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To ensure that I am not mischaracterizing these communications with TTB, all communications are reproduced below in full text.

FOIA Initial Request Letter, dated April 21, 2019

By USPS Mail and

By Hand-Delivery to TTB HQ, Third Floor Receptionist on April 22, 2019

Quinton Mason
Disclosure Program Manager
Regulations and Rulings Division
TTB FOIA Requester Service Center
Alcohol and Tobacco Tax and Trade Bureau
1310 G Street, NW, Box 12
Washington, DC 20005

RE: FOIA Request for Special Act Awards, Quality Step Increases, Spot Awards, Time-off Awards, Bonuses (SES or otherwise), and Similar Award Type Compensation Records – Unfair Trade Practice Investigations under the Federal Alcohol Administration Act.

Dear Mr. Mason:

This letter is a request pursuant to the Freedom of Information Act, 5 USC 552.

Records Requested

First, I am requesting the personnel or other records held by the Alcohol and Tobacco Tax and Trade Bureau (TTB) covering fiscal years 2016, 2017, 2018, and 2019, showing the employee names, position titles, reason for the award or bonus (that is, the write up by the supervisor justifying the award), type of award or bonus, and dollar amounts received by the TTB employees of the enumerated types of awards (see below) and bonuses received by the employees listed below.

Second, I am requesting the similar documentation on the enumerated awards during the same fiscal years for any TTB employee where such award or bonus was, directly or indirectly, related to investigations and or settlements or administrative actions conducted under the unfair trade practice provisions of the Federal Alcohol Administration Act, 27 USC 205(a) to (d), **including** any investigations relating to the accuracy or validity of the basic permits held by industry members being investigated under these provisions. To the extent that you redact the names of the industry members who are the subjects of these investigations, I request that you disclose the names of any industry members for whom I have a Power of Attorney on file at the National Revenue Center.

The awards and bonuses include, but are not limited to:

- Special Act Awards
- Achievement Awards
- Quality Step Increase Awards
- Spot Awards
- Time off Awards
- Senior Executive Service Bonus Awards

The employees covered by the first request are:

- John J. Manreda, Administrator
- Mary G. Ryan, Deputy Administrator
- Thomas Hogue, Director, Congressional Liaison and Media and Public Affairs
- Elisabeth Kann, Assistant Administrator (External Affairs)/Chief of Staff
- Joseph Burrus, Director, Finance and Performance Budgeting Division
- Thomas Crone, Assistant Administrator (Field Operations) – Retired
- Ronald Hancock, Deputy Assistant Administrator (Field Operations) and formerly Acting Assistant Administrator (Field Operations)
- Robert Angelo, Director, Trade Investigations Division (TID)
- Jim Ebert, Trade Investigations Division
- Peter Olsen, Trade Investigations Division
- Paul Haller, Trade Investigations Division
- Michael Stevens, Trade Investigations Division
- Nate Booth, Trade Investigations Division
- Allen Leftwich, Director, Tax Audit Division
- Jerry Bowerman, Director, Intelligence Division
- Anthony Gledhill, Chief Counsel
- Caroline May, Assistant Chief Counsel (Field Operations)
- Brian Wissman, Senior Counsel
- Michael Renz, Counsel
- Suzanne Sirotnak, Senior Counsel
- Daniel Peralta, Senior Counsel
- Keith Sullivan, Counsel

As noted, the second request covers anyone not listed above but who received one of the enumerated awards or bonuses during the fiscal years noted and for which any aspect of the unfair trade practices under the FAA Act, directly or indirectly, were involved.

Requirement to Disclose Information

There are many reasons that TTB must disclose this information under both the OPM regulation and FOIA in furtherance of the public interest.

First, OPM regulations require the disclosure of this information. This information is public information pursuant to Title 5, Code of Federal Regulations, Section 293.311, copy enclosed.

There is no national security concern or related concern with the disclosure of this information that would override this regulation. *See, Long v. Office of Personnel Management*, 692 F.3d 185 (2nd Cir. 2012). Also, the names of these TTB employees are known to many people outside of TTB as a result of the TTB trade practice investigations, settlement meetings, and trade practice seminars. Notably, this regulation does not provide for any charges for the elements of information covered by it. The reference in section 293.311(c) to FOIA is for additional elements of information. Therefore, the cited regulation does not authorize any financial charges for the disclosures under it to the public.

