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Office of the Inspector General
U.S. Department of Justice



Report of Investigation Regarding the DEA's Relationship with K. Wayne McLeod

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EXECUTIVE SUMMARY

The Department of Justice (Department) Office of the Inspector General (OIG) conducted an investigation into the Drug Enforcement Administration's (DEA) use of Kenneth "Wayne" McLeod, a Florida-based financial planner, to provide retirement and financial planning seminars. McLeod marketed seminars through his company, Federal Employees Benefit Group (FEBG), and operated two financial and asset management companies.

Beginning in 1988, McLeod solicited clients, including many DEA employees, to invest in a purported Bond Fund, which he called the FEBG Bond Fund. McLeod described the FEBG Bond Fund as a confidential fund backed by long-term government securities that offered guaranteed, tax-free annual returns of 8 to 10 percent. However, McLeod operated the FEBG Bond Fund as a Ponzi scheme. McLeod used investor funds to pay for, among other things, Super Bowl trips for his friends and clients, including seven DEA employees. McLeod also made large donations to the DEA Survivors Benefit Fund (DEA SBF), a non-profit organization, contributing at least \$209,994 between 1999 and 2009.

In June 2010, the Securities and Exchange Commission (SEC) began a "cause examination" of one of McLeod's companies. During an interview with SEC investigators, McLeod admitted that the FEBG Bond Fund was a Ponzi scheme. He committed suicide on June 22, 2010.

Records indicate that approximately 130 individuals invested over \$30 million in the FEBG Bond Fund. More than half were current or former DEA employees or individuals with some nexus to the DEA, such as those who learned about McLeod while assigned to a DEA Task Force or through a family member or friend who attended a DEA-sponsored seminar.

The OIG initiated this investigation to determine how McLeod obtained and maintained access to DEA employees as potential victims in his Ponzi scheme. We also considered whether any DEA employees violated [REDACTED] ethics rules in connection with assisting or hiring McLeod or accepting gifts from him.

Use of McLeod at DEA-Sponsored Seminars

We found that DEA hired McLeod to give at least 130 seminars to DEA employees, including at its Training Academy. In addition, many DEA Field Divisions across the country made separate decisions to hire him. McLeod promoted himself and his businesses during seminars and at times distributed brochures advertising the services offered by his companies. DEA gave McLeod substantial access to its personnel and facilities, including the use of DEA conference rooms and management offices to meet with prospective clients after some seminars.

Beginning in approximately 2003, personnel from the DEA Training Academy and Human Resources staff raised questions about the quality of the investment advice provided by McLeod during seminars. In early 2005, the Special Agent in Charge (SAC) of the Training Academy ("the Training SAC") discontinued using McLeod as an instructor at the DEA Training Academy and removed him from the list of approved instructors in January 2006. The Training SAC told us he made this decision because McLeod was giving bad financial information. He also told the OIG that he sent a DEA-wide communication advising that he had suspended using McLeod as an instructor. However, we have been unable to corroborate this information or determine whether the Training SAC informed senior DEA officials about the basis for removing McLeod. McLeod's DEA seminar business declined substantially after his removal from the DEA Training Academy: he gave two DEA seminars in 2006, and none in 2007.

McLeod resumed giving seminars at the DEA in May 2008. In November 2008, McLeod gave a seminar at a conference held for SACs and other senior DEA officials. At the conference, McLeod presented a \$20,000 check made out to the DEA SBF. McLeod made more than \$35,000 in additional donations to the DEA SBF in late 2008 and 2009, despite significant financial difficulties.

After McLeod's suicide in June 2010, DEA officials implemented a temporary moratorium on financial benefits training provided by non-Office of Personnel Management (OPM) personnel. A DEA working group prepared a "best practices" document addressing legal issues associated with contracting with financial experts and providing classroom conduct ground rules, including restrictions on allowing financial planners to promote their business or solicit customers while in a government-owned or leased facility. In June 2013, the DEA Training Academy formally implemented similar ground rules in Division Order 206, a policy that applies only to Office of Training Personnel.

We assessed the role of the following DEA acts and omissions in facilitating McLeod's access to DEA personnel:

- *Failing to adequately vet McLeod's credentials and qualifications.* McLeod frequently made false claims about his educational degrees and certifications during his seminars. We have been unable to determine conclusively what vetting the DEA conducted before allowing McLeod to teach seminars in DEA field divisions and at the DEA Training Academy. We believe that any steps taken were insufficient, and that the DEA Training Academy should have taken additional measures such as requesting a written description of McLeod's academic and professional qualifications, checking on any relevant claimed professional certifications, or performing a credit check on him. We identified several mitigating facts, including that McLeod had legitimate brokerage and financial adviser licenses, had built a reputation among agents for being able to answer complex questions about retirement benefits, and was used by numerous other government agencies to provide retirement benefits and financial planning training over many years.

- *Allowing McLeod to promote his businesses to DEA employees.*
 DEA officials permitted McLeod to promote himself and his businesses in DEA facilities, and using DEA official channels. We found no evidence that officials used disclaimers during seminars stating that the DEA was not endorsing McLeod. McLeod's actions violated regulations prohibiting the use of government facilities to promote private business, and OPM guidance for conducting financial seminars issued in October 2006. While the working group "best practices" developed after McLeod's suicide and Division Order 206 are a good first step, neither document implements a mandatory, agency-wide prohibition on promotion and solicitation in government-owned or leased facilities.
- *Failing to recognize and act on "red flags" about McLeod.*
 Although the "too good to be true" terms of the FEBG Bond Fund arguably were the most extreme red flag that should have led DEA officials who knew about them to question the use of McLeod, we found that McLeod effectively insulated himself from scrutiny by insinuating himself as the "DEA's retirement guy" and with DEA SBF. Additionally, McLeod limited dissemination of information about the Bond Fund among and between investors, and we found no evidence that McLeod marketed the FEBG Bond Fund during DEA seminars or that it was widely known within DEA. We also considered several other facts that could have been warning signs about McLeod, including questionable advice provided by McLeod during seminars, McLeod's behavior during a 2005 disagreement with the Training SAC, and McLeod's demeanor during a February 2008 "emergency" telephone conversation with then-Acting Administrator Michele Leonhart. We did not find that these facts were widely disseminated or provided sufficient warning about McLeod's honesty for us to conclude that any DEA officials clearly erred in failing to act to restrict his access to DEA employees.
- *Allowing DEA field divisions to utilize unapproved vendors.*
 DEA field divisions have the ability to use outside vendors who are not on the approved adjunct instructor list at the DEA Training Academy, particularly when planning management conferences. This limited the ability of the Training SAC to prevent field divisions from using McLeod after his removal from that list in 2005. We believe that the Office of Training is best positioned to evaluate outside instructors under its adjunct instructor approval processes, particularly including the background criminal and credit checks it has implemented since 2006, and that it should have more control over the process.
- *Allowing McLeod's support of the DEA SBF to influence his use.*
 Contributions to the DEA SBF were part of McLeod's marketing strategy. While we found no direct link between McLeod's contributions to the DEA SBF and decisions to hire him for particular seminars, witnesses told us that McLeod's contributions led agents to view him favorably and gave him an "air of credibility." We believe

that this enhanced McLeod's ability to gain and maintain access to the DEA. We also concluded that DEA SBF fundraising solicitations sent to McLeod by DEA personnel violated the prohibition on soliciting funds from a prohibited source and using official channels.

Individual Ethics Violations

Between 2005 and 2010, McLeod provided all-expenses-paid Super Bowl trips that included tickets, corporate box seats, lodging, ground transportation, and on-site catering to as many as 40 guests. We determined that most of McLeod's Super Bowl guests were his friends and colleagues, but that seven DEA employees attended the Super Bowl at various times, some accepting airfare, lodging, transportation, meals, and tickets worth thousands of dollars. All of the DEA employees who attended were investment clients of McLeod's, and most were FEBG Bond Fund investors. McLeod also made other gifts to several DEA employees who were FEBG Bond Fund investors, including free tax preparation services and subsidized mortgages.

We did not find a sufficient link between McLeod's gifts and any official acts by DEA personnel to support the conclusion that these gifts [REDACTED]

However, we found that McLeod was a prohibited source under federal ethics regulations, and that the Standards of Official Conduct prohibited DEA employees from accepting gifts from him unless an exemption or exception to those rules clearly applied. We determined that none of the items provided by McLeod were exempt from the definition of a gift, and that the evidence did not clearly establish that an exception applies. Absent the application of an exception, these gifts were impermissible.

We were particularly concerned by the conduct of two DEA employees who accepted gifts from McLeod even though they were involved to some extent in assisting him to obtain speaking engagements with DEA. At a minimum, these employees exercised extremely poor judgment in accepting gifts from him, and we concluded that they should have consulted with their ethics advisor before doing so. We also found that two DEA employees failed to report McLeod's gifts as required under ethics regulations. However, we did not find sufficient evidence to establish violations of [REDACTED] conflict of interest [REDACTED].

Finally, we examined McLeod's use of contributions to the DEA SBF to maintain access to DEA official and establish credibility. We found that DEA employees improperly solicited funds from McLeod, a prohibited source, using letters on DEA SBF letterhead, signed by DEA SACs, Assistant Special Agents in Charge (ASAC), and agents in their official capacity. We identified specific solicitations that violated the ethics regulations, and that they likely represented a broader practice.

Recommendations

Based on our review, we make three recommendations for improvements to DEA policies or practices. We recommend that the DEA improve its selection, vetting, and monitoring of financial education instructors. The DEA should consider establishing requirements for appropriate academic and professional qualifications for financial planning vendors, selecting education-only financial planning instructors to minimize the potential for financial conflicts of interest, selecting financial planners who hold professional designations accredited by FINRA, verifying relevant professional certifications, obtaining seminar materials in advance for internal review or submission to FINRA, and conducting the SEC and FINRA background checks outlined in FINRA's August 2011 retirement fact sheet. We request that the DEA inform us of the steps it takes to improve its processes and provide copies of any revised policies. While we recognize that agency resources are limited, we believe that the number of vendors providing financial training is not so great that strengthening this process would consume inordinate resources, particularly as compared to the benefit in ensuring the reputability and quality of those instructing employees on such important matters.

We also recommend that the DEA finalize and implement the rules set forth in Division Order 206 and the "best practices" document as part of a mandatory, agency-wide policy to ensure that all parts of the agency are in compliance with the prohibition on advertising and solicitation in government facilities and the OPM guidance for conducting financial seminars, including prohibiting the solicitation of business and requiring the use of appropriate disclaimers of agency endorsement.

Finally, we recommend that the DEA conduct a review of the relationship between the DEA and DEA SBF and issue guidance regarding this relationship. Such guidance should address, at a minimum, the proper limitations on the use of DEA time and resources in support of DEA SBF fundraising, the ban on soliciting funds from prohibited sources, and the need to avoid favoring or appearing to favor supporters of the DEA SBF in DEA decisions.

The DEA stated that it concurs with these recommendations and will implement corrective actions. Appendix A contains the DEA's response to this report.

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CHAPTER ONE INTRODUCTION

I. Background

Kenneth "Wayne" McLeod was a Jacksonville-based financial planner who began teaching retirement benefit and financial planning seminars for federal employees sometime in the early 1990s. McLeod gave seminars at a wide range of government agencies, including various Department of Justice (Department) components. He was particularly active in the Drug Enforcement Administration (DEA). McLeod marketed his seminars through his company, the Federal Employee Benefits Group (FEBG). McLeod also ran two financial and asset management companies affiliated with FEBG: Federal Employees Investment Services (FEIS), and F&S Asset Management Group (FSAMG).

In addition to legitimate activities such as providing financial planning seminars and asset management services, McLeod marketed a purported bond investment product called the FEBG Bond Fund. McLeod generally described the FEBG Bond Fund to prospective investors as a confidential fund backed by long-term government securities that offered guaranteed, tax-free annual returns of 8 to 10 percent depending on the duration of the investment. He told other prospective investors that the investment was a corporate bond in which the money was used to secure an open-ended line of credit for his companies or a program he created "to manage several survivor benefits funds."

However, McLeod did not purchase government securities or make investments with the money from these investors. Instead, he operated the FEBG Bond Fund as a Ponzi scheme. McLeod kept the funds from Bond Fund investors in FEBG's operating bank account and used them to make large transfers to his personal bank account and to pay for business and promotional expenses, including Super Bowl trips for as many as 40 of his friends and business associates. McLeod used funds from new investors to make interest payments to existing FEBG Bond Fund investors or to redeem their prior investments.

In 2008, McLeod began to encounter difficulty making interest payments, and he and his companies continued to face financial problems in 2009 and 2010. In May 2010, a retired DEA agent complained to the Financial Industry Regulatory Authority (FINRA) after McLeod refused to liquidate his FEBG Bond Fund investment. In June 2010, the Securities and Exchange Commission (SEC) initiated an examination of FSAMG "for cause," during which McLeod admitted that the Bond Fund was a Ponzi scheme. McLeod subsequently committed suicide.

Based on McLeod's records, the SEC determined that 139 current investors had contributed at least \$34 million to the FEBG Bond Fund as of June 2010, and that there had been approximately 260 investors in the FEBG Bond Fund since its

inception.¹ Approximately 67 investors were current or former DEA employees or individuals who learned about McLeod while assigned to a DEA Task Force or through a family member or friend who attended a DEA-sponsored seminar. Additionally, the OIG identified at least 10 likely former FEBG Bond Fund investors who redeemed their investments before the fund collapsed and who are or were DEA employees.

On June 24, 2010, the SEC charged that McLeod, FEBG, and FSAMG had violated various anti-fraud provisions of the federal securities laws and obtained an emergency order temporarily freezing the assets of FEBG and FSAMG and McLeod's estate and appointing Michael Goldberg, a Florida attorney, as the receiver over FEBG and FSAMG. Since June 2010, Goldberg has worked to locate and liquidate assets purchased by McLeod using money from FEBG Bond Fund deposits and has overseen the claims process to distribute any recovered funds to investors.²

Additionally, following McLeod's suicide, the Federal Bureau of Investigation's (FBI) Jacksonville field office opened a criminal investigation into whether any FEBG or FSAMG employees participated in the operation of McLeod's Ponzi scheme.³ On September 17, 2010, FBI Jacksonville received an anonymous letter alleging that DEA officials had provided "captive audiences" for McLeod's financial presentations in exchange for all-expenses-paid trips to the Super Bowl. FBI Jacksonville forwarded this allegation to its Inspection Division, which then referred it to the Office of the Inspector General (OIG).

The OIG initiated this investigation to determine how McLeod obtained and maintained access to DEA employees as potential victims in his Ponzi scheme. We also considered whether there was evidence that any DEA employees violated [REDACTED] or ethics rules in connection with assisting or hiring McLeod or accepting gifts from him.⁴

The OIG also examined whether other DOJ components had hired McLeod to provide seminars, identifying seminars held at the FBI, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and DEA based on a schedule posted on FEBG's website. Based on our initial review of relevant documents and the large number of Bond Fund investors who were current or former DEA employees, the OIG decided to focus our review on the DEA's relationship with McLeod.

¹ Later court filings identified 130 investors with investments totaling \$32,641,301.78. See Notice of Filing Receiver's Revised Exhibit "A," *SEC v. Estate of McLeod*, No. 1:10-CV-22078, at Exh. A (S.D. Fla. filed May 21, 2014).

² For documents and additional information about the receivership for FEBG and FSAMG, please see <http://febginfo.com>.

³ No charges were filed against McLeod's former employees.

⁴ The public version of the final report contains information that the OIG has redacted to protect the privacy interests of individuals.

II. Methodology of the OIG Review

In the course of this investigation, the OIG obtained and reviewed relevant documents and e-mails from the FBI, ATF, and DEA. We also reviewed documents, computer hard drives, servers, and other materials seized from FEBG and FSAMG following McLeod's suicide. Additionally, we obtained bank and credit card records for McLeod's personal and business accounts, documents from several vendors used by McLeod for Super Bowl trips, and documents from the DEA Survivors Benefit Fund (DEA SBF), a non-profit organization that at one time used McLeod to manage a portion of its investments. All told, we reviewed more than 117,000 pages of documents, plus the contents of several computer hard drives and FEBG e-mail servers.

The OIG conducted interviews of more than 45 individuals currently or previously employed by the DEA or who had worked for McLeod. Over the course of our review, we interviewed several senior DEA officials, including Leonhart, retired Chief of Operations Michael Braun, the former SAC of the DEA Training Academy SAC, other DEA Training Academy personnel, individuals involved in hiring McLeod to provide seminars, and several large FEBG Bond Fund investors.⁵

Several individuals who previously worked for McLeod also agreed to be interviewed voluntarily. However, the OIG does not have the authority to compel testimony from individuals outside the Department, and we were unable to interview several former McLeod employees. For example, former FEBG Vice President Ron Rountree, whom we contacted through his counsel, did not respond to our request for an interview about McLeod's relationship with the DEA.

Several factors made it difficult to determine how McLeod gained and maintained access to the DEA. In particular, McLeod gave seminars and conducted his investment scheme over the course of more than two decades. Many of the DEA employees present when McLeod began giving seminars have retired, and we could not identify or interview many of them.

Moreover, although witnesses told us that McLeod began giving seminars at the DEA in the early or mid-1990s, we were provided very few documents for this period. Records produced by the DEA date only to 2002. As a result, we estimated the number and dates of seminars based on a variety of other sources, including e-mails produced by the DEA and found on FEBG's server, seminar lists found on archived versions of FEBG's website, seminar tracking data and invoices found in FEBG files and computers, entries in calendars maintained by McLeod, and documents and testimony from FEBG Bond Fund investors who identified specific seminar locations and dates. However, we were unable to compile a complete list of seminars or substantiate some information provided by FEBG Bond Fund investors regarding private meetings they had with McLeod in DEA offices.

⁵ We did not interview every FEBG Bond Fund investor employed by the DEA, instead relying on investor questionnaires and other documents we obtained from the FBI for certain information about individual investments.

Additionally, McLeod's suicide and resulting unavailability as a witness impeded our ability to gain a clear picture of his relationship with the DEA. McLeod had only a few employees until he began expanding his businesses between 2002 and 2004. Even after hiring additional employees, McLeod personally handled communications with high-ranking agency officials, and internal FEBG documents and e-mails show that he frequently reprimanded employees who contacted "his" clients. Our findings thus rely heavily on contemporaneous e-mails and other documentary evidence.

