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

AUG 1 - 2017

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Approval of Outside Activity

FROM: Justina Fugh
Alternate Designated Agency Ethics Official

TO: John Konkus
Deputy Associate Administrator
Office of Public Affairs

I have received your request to engage in outside activity for compensation. You wish to take on clients to advise about strategy, mail and media production. You have two likely clients now ([redacted] and [redacted]), and anticipate getting more clients in the next six months.

You are a Schedule C appointee and, as such, are subject to an outside earned income limitation set forth at 5 CFR 2635.804. This restriction does apply to Schedule C appointees, as explained at 5 CFR 2636.301(a)(3). For 2017, you cannot earn more than $27,765 in your outside activity. The restriction also prevents you from accepting compensation for "practicing a profession which involves a fiduciary relationship; affiliating with or being employed by a firm or other entity which provides professional services involving a fiduciary relationship; serving as an officer or member of the board of any association, corporation or other entity; or teaching without prior approval." 5 CFR 2635.804(b). We have determined that providing consultative media advice is not a fiduciary role, and you will be providing those services directly as opposed to through any corporation.

Based on the information you have provided, I am approving your request as consistent with 5 C.F.R. Part 2635, Subpart H. Please note that, generally, an approval for outside employment remains valid for five years, though you must request a new approval should there be a change in the nature or scope of your duties. As your consulting duties will remain the same, just inform me of any new clients so that I can advise you about any additional conflicts issues if they arise.

I have set forth below a reminder about several ethics principles:

Financial Conflicts of Interest

Because you will be compensated by the clients, you have a financial conflict of interest with both of them. You cannot participate in your EPA duties in any matter that will have a direct and predictable financial effect upon your outside clients. You cannot work on particular matters that involve your clients as a specific party nor can you work on particular matters of general applicability.

You will need to report the consulting work and gross income on your next financial disclosure report in Part 2.

Representation

Don't forget, you are generally prohibited by a criminal law from representing another entity back to the federal government in any matter in which the United States is a party or has a direct and substantial interest. *See* 18 U.S.C. §§ 203 and 205. You cannot contact the US government on behalf of (b) (6) [redacted] or any of your clients.

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As always, if you have any questions, please feel free to contact me at 564-1786.