Second, TTB held four trade practice seminars around the United States in 2018. At one of these seminars, TTD Division Director Angelo stated essentially that his pay is the same regardless of the outcome of the investigations. I recall being a bit surprised that he would volunteer this point given I was well aware of the extensive cash awards, time off awards, and bonuses options from my 16 years in management at ATF and TTB where I was responsible for making awards decisions. Based on the foregoing, Mr. Angelo put this question out there to the participants at the seminar and we all deserve to know who may have received cash awards, time off awards, or bonuses, directly or indirectly, as a result of these unfair trade practice investigations.

Third, Congress has expressed a public policy interest that evaluation systems should not be designed to encourage IRS employees to be eligible for these types of compensation based on the tax enforcement or collections they generate through tax enforcement activities.¹ This was in one of several Taxpayer Bill of Rights enacted by Congress covering the IRS in most cases. Evaluation systems are used to determine and select employees for the type of enumerated awards noted above. The underlying premise of Congress here is that there should be no

¹ Basis for Evaluation of Internal Revenue Service Employees

Pub. L. 105–206, title I, §1204, July 22, 1998, 112 Stat. 722, provided that:

"(a) In General.—The Internal Revenue Service shall not use records of tax enforcement results—

"(1) to evaluate employees; or

"(2) to impose or suggest production quotas or goals with respect to such employees.

"(b) Taxpayer Service.—The Internal Revenue Service shall use the fair and equitable treatment of taxpayers by employees as one of the standards for evaluating employee performance.

"(c) Certification.—Each appropriate supervisor shall certify quarterly by letter to the Commissioner of Internal Revenue whether or not tax enforcement results are being used in a manner prohibited by subsection (a).

"(d) Technical and Conforming Amendment.—[Repealed section 6231 of Pub. L. 100–647, set out below.]

"(e) Effective Date.—This section shall apply to evaluations conducted on or after the date of the enactment of this Act [July 22, 1998]."

incentives to find violations that might be of questionable validity. Based on this sense of Congress regarding limitations on the use of tax enforcement outcomes as a basis for evaluations, there is a parallel public interest in knowing whether specific employees involved in the current trade practice enforcement initiative were given financial or time off awards for the outcomes of their investigation activities.

Finally, this information is valuable for me to use in an upcoming panel at the National Conference of State Administrators (NCSLA) on TTB as a regulatory agency. Given the wide base of attendance at the NCSLA annual meetings, these participants are interested in this type of information. During the four fiscal years covered by this request, I have given 18 presentations on Federal unfair trade practice law and information of this type is important for the comprehensiveness of these presentations. Providing education through these presentations helps to enable industry members to undertake voluntary compliance. Several times the organizers of these presentations have told me that they asked me to speak because TTB declined to provide a speaker on trade practices.

Fees

As noted, section 293.311, does not provide for the charging of fees for this information. Given the public interests identified above, I request that all fees be waived to the extent you believe they must be charged. However, in the event this request is declined, I agree to pay up to \$1000 in any search fees associated with this request. Please contact me should you have any questions. **I respectfully request that you expedite this request** because of on-going unfair trade practice investigations and the upcoming presentations and writings where I may use this information. I will not agree to any voluntary extensions of the statutory deadlines under FOIA due to my presentation schedule. In light of the on-going nature of the enforcement actions under the current trade practice enforcement initiative, there is a significant public interest in the disclosure of this information. Congress through the IRC provisions applicable to the Internal Revenue Service noted above, make it clear that this type of information is important for both the Congress and the public and the industry to know. Moreover, as noted, TID Division Director Angelo put this issue out in front of the public and the industry at the Trade Practice Seminar in 2018. This being the case, the complete compensation picture must be disclosed.

Thank you for your attention and assistance to this matter. Do not hesitate to contact me should you have any questions or need further information.

Sincerely,

(SIGNED)

Robert M. Tobiassen

CC: Deputy Administrator (Field Operations) Ronald Hancock
Ronald.hancock@ttb.gov

Chief Counsel Anthony Gledhill
Anthony.gledhill@ttb.gov