blankenstein denied any personal gain and said his motivations were about the Bureau, there is at least an appearance of a personal gain to Blankenstein's reputation even though the article was ultimately published. In addition, although denied by Blankenstein, his pending job application with the Office of the Comptroller of the Currency gives the appearance that he intended to receive a personal benefit (further consideration for the position) from (b) (6), (b) (7)(C) positive statement.

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Misuse of Subordinate's Time

We found that Blankenstein did not misuse a subordinate's time because (b) (6), (b) (7)(C) statement was in performance of (b) (6), (b) (7) official duties. Blankenstein requested that (b) (6), (b) (7)(C) voluntarily provide a statement. (b) (6), (b) (7)(C) used 1 hour of official time, approved by (b) (6), (b) (7)(C) to write the statement and received no objections from (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) said that the statement request was in (b) (6), (b) (7) official capacity and (b) (6), (b) (7) wrote about Blankenstein's official duties involving the Fair Lending program.

Gross Mismanagement

We found that Blankenstein did not engage in gross mismanagement because there was no evidence that the mission of the agency was affected by Blankenstein's request for a statement from (b) (6), (b) (7)(C).

Whistleblower Protection Act

An individual acknowledged providing (b) (6), (b) (7)(C) September 28, 2018, all-hands email to the *Washington Post*. We were unable to determine whether this individual also provided any other documents to the media. The individual stated that they believed the email supported allegations of abuse of authority. Because the Bureau referred this matter to us and we investigated a potential abuse of authority, we determined that the individual had a reasonable belief that their disclosure supported allegations of abuse of authority. Therefore, we found this disclosure of information to the *Washington Post* to be a protected disclosure under the Whistleblower Protection Act.

Exhibits

1. Interviews of (b) (6), (b) (7)(C) , October 15, 2018, and December 20, 2018.
2. Interview of (b) (6), (b) (7)(C) October 4, 2018.
3. Interview of (b) (6), (b) (7)(C) October 5, 2018.
4. Interviews of Eric Blankenstein, November 9, 2018, and February 15, 2019.
5. Interview of (b) (6), (b) (7)(C) November 29, 2018.
6. Email from Robert O’Harrow Jr., September 25, 2018.
7. Email from (b) (6), (b) (7)(C) September 25, 2018.
8. Email from (b) (6), (b) (7)(C) September 25, 2018.
9. Email from Eric Blankenstein, September 25, 2018.
10. Email from Eric Blankenstein, September 26, 2018.
11. (b) (6), (b) (7)(C) timesheet, September 16 to 29, 2018.
12. Email from Eric Blankenstein, September 26, 2018.
13. Email from Eric Blankenstein, September 26, 2018.
14. Email from (b) (6), (b) (7)(C) September 26, 2018.
15. Robert O’Harrow Jr., Shawn Boburg, and Renae Merle, “Trump Anti-discrimination Official Once Called Most Hate Crimes Hoaxes,” *The Washington Post*, September 26, 2018.
16. Email from Eric Blankenstein, September 27, 2018.
17. Email from (b) (7)(C) September 27, 2018.
18. Email from (b) (6), (b) (7)(C) September 27, 2018.
19. Email from (b) (6), (b) (7)(C) , September 28, 2018.
20. Email from Eric Blankenstein, September 28, 2018.
21. Email from (b) (6), (b) (7)(C) September 28, 2018.
22. Email from Eric Blankenstein, September 28, 2018.
23. Email from (b) (6), (b) (7)(C) , September 28, 2018.
24. Email from (b) (6), (b) (7)(C) September 28, 2018.
25. Email from (b) (6), (b) (7)(C) September 28, 2018.
26. Email from (b) (6), (b) (7)(C) , September 28, 2018.
27. Email from (b) (6), (b) (7)(C) , September 28, 2018.
28. Email from (b) (6), (b) (7)(C) September 28, 2018.

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29. Robert O'Harrow Jr., Renae Merle, and Shawn Boburg, "Trump Anti-discrimination Official Faces Rebellion at Agency Over Racially Tinged Blog Posts," *The Washington Post*, September 28, 2018.