The OIG offered the DEA the opportunity to review and comment on a draft of this report. The DEA submitted minor technical comments and expressed concern that the report included information about the conduct of individual DEA employees. In response, the OIG made, where the OIG deemed it necessary and appropriate, edits to the report, and used additional pseudonyms or referred to certain DEA employees by title, consistent with privacy considerations. The DEA also submitted a formal response to this report, which is attached at Appendix A. Administrator Leonhart separately provided the OIG with comments which, where appropriate, we incorporated in the final report and noted their inclusion. Finally, current or former DEA employees whose conduct is criticized in this report also were provided with an opportunity to review relevant portions of the draft report and submit comments. Where appropriate, we included comments we received from these individuals in the final report and noted their inclusion.

III. Organization of this Report

This report is divided into five chapters, including this Introduction. Chapter Two provides background facts about DEA training programs and a brief explanation of federal statutes and Office of Personnel Management (OPM) guidelines pertaining to retirement benefits and financial planning instruction. It also provides background facts about the DEA SBF and information about Ponzi schemes and "affinity fraud." Chapter Three provides facts about McLeod's career and businesses, his establishment of the fraudulent FEBG Bond Fund, and his exposure and suicide. In Chapter Four, we describe in detail the chronology of McLeod's interactions with the DEA. In Chapter Five, we analyze the factors that we believe contributed to and facilitated McLeod's ability to maintain access to DEA employees despite significant red flags about McLeod's accuracy and honesty, and we assess whether there was sufficient evidence to conclude that any DEA employees violated applicable statutes or regulations in their dealings with McLeod. In Chapter Six, we discuss our conclusions and recommendations. Appendix A contains the DEA's response to this report.

CHAPTER TWO BACKGROUND

In this chapter we present background information relevant to this report. We start with a discussion of federal government employee training on retirement and financial planning in general and specifically at the DEA. We also provide background information regarding the DEA SBF (which McLeod used as leverage to obtain access to DEA) and on Ponzi schemes and "affinity fraud."

I. Overview of Training at the DEA

As detailed in Chapter Three, many of the DEA employees who invested in McLeod's Ponzi scheme met McLeod during training programs sponsored by DEA. In this section we provide background information about the DEA's training programs, which will be relevant to understanding how McLeod got access to DEA employees at DEA facilities.

The DEA Training Academy in Quantico, Virginia, is run by the Office of Training. It manages and coordinates basic and advanced training for agents, diversion investigators, and intelligence research specialists, as well as other domestic and international training for DEA employees. In addition to job-related topics, some of these mandatory training programs include instruction on federal benefits and financial and retirement planning. Witnesses told the OIG that in some instances, personnel from the Employee Benefits Unit at DEA Headquarters provided employee and retirement benefits training, followed by an outside financial planner who gave a presentation on investing and financial management. At other times, outside vendors like McLeod provided both retirement benefits and financial planning training. For example, one witness told us that Advanced Agent Training classes always relied on outside instructors who could offer mid-career financial planning training, which Employee Benefits personnel could not provide.

The outside vendors used at the DEA Training Academy are considered "adjunct instructors" and are hired pursuant to approved procedures for obtaining "off-the-shelf" group training. The initial version of these procedures adopted in May 2003 and in effect until November 2004, while McLeod taught at the DEA Training Academy, included no requirements for vetting, reviewing, or removing adjunct instructors. James McCullough, who was the SAC of the DEA Training Academy from June 2002 until his retirement in February 2009, told the OIG that there was an informal vetting process for off-the-shelf vendors prior to his arrival, but that no formal background checks were conducted on potential private instructors.⁶ He said that he thought that it would be necessary to check the criminal history of any individual entering the DEA Training Academy for the first time using the National Crime Information Center (NCIC) database.

⁶ James McCullough is a pseudonym.

Amended procedures adopted in November 2004, shortly before McLeod stopped teaching at the DEA Training Academy, required approval of new adjunct instructors by a Training Unit Chief, a Training ASAC, the Chief of Training Planning and Evaluation Staff, and the Training SAC. The November 2004 procedures also stated that adjunct instructors were to be reviewed annually and could be removed from the list of approved adjunct instructors at the recommendation of the Training Unit Chief and with the concurrence of the Training ASAC, Chief of Training Planning and Evaluation Staff, and the Training SAC. Although we were told that the November 2004 procedures were revised as part of periodic routine review of Training Academy procedures, and the 2004 version did not identify reasons for removing an adjunct instructor, later versions of the procedures adopted in 2007, 2009, and 2011 listed cost inefficiency, unsatisfactory evaluations, inappropriate or unacceptable behavior, security concerns, and conflict of interest.

The November 2004 adjunct instructor procedures also required criminal and credit history checks, including Narcotics and Dangerous Drugs Information System (NADDIS) and NCIC background checks, to ensure that adjunct instructor candidates were eligible to obtain access to the grounds of the DEA Training Academy. However, the former Unit Chief of Planning and Evaluation told the OIG that the adjunct instructor approval process was not fully implemented until 2006, after McLeod had stopped teaching at the DEA Training Academy.⁷ Subsequent revisions of the adjunct instructor procedures in 2007, 2009, and 2011 included a sample form for new adjunct instructors requesting that they provide personal information, including their educational background and professional certification or license, and attach a lesson plan or course curriculum. When asked whether verifying educational credentials and professional certifications was part of the DEA Training Academy's background checks, the former Unit Chief told the OIG that this would be too time intensive and require too much manpower.

Each version of the adjunct instructor procedures since May 2003 has used a simplified acquisition process to procure and pay for training by adjunct instructors. Specifically, the DEA Training Academy pays adjunct instructors for seminars costing between \$1,500 and \$5,000 using a Training Authorization Form (SF-182) rather than going through the full procurement process.⁸ The former Unit Chief told the OIG that this gives the DEA Training Academy the flexibility to hire adjunct instructors quickly and then decide to use or not use a particular instructor.

⁷ The former Unit Chief of Planning and Evaluation, who worked as the Chairman of the Federal Law Enforcement Training Accreditation Board (FLETA), also said that most law enforcement training programs do not perform criminal and credit history checks for outside instructors. FLETA is an independent accreditation process developed in 2000 to provide law enforcement agencies with an established set of professional standards for training programs. To achieve accreditation, an agency must undergo a voluntary assessment of its academy or training program to ensure compliance with the FLETA standards. The DEA Office of Training attained FLETA accreditation in July 2011.

⁸ We could not obtain documentation of the procurement method used for adjunct instructors before May 2003. However, as described in Chapter Four, DEA Training Academy records and FEBG invoices and bank records show that McLeod gave 9 seminars at the DEA Training Academy in 2002, 14 seminars in 2003, and 11 in 2004, receiving between \$1,500 and \$1,800 per seminar.

During the period when McLeod taught DEA seminars, DEA field divisions also separately obtained and paid for training, including financial and retirement benefits training. Witnesses told us that each field division had a Division Training Coordinator (DTC) and an annual training budget. Field divisions could procure training costing under \$2,500 directly from outside vendors using a purchase order and, subject to certain limitations, could determine what type of training to provide and which instructors to use. According to an agent who was an instructor and training coordinator at the DEA Training Academy when McLeod taught there, field divisions had the authority to provide training that falls within the scope of "normal" training but required approval from the Office of Training for novel or specialized training. While the Office of Training maintained a "vendor book" that DTCs could consult and could recommend the use of certain vendors, it could not control what vendors a field division used when training was paid for with division funds.

II. Summary of Guidance on Federal Government Employee Training on Retirement and Financial Planning

The Federal Employees' Retirement System Act of 1986 (FERS Act) granted OPM and federal agencies broad authority to design and implement retirement education programs for employees covered by the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS).⁹ In particular, it authorized agencies to designate "retirement counselors," also called benefits officers, responsible for providing employees with retirement benefits information and mandated that OPM establish a training program for these retirement counselors. See 5 U.S.C. § 8350.

In 2004, Congress passed the Thrift Savings Plan Open Elections Act, subsequently codified at 5 U.S.C. § 8350 note. In recognition of the increasingly complex financial decisions required of federal employees, the 2004 act included various financial literacy provisions, including a requirement that OPM develop and implement a retirement financial literacy and education strategy for federal employees and submit a report to Congress on this strategy. See 150 Cong. Rec. S6106-01 (daily ed. May 21, 2004) (statement of Sen. Akaka).

OPM submitted its Retirement Financial Literacy and Education Strategy to Congress in October 2005. In this strategy, OPM asserted that agencies bore the primary responsibility for providing financial education to federal employees, stating:

⁹ CSRS and FERS are the two largest federal civilian retirement programs. CSRS was closed to new entrants after December 31, 1983. FERS was implemented in 1987 and generally covers those employees who entered federal service after December 31, 1983. CSRS employees had the opportunity to switch to FERS during open seasons held in 1987 and 1998. FERS provides benefits from three different sources: a basic annuity that includes the option to elect a survivor annuity benefitting the employee's spouse and unmarried dependent children; the Thrift Savings Plan (TSP), a defined contribution plan for federal employees; and Social Security. Employees must choose among several different investment vehicles in the TSP, and some seek professional investment advice on these decisions.

Each agency must develop a retirement financial education plan based on the educational model in this strategy. Agencies must insure that their financial education activities are informational and educational in nature and that they do not provide specific financial investment advice.

OPM, *Retirement Financial Literacy and Education Strategy* (Oct. 2005), 11 (emphasis added). Raymond Kirk, the Manager of Benefits Officer Training and Development at OPM, told the OIG that the concern underlying this statement was that the government should not be in the position of endorsing one investment product over another, and that this prohibition would not have been explicit before 2005.

However, a prohibition on using government facilities to promote private business pre-dates OPM's Financial Literacy Guidance. Title 41, Part 102-74, Subpart C of the Code of Federal Regulations regulates conduct on federal property. This Subpart applies to property under the authority of the General Services Administration (GSA) and all persons entering in or on such property, and it states that each occupant agency shall be responsible for the observance of the rules and regulations. See 41 C.F.R. § 102-74.365 and Appendix to Part 102-74. Section 102-74.410 prohibits persons entering in or on federal property from "soliciting . . . commercial or political donations, vending merchandise of all kinds, displaying or distributing commercial advertising, or collecting private debts," with exceptions for certain activities not relevant here. According to GSA's Inventory of Owned and Leased Properties, many DEA buildings where McLeod held seminars, including the Special Operations Division and the Phoenix, Boston, and Miami field divisions, are GSA properties.¹⁰

In October 2006, OPM issued guidelines for providing financial literacy education in the form of financial education "fairs," agency-sponsored events that include exhibits and seminars about financial and retirement planning. Kirk told the OIG that these guidelines serve as guidance for agencies sponsoring financial training but are not legal authority, and that they apply to seminars and other financial training as well. One attachment to the guidelines, entitled "Ground Rules for Speakers/Exhibitors," stated the following:

Do not promote any particular products, services, professional credentials, firms or individuals. Please convey the uniform message that there are many alternatives and wise individuals investigate and understand their options.

You are acting as a representative of a broad-based professional organization, not your firm. For example, you will be introduced as

¹⁰ A person found guilty of a violation of the conduct regulations in Subpart C while on GSA property shall be fined under Title 18 of the U.S. Code, imprisoned for not more than 30 days, or both. See 41 C.F.R. § 102-74.450; see *United States v. Strong*, 724 F.3d 51 (1st Cir. Jul. 19, 2013); *United States v. Bichsel*, 395 F.3d 1053 (9th Cir. 2005). However, the OIG found no case law interpreting or showing prosecution under 41 C.F.R. § 102-74.410.

“John Doe, representing the Securities Industry Association,” NOT
“John Doe from XYZ Company.”

Do not distribute business cards or other materials with the name of your company or your business address on them, even if you are approached by an attendee.

Participants may not claim that they are endorsed by the sponsoring agency.

Benefits Administration Letter (BAL) 06-107, Attachment 3. Another attachment to the BAL included disclaimers stating that the government did not endorse particular speakers. See *id.* at Attachment 4.

In August 2011, in response to the discovery of McLeod’s Ponzi scheme, OPM disseminated two FINRA fact sheets developed to help benefits officers and employees avoid investor fraud. See BAL 11-107. One provided guidance for selecting speakers, including checking that speakers are properly qualified to talk about retirement issues and reviewing seminar materials in advance to identify red flags. Recommended steps include verifying FINRA licenses or registrations, investment adviser registrations, and insurance agent licenses, and confirming any background information using FINRA BrokerCheck or through the SEC or appropriate state regulators. In this fact sheet, FINRA stated that agencies can request seminar materials in advance and forward them to its Investor Education Office for review. The second fact sheet provided tips for spotting scams promoted during retirement seminars and advised investors to be skeptical of certain claims, including that they could withdraw seven percent or more per year.

III. Overview of the DEA SBF

The DEA Survivors Benefit Fund (DEA SBF) is a nonprofit, charitable organization that provides financial assistance to the families of DEA agents and employees killed in the line of duty.¹¹ As detailed in Chapter Four, McLeod made large contributions to the DEA SBF and leveraged those contributions into obtaining access to DEA employees through his seminars. In this section we provide background information about the DEA SBF that will be relevant to understanding how McLeod obtained access to DEA employees.

In 1985, individual DEA field divisions began to set up local organizations to raise money for the families of fallen agents. By 1997, separate organizations existed in Miami, Los Angeles, Detroit, Phoenix, and New York. The DEA SBF was incorporated in October 1997 to consolidate the local survivors funds into a single national organization, which was announced in April 1998 by then-DEA

¹¹ While incorporation documents and IRS filings refer to the organization as the “DEA Survivors’ Benefit Fund,” other documents, including press releases and the current website, refer to it as the “DEA Survivors Benefit Fund.”

Administrator Thomas Constantine. Until 2012, the DEA SBF had no paid employees or office space and was staffed entirely by volunteers.

The DEA SBF offers three principal benefits: a \$20,000 line of duty death benefit paid within 24 hours of death to the families of all DEA employees and deputized task force officers, an additional \$10,000 benefit paid for each dependent child under the age of 21, and continuing educational grants to any dependent child of a DEA employee or deputized task force officer. Since its inception, the DEA SBF has paid approximately \$4.5 million in financial assistance to the families of DEA employees killed in the line of duty, including death benefits, educational grants, and academic scholarships to surviving family members. According to the DEA SBF website, currently there are 52 children of deceased employees who are eligible for higher educational assistance.

The DEA SBF is governed by a Board of Directors consisting of retired and active DEA employees. The Board of Directors meets annually at DEA Headquarters. This meeting typically is scheduled during the week of May 15 to coincide with Police Week.

While the DEA SBF bylaws include no DEA-related criteria for selecting Directors, 5 of the 10 seats on the Board of Directors are held by representatives of the field divisions that organized the local survivor funds, namely Detroit, New York, Miami, Phoenix, and Los Angeles. One Board seat is held by a representative of the Association of Former Federal Narcotics Agents, another by a representative from the field division that held the top annual fundraising event for the DEA SBF, and a third by a DEA Headquarters representative. The remaining two Board seats are at-large seats occupied by Richard Crock, who has served as the DEA SBF Chairman since its inception, and another retired DEA agent.

Board members are elected by majority vote at each annual meeting. If a Board member leaves the DEA SBF Board of Directors, including by transferring out of one of the field divisions with designated seats on the Board, the Board votes to fill that seat. Consistent with this, one witness told us that his Board position effectively came with the job when he was promoted into a senior management position in the New York Field Division, and another said that he was asked to resign his Board seat when he retired from the Phoenix Field Division.

The DEA SBF raises funds in part by participating annually in the Combined Federal Campaign. Additionally, many field divisions host regional golf tournaments to raise funds for the SBF, which are planned and organized by DEA staff. These golf tournaments charge registration fees, and many DEA employees participate in or volunteer at them.¹² DEA employees involved in organizing golf tournaments also seek contributions from corporations and other donors at various sponsorship levels, generally \$1,000, \$2,500, and \$5,000. Corporate sponsors gain the chance to have foursomes compete in the tournament, to place a company logo at various

¹² Although outside the scope of this review, witnesses told us that DEA SBF golf tournaments were considered to be a regular work day, and they did not take leave to attend.

points on the course, or to include promotional materials in the "goody bags" distributed to players. DEA employees also conduct other fundraising for the SBF, such as holding annual dinners, producing and selling cookbooks, selling hats and t-shirts, and conducting lemonade and bake sales, silent auctions, and raffles.

Money from the regional golf tournaments and other fundraisers is sent to one central fund, now located in Washington, D.C. The DEA SBF's assets have grown substantially over the years. In 1997, it had only \$60,000 in assets. In May 2002, its total assets were \$744,489. By 2011, the DEA SBF raised \$930,690 through fundraising events and \$80,773 through the Combined Federal Campaign (CFC), and had assets totaling more than \$5.9 million.

Support of and involvement in the DEA SBF is a priority at the DEA. DEA e-mails indicate that senior officials at DEA Headquarters at times served on the DEA SBF Board of Directors and participated in discussions about DEA SBF fundraising and governance. In December 2007, for example, one DEA SBF Board member sent an e-mail to then-Acting Administrator Leonhart stating:

I heard you're bringing in the SACs next week for a meeting and I wondered if you'd take a minute to re-emphasize to them that you're a supporter of the SBF and you expect them to follow your lead and be supporters as well. I just think from time to time it doesn't hurt to bring this up with the SACs to remind them of how important it is to ensure their division personnel know the SACs support the SBF and the related SBF activities.

DEA e-mails indicate that in October 2009 senior officials discussed forming a unit at DEA Headquarters to provide administrative and logistical support to the DEA SBF, such as compiling annual financial reports and tracking funding needs for the DEA SBF Board of Directors. When asked about the relationship between the DEA and the DEA SBF, Keith Kruskall, now an Associate SAC in the New York Field Division and a member of the DEA SBF Board of Directors, told the OIG:

In my opinion, all along, you would consider them as one. Up until recently, when all of this [about McLeod] broke, and now DEA is definitely, you know, trying to make themselves separate. But still, there [are] members that act as members on the national Board, our Chief of Operations is a national Board member, so I don't know how you can say that DEA is separate from the DEA Survivors Benefit Fund. All of the benefits of it go to help DEA agents. The SBF is ingrained in DEA's culture. . . . It's part of DEA.

E-mails reviewed by the OIG show that donors to the DEA SBF have received special recognition from DEA officials. In June 2009, for example, the DEA and DEA SBF hosted a Sponsor Appreciation Day, including a briefing, dinner at Ruth's Chris Steakhouse, and an interactive tour of the DEA Training Academy. The DEA and DEA SBF held a similar event for corporate sponsors in April 2010, including cocktails and dinner at the Ritz Carlton. Invitees to these events included

representatives from large corporate donors, including several companies that had done business with the DEA.

IV. Overview of Ponzi Schemes and "Affinity Fraud"

Although a discussion of the federal securities laws is beyond the scope of this report, two concepts are critical to understanding the investment scheme perpetrated by McLeod.¹³ The first is a Ponzi scheme, a fraudulent investment in which money from new investors is used to pay existing investors and give the false impression that the investment is successful. *See, e.g., In re Bernard L. Madoff Inv. Sec. LLC*, 654 F.3d 229, 232 (2d Cir. 2011). Ponzi schemes generally collapse when the flow of new investments can no longer support the payments required on earlier invested funds. *See id.* at 232. The "investments" used to perpetrate Ponzi schemes in recent years have ranged from fictitious promissory notes or certificates of deposit to fraudulent business and real estate investments.¹⁴ According to the SEC, Ponzi scheme red flags include:

- High investment returns with little or no risk;
- Overly consistent returns regardless of market conditions;
- Investments that are not registered with the SEC or with state regulators;
- Investments sold by unlicensed individuals or unregistered firms;
- Secretive or complex investment strategies;
- Issues with paperwork, such as excuses about why prospective investors cannot review information about an investment in writing or account statement errors; and
- Difficulty receiving payments or cashing out investments, including offers to "roll over" promised payments by offering higher investment returns.¹⁵

The SEC cautions investors to be "highly suspicious" of any "guaranteed" investment opportunity.¹⁶

Related to this is the concept of "affinity fraud," an investment scam targeting members of an identifiable, tight-knit group, such as a religious or ethnic

¹³ For a description of the antifraud securities laws relevant to the McLeod case, please see the Emergency Complaint, *SEC v. Estate of McLeod*, Case. No. 10-22078-CIV-MORENO (S.D. Fla. filed Jun. 24, 2010).

¹⁴ See SEC Enforcement Actions Against Ponzi Schemes, <http://www.sec.gov/spotlight/enf-actions-ponzi.shtml> (accessed Mar. 4, 2014).

¹⁵ See SEC, Ponzi Schemes, <http://www.sec.gov/answers/ponzi.htm> (accessed Jan. 14, 2013).

¹⁶ *See id.*

community, retired or elderly individuals, members of a particular workforce, or a professional association.¹⁷ According to the SEC, many affinity scams involve Ponzi schemes in which the perpetrators of the fraud frequently are or pretend to be members of the targeted group and exploit the trust that exists within that group to promote a fraudulent investment. The SEC website includes the following tips to avoid affinity fraud:

- Check out everything – no matter how trustworthy the person seems who brings the investment opportunity to your attention Be aware that the person telling you about the investment may have been fooled into believing that the investment is legitimate when it is not.
- Do not fall for investments that promise spectacular profits or “guaranteed” returns. If an investment seems too good to be true, then it probably is. Similarly, be extremely leery of any investment that is said to have no risks
- Be skeptical of any investment opportunity that is not in writing. . . . You should also be suspicious if you are told to keep the investment opportunity confidential.
- Don’t be pressured or rushed into buying an investment before you have a chance to think about–or investigate–the “opportunity.” . . . Be especially skeptical of investments that are pitched as “once-in-a-lifetime” opportunities, particularly when the promoter bases the recommendation on “inside” or confidential information.¹⁸

¹⁷ See SEC, Affinity Fraud: How to Avoid Investment Scams that Target Groups, <http://www.sec.gov/investor/pubs/affinity.htm> (accessed May 5, 2013).

¹⁸ See *id.*

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CHAPTER THREE

WAYNE MCLEOD AND THE FEBG BOND FUND

In this Chapter, we provide background information about Wayne McLeod's career and businesses, his establishment of the FEBG Bond Fund, the collapse of the Ponzi scheme, and his subsequent suicide. Given McLeod's unavailability as a witness, some of the information in this Chapter relies on public sources and contemporaneous documents found in McLeod's files or recovered from his computer hard drive.

I. Background Information on Wayne McLeod

A. Educational Background and Financial Certifications

According to press reports, McLeod graduated from high school in Jacksonville, Florida, in 1980. Witnesses told us that McLeod claimed at various times in personal conversations and during seminars to have attended the University of Georgia on a baseball scholarship and to have earned a degree in finance, a Master of Business Administration from the Wharton School of the University of Pennsylvania, and a law degree. We found no evidence that any of these claims were true.

McLeod did not list a college degree or other educational credentials in the seminar marketing documents he provided to federal agencies. Instead, he stated that he was a registered representative and investment adviser and "ha[d] currently completed or [was] completing" studies for a long list of professional certifications, including Certified Retirement Planner, Certified 401(k) Advisor, Certified Divorce Planner, and Certified Employee Benefit Specialist (CEBS) from the International Foundation of Employee Benefit Plans (IFEFP) and the Wharton School.¹⁹ McLeod's marketing materials were confusingly written and seemed to imply that McLeod was completing studies toward his Certified Financial Planning (CFP) and Certified Estate Planning (CEP) certifications, but had obtained the other designations he listed. However, this may not have been the case: according to the IFEFP, McLeod completed some coursework but never held the CEBS

¹⁹ FINRA lists six professional designations accredited by the American National Standards Institute or the National Commission for Certifying Agencies: Certified Investment Management Analyst, Certified Financial Planner, Certified Medicaid Planner, Certified Retirement Counselor, Certified Retirement Financial Advisor, and Certified Senior Advisor. None of the certifications listed by McLeod were accredited professional designations, and several required only limited study and examination to obtain certification. A report by the Consumer Financial Protection Bureau stated that the titles and acronyms for different professional designations are often similar or, in some cases, nearly identical to other designations, making it extremely difficult for consumers to distinguish between the qualifications or legitimacy of different designations. See CFPB, *Senior Designations for Financial Advisers: Reducing Consumer Confusion and Risk*, available at <http://1.usa.gov/1oGzR1E> (Apr. 18, 2013).

designation.²⁰ We have not sought to confirm the validity or significance of McLeod's other claimed certifications.

B. Early Career and Formation of FEBG

McLeod went to work at Prudential Insurance Company in Jacksonville shortly after graduating from high school and worked for Prudential as an insurance agent until 1987. McLeod told SEC investigators that he began working as a registered representative, also known as a general securities representative or stockbroker, for Prudential in 1986. FINRA records show that McLeod was a broker with Pruco Securities, a Prudential subsidiary, between October 1986 and September 1987.

Beyond this, we have little information about McLeod's early career, particularly about how he gained expertise in the federal retirement system. According to FEBG marketing documents, McLeod began providing retirement benefits training to federal agencies in the early 1980s and did consulting work regarding CSRS for unions and management organizations, focusing on preparation for retirement in pre-retirement and financial planning workshops. McLeod told SEC investigators that he served a client base of federal judges and employees while working for Prudential in 1986, then decided to "differentiate [himself] and [go] after the people who [he] met in . . . law enforcement."

McLeod left Prudential in August 1987 and founded the National Association of Federal/Postal Employees, Inc. (NAFPE), the parent company of FEBG and FEIS. Two months later, in October 1987, McLeod filed for personal bankruptcy under Chapter 7.²¹ We have little information about the activities of McLeod and his companies between 1987 and 1993, although, as discussed below, it appears that McLeod began making presentations to DEA employees in 1989.

McLeod rejoined Prudential in 1993. It is unclear whether he worked as an insurance agent, financial advisor, or stockbroker at that time. According to handwritten notes found in FEBG files, his return to Prudential was motivated by financial considerations, including the need to reduce FEBG business expenses, obtain free health and dental insurance for his family, and receive consistent weekly pay. McLeod continued to run FEBG while at Prudential but did not tell clients or government agencies about his association with Prudential, except that he marketed its products.

²⁰ According to the IFEBP website, the CEBS certification is the product of a partnership between it and the Wharton School of the University of Pennsylvania. The CEBS certification program includes an eight-course curriculum with options for independent and online study or classroom instruction available at eight colleges and universities around the country. Applicants seeking CEBS certification must take required and elective courses, pass exams, meet certain precertification standards of personal and professional conduct, and abide by principles of conduct.

²¹ A Chapter 7 bankruptcy involves a liquidation of the debtor's non-exempt assets, and remains on the debtor's credit report for 10 years from the filing date. See 15 U.S.C. § 1681c(a); see also Experian Credit Advice, at <http://www.experian.com/ask-experian/20090624-when-chapter-7-bankruptcy-is-deleted.html> (Jun. 24, 2009).

In May 1995, McLeod divorced his first wife and was ordered to pay child support. By August 1995, however, court records show that he was in arrears by \$1,893.²² According to court documents, McLeod left Prudential involuntarily in August 1995 because the sales he made through FEBG while employed with Prudential violated SEC rules. This departure caused a substantial and material reduction in his income. The court found McLeod in contempt based on his failure to pay child support but lowered his support payments.

After his departure from Prudential, McLeod appears to have focused on developing his seminar business through FEBG. This does not appear initially to have been lucrative. Documents found in McLeod's files shows that his income between 1997 and 2000 was substantially lower than in subsequent years. In May 1999, the Internal Revenue Service (IRS) filed a tax lien against McLeod in the amount of \$39,214, which was released the next year.²³ According to documents from McLeod's files, his earnings increased significantly in 2001.

C. Expansion of FEBG and Formation of FSAMG

Until 2002, McLeod ran FEBG and FEIS from a small office described by one witness as a "one-room schoolhouse" on Amelia Island, Florida. In early 2002, McLeod moved into offices on the 15th floor of the Prudential Building in Jacksonville. Later that year, McLeod began efforts to form a network of regional financial consultants, planning to generate clients through seminars. McLeod also hired several retired federal officials around this time, ostensibly to serve as liaisons with the regional consultants. However, one of these retired officials, a former SAC of the DEA's San Francisco Field Division between 1998 and 2001, told the OIG that "[McLeod] was just looking for the names . . . to say 'I've got these guys on the Board or these guys in the office working for me' . . . to maintain credibility with the agencies."

By 2004, FEBG had developed a business plan to broaden its client base, including increasing its marketing efforts and obtaining GSA approval for FEBG seminars.²⁴ In connection with this strategy, McLeod sought to increase name recognition for FEBG. While McLeod's promotional efforts included traditional media, such as print advertisements in newsletters targeting federal employees, they also included arena boxes and electronic advertisements during NFL games and all-expenses-paid trips to the Super Bowl. According to an SEC analysis of FEBG accounting records for the period between January 1, 2005, and June 16, 2010, McLeod spent at least \$1,064,184 on promotional expenses, including Jacksonville Jaguars corporate arena boxes and Super Bowl packages.

²² Effective January 1993, credit reports are required to include information about overdue child support for 7 years. See 15 U.S.C. §§ 1681a(j), 1681s-1.

²³ Federal tax liens remain on a person's credit report for 7 years from the date of payment. See 15 U.S.C. § 1681c(a)(3).

²⁴ The DEA used a simplified acquisition process to procure and pay for training and did not enter into a centralized government contract with McLeod. As a result, we did not look into the GSA approval process.

In 2007, McLeod incorporated FSAMG, a new financial and asset management company that assumed the functions of FEIS. FEBG documents indicate that this change was motivated by tax problems. According to these documents, NAFPE (the parent company of FEBG and FEIS) held significant amounts of cash in its bank account and transferred funds to a separate FEIS bank account as needed, but FEIS was the only entity that filed federal tax returns. In late 2004, FEIS faced approximately \$400,000 to \$500,000 in unpaid payroll tax liability. FEBG records contain no indication of how this liability was resolved. McLeod voluntarily dissolved FEIS in November 2007.

D. McLeod's Retirement and Financial Planning Seminars

FEBG files contain records for seminars given by McLeod dating back to 1997 at a wide range of government agencies, including the U.S. Secret Service, IRS Criminal Investigation, U.S. Immigration and Customs Enforcement (ICE), the FBI, and the DEA. At various times between 2002 and 2009, McLeod taught retirement and financial planning classes at the DEA Training Academy, the FBI Academy, and the Federal Law Enforcement Training Center. These seminars generally ranged from 2 to 8 hours and covered topics related to federal employee retirement benefits under CSRS, FERS, and the Thrift Savings Plan (TSP). McLeod frequently tailored his presentations to address the specific concerns of the audience, such as special issues affecting law enforcement officers, who face mandatory retirement at age 57.

McLeod's seminar fees generally ranged from \$1,500 to \$3,000. According to an SEC analysis of FEBG's profit and loss statements, the company was never profitable, and seminar fees were not nearly sufficient to meet FEBG's operating expenses. In 2007, for example, FEBG's expenses totaled more than \$2.4 million for payroll, rent, and other business expenses, including \$155,782 in "contributions" and \$153,484.28 in travel costs that each alone exceeded the \$127,000 in seminar fees earned that year. FEBG documents indicate that McLeod also did numerous free seminars for agencies.

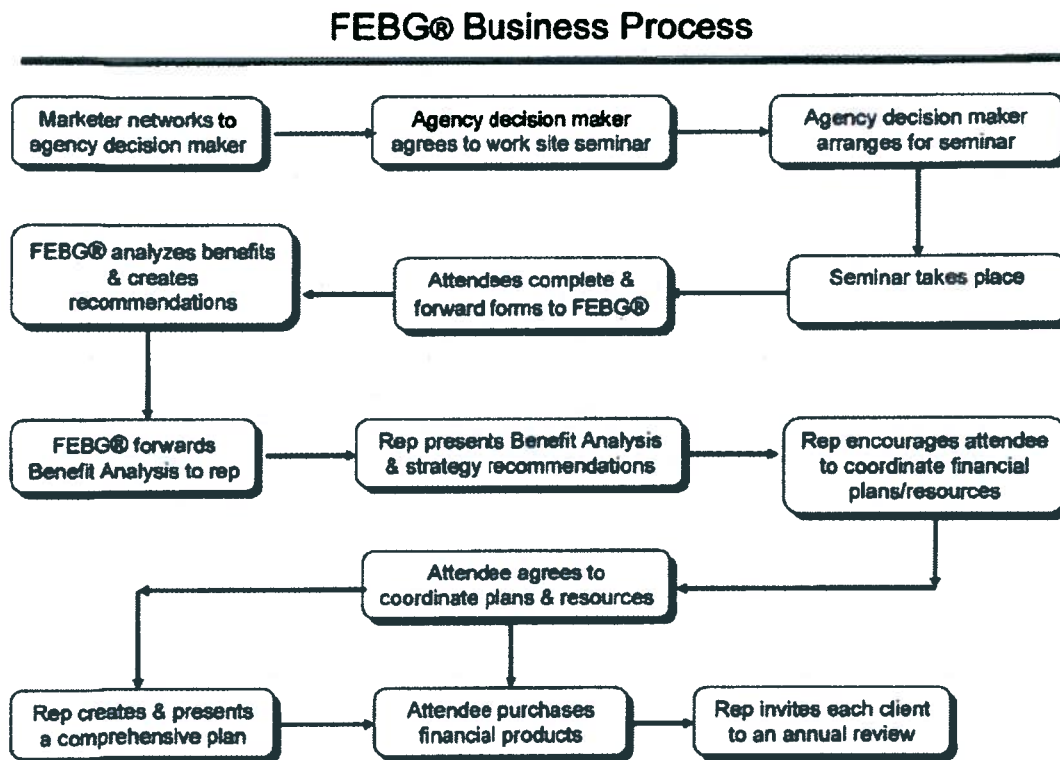
FEBG offered the opportunity for each seminar attendee to obtain a personalized benefits analysis at no charge. To obtain this analysis, employees filled out a benefits questionnaire, which McLeod generally asked agencies to distribute before the seminar. These questionnaires requested personal, family, and personnel information, including hire dates, grade and step, salary, amounts of federal life insurance coverage, and TSP balances and allocation, as well as supporting personnel documents and Social Security statements. McLeod entered the employee's information into a software program that projected retirement benefits and then created a benefits book explaining estimated salary increases and retirement income, which he called a "Stage 1" analysis.

FEBG documents indicate that McLeod frequently used the "Stage 1" benefits analyses as a hook to gain investment clients. For an additional fee, McLeod offered a "Stage 2" analysis, a written financial plan that included retirement, investment, and tax and estate planning recommendations, created after reviewing an employee's complete financial information. McLeod generally charged \$250 for

Stage 2 recommendations, and in several instances agencies paid FEBG to provide these analyses to employees. Documents in FEBG files indicate that many of McLeod's recommendations involved obtaining additional life insurance through his firm, rolling over existing investments into his brokerage account, or reducing the employee's TSP contributions to 5 percent of his or her income to obtain the full employer match and then investing the funds previously contributed to the TSP through his broker-dealer. "Stage 3" analysis consisted of full asset management of an employee's investment accounts and TSP allocation through FEIS and FSAMG.

Rather than a stand-alone business, these seminars were a marketing tool that allowed McLeod to build a reputation as an expert in retirement benefits and financial planning for federal employees, gain access to the law enforcement community, and prospect for clients, some of whom later invested in the Ponzi scheme. Seminar attendees could choose whether to complete investor questionnaires, and FEBG documents indicate that not all attendees did so. Some attendees completed the questionnaire only to obtain a retirement estimate and did not do additional business with McLeod. However, an undated strategic plan found in FEBG files (see Figure 3.1 below) shows that McLeod's business model was premised on attracting clients through agency seminars and using the benefits analysis he provided to attendees as an entry point to encourage clients to purchase additional financial products.

FIGURE 3.1



According to this strategic plan, historic data indicated that 90 percent of seminar attendees purchased a benefits analysis, while 60 percent of seminar attendees invested after attending a workshop, with 70 percent of those buying a financial plan or product from FEBG. The plan described FEBG's business model as "deliver[ing] large numbers of prospects with \$100,000 to \$500,000 of readily investable assets growing to more than \$1,000,000 by 2006 [and] provides inferred [sic] credibility because of the agency sponsorship."

Witnesses told us that McLeod was a compelling speaker, and he generally earned highly positive reviews from seminar attendees. However, some attendees complained that McLeod promoted himself and his companies during seminars. One DEA agent who attended a seminar given by McLeod at the DEA Training Academy stated in an evaluation, "Mr. McLeod is very arrogant. It would have been more interesting to listen to if he hadn't been talking so much about himself and his accomplishments." A written evaluation by an ICE agent who attended a June 2008 seminar stated that McLeod earned high marks for knowledge of the retirement system but gave "[w]ay too many sales pitches for his company! . . . Was this an infomercial? Did the Gov[ernmen]t pay for this? Too many side issues regarding his other businesses."

An audio recording of a seminar in at a DEA field office obtained by the OIG included statements by McLeod that he helped create the retirement system for federal judges, had offices in 38 states and planned to add 50 more offices by the end of the year, and did seminars for Congress and the federal judiciary. While McLeod did hold several seminars for federal district courts, we found no evidence that these other claims were true. During this seminar, McLeod told attendees, "If you are going to use outside financial advisors, call me on my business card number," and "I manage money for a living; you are welcome to call me to ask for a second opinion."

Other information provided to the OIG further confirms that McLeod promoted himself and his businesses during agency seminars. Several versions of the PowerPoint presentations that McLeod used during seminars contained information about McLeod's businesses, such as "[FEIS] is a financial planning firm opening up offices coast to coast to better serve your needs. . . . [FEBG] will . . . coordinate with personal assets to help develop a complete Financial Plan, which will encompass money management, tax planning & estate planning." Other versions of his presentation had the FEBG corporate logo on every page.

McLeod also distributed promotional materials at some seminars. For example, one FEBG Bond Fund investor gave us copies of FEBG brochures she said she received during seminars held in the DEA's Phoenix Field Division as early as 2001. One brochure included contact information for McLeod and the retired federal agents who worked for him, listing their former titles. Additionally, during a July 2008 seminar at the DEA's North Central Lab in Chicago, Illinois, McLeod handed out a brochure for FEBG and FSAMG, a separate brochure for term life insurance offered through FEBG, and an advertisement entitled, "Six (6) Reasons to Invest with FSAMG."

As discussed in more detail in Chapter Four, McLeod at times was allowed to meet personally with employees after seminars and to use agency facilities to hold these meetings.

II. The FEBG Bond Fund

A. Overview

Beginning in 1988, McLeod solicited clients to invest in a purported Bond Fund, which he called the FEBG Bond Fund. McLeod used information from the employee benefits questionnaires and Stage 2 forms to target high-ranking or high-earning employees, or employees with substantial financial holdings, to become his personal clients. McLeod offered to personally manage the money of these individuals and later solicited many of them to invest in the FEBG Bond Fund. McLeod placed the names of Bond Fund investors on his "confidential client" or "do not contact" list and prohibited other FEBG and FSAMG employees from dealing with these clients without his consent.

McLeod generally described the FEBG Bond Fund to prospective investors as a fund backed by long-term federal government securities that offered guaranteed, tax-free annual returns of 8 to 10 percent depending on the duration of the investment, with no fluctuation or risk to the value of the principal. These terms were substantially more favorable than any terms available for comparable investment vehicles available to the public.²⁵ McLeod used different descriptions of the fund to solicit different investors, admitting to SEC investigators that he told prospective investors "anything they wanted to hear" to get them to invest. Other descriptions of the FEBG Bond Fund included that it was a corporate bond in which the money was used to secure an open-ended line of credit to expand his companies; a program created by McLeod "to manage several survivor benefits funds" invested in government securities; and a five-year bond set up for the widows and children of law enforcement officers.

McLeod emphasized to prospective investors that the FEBG Bond Fund was a confidential fund restricted to an exclusive list of clients, telling one prospective investor, "This fund . . . holds money for 18 Federal judges, 4 Members of Congress and 13 high level agency heads. . . . While I do not market this portfolio as the participation is limited to a trusted few, I take the confidentiality of it with great regards. Since I control Blind Trust[s] for 22 of the participants, I have no choice."²⁶ Once they had invested, McLeod instructed FEBG Bond Fund investors

²⁵ See, e.g., Vanguard High-Yield Tax-Exempt Fund Investor Shares, <http://tinyurl.com/3felvev> (accessed Mar. 4, 2014) (annual interest return has fluctuated between 4.04 and 6.15 percent); Nuveen High Yield Municipal Bond Fund, <http://tinyurl.com/lg7hl73> (accessed Mar. 4, 2014) (average annual total return since 1999 of 4.49 percent, with annual gains as high as 42 percent and losses up to 40 percent due to wide fluctuations in share prices).

²⁶ Again, we are not aware of any evidence that McLeod's statement about the Bond Fund holding money for "18 Federal judges, 4 Members of Congress and 13 high level agency heads" was
(Cont'd.)

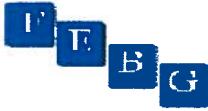
not to discuss their investments with anyone. One FEBG Bond Fund investor told us that after the Ponzi scheme had collapsed, he was surprised to learn that one of his closest friends also had invested; they had never previously discussed the investment.

To invest in the FEBG Bond Fund, investors submitted checks payable to FEBG or wired funds to a Wachovia bank account held in FEBG's name, which served as FEBG's operating account. McLeod did not purchase government securities or make other investments with the money from these investors as promised, instead keeping the funds in the FEBG operating account, which he then used to pay for business and promotional expenses and to make large transfers to his personal bank account. Between August 2003 and May 2010, McLeod transferred more than \$6 million from the FEBG operating account to his personal bank account. On occasion, McLeod also deposited money from Bond Fund investors directly into his personal bank account rather than transferring it from the FEBG operating account.

FEBG Bond Fund investors received little documentation from McLeod, and the amount of documentation apparently varied by investor. Some investors received a "promissory note" memorializing the amount of the investment, the interest rate, and the terms of use by FEBG. Other investors received periodic statements showing consistent upward growth over the duration of the purported bond period. We found no evidence that end of year tax statements were issued for the Bond Fund. Figure 3.2 is a sample periodic FEBG Bond Fund statement purporting to credit the account with 10% interest, paid as simple interest the first year and compounding quarterly thereafter.

accurate. We also found no evidence that McLeod managed FEBG Bond Fund investments in a blind trust. However, as we discuss in Chapter Four, some senior DEA officials did invest in the Bond Fund.

FIGURE 3.2
Sample FEBG Bond Fund Statement



Federal Employee Benefits Group
841 Prudential Drive, Suite 1500
Jacksonville, FL 32207
Phone: 904-398-1001

Account Number:
Statement as of:

*Your FEBG Bond
Account*

FEBG Bond Activity	Transaction Date	Deposit Amount	Change in Account Value	New Balance
Deposit	11/17/2003	\$ 18,000.00		\$ 18,000.00
Interest Earned	2/17/2004	\$ 18,000.00	\$ 450.00	\$ 18,450.00
Interest Earned	5/17/2004	\$ 18,000.00	\$ 900.00	\$ 18,900.00
Interest Earned	8/17/2004	\$ 18,000.00	\$ 1,350.00	\$ 19,350.00
Interest Earned	11/17/2004	\$ 18,000.00	\$ 1,800.00	\$ 19,800.00
Interest Earned	2/17/2005	\$ 18,000.00	\$ 2,295.00	\$ 20,295.00
Interest Earned	5/17/2005	\$ 18,000.00	\$ 2,802.38	\$ 20,802.38
Interest Earned	8/17/2005	\$ 18,000.00	\$ 3,322.43	\$ 21,322.43
Interest Earned	11/17/2005	\$ 18,000.00	\$ 3,780.00	\$ 21,780.00
Interest Earned	2/17/2006	\$ 18,000.00	\$ 4,324.50	\$ 22,324.50
Interest Earned	5/17/2006	\$ 18,000.00	\$ 4,882.61	\$ 22,882.61
Interest Earned	8/17/2006	\$ 18,000.00	\$ 5,454.68	\$ 23,454.68
Interest Earned	11/17/2006	\$ 18,000.00	\$ 5,958.00	\$ 23,958.00
Interest Earned	2/17/2007	\$ 18,000.00	\$ 6,556.95	\$ 24,556.95
Interest Earned	5/17/2007	\$ 18,000.00	\$ 7,170.87	\$ 25,170.87
Interest Earned	8/17/2007	\$ 18,000.00	\$ 7,800.15	\$ 25,800.15
Interest Earned	11/17/2007	\$ 18,000.00	\$ 8,353.80	\$ 26,353.80
Interest Earned	2/17/2008	\$ 18,000.00	\$ 9,012.65	\$ 27,012.65
Interest Earned	5/17/2008	\$ 18,000.00	\$ 9,687.96	\$ 27,687.96
Interest Earned	8/17/2008	\$ 18,000.00	\$ 10,380.16	\$ 28,380.16
Interest Earned	11/17/2008	\$ 18,000.00	\$ 10,989.18	\$ 28,989.18

B. Collapse of the FEBG Bond Fund

1. Financial Difficulties

FEBG Bond Fund investors could choose to receive annual or quarterly interest payments from McLeod, or to roll over the interest back into the fund to earn compound growth. During 2008, McLeod began to experience cash flow issues and had difficulty making interest payments to Bond Fund investors.

McLeod implemented several rounds of staff layoffs and reorganizations between 2008 and 2010. Nonetheless, his financial difficulties continued. In May 2009, McLeod stated in an e-mail to FEBG Vice President Ron Rountree, "[W]e have no cash available in FEBG's account after June 15th payroll run and I WILL NOT loan any additional money w[ith]o[ut] a solid plan and serious changes in operational expenses, market strategy and sound business model for positive returns on my investment."

By June 2010, McLeod's companies were experiencing such severe cash flow problems that he told his employees that they would be paid late, then obtained auto collateral loans against two of his vehicles and deposited the money in FEBG's Compass Bank account, which he used for payroll. On June 7, 2010, McLeod sent an e-mail to an outside vendor stating, "I'll be laying off staff and downsizing as well as closing several business ventures in the coming weeks." The next week, he e-mailed another outside vendor, "This week has provided me with no additional cash flow."

2. SEC Investigation

In May 2010, a retired DEA agent who had tried unsuccessfully to redeem his investment complained to the SEC and FINRA about the FEBG Bond Fund. Based on the telephone tip and a subsequent referral from FINRA, SEC staff initiated a "cause examination" of FSAMG on June 10, 2010.²⁷ SEC investigators interviewed McLeod on two separate days, June 15 and 17, 2010. During the first interview, McLeod denied that FEBG managed funds or had sent out account statements to investors, or that there were investors in FEBG other than himself. When SEC investigators confronted him with an FEBG Bond Fund statement, however, McLeod said that FEBG had borrowed money through loans made "on a handshake." In his second interview on June 17, 2010, McLeod admitted that the FEBG Bond Fund had been a scheme from the outset in which funds from new investors were used to make interest payments for existing investors (*i.e.*, a Ponzi scheme). Based on records provided by McLeod, the SEC determined that 139 current investors had contributed at least \$34 million to the FEBG Bond Fund as of June 2010, and that there had been approximately 260 investors in the FEBG Bond Fund since its inception.²⁸

On June 18, 2010, McLeod sent an e-mail to FEBG Bond Fund investors stating, "After more than 20 years I have deemed it necessary to terminate the FEBG Fund effective immediately. . . . For those who are receiving current income via the interest payments for the month of June and beyond, those payments have been suspended and nothing further will be sent." McLeod spoke to several investors who received this e-mail and assured them that their money was still there.

On June 22, 2010, SEC attorneys were scheduled to take McLeod's deposition at the U.S. Attorney's Office in Jacksonville, beginning at 9 a.m. At 8:50 a.m., McLeod sent an e-mail to one of the attorneys, stating, "I will not make it this morning. I have decided that death was a better option. I am truly sorry for all the harm I caused." Later that morning, McLeod was found dead of a self-inflicted gunshot wound.

²⁷ The SEC initiates conducts examinations "for cause" where there is a specific indication of wrongdoing, such as an investor complaint.

²⁸ Later court documents filed by the receiver identified 130 investors with investments totaling \$32,641,301.78. See Notice of Filing Receiver's Revised Exhibit "A," at Exh. A.

Two days later, on June 24, 2010, the SEC filed an Emergency Complaint and an *Ex Parte* Emergency Motion in the U.S. District Court for the Southern District of Florida, seeking an asset freeze and other emergency relief, including appointment of a receiver. The SEC Complaint charged that McLeod, FEBG, and FSAMG had violated various anti-fraud provisions of the federal securities laws.²⁹ That same day, a district court judge entered an emergency order temporarily freezing the assets of FEBG, FSAMG, and McLeod's estate, and appointing Michael Goldberg, a Florida attorney, as the receiver over FEBG and FSAMG. On July 6, 2010, the district court entered a preliminary injunction freezing the assets of FEBG, FSAMG, and McLeod's estate and ordering the preservation of records.

Since June 2010, Goldberg has worked to locate and liquidate assets purchased by McLeod using money from FEBG Bond Fund deposits. Goldberg has overseen the claims process to distribute any recovered funds to investors. Although Goldberg determined that McLeod's Ponzi scheme was suffering severe liquidity problems at the time it was discovered, he located assets and life insurance policies worth \$1.75 million that McLeod had purchased with Ponzi proceeds. On March 9, 2011, the district court approved a settlement with McLeod's widow allowing her to keep \$442,500 in life insurance proceeds and certain personal property. On April 30, 2014, the district court issued an order authorizing the receiver to distribute money to claimholders and establishing procedures to terminate the receivership.

C. Claims by FEBG Bond Fund Investors

FEBG Bond Fund investors have filed arbitration claims with FINRA. While engaged in the Ponzi scheme, McLeod was associated with three FINRA-registered securities brokerage firms, Lincoln Financial Group, Capital Analysts Incorporated, and Washington Square Securities, which were required to reasonably supervise McLeod's activities. As of May 2013, the Investment Adviser Representative Public Disclosure Report for McLeod showed 24 FINRA complaints filed by FEBG Bond Fund investors with alleged damages totaling \$47,748,051.53. Court documents filed by the receiver in May 2014 listed third-party settlements totaling \$13,211,289.72.³⁰

On February 19, 2013, 93 FEBG Bond Fund investors filed suit against the federal government, seeking more than \$120 million total in losses and damages. The suit alleges negligence and breach of duty stemming from agencies' failure to vet McLeod or to follow federal guidelines for providing financial planning training. See *Alvarez v. United States*, No. 3:13-CV-174-J-99TJC (M.D. Fla. filed Feb. 19, 2013).³¹

²⁹ The SEC complaint charged that McLeod, FEBG, and FSAMG had committed fraud in violation of Sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act of 1933, 15 U.S.C. §§ 77q(a)(1)-(3); and Section 10(b) of the Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5; and that McLeod's estate and FSAMG had committed fraud in violation of Sections 206(1) and 206(2) of the Investment Advisers Act, 15 U.S.C. §§ 80b-6(1) and (2).

³⁰ See Notice of Filing Receiver's Revised Exhibit "A," at Exh. A.

³¹ The Department's Civil Division is defending this suit. We have conducted the OIG investigation independently of the Department's defense of the lawsuit.

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CHAPTER FOUR MCLEOD'S RELATIONSHIP WITH THE DEA

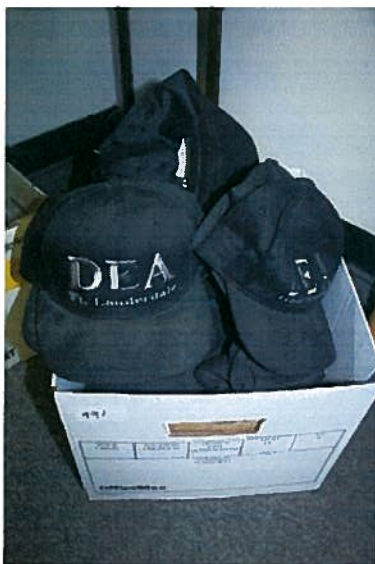
In this Chapter we present our factual findings regarding McLeod's relationship with the DEA. We begin by summarizing the available information about the number of DEA employees who invested in the Bond Fund and the amount of their investments at the time the fund collapsed. We summarize what these employees said about how they met McLeod and became his clients. We then set forth, in chronological fashion, the facts we were able to determine regarding how McLeod obtained access to potential clients in the DEA, including by making large contributions to the DEA SBF. In the same section we also describe concerns that were raised about McLeod by some DEA employees and other incidents at various times that reflected on his suitability as a DEA instructor. In separate sections at the end of this chapter we address the Super Bowl tickets and other gifts and benefits that McLeod gave to some DEA employees who were clients and Bond fund investors.

I. DEA Investors in the Bond Fund

In 2001, McLeod described the DEA as the "foundation of [his] firm's success." The numbers bear this out: FEBG records state that McLeod had 2,186 total DEA clients as of February 2008, including all Stage 1, 2, and 3 clients. Between October 1997 and May 2010, McLeod gave at least 130 seminars in DEA field offices, at DEA management conferences, and at the DEA Training Academy. Several witnesses told us that McLeod had substantial access to DEA personnel and facilities, including use of DEA conference rooms and management offices to meet with prospective clients after seminars, transportation in a DEA plane to provide a seminar to a small number of agents in a remote resident office, the opportunity to observe seminars given by competing vendors, and an unescorted visitor's pass to the DEA Training Academy. Additionally, FEBG's offices were decorated with numerous DEA plaques and commemorative badges, as well as other law enforcement memorabilia. See Figure 4.1.

FIGURE 4.1
Federal Law Enforcement Memorabilia Seized from FEBG Offices





Of the 130 FEBG Bond Fund confirmed investors identified by the receiver, approximately 67 are connected in some way to the DEA. Approximately 51 of these investors were current or former DEA employees.³² Although we did not interview every DEA employee who invested in the FEBG Bond Fund, virtually all of the DEA investors stated in FBI investor questionnaires or represented in the civil complaint filed against the federal government that they met McLeod through DEA-sponsored seminars. The 16 other investors who were not current or former DEA employees stated in their investor questionnaires that they had learned about McLeod while assigned to a DEA Task Force or through a family member or friend who attended a DEA-sponsored seminar.

It was not within the scope of this review to attempt to construct a precise estimate of the total amounts invested by DEA employees in the FEBG Bond Fund, or the total amounts lost by DEA employees as a result of McLeod's fraud. Such calculations are complicated by the fact that some investors received quarterly or annual "interest" payments, while others withdrew principal from their investments. Investor records recovered from McLeod's records were at times unreliable, as they sometimes failed to account for withdrawals and did not distinguish between new investments and "rollovers" of original investments. However, based on confirmed investment amounts set forth in court documents filed by the receiver, the approximately 51 current or former DEA employees who still held account balances in the FEBG Bond Fund at the time of its collapse had invested over \$8.6 million, for an average of over \$169,000 per investor.³³ Initial principal investments by DEA employees ranged from \$5,050 to \$1,057,000, and were made by special agents, group supervisors, intelligence analysts, ASACs, and SACs.

Several high-ranking DEA officials invested in the FEBG Bond Fund. Mark Trouville, currently the SAC of the Miami Field Division, told the OIG that he met McLeod at a management conference in the DEA's Los Angeles Field Division, likely in the early 1990s. He and his wife, a Supervisory Intelligence Research Specialist in DEA's Miami Office, invested \$75,000 in the FEBG Bond Fund on May 14, 2003. Trouville said that he did not recall if McLeod explained what kind of bond it was, but he thought that it was something similar to a hedge fund managed by McLeod's company. At McLeod's instruction he reported a "corporate bond" on his public financial disclosure statements.³⁴ According to FEBG records, the investment was

³² To identify former or current DEA employees, we relied on Department databases, FBI investor questionnaires, investor lists compiled by the DEA, the complaint from the civil suit filed by investors, and information from McLeod's files. In some instances, it was difficult to identify retired DEA personnel who had invested in the FEBG Bond Fund.

³³ According to one witness who received money in a FINRA settlement, a forensic accountant was required to determine individual losses. Where possible, we relied on confirmed investment and settlement amounts in court documents filed by the receiver.

³⁴ Beginning in 2004, Mark Trouville reported the FEBG Bond Fund as a "NAPTE" or "NATPE" corporate bond in his public financial disclosure reports. His 2008 report contains a handwritten notation, apparently by the reviewing ethics officer, describing NAFPE as a private holding company. When asked about the error in the corporate name of FEBG's parent company, NAFPE, he told the OIG that this was how McLeod told him report it.

supposed to earn a purported 10 percent return and supposedly would be worth \$120,788.45 when the bond "matured" on May 14, 2008. However, between July 2004 and November 2009, the Trouvilles received payments from McLeod totaling \$60,978.62, which Mark Trouville said McLeod told him were payments from his initial principal rather than interest.

Keith Kruskall, currently the Acting Associate SAC of the DEA's New York Strike Force, told the OIG that he recalled meeting McLeod at a management conference in the New England Field Division in 2001. He and his wife, an Intelligence Analyst in the DEA's New Jersey Field Division, invested a total of \$538,786.40 in the FEBG Bond Fund beginning in August 2003. Kruskall told the OIG that he believed based on what McLeod indicated to him that he was investing in government bonds that earned 10 percent tax free interest per year, with the money used by McLeod to secure an open-ended line of credit for his companies and the interest earned from the bond rate used to cover the associated cost to service the debt. He said that McLeod told him that both the principal and the rate of return were guaranteed. An undated memorandum found in FEBG's files characterized the investment as FEBG "corporate bonds." The Kruskalls received a total of \$200,104.83 from McLeod, part of which they used to pay a large mortgage they obtained through him.

Anthony Marotta, now the Chief of the Organized Crime and Drug Enforcement Task Force at DEA Headquarters, told the OIG that he first met with McLeod in the late 1990s after hearing other agents describe McLeod as an "investment guru." Beginning in January 2000, Marotta invested \$283,868.55 in the FEBG Bond Fund. Marotta told the OIG that he believed based on McLeod's representations that the investment was a corporate bond limited to seven investors, and that he would make money from the growth of McLeod's businesses. Marotta described the FEBG Bond Fund as the "perfect Ponzi scheme:"

You would say to yourself, "How could he rip DEA off? We'd kill him. . . . Who would have the brass to do it to law enforcement?" And at the back of your mind, there's a little voice that goes off, and we chose to ignore it because you saw bosses who were involved, and things like that.

Additionally, based on files found on McLeod's laptop and his handwritten notes, we also identified at least 10 likely former Bond Fund investors who were DEA employees, including Michael Braun, the former DEA Chief of Operations. Braun told the OIG that he met McLeod in or around 1999 at a DEA management conference in the Los Angeles Field Division. According to McLeod's spreadsheets and FEBG bank statements, Braun invested \$108,000 total in the FEBG Bond Fund between November 2003 and January 2004, earning 10 percent "interest." Braun told the OIG that he needed the money approximately 6 months later and pulled it out of the FEBG Bond Fund at that time. FEBG bank records indicate that Braun and his wife instead received payments back from McLeod over an extended period of time, with checks and wire transfers totaling \$117,383 between July 20, 2004, and October 7, 2009. Braun reported his FEBG Bond Fund investment as a

“corporate bond” on his public financial disclosures between 2004 and October 2008, when he retired from the DEA.

II. How McLeod Gained and Maintained Access to DEA Employees and Facilities

Given the large number of DEA employees who invested in the FEBG Bond Fund, we sought to determine how McLeod was able to gain and keep access to DEA personnel. We determined that McLeod developed his relationship with the DEA through seminars given over many years, which allowed him to develop the reputation as a retirement expert and attract clients for his private businesses. Additionally, McLeod used contributions to the DEA SBF to maintain his connections to DEA officials and create the image that he was “DEA’s retirement guy.” We also learned of concerns that were raised about McLeod by some DEA employees and other incidents at various times that reflected on his suitability as a DEA instructor. Below we discuss significant chronological events in the development of McLeod’s relationship with the DEA.

A. McLeod’s Early Seminars with the DEA

McLeod appears to have first gained access to the DEA through its Jacksonville office in the late 1980s. Bob Michelotti, who was the Resident Agent in Charge (RAC) of the DEA’s Jacksonville office between 1988 and 1991 and ASAC of the DEA’s Tampa office between 1997 and 2003, told the OIG that he met McLeod in a church softball league in 1989. Michelotti said that he learned McLeod specialized in the federal retirement system, and that McLeod became his financial advisor in 1989. Michelotti said that McLeod claimed to have studied the federal retirement system at the Wharton School of Business. Michelotti said that in 1989 he invited McLeod to speak about retirement to the 11 agents in the Jacksonville office. Michelotti characterized this as an informal talk rather than a seminar but said that it likely was McLeod’s first time in a DEA office.³⁵ Michelotti told us that he performed a local background check and a DEA database search on McLeod before this talk, but that he did not verify McLeod’s claim to have attended Wharton. Michelotti told us that he was not required to confirm McLeod’s educational credentials or obtain headquarters approvals before bringing McLeod into DEA.

The earliest DEA seminar for which we have records was conducted by McLeod on October 23, 1997, in the DEA’s Philadelphia Field Division. FEBG records show that in 1998, McLeod gave at least 12 seminars in various DEA field divisions, including Chicago, San Francisco, Miami, Denver, Phoenix, Tucson, San Antonio, San Diego, and Washington. That year alone, McLeod gave three seminars in the DEA’s Miami Field Division, in March, June, and September 1998. We have not

³⁵ In a 2005 e-mail, McLeod stated, “I do . . . recognize that DEA being my primary agency was built some 18 years ago based on my work ethics [sic], knowledge of the retirement system and Bob Michelotti.”

been able to determine who made the decision to use McLeod for any of these seminars.

In May 1998, McLeod gave a 3-hour seminar at a management conference for the DEA's San Francisco Field Division, led by then-SAC Michele Leonhart. McLeod was paid \$1,000 for this seminar and spent approximately \$1,382 for airfare and hotel. Leonhart told the OIG that employees hired under CSRS had the choice to switch to FERS that year, and that the Office of Training recommended McLeod as a speaker to educate employees about the differences between the two retirement systems. According to Leonhart, the Office of Training recommended McLeod for this seminar because DEA's Human Resources Office was not regarded as reliable at that time. Leonhart said that as a part of this seminar she received a financial analysis from McLeod comparing her benefits under CSRS and FERS. Leonhart told the OIG that McLeod was "the best teacher of the retirement system," but that she thought of him as a "used car salesman" and was put off by his tendency to drop the names of senior officials at DEA and in other law enforcement agencies. She said that as a result, she never became a client, and she never learned about the FEBG Bond Fund.

We received few records for the period from 1999 through 2001. Documents provided to the OIG show five seminars conducted by McLeod during this period at DEA offices in Tucson, Phoenix, Miami, Detroit, and Boston. Additionally, Leonhart told the OIG that McLeod spoke at a Los Angeles management conference sometime after September 2001. However, it is likely that McLeod gave more than six seminars during this period. One witness told us that during a visit to Phoenix in 1999 or 2000, McLeod was flown on a DEA plane to give a seminar to five agents in the Yuma resident office. Spreadsheets from McLeod's laptop computer show that FEBG Bond Fund investments from DEA employees increased by approximately \$237,404 between 1999 and 2001, suggesting that McLeod had significant access to DEA personnel during this period.

B. McLeod's Involvement with the DEA SBF

Beginning in the 1990s, McLeod enhanced his access to DEA employees and facilities by making large contributions to the DEA SBF. Although complete records are unavailable, McLeod appears to have begun attending DEA SBF golf tournaments in the mid-1990s. Jeff Rivera, who was an ASAC in the DEA's Phoenix Field Division from 1999 until early 2002 and later worked for McLeod, told the OIG that he recalled seeing McLeod at golf tournaments in Phoenix in 1994 or 1995. Consistent with this recollection, in January 2008, Rivera sent an e-mail to McLeod citing McLeod's "more than generous 13 years of support" of the DEA SBF.

DEA employees in field divisions organizing golf tournaments solicited McLeod to contribute to the DEA SBF. FEBG records included copies of solicitation letters addressed to McLeod on DEA SBF letterhead, signed by DEA SACs, ASACs, and agents. For example, between 2004 and 2007, Anthony Marotta signed four letters addressed to McLeod by name, requesting that McLeod sponsor the Columbus DEA SBF golf tournament. Some DEA personnel listed their official titles and DEA contact information in these invitations, or used official Department e-mail

accounts to communicate with McLeod regarding DEA SBF golf tournaments and contributions. In several instances, e-mail communications regarding DEA SBF events also contained the official titles of the senders. Additionally, in 2004, the then-SAC of the Miami Field Division sent McLeod a signed letter on official DEA letterhead thanking him for a contribution to the DEA SBF to help offset the costs of a memorial program.

McLeod stated in a March 2005 e-mail that he had contributed more than \$250,000 to the DEA SBF personally and through his companies. While we could not verify this precise figure, records confirm that McLeod made large contributions to the SBF. The DEA SBF produced records, including undated handwritten entries in notebooks maintained by field divisions tracking golf tournament sponsorships, documenting that McLeod contributed approximately \$209,994 between 1999 and 2009. Records from McLeod's personal and FEBG bank accounts show contributions for a shorter period, October 2003 to October 2010, totaling more than \$156,000.

According to internal FEBG documents and several former FEBG employees, contributions to the DEA SBF were part of McLeod's marketing strategy. Two FEBG employees who were retired DEA officials told the OIG that DEA SBF golf tournaments gave McLeod access to the agents. One, a former SAC in the DEA's San Francisco Field Division, said that he had attended tournaments with McLeod and had seen McLeod being treated as the "Grand Pooh-Bah." He said that McLeod did not use the tournaments as a direct opportunity to pitch his services or seek to play in a foursome with particular officials, but that McLeod knew many of the agents through seminars, and the agents seemed grateful for both McLeod's contributions to the DEA SBF and the financial services he provided.

Chris McKee, who worked briefly for McLeod after retiring from the DEA in 2004, told the OIG, "[I]n my opinion, the way McLeod got his feet in DEA was writing checks."³⁶ McKee said that donating to the DEA SBF gave McLeod status and an "air of credibility," and that when McLeod would receive a plaque for donating \$10,000 to a golf tournament there were "200 agents sitting there saying hey, this guy is doing the right thing." Other witnesses told us that McLeod was known for being a large donor to the DEA SBF and received plaques and other recognition from DEA officials for his contributions.³⁷

C. DEA Employee Benefits Staff Raise Concerns about McLeod

In 2001, employees from the Employee Benefits Unit of the Human Resources Division at DEA Headquarters began to express concerns about McLeod.

³⁶ Chris McKee is a pseudonym.

³⁷ McLeod also briefly managed funds for the DEA SBF. In September 2000, DEA SBF Chairman Richard Crock wrote a \$50,000 check to open a DEA SBF brokerage account under McLeod's management. This represented a small portion of the DEA SBF's assets at the time. McLeod invested the money in various mutual funds. By September 2002, in the wake of general market declines, the value of these investments had declined to \$28,935.88. As part of a change in its financial management strategy, the DEA SBF stopped using McLeod in late 2001 or early 2002 and transferred all of the DEA SBF's assets to another financial advisor.

Courtney Phillips, who joined the Employee Benefits Unit in July 1999 and later became the Unit Chief, told the OIG that in or around 2001 she held benefits briefings in several field offices where McLeod recently had given seminars.³⁸ She said that on at least one occasion she made a statement during a briefing and learned from an attendee that McLeod had said something different, and she told the class that McLeod was wrong. She told us that after this, she sent an e-mail to her boss stating that McLeod had provided misinformation. On November 20, 2001, McLeod faxed a letter to Phillips' boss, stating that he had not provided incorrect information. In this letter, McLeod stated:

DEA has been the foundation of my firm's success and I have hundreds of friends within this agency. It would make absolutely no sense for me to ruin my reputation by giving out bad information. The work I have provided DEA in the past and the service I will continue to provide in the future is priceless to me. I don't do it for the money. I do it because of the rewards I receive in many other ways. The opportunity to manage a portion of the DEA Survivors' Benefit Fund, the fact that my firm processed in excess of 1,000 employee benefits analyses for DEA employees' [sic] alone last year and we will surpass that number this year. I have done personal consulting for the top echelon of this agency because of the quality of work I do

Phillips told the OIG that she saw a copy of this letter at the time. She said that her boss shared her opinion of McLeod, but that nothing came of her complaint because the Employee Benefits Unit had no influence over training provided by outside instructors. As discussed in more detail below, Phillips continued to raise questions about the use of McLeod to provide benefits training.

DEA Administrator Leonhart told the OIG that there was a history of tension between the Human Resources personnel at DEA Headquarters and the Office of Training about whose responsibility it was to prepare employees for retirement. Leonhart said that in the late 1990s and early 2000s, DEA employees had little confidence in the Human Resources staff responsible for handling retirement benefits. She said that this began to improve in 2001 or 2002 after several staffing changes, but that it took some time for DEA personnel to learn to trust the Human Resources specialists and accept financial information from them. Leonhart told us that the SAC of the DEA Training Academy and the former Assistant Administrator for Human Resources (HR) would "spar[] back and forth" about in whose "lane" retirement benefits training was, and that this was part of a broader rivalry between staff from these two offices.

D. McLeod's Seminars at the DEA Training Academy and Subsequent Ban

FEBG records show that in 2002, McLeod gave at least 18 DEA seminars, including 9 seminars during Advanced Agent Training or Basic Intelligence classes

³⁸ Courtney Phillips is a pseudonym.

at the DEA Training Academy.³⁹ Although evidence suggests that the Office of Training used or recommended McLeod before 2002, we have been unable to identify seminars given by McLeod at the DEA Training Academy before January 2002. McLeod's seminars at the DEA Training Academy began before the Office of Training adopted formal adjunct instructor approval procedures in May 2003.

Based on the limited documents available for this time period, it appears that McLeod began teaching at the DEA Training Academy on January 18, 2002, in an Advanced Agent Training class. McLeod then submitted a written proposal on or around March 6, 2002, apparently to become an approved adjunct instructor, which included a copy of his biography, marketing materials explaining the services offered by FEBG and FEIS, a sample lesson plan, and an FEBG benefits questionnaire. Entries in a calendar maintained by McLeod indicate that he began teaching at the DEA Training Academy on a continuing basis on June 6, 2002. We could not identify who made the decision to hire McLeod for these seminars or to determine whether McLeod underwent a background check or otherwise was vetted by Training staff before being permitted to teach there.

McCullough told the OIG that McLeod was already in place when he arrived at the DEA Training Academy. McCullough told us that McLeod provided general investment advice during his seminars, including information about how to maximize TSP earnings and what outside investments to consider, but was not allowed to sell his own products or services. According to McCullough, McLeod made people aware during seminars that he was a financial planner and was available, and that employees could approach McLeod and meet with him outside the DEA Training Academy.

In 2003, McLeod gave a total of 35 seminars at the DEA, including 14 seminars during Basic Intelligence or Advanced Agent Training classes at the DEA Training Academy. The next year, in 2004, McLeod gave a total of 27 seminars at the DEA, including 11 seminars provided to Advanced Agent Training and Basic Intelligence classes at the DEA Training Academy. According to FEBG and DEA invoices, McLeod was paid \$1,500 to \$1,800 for each seminar at the DEA Training Academy and as much as \$2,500 per seminar in DEA field divisions. Witnesses told us that McLeod also may have provided financial planning and retirement benefits instruction during pre-retirement classes held at the DEA Training Academy, but we have no written record of these seminars.

During this time, McLeod was one of two financial planning instructors on the DEA Training Academy list of approved outside vendors. Phillips told the OIG that she had concerns about both McLeod and the other instructor, and that sometime in 2003 she discussed the issue with the former Assistant Administrator for HR. According to Phillips, the former Assistant Administrator for HR then met with officials at Quantico to discuss the issue. Leonhart, who was then the Acting Deputy Administrator, told us that she had a discussion with the former Assistant

³⁹ Trouville told the OIG that he used McLeod to provide a seminar after becoming SAC of the Boston Field Division in 2002.

Administrator for HR regarding Phillips' concerns about McLeod and was told that McLeod and Phillips accused each other of providing misinformation. Leonhart said that Phillips and the former Assistant Administrator for HR argued that agency employees, not outside instructors with independent businesses and interests, should provide benefits training, and that she interpreted this as "finger-pointing" about who should be responsible for training rather than as a specific complaint about McLeod.⁴⁰

In November 2003, Phillips contacted Laura Hughes, then a Human Resources Specialist in the Specialized Training Unit at the DEA Training Academy, about incorrect federal health benefits information allegedly provided by McLeod during basic agent training (BAT) classes.⁴¹ Phillips stated her concerns about McLeod in an e-mail to Hughes on November 17, 2003:

I haven't kept records of all the many DEA employees who have called us regarding the misinformation this individual has allegedly provided throughout the years but I can assure you that the misinformation has been of a broad area of issues. . . . Mr. McCloud [sic] has been described by many DEA and U.S. Customs employees (my previous agency) as one who preys on law enforcement officers and one who openly solicits customers while conducting lectures. He also name drops to appear worthy of their confidence. . . . I can only say that this office has had to deal with the ramifications of the alleged misinformation on several occasions.

We were unable to determine the specific "ramifications" Phillips was referring to in this e-mail. However, she told us about a case in which the family of an employee who died received no life insurance proceeds under a private policy that a federal life insurance policy would have paid because of advice she believes was given by McLeod. Hughes forwarded Phillips' e-mail to her Unit Chief and to another Unit Chief at the Training Academy. The group determined that McLeod had never spoken to BAT classes and likely was not the source of the misinformation. Nonetheless, Phillips stated in an e-mail, "Regardless of who is telling the BAT's wrong information regarding [federal employee health benefits], Mr. McCleod [sic] probably shouldn't be giving benefits information to federal employees as his knowledge is less than adequate for the job."

Hughes also heard negative feedback about McLeod from Christine Bennett, an outside contractor who began teaching pre-retirement seminars at the DEA Training Academy in 2000.⁴² Hughes and Bennett told us that Bennett on several

⁴⁰ This same conflict apparently continued for several years. In April 2007, McLeod sent an e-mail to Braun and Leonhart, complaining that DEA benefits specialists and other vendors had provided inaccurate information during seminars. Leonhart said that she asked Braun to look into the issue and his response was that it was the "same BS" - that is, part of the same argument about the use of Human Resources personnel to provide training at the DEA Training Academy.

⁴¹ Laura Hughes is a pseudonym.

⁴² Christine Bennett is a pseudonym.

occasions received questions from employees who attended the pre-retirement class and sought her opinion about advice McLeod had given them. Bennett told us that some of the information employees had received from McLeod was "pretty wrong." Bennett also said that she had heard some "pretty rotten things" about McLeod, including complaints that he did not return calls from clients and had sold an inappropriate investment to the disabled husband of a DEA employee. During interviews with the OIG, Bennett and Phillips provided examples of incorrect or questionable advice provided by McLeod:

- Invest no more than 5 percent in the TSP to obtain full agency matching contributions and invest the remainder outside the TSP;⁴³
- Minimize or eliminate the survivor annuity and use the additional monthly benefit received during retirement to obtain a life insurance policy on the employee for the benefit of the survivor; and
- Withdraw 7 percent of total savings per year during retirement.⁴⁴

Bennett told the OIG that she talked to Hughes and Phillips regarding her concerns about the information McLeod was providing, and that Hughes was adamant that McLeod not be used during pre-retirement seminars.

McCullough told the OIG that in or around mid-2004, he heard that McLeod had given outdated or incorrect information during seminars. McCullough said that he asked Phillips to determine whether McLeod's information was accurate. According to McCullough, Phillips observed McLeod's class and concluded that some of the information McLeod had provided about FERS was inconsistent with the regulations. McCullough told us that he then instructed one of his subordinates to tell McLeod that his presentation was "dated" and to ask McLeod to update it. McCullough said that in late 2004 and early 2005 he and his staff continued to evaluate whether McLeod was the best contractor to use.

In early 2005, a dispute arose between McCullough and McLeod that culminated in the removal of McLeod from the Training Academy's list of approved adjunct instructors. This occurred when McCullough gave a video recording of one of McLeod's presentations to an FBI Training SAC who had asked him to recommend an instructor to provide financial planning training.⁴⁵ When McLeod learned that the recording had been given to the FBI, he reacted strongly, stating in

⁴³ An OPM official we interviewed told us that he would consider it a "red flag" if he heard a financial planning trainer recommend limiting TSP contributions to the 5 percent government match.

⁴⁴ As discussed above, a 2011 FINRA fact sheet advised investors to be skeptical of claims that they could withdraw 7 percent or more during retirement. The fact sheet stated that while there is no perfect consensus about the appropriate withdrawal rate during retirement, the uncertainty of return, market fluctuations, and increased life expectancies argue in favor of being conservative with withdrawals. It also noted that most experts recommend withdrawal rates between 3 and 5 percent per year, especially in the first years of retirement.

⁴⁵ In previous years, the DEA Training Academy routinely videotaped instructors, including McLeod. It now has an automatic recording system that records training classes and erases the recorded data after a certain time period.

an e-mail to Andy Castillo, a DEA agent who coordinated Advanced Agent Training classes at the time, that the act of taping his presentation was a violation of trust and that he "no longer wish[ed] to conduct further classes for DEA."⁴⁶ Castillo told us that in a subsequent telephone conversation, McLeod was "off the hook mad, 'MF' was every third word coming out of his mouth."

McCullough learned about McLeod's concerns and spoke to McLeod by telephone on or about February 2, 2005. According to Castillo, who said that he overheard the first part of the conversation, McLeod began by calling McCullough an "MF." McCullough told us that McLeod "verbally assaulted" and "cussed [them] out." McCullough said that he told McLeod to "watch his tone" but promised to retrieve the recording and destroy any other copies of it, which seemed to mollify McLeod.⁴⁷ However, McLeod sent an e-mail to Castillo that same day, stating, "If you wish, I will complete the training classes for you through the end of this fiscal year and then I'm done. I will also inform the other department heads of my intent to no longer be an instructor at Quantico. Should you find it necessary to replace me now rather than waiting, I would completely understand. Just let me know." Castillo told us that he talked to McLeod several times after this and tried to get McLeod to calm down, because McLeod was a "really great instructor . . . and I wanted to keep him."

According to McCullough, at some point Castillo told McLeod that the DEA Training Academy was considering using another vendor to teach Advanced Agent Training classes. McCullough told us that McLeod then called him and said that McCullough was making a grave mistake in replacing McLeod. According to McCullough, McLeod then threatened him, telling McCullough that he should reconsider his decision if he liked being the Training SAC, because McLeod knew then-DEA Administrator Karen Tandy and then-Deputy Administrator Leonhart very well. McCullough also told us that McLeod threatened to sue him and the DEA for copyright infringement, though no one we spoke with at DEA's Office of Chief Counsel recalled a conversation about this.

McCullough told us he decided that McLeod should no longer be used as a trainer at the DEA Academy because he was giving bad financial information. Castillo said that McCullough told him he could no longer use McLeod as an instructor. Castillo said that as far as McCullough was concerned, McLeod "cut his own throat when he came in and acted like he did." Castillo said that he called McLeod and said, "I'm very sorry, but my boss says you're out, period. You cannot be used in the field, you cannot be used [at the DEA Training Academy]." Castillo told us that he was concerned about what would happen to McLeod's management of the DEA SBF if they did not allow him to teach at the DEA Training Academy, but

⁴⁶ Andy Castillo is a pseudonym.

⁴⁷ We were unable to obtain a copy of this video recording. McCullough told the OIG he promised McLeod that he would destroy the copies but keep the CD containing the DEA Training Academy recording of McLeod's presentation. However, when the OIG requested a copy of the video recording, DEA Training Academy staff told us they could not locate it.

that when he mentioned this concern to McCullough, McCullough told him, "That's about four levels over what you need to be worrying about."

On March 24, 2005, McLeod sent an e-mail to FEBG staff entitled, "DEA cancels my contract," which stated, "Please remove DEA Quantico from the rest of the year[']s schedule. . . . It appears that since I didn't want to renew my contract moving forward, they have decided to replace me with another instructor effectively [sic] April 1st"

McCullough said that he learned that McLeod told DEA personnel in the field that he had resigned from the DEA Training Academy, rather than acknowledging that he had been fired. McCullough told the OIG that he then directed a staff member to draft a broadcast telex stating that the DEA Training Academy had suspended using McLeod as an instructor because McLeod had presented false and misleading information during seminars.⁴⁸ McCullough said that the telex was not a training directive, which field divisions were required to follow, but rather a recommendation from the Office of Training, and that SACs remained free to continue using McLeod. According to McCullough, he received calls from SACs and managers around the country seeking the details behind the telex, and he informed them about McLeod's threats. McCullough told the OIG that he could not recall the names of individuals who called him about the telex. When we asked the DEA to provide us a copy of McCullough's telex, we were told it could not be located. No other DEA witness we interviewed said they recalled seeing the telex.⁴⁹

After reviewing a draft of the report, Leonhart commented that there was no telex to the field or to her. She stated that, had there been a telex, the DEA would have stopped using McLeod at that point. She also stated that she never learned from McCullough that McLeod had been "banned" from the DEA Training Academy.

McLeod's seminar business did not decline immediately after his ban from the Training Academy. Between April 1 and July 6, 2005, McLeod conducted 14 DEA-sponsored seminars, including a presentation at the International Drug Enforcement Conference in Santiago, Chile, on April 4, 2005. Contemporaneous FEBG e-mails indicate that the selection of speakers for this event did not involve the DEA Training Academy. However, internal FEBG e-mails indicate that rumors spread through DEA about a "falling out" between McLeod and McCullough. Leonhart told the OIG she heard these rumors at the time but was told that the "falling out" between McLeod and McCullough stemmed from a disagreement about golf. When asked about this rumor, McCullough said it was "ridiculous," as he has never played golf.

⁴⁸ A broadcast telex was used by the DEA to communicate policy changes and training directives.

⁴⁹ A retired Executive Assistant to then-Deputy Administrator Leonhart, who was identified by McCullough as a potential corroborating witness, told the OIG that he did not recall a telex about McLeod. However, he said that the Office of Training could send its own telexes, so one containing information about McLeod would not have necessarily have come through the Deputy Administrator's office.

On January 6, 2006, the DEA Training Academy formally removed McLeod from the adjunct instructor list.

E. Use of Competing Vendors in DEA Field Divisions

In early 2005, McLeod learned that a competing benefits firm, Benefits Planning, Inc. (BPI), had given retirement seminars at DEA offices in Florida, Georgia, North Carolina, Tennessee, and Kentucky, including the Jacksonville resident office. On January 7, 2005, McLeod held an "all-hands" conference call with FEBG employees and independent contractors to discuss concerns that BPI was gaining market share.

According to memoranda drafted by FEBG employees, during this conference call McLeod discussed stopping contributions to DEA SBF golf tournaments or using past contributions to prevent the use of competitors. One memorandum drafted by McKee stated:

The issue was raised that DEA is not showing allegiance to FEBG for all they have done over the years. I work for FEBG and I don't know all they have done. I was unaware of the amount of money contributed to the Survivor [sic] Benefit Fund over the years or which Golf Tournaments we have sponsored in the past. . . . The reality is, if our poster is hanging up at a tournament, DEA looks at it as an advertisement by a sponsor. They will not look at it as a company they must now patronize. The only people [who] will take that position are people such as the SAC, ASAC or Admin officer, who may have a personal relationship with FEBG or its employees.

When asked about this memorandum, McKee told the OIG that McLeod felt insulted when DEA hired BPI because McLeod traveled around the country to provide seminars, hired retired agents, and contributed to DEA SBF tournaments.

Following this conference call, several of the retired DEA agents who worked for McLeod spoke with contacts in the DEA offices that had used BPI, memorializing these discussions in e-mails and internal memoranda. One memorandum drafted by a retired DEA agent who worked for FEBG stated that he called the Division Training Coordinator (DTC) for the Detroit Field Division on January 8, 2005, and spoke to him about the decision to use BPI. According to the memorandum, the DTC told the retired DEA agent that he had heard agents question McLeod's advice to invest only 5 percent in the TSP, and that he allowed BPI to give a free seminar because he thought it would be beneficial for agents to hear a different opinion. The memorandum also stated the following:

At the end of our discussion [the DTC] mentioned that ASAC Tony Marotta had called him and mentioned that [McLeod] and FEBG ha[d] always been a generous contributor to the DEA Survivor's [sic] Benefit Golf Outings including the Rick Finley Tournament every year. [The DTC] said he had not been aware of that. I asked him if he would have allowed BPI to come into the Division if he had known about

[McLeod's] generosity. He thought about it a bit and said that "on the record" he would have to say that it would not have made a difference since all companies are supposed to have fair and equal opportunities with the Federal Government. But "off the record" he said that if he had known about [McLeod's] contributions he would have told [BPI] they already had a company providing that service and not allowed [BPI] to do it.

When asked about this memorandum, Marotta acknowledged that he had contacted the DTC about using a competing firm. He told the OIG that BPI also had contacted him about providing a seminar, and that he declined. Marotta said that he felt a sense of "loyalty" based on McLeod's long relationship with the DEA and history of contributing to the DEA SBF.⁵⁰ Marotta told the OIG that his investment in the FEBG Bond Fund played no role in his decision to contact the DTC.

FEBG documents indicate that other DEA offices may have refused to allow BPI to provide a free seminar. An internal FEBG e-mail dated January 10, 2005, states that the Los Angeles DTC told an FEBG employee who was a former DEA SAC that she declined a free seminar from BPI because the Office of Training had not heard of it and her SAC had recommended McLeod. Another internal FEBG e-mail dated March 8, 2005, recounted a conversation between Michelotti, who began working for McLeod after retiring from the DEA in 2003, and an ASAC in the Tampa office, in which the ASAC stated that he had declined BPI's offer of a free seminar.

F. DEA Seminars in 2006 and 2007

McLeod held two DEA seminars in 2006, a 2-day seminar at the El Paso Intelligence Center (EPIC) on April 13 and 14, 2006, and one at the Special Operations Division (SOD) in Chantilly, Virginia, on May 12, 2006. EPIC, led at the time by a client of McLeod's, paid \$2,499 for the two-day seminar. McLeod conducted the SOD seminar for free.

Derek Maltz, who became the SAC of SOD in May 2005, described how he selected McLeod for the seminar. Maltz told us that he had attended a seminar by McLeod in the New York Field Division in 2003 or 2004. Maltz said that he understood that McLeod handled financial planning for "all of DEA" and had given a seminar at SOD in 2004.⁵¹ Maltz said that in early 2006, Keith Kruskall, who worked as a staff coordinator at SOD at the time, recommended that Maltz hire McLeod to provide training. Maltz said that Kruskall's recommendation, combined with his own experience attending McLeod's seminar in New York, led him to bring

⁵⁰ According to FEBG records, McLeod gave seminars in the Detroit Field Division in December 2001, May 2003, and August 2004, and contributed to the golf tournament hosted by Detroit in June 2005 and June 2008. We found no records of seminars in the Detroit Field Division after August 2004.

⁵¹ McLeod held a 2-day seminar at SOD on November 8 and 9, 2004, and was paid \$2,500. According to FEBG e-mails, McKee contacted the then-SAC of SOD to arrange the seminar on August 14, 2004, shortly after he retired from the DEA and began working for FEBG.

McLeod to SOD. Kruskall told us that as a general matter, when people asked about McLeod, he would tell his experience with McLeod, which was positive.

Matthew Harper, then the Unit Chief of Training for SOD, told the OIG that he learned about McLeod from staff at the DEA Training Academy, and that he contacted McLeod in early 2006 about giving a seminar.⁵² Despite McLeod's ban from the DEA Training Academy in early 2005, Harper said that Training staff did not provide any positive or negative feedback about McLeod. We have no record showing when Harper contacted the DEA Training Academy or to whom he spoke.

On April 21, 2006, Harper sent an e-mail to SOD staff announcing the May 12 seminar and stating, "Additional time will be set aside to consult with people on an individual basis in the privacy of one of the smaller conference rooms. If you are interested in a private consultation, please stop in the training office and obtain a copy of the Employee Benefits Questionnaire." Harper told the OIG that individual meetings with McLeod were informal and were held in the corner of the training room, and that SOD staff did not schedule them. Maltz told us that McLeod met separately with individual employees in a conference room at SOD.⁵³ Maltz said that he met with McLeod after the 2006 seminar, and that the information provided by McLeod in this meeting led him to become a client.⁵⁴

FEBG records show that the SOD seminar was McLeod's last DEA seminar in 2006, and that he gave no DEA seminars at all in 2007. We could not determine whether this took place because of evidence we saw that McLeod began to focus on paid seminars at other agencies, or if DEA field divisions stopped using McLeod. McCullough told us that sometime in 2006 or 2007, then-Chief of Operations Michael Braun sent a memorandum to SACs directing them to coordinate training with the Office of Training. However, McCullough said that this memorandum was intended to prevent discrepancies between certain specialized training provided at the DEA Training Academy and in the field and was unrelated to McLeod. We have been unable to obtain a copy of this memorandum, identify witnesses who recalled it, or ascertain its impact on McLeod.

The DEA continued to hire other outside vendors to provide retirement benefits and financial planning training in 2006 and 2007. This included retirement benefits instruction taught by Bennett during Advanced Agent Training classes at the DEA Training Academy and financial planning seminars by an instructor from

⁵² Matthew Harper is a pseudonym.

⁵³ This was not the first time that McLeod was allowed to meet individually with employees on DEA property. FEBG Bond Fund investors told us that they met with McLeod in DEA offices or management conference rooms, including in one instance "in the RAC's office, behind the RAC's desk" in the Sacramento resident office. While we have been unable to verify information received from individual Bond Fund investors, particularly in the absence of specific seminar dates or corroborating documents, we believe that their accounts suggest that McLeod's individual meetings at SOD were not an isolated occurrence.

⁵⁴ Maltz did not invest in the FEBG Bond Fund. He told the OIG that McLeod never mentioned the FEBG Bond Fund to him, speculating that this was because his financial profile showed that he had no money to invest.

the Financial Awareness Institute (FAI), sponsored by the DEA Employee Assistance Program (EAP).

G. McLeod's Threat to Stop Supporting the DEA SBF

On January 9, 2008, an ASAC in the DEA's Phoenix Field Division who also served on the DEA SBF Board of Directors sent an e-mail announcing an EAP-sponsored training by FAI to be held in Phoenix on January 16 and 17, 2008. The announcement stated that FAI did not sell financial services and would give the "straight facts" about dealing with the financial services industry. On January 16, 2008, FEBG Vice President Ron Rountree received a copy of this e-mail from FEBG's Director of Communications, who was married to an agent in the Phoenix Field Division.

On January 18, 2008, at least in part in reaction to the FAI training announcement, McLeod sent an e-mail to several recipients associated with the DEA SBF. Among them was Jeff Rivera, a retired DEA ASAC who worked for McLeod and was involved in organizing the Phoenix DEA SBF golf tournament, and Fred Ganem, then a DEA Acting Assistant Administrator and DEA SBF Board member.⁵⁵ The e-mail stated:

I am disappointed and saddened to advise that FEBG will not be providing financial support or sponsorship to the DEA-SBF fund this year and most likely not for many years to come.

We feel that the on-going [sic] dissension between DEA-HQS (outside non GSA approved benefits/financial workshops lectures), several SAC's and a variety of other issues, we no longer feel it a prudent business decision or a personal one for me.

We have replaced DEA with several other [law enforcement] Agencies that both respect our services, appreciate the on-going [sic] support and need our help the way we handled DEA for some 20 years.

In a separate e-mail to Rivera, McLeod stated, "[T]he support of me and my firm over the past three to four years has been horrible by DEA, its management and especially the incompetent employees within the [Human Resources] department. It has been one sided for way too long and I just felt it time to move on."

McLeod's e-mail provoked numerous responses. Shortly after receiving the e-mail, Ganem forwarded it to DEA SBF Chairman Richard Crock and to another DEA SBF Board member. Crock then sent an e-mail to McLeod, stating, "Thanks for the support. Best of luck in your future endeavors." However, Crock stated in an e-mail to Ganem, "What an a__hole! How widely has this been disseminated?" William Simpkins, a retired senior DEA official and a member of the DEA SBF Board, received a copy of the e-mail and joined the exchange with Crock and Ganem, stating:

⁵⁵ Jeff Rivera is a pseudonym.

This seals the deal with me that I was 150% right when I got rid of this [expletive-]face. For him the SBF was all about "business" and nothing about supporting the needs of the people for whom the fund was established. In answer to your question on distribution, "not widely enough."

Several weeks later, on February 5, 2008, Crock forwarded McLeod's e-mail to Greg McKinney, a retired agent.⁵⁶ The next day, February 6, 2008, McKinney forwarded McLeod's e-mail to several other current and former DEA agents, stating:

How about this e-mail Dick Crock received from Wayne McCloud [sic] about how he will not support the SBF anymore. Boy, what a change in heart, now that he has quite a few Agents in his hopper. It just goes to show you what really is close to some people[']s hearts. Money doesn't breath[e]. . . . Pass this on so our people know the real story .

. . .

Several recipients of McKinney's e-mail subsequently forwarded it to other DEA employees, including an FEBG Bond Fund investor. This investor told the OIG that she had "rolled over" her bond investment shortly before receiving the e-mail but would have taken her business elsewhere had she learned that McLeod was "divorcing" the DEA SBF.

McLeod obtained a copy of McKinney's forwarded e-mail. On the evening of February 7, 2008, McLeod sent an e-mail to Leonhart and Chief of Operations Michael Braun entitled, "HELP!!!!!!," asking to speak to one of them as soon as possible. In a reply e-mail, Leonhart stated that she had tried calling and had left a voicemail message for him, and McLeod replied that he would call her back in about 20 minutes.

Leonhart told the OIG that she received an emergency call from McLeod later that night, connected through the DEA Command Center. She said that she accepted the call because she thought there might be something wrong.⁵⁷ Leonhart characterized her conversation with McLeod as "bizarre," stating, "[T]he night we actually talked he sounded very desperate. He was either very desperate or very drunk. . . . He was just very anxious." She told the OIG that she "let him rant," but at one point became concerned that he was taping the conversation because he kept saying the same thing over and over. Leonhart said that McLeod complained to her about the incident three years earlier when James McCullough had given a

⁵⁶ Greg McKinney is a pseudonym.

⁵⁷ As noted above, Leonhart had known McLeod since at least 1998 and had received a financial benefits analysis from him at that time. Asked about McLeod's decision to call her through the Command Center, Leonhart stated that it was "very ballsy, but [McLeod was] not the only one to do that." She explained that DEA vendors with retired agents on staff at times try to reach her through the Command Center, and she generally arranges to return the call in the morning. She said that McLeod's e-mail to her earlier that evening contained a "sky is falling" message, and she took his call because he said something like, "Your agents are in trouble. . . . [T]hey're getting bad advice from your [Human Resources] people and the EAP people"

videotape of McLeod's presentation to the FBI. According to Leonhart, McLeod told her McCullough had fired McLeod when McLeod approached him about the tape. Leonhart also said McLeod told her that the instructor who had replaced him at Quantico and the instructor who gave EAP-provided trainings in the field were not qualified and were going to hurt DEA employees, and that he wanted to be reinstated at the DEA Training Academy.

Leonhart told the OIG that during this conversation McLeod said he was pulling his support from the DEA SBF because of the issues with McCullough. She said she told McLeod that some of the people who were "badmouthing" McLeod in e-mails were associated with both the Office of Training and the DEA SBF. She said McLeod was upset about Crock's e-mail thanking him for his support and was worried that his friends and clients would think that he had abandoned the DEA family. Leonhart told us that she reminded McLeod that there was a distinction between the DEA and DEA SBF and that he would have to deal separately with the DEA SBF.

Following this call, at 11:45 p.m., McLeod forwarded a copy of McKinney's e-mail to Leonhart. The next morning, McLeod sent a second e-mail to Leonhart, this time forwarding the e-mail announcing the EAP-sponsored financial planning training in the Phoenix Field Division.

According to internal FEBG e-mails, the next day, February 8, 2008, McLeod asked his staff to prepare a spreadsheet of all his DEA clients, entitled "DEA query." Rountree forwarded to McLeod a spreadsheet listing 2,186 Stage 1, 2, and 3 clients. In an e-mail to Rountree, McLeod stated, "Spoke with Michele for almost 2 hours and she assured me she would handle this quickly for me and that I would be put back on the primary speaker list and the agency would be encouraged to use me only!" Regarding the "DEA query" spreadsheet from Rountree, McLeod stated in an e-mail, "Hold off until we see how Mike [Braun] and Michele [Leonhart] wish me to proceed."

Leonhart told the OIG that McLeod's characterization of their conversation in this e-mail was "a lie." She said that they may have talked for 2 hours because she "just let him ramble," but she never promised to reinstate McLeod. Instead, she said that she told McLeod she would look into his complaint about McCullough. Leonhart told us that sometime after this conversation with McLeod, she saw McCullough and asked him whether McLeod was banned from the DEA Training Academy. According to Leonhart, McCullough told her that McLeod was not banned and had not provided incorrect information, but that McLeod did not get the contract to teach at the DEA Training Academy because McCullough found someone better. Leonhart said that she also asked McCullough about the videotape incident, and McCullough replied that it "never happened." She said that she was satisfied with McCullough's answer that he found someone better and never got back to McLeod about it.

Leonhart said that during her conversation with McCullough, she asked McCullough what the field divisions thought McLeod's status was, and McCullough told her that the field was aware that the DEA Training Academy was using a

different vendor. Leonhart told the OIG that after McLeod committed suicide, she heard that McCullough claimed to have sent a cable to the field announcing that McLeod was banned from the DEA Training Academy, but that this was not consistent with what McCullough had told her in early 2008.

McCullough told the OIG that he thought Leonhart's characterization of his conversation with her in 2008 was inaccurate, and he disputed Leonhart's statement that he had told her there was no videotaping incident. He said that he did not "sugarcoat" any of the facts or otherwise downplay his interaction with McLeod during his conversation with Leonhart.

McLeod did not subsequently resume teaching at the DEA Training Academy. However, as we describe below, in May 2008 McLeod began giving seminars elsewhere in the DEA after having been largely absent from the agency for 2 years.

H. One Agent Raises Concerns Privately about McLeod's "Pyramid"

On February 5, 2008, Jeff Maldonado, then the Regional Director of the DEA office in Bangkok, Thailand, sent an e-mail about McLeod to Kruskall entitled, "Last Superbowl for you."⁵⁸ As we discuss in more detail in Section III below, Kruskall and his wife were McLeod's guests at five Super Bowls beginning in 2005. In this e-mail, Maldonado stated, "Your financial security is paramount to me and I want to ensure that you are not crushed to death as the Pyramid crashes in. Let me know before it's to[o] late and the rest of the DEA work force that is caught up in your investment shenanigans are begging to be first in line to use the weed whacker."

In a subsequent e-mail to Kruskall, Maldonado wrote:

Yeah he did a great job with the DEA Survivor fund! Strange how he is not welcomed at DEA any longer. Your [sic] his last hope to keep the umbilical cord attached to the agency. [He is] keeping you fat, dumb and happy so you can spread his propaganda

Kruskall replied:

He told [m]e his version of the story. I am thinking to myself, if DEA feels he did anything wrong with that fund why don't we arrest him?

I obviously have no firsthand knowledge but that fund has nothing but grew [sic] when he was managing it. I know a lot of SACs don't like him (which has to be the ones your [sic] tight with) but I can't for the life of me assume he is doing anything illegal with it or he would be (and should be) locked up.

He still has other SACs who like him and use him so the cord is a lot more than me. . . .

⁵⁸ Jeff Maldonado is a pseudonym.

Do you know something I need to know or is it just people not liking him and his delivery?

In subsequent e-mails, Maldonado stated:

I am not exactly sure why he is persona non grat[a] with DEA and he has been replaced by [another vendor]. . . .

I don't know if anything illegal, but as you know, that doesn't mean he is not being looked at. . . . All I know is that he is banned from the academy and the Survivor fund suffered under his guidance. . . . He is the Sebastian Ragusa of the financial world. If you remember every DEA and FBI agent used [Ragusa] to do their taxes because of the incredible refunds they were getting. It wasn't until the first wave of audits when people were paying [\$20,000] in back taxes that they realized [Ragusa's] accounting practices were skeptical at best.⁵⁹ Have a glass of bosco and comfort yourself back to sleep. I figure you have about another 6-8 months before you call him and find his numbers disconnected.

Kruskall told the OIG that he did not know what led Maldonado to send this e-mail, but that Maldonado was a friend and was "breaking [his] stones" about having gone to the Super Bowl with McLeod. Kruskall explained that there was a group of Senior Executive Service (SES) officials who did not like McLeod, and "word was getting out that [McLeod] was no good." Kruskall said that he was one of McLeod's supporters: if people asked him about McLeod, he would tell people about his investments and say that McLeod had been very good. Kruskall said that he dismissed the concerns of those who did not like McLeod because they did not have the same first-hand experience with McLeod that he did.

Despite his e-mail reference to a pyramid scheme, Maldonado told the OIG that at that time he did not have specific information that McLeod was engaged in anything illegal. He said that he attended two seminars by McLeod and obtained a financial analysis from McLeod, and he was disappointed that the results were no more detailed than the retirement advice he could find on the Internet. Maldonado said that he questioned McLeod on the specifics of McLeod's commission structure and investment strategy but did not get satisfactory answers, and that McLeod seemed offended by his questions. Maldonado described McLeod as a "TV preacher" who seemed to expect people to "believe without questioning." He said that when McLeod changed his company's name from FEIS to FEBG, he reviewed documents McLeod gave Kruskall to sign and compared them to documents he had received from Fidelity. Maldonado said that McLeod's documents included a "hold harmless" agreement that dictated the terms of any litigation and was unlike anything in the Fidelity documents, and he told Kruskall, "This is friggin' crazy."

⁵⁹ On October 15, 1999, Sebastian Ragusa, a New York attorney, pleaded guilty in federal district court to four counts of felony violations of the Internal Revenue Code, including willfully aiding and assisting in the preparation of false individual income tax returns. See *United States v. Ragusa*, 99-CR-00921 (E.D.N.Y. filed Oct. 15, 1999); *In re Ragusa*, 753 N.Y.S.2d 111 (2002) (disbarment).

Maldonado told the OIG that he frequently "busted [Kruskall's] chops" about McLeod but at times wondered if he had been wrong, because McLeod's clients earned high returns year after year.

I. 2008 Seminars

In 2008, McLeod resumed giving seminars at the DEA after having been largely absent from the agency for 2 years. On May 7 and July 9, 2008, McLeod gave free seminars in the New York Field Division, arranged by the DTC at the direction of the then-SAC.⁶⁰ Kruskall told the OIG that McLeod asked him to tell the SAC that he (McLeod) would come to New York and provide training to the division for free. Kruskall said that he passed the message to the SAC, and the SAC arranged the training with McLeod through his DTC. E-mails show that Kruskall also provided contact information for McLeod to the SAC. Kruskall said that the SAC invited McLeod back for a second seminar and became an investment client during that visit. In late 2008, Kruskall sent an e-mail to McLeod stating, "[The SAC] is a big fan of yours."

On July 11, 2008, McLeod gave a free seminar at the DEA's North Central Laboratory in Chicago, at which he distributed marketing materials including a 3-page document entitled "Six (6) reasons to Invest with FSAMG. McLeod's assistant arranged the seminar through the Laboratory Director, who was not a client of McLeod's and who previously had used McLeod to provide seminars in April 2005 and March 2006. Information obtained from FEBG invoices and other records indicates that McLeod previously had given seminars at the Laboratory in 2005 and 2006.

Additionally, on September 3, 2008, McLeod gave a free seminar at SOD. Maltz told us that either McLeod or Kruskall, who was then an ASAC in the New York Field Division, contacted him about arranging another training seminar, and that he (Maltz) thought that the 2006 training had been worthwhile and wanted to bring McLeod back. The e-mail sent to SOD staff by Unit Chief of Training for SOD Matthew Harper announcing the seminar stated, "The FEBG seminar is open to all federal employees and is highly recommended for informational purposes by SAC Derek Maltz." As noted above, Maltz had become a client of McLeod's following the May 2006 seminar held at SOD but did not invest in the Bond Fund.

McLeod also gave a seminar at the annual DEA SAC and Regional Director (RD) meeting at the International Association of Chiefs of Police (IACP) conference in San Diego, California, on November 8, 2008. The DEA holds an SAC/RD meeting, known as the "SAC Conference," during the annual IACP Conference. Edward McCoy, at the time the Chief of Operations Management for DEA and a Bond Fund investor, was responsible for arranging the SAC Conference.⁶¹ McCoy

⁶⁰ The SAC of the New York Field Division retired from the DEA in September 2011, and we did not seek to interview him.

⁶¹ Edward McCoy is a pseudonym. McCoy invested \$15,000 in the FEBG Bond Fund in February 2003, "rolled over" his investment in February 2008, and remained invested at the time of
(Cont'd.)

told the OIG that he met with Leonhart while planning the SAC Conference, and Leonhart informed him that the SACs were interested in having a financial advisor speak. McCoy said that Leonhart named McLeod and another vendor as possible speakers. On August 26, 2008, McCoy sent an e-mail to Leonhart and Braun, stating "Regarding our conversation about a financial/retirement speaker[,], I spoke to McLeod. He is available that Saturday [November 8] and would very much like to do it if time allows." One week later, on September 2, 2008, Leonhart sent an e-mail to McCoy and Trouville, the SAC of the Miami Field Division, stating:

[A]s we discussed, I want a SAC Conf[erence] that caters to the SAC interests rather than an ongoing schedule of HQS briefers. Previously we discussed having a retirement or financial planner expert present or a leadership speaker. Please discuss with Mark Trouville as head of SAC Advisory to see his interest, thoughts and recommendations and then we can discuss.

McCoy replied to Leonhart and Trouville, "As we mentioned earlier, I have already made contact with Wayne McLeod, he is available that Saturday and is willing to do it but I explained it was only preliminary and that any final arrangements are pending." That evening, McCoy sent an e-mail to Chief of Operations Braun and Leonhart stating, "I spoke with SAC Trouville, like the two of you he strongly endorses having Wayne McLeod speak at the SAC/RD conference." Leonhart replied to McCoy, "Sounds good. Let[']s get it confirmed with him and go forward."

When asked about these e-mails, McCoy, Leonhart, and Trouville told us that there was nothing unusual about their discussions regarding whether McLeod should speak at the SAC conference. Leonhart told us that she discussed having a financial speaker at the Conference with the SACs and the executive staff, and that McLeod's name came up. She said that Braun suggested using McLeod, telling her that McLeod was a "cop buff" and was probably attending the IACP Conference anyway. Leonhart said that she thought McLeod was the "best teacher of the retirement system," but that she was shocked when she later learned that people had invested money with him.⁶²

Leonhart said that she asked McCoy to contact Trouville to find out what the SAC Advisory Committee thought about having a financial advisor speak at the conference. McCoy said that Leonhart mentioned both McLeod and another

McLeod's death. McCoy told the OIG that McLeod led him to believe that he was investing in FEBG, and that McLeod would use his money to fund the growth of the business and reinvest it as the company earned profits.

⁶² Although McLeod claimed that Leonhart was a Bond Fund investor, she told us that she never invested with him. We found no evidence to the contrary. Leonhart said that she obtained a benefits analysis from McLeod when deciding whether to switch retirement systems, but that his practice of dropping the names of purported high-profile clients made her concerned about sharing private information with him. She said that McLeod did not approach her about investing in the Bond Fund; if he had, she said it would have set off "red flags," not only because of the purported 10 percent return, but because he was a DEA vendor, and investing with him would have created a conflict of interest.

instructor. McCoy stated that Leonhart never told him that she endorsed McLeod or liked him better than other speakers, and that she "might have" asked him to find out whether the SAC Advisory Committee preferred McLeod or the other instructor. Trouville told the OIG that he recalled telling McCoy that it was a good idea to have McLeod speak.⁶³ He said he did not recall exactly what he said to McCoy but would not have characterized it as "strongly endorsing" McLeod. Braun also said that he would not have "strongly endorsed" McLeod, telling us that he retired from the DEA in October 2008 and was not heavily involved in planning SAC Conferences. McCoy said that he did not think that he had spoken to Braun about McLeod, and that he did not recall the substance of his discussion with Trouville.

McLeod was scheduled to give a 2-hour seminar on the first full day of the conference. McCullough told the OIG that when he saw McLeod's name on the agenda at the conference, he approached Leonhart privately and reminded her that he had barred McLeod from the Training Academy. According to McCullough, Leonhart acknowledged that she remembered that McLeod had been barred, but said that she thought McLeod was a good speaker and wanted him to address the group. McCullough said that Leonhart offered him the opportunity to sit out the presentation, but that he declined because he thought it would be disrespectful.

Leonhart gave a significantly different account. She told the OIG that McCullough was on the SAC Advisory Committee at the time McLeod was selected to speak at the SAC Conference. She said that McCullough did not approach her, and she did not have a conversation with McCullough about McLeod at the SAC Conference, but that the DEA's Chief Counsel told her that McCullough looked displeased during McLeod's presentation.⁶⁴

When asked to respond to Leonhart's testimony, McCullough replied, "It's false. That's a false statement. I remember specifically talking to Michele Leonhart, and I remember specifically talking to [the Chief Counsel]." McCullough also said that, although he was on the SAC Advisory Committee between 2002 and 2009, he does not recall having participated in any discussions about selecting McLeod to speak at the November 2008 SAC Conference.⁶⁵ He said that, if he had been involved, he would have objected to using McLeod and proposed a different vendor.

McCoy told the OIG that McLeod gave his standard presentation about the differences between CSRS and FERS, rather than focusing on post-retirement

⁶³ After reviewing a draft of this report, SAC Trouville stated that he did not initiate McLeod's appearance or recommend him for the conference. Trouville stated that he concurred that McLeod would be a good choice and told McCoy that McLeod was excellent for helping employees understand their benefits.

⁶⁴ As noted above, Leonhart and McCullough gave conflicting accounts to the OIG of their conversation earlier in 2008. Leonhart told us that McCullough denied having banned McLeod from the Training Academy, but McCullough told us the opposite.

⁶⁵ E-mails and documents produced by the DEA contain no record of discussions about McLeod by the SAC Advisory Committee.

investing. McCoy said that McLeod spoke for about 45 minutes and was an "arrogant jerk" and "semi-unprofessional" during the presentation.

At the end of his speech, McLeod presented a \$20,000 check from FEBG to the DEA SBF.⁶⁶ According to McCullough, McLeod commented that he was making the contribution "to show that I'm with you guys." Witnesses told the OIG that McLeod dropped the check in front of Leonhart, but that Leonhart did not accept it. According to various witnesses, Fred Ganem, then-Acting Assistant Administrator for DEA and a DEA SBF Board member, was sitting near Leonhart, and he reached over and took the check.

Mark Trouville, SAC of the Miami Field Division, said that he was impressed with the amount of the contribution and described its significance:

We take the Survivor Benefit Fund very serious[ly]. . . . [T]hat benefit, that fund has put more kids through college because their dad died on the job, and it's the one way this agency can look out for itself. . . . So, when something good happens to the Survivor Benefit Fund, it's a very positive thing for everybody.

Maldonado told the OIG that McLeod's check to the DEA SBF lessened his suspicions of McLeod. Maldonado explained that he still did not trust McLeod, but that the check was a positive and made him think that "maybe [McLeod] does have a personal interest in DEA."

Not everyone shared this positive reaction to McLeod's contribution. McCoy said that McLeod presented the check with a "flourish," and that he interpreted McLeod's contribution as grandstanding. The DEA's Chief Counsel told the OIG that she was concerned that McLeod's presentation of the check created the appearance that he made a donation to the DEA SBF in exchange for being at the conference, and that "it just did not smell right to me." She stated that she did not recall specific discussions about McLeod at the conference, but that she was sure she must have talked to others in the room who were just as confounded by McLeod's presentation of the check as she was. Leonhart told the OIG that she thought McLeod's check was inappropriate and looked like he was trying to ingratiate himself, and that it reinforced her original gut reaction to him.

McLeod's presence at the IACP Conference appears to have given him access to several high-ranking DEA officials, some of whom subsequently became clients and Bond Fund investors. One FEBG Bond Fund investor indicated to investigators

⁶⁶ McLeod made this contribution despite experiencing significant financial problems. On November 7, 2008, McLeod sent an e-mail to his property manager stating, "FEBG is experiencing unprecedented difficult times and have [sic] lost several large Government contracts. If your group doesn't back off with the threat of lawsuits FEBG will be forced to file for bankruptcy protections and attempt to terminate its lease." Six days later, on November 13, 2008, McLeod wrote two additional, sequential checks totaling \$8,000 to the DEA SBF for events held several months earlier, including a \$2,000 contribution to the golf tournament hosted by the New York Field Division in August 2008.

that McLeod solicited his business at the 2008 Conference in San Diego.⁶⁷ Another high-ranking DEA official also became a client of McLeod's after the IACP Conference and later stated in an e-mail that he had considered investing in the "special account."

J. Investor Concerns about McLeod

In late 2008 and early 2009, Kruskall and Marshall Hoffman, then an ASAC at SOD, began to compare notes about their FEBG Bond Fund investments.⁶⁸ On September 10, 2008, Kruskall sent the following e-mail to McLeod:

I have been talking to [Hoffman] and we do have one important concern that hopefully you can clear up for us. I know you indicated that the funds are secured but in the unlikely event that something happens to you . . . who in your company knows about the fund and the yearly interest payments. Is it Ronnie [Rountree]??? As you are well aware this is pretty much our life savings and knowing it is secure beyond you and who we can turn to would help with our concerns.

McLeod replied, "My personal attorney has the instructions on what to do if this unlikely event did in-fact [sic] occur. Ronnie is also fully aware of the fund and he has written instructions on how he is to become involved as well."

Several months later, on December 3, 2008, Kruskall sent e-mails to McLeod asking whether he had to claim FEBG Bond Fund interest payments on his taxes. Kruskall stated, "I want to make sure the IRS is not going to tell me I owe them a shit load of money years from now." McLeod stated, "[R]ight now I pay the taxes for you a[t] the corporate level and therefore nothing for '08 or '09." In a subsequent e-mail, Kruskall stated, "I was with [the New York SAC] last night discussing you and it occurred to me that there was going to be a 55K wire transfer into the account which would [be] unusual and probably cause a Suspicious Activity Report. That's what made me think of the tax interest issue." McLeod replied, "There was a huge check last year and you then wrote a huge check back to me and those are also a reason for [the Financial Crimes Enforcement Network] to be alerted. Thought I'd worry you a tad bit more this morning . . . ha ha."

During this time, Derek Maltz (then the SAC of SOD), Hoffman, and Kruskall also became concerned about McLeod's management of their TSP accounts and mutual fund investments.⁶⁹ Maltz told us that he, Kruskall, and Hoffman "hit [McLeod] hard collectively" at some point to ask him why he was buying high and selling low and what his plan was to recover their losses. Maltz said that McLeod's TSP allocations did not make sense, and that he recalled talking to Kruskall and

⁶⁷ This investor told investigators that he met with McLeod in his office at the DEA Fusion Center in March 2009 and invested in the FEBG Bond Fund in April and October 2009.

⁶⁸ Marshall Hoffman is a pseudonym.

⁶⁹ Kruskall told the OIG that he began to develop suspicions about the Bond Fund in January 2010, when McLeod switched to quarterly interest payments.

Hoffman in September 2009 and the three of them wondered, "What is this guy [McLeod] doing? He's not moving our money." Maltz also said that McLeod lied about having made transfers in their TSP accounts. This, combined with other "indicators" like McLeod's failure to return phone calls, led them to be concerned. Following McLeod's suicide, Hoffman stated in an e-mail to Maltz, "We all sensed something was off. I thought the thing could fold. I thought he might not be a good financial advisor. I couldn't believe he would steal from us."

K. 2009 and 2010: "Getting [B]ack [I]nto DEA [S]lowly . . ."

In 2009, McLeod gave free seminars at the Asset Forfeiture Management Conference held by the Atlanta Field Division in Nashville, Tennessee, on August 5, 2009; at the El Paso Field Division Management Conference in Santa Fe, New Mexico, on September 17, 2009; and in the DEA El Paso Field Division and at EPIC on November 17 and 18, 2009, respectively. After his presentation at the Nashville conference, McLeod stated in an e-mail to Derek Maltz that he was "[g]etting back into DEA slowly but all good my brother."

McLeod continued to support the DEA SBF during this period. On February 9, 2009, an ASAC in the Miami Field Division sent a letter addressed to McLeod requesting that he sponsor the Miami Field Division golf tournament on April 23, 2009. McLeod subsequently contributed a total of \$25,325 to the Miami golf tournament. On May 9, 2009, the ASAC sent an e-mail from his official DEA account requesting that McLeod send a check for the silent auction items purchased at the Miami DEA SBF golf tournament. The e-mail included his official title in the signature line.⁷⁰ On May 12, 2009, the ASAC signed a letter addressed to McLeod on DEA SBF letterhead, thanking McLeod for his contribution to the DEA SBF.

On July 22, 2009, Kruskall sent McLeod an e-mail about the DEA SBF golf tournament hosted by the New York Field Division, stating, "[T]he SAC's secretary asked me if you received the invitation to the tournament this year. Are you going to attend?" McLeod replied, "Call me tomorrow and we'll [see] if the dates work." Bank and DEA SBF records indicate McLeod did not contribute to the 2009 New York tournament. Kruskall told the OIG that McLeod promised every year that he would make a donation or attend the New York golf tournament, but he usually came up with a reason why he could not attend. Kruskall said that McLeod did donate \$2,000 to the New York golf tournament at some point.⁷¹

On August 11, 2009, a DEA administrative assistant sent McLeod an e-mail from her DEA account stating that McLeod was invited "at the request of [then-]SAC [Rodney] Benson" to the Atlanta Field Division golf tournament to be held in September 2009. The e-mail attached a flyer stating that the cost of participating in the tournament was \$150 per person. McLeod contributed \$1,390 to the Atlanta golf tournament on October 1, 2009, including \$1,240 for

⁷⁰ One witness told us that after McLeod's suicide, the DEA began disallowing the use of its e-mail system for DEA SBF-related communications.

⁷¹ McLeod's records show a \$2,000 contribution on November 13, 2008.

commemorative items he purchased during live and silent auctions held at the tournament. According to one witness who attended the tournament, McLeod played in a foursome with SAC Benson.

McLeod gave one final DEA seminar before his death in June 2010. On May 27, 2010, McLeod spoke at the Miami Field Division Management Conference, at the request of SAC Trouville. DEA paid McLeod's hotel costs but did not pay a fee for this seminar. When asked what he thought McLeod's incentive was for providing free seminars, Trouville stated, "[McLeod] was all about getting into the federal government. And I don't know what the guy did as far as charging or not charging. Maybe it was to promote himself to do more." Trouville told the OIG that he had not had McLeod give a seminar since 2002, before Trouville became the Miami SAC. Trouville said that his decision to ask McLeod to speak at the 2010 management conference had no relationship to McLeod's contributions to the Miami golf tournament in 2009.

When Trouville invited McLeod to speak at the conference, Trouville had been an FEBG Bond Fund investor since 2003 and had received more than \$60,000 in payments from the fund. In addition, as detailed in Section III below, Trouville had been McLeod's guest at the 2005 Super Bowl and had paid McLeod steeply discounted prices for the tickets and accommodations. Trouville told the OIG that his investment, the Super Bowl trip, and McLeod's contributions to the DEA SBF had no influence on the decision to use McLeod as a speaker in 2010.

L. Actions Following McLeod's Suicide

After McLeod's suicide in June 2010, misinformation about the scope of McLeod's fraud spread, including rumors that McLeod lost TSP and DEA SBF funds. Initial efforts within DEA focused on determining the facts and dispelling rumors. On June 27, 2010, the EAP Administrator contacted Leonhart and the current Assistant Administrator for HR about how to deal with questions from employees who invested with McLeod and expressed anger at DEA based on the "perception that we have promoted his services." Leonhart replied, "[McLeod] was used all around government to teach financial planning, and has been around DEA for many many years. I first remember hearing about him teaching at Quantico in the mid-90s. There was a big difference between what he taught (financial planning) our employees and what people did with him on their own, actually investing in his funds." Leonhart, the EAP Administrator, and the current Assistant Administrator for HR arranged for the DEA EAP and local trauma teams to provide counseling to Bond Fund investors and initiated a victim-witness assistance mailbox for investors to provide information to the FBI.

DEA Headquarters officials also reviewed agency financial programs and implemented a temporary moratorium on financial benefits training provided by non-OPM personnel. Leonhart told us that they began to assemble a working group at DEA Headquarters to determine what went wrong but put this effort on hold pending the results of the OIG investigation. This working group prepared a "best practices" document addressing the legal issues associated with contracting with financial experts and a sample agreement that includes classroom conduct ground

rules, which it briefed to leadership at the DEA Training Academy and to DTCs at their annual training conference. These ground rules include that the financial planner will not promote his business or solicit customers while in a government-owned or leased facility; will not distribute business cards or other information identifying his business or distribute contact information in class; will provide only educational assistance; and will prominently indicate in his presentation that the information provided is for educational purposes only.

In June 2013, the DEA Training Academy formally implemented these ground rules in Division Order 206. This order, which applies to Office of Training Personnel, prohibits approved adjunct instructors from promoting their businesses or soliciting customers while at the Office of Training or any government-owned or leased facility, including by distributing business cards; promoting their business or soliciting customers while providing instruction; providing gifts, trinkets, or other promotional items; or inviting students to upcoming promotional events. It also requires adjunct instructors to sign a price quote worksheet that includes a promise to provide educational training and avoid soliciting clients or promoting their businesses, and requires class coordinators to read a disclaimer stating that the DEA does not endorse the speakers, their employers, or their products or services.

Division Order 206 states that the DEA Training Academy can accept gratuitous services from a vendor provided he signs an agreement before the class acknowledging that he is providing the training at no cost to the government, that he will not solicit any business from the audience, and that he will post a prominent disclaimer as directed. It also includes sections reminding employees that ethics rules prohibit them from accepting gifts from vendors or using or permitting the use of their government position or title or authority to endorse any product, service, or enterprise.

III. McLeod's Gifts to DEA Employees

McLeod gave Super Bowl tickets and provided discounted services to several DEA employees, some of whom were involved in decisions about his seminars in DEA. Most of the recipients were FEBG Bond Fund investors who lost money when the Ponzi scheme collapsed. Additionally, bank records indicate that McLeod used accounts containing FEBG Bond Fund proceeds to purchase these gifts and services. Nonetheless, the gifts raise issues regarding potential violations of gift and conflict of interest rules, which we discuss in Chapter Five.

A. Super Bowl Attendance

In 2005, McLeod began arranging and paying for large Super Bowl parties. Based on McLeod's personal and corporate bank records, vendor documents, and the SEC's analysis of FEBG profit and loss statements, McLeod appears to have spent \$746,645.90 on Super Bowl-related expenses between December 31, 2003, and January 19, 2010. McLeod paid for many of these expenses using funds from FEBG's operating account, the same bank account into which he deposited proceeds from FEBG Bond Fund investors, or from his personal bank account, into which he

made large transfers from the FEBG operating account. McLeod charged other Super Bowl expenses to his personal and corporate credit cards.

The Super Bowl packages purchased by McLeod included tickets, corporate box seats, lodging, ground transportation, and on-site catering. In 2008, for example, McLeod spent \$20,062.50 to hire an executive coach to drive attendees from Florida to Arizona and back. In 2010, a Jacksonville news station profiled McLeod using the same executive coach and a limousine to transport 40 friends to the Super Bowl in Miami, showing McLeod and his friends loading coolers full of food and alcoholic beverages into the bus.

Most of McLeod's Super Bowl guests were his friends and colleagues. However, we determined that at least seven DEA employees attended the Super Bowl with McLeod between 2004 and 2010, some accepting airfare, lodging, transportation, meals, and tickets worth thousands of dollars. All of these were clients of McLeod's, and most were FEBG Bond Fund investors when they attended the Super Bowl with McLeod. Moreover, several said they considered McLeod to be a personal friend and socialized with him on other occasions.

1. Keith Kruskall and his Wife

As described above, Keith Kruskall and his wife, an Intelligence Analyst in the DEA's New Jersey Field Division, invested \$538,786.40 in the FEBG Bond Fund beginning in August 2003. Between 2005 and 2010, the Kruskalls attended six Super Bowls, with airfare, ground transportation, food, lodging, and tickets paid for by McLeod. For the 2008 Super Bowl in Phoenix, McLeod paid \$5,287 for first- and business-class airline tickets for Keith Kruskall, and \$2,681 for first-class airline tickets for his wife. While the total cost of the Super Bowl tickets, transportation, and lodging provided is difficult to determine based on the available records, we estimate that expenditures for Keith Kruskall and his wife totaled at least \$36,729.90 and \$17,058.40, respectively.⁷²

The Kruskalls told the OIG that they offered to pay for their flights every time, but that McLeod told them that he used airline frequent flier miles. Additionally, they said that they picked up the tab for meals and drinks for the group attending the Super Bowl several times during each trip.⁷³ Kruskall's wife told the OIG that they may have paid for their own flights in 2009 and 2010, and may have given McLeod money for tickets or catering expenses in 2010. Bank records show that the Kruskalls gave McLeod a \$651 contribution toward catering expenses in February 2010.

⁷² After reviewing a draft of the report, Keith Kruskall's wife stated that she did not become a DEA employee until September 2007. We therefore excluded Super Bowl expenditures before this date when calculating the value of her gifts.

⁷³ Kruskall told us that most of the people who attended the Super Bowl were friends of McLeod's. FEBG records indicate that McLeod paid for a large number of Super Bowl tickets each year and invited friends, family, and business associates, in addition to a small number of DEA employees. For example, McLeod purchased 20 packages and 2 tickets for the 2007 Super Bowl, and the Kruskalls were the only 2 DEA employees who attended.

When asked about these trips, Keith Kruskall told us that he did not think of them as taking gifts from someone who did business with the DEA. He said that he and McLeod were close friends by this point. Keith Kruskall said that he and his wife went to McLeod's wife's birthday party in Jacksonville, went to dinner with them many times, talked on the phone frequently, and slept at McLeod's house on three occasions.⁷⁴ Kruskall stated, "I was friends with him. He completely played me."

As detailed above, Keith Kruskall recommended the use of McLeod to provide a free seminar at SOD in 2006 and, at McLeod's request, informed the SAC of the New York Field Division that McLeod would provide free training in 2008. However, Kruskall said that he had no procurement responsibilities or authority to make decisions regarding training, and he was not required to file confidential financial disclosure reports. He denied that either his investment in the FEBG Bond Fund or his acceptance of gifts from McLeod influenced his decisions with respect to McLeod's dealings with the DEA.

We found no evidence that Kruskall's wife was involved in any official decisions relating to McLeod.

2. Mark Trouville and his Wife

As described above, Mark Trouville and his wife, a Supervisory Intelligence Research Specialist in DEA's Miami Office, invested \$75,000 in the FEBG Bond Fund on May 14, 2003, and received \$60,978.62 in payments from his initial principal. In 2005, the Trouvilles attended the Super Bowl in Jacksonville, Florida, with McLeod. According to FEBG e-mails, the Trouvilles stayed in an oceanfront double room at the Holiday Inn Sunspree during the Super Bowl. FEBG documents show that McLeod paid more than \$100,000 total for 16 packages that included hotel accommodations, and that the packages including rooms at the Holiday Inn Sunspree cost \$5,900 per person.

The Trouvilles acknowledged having attended the 2005 Super Bowl with McLeod. Both told the OIG that McLeod said that the trip was a special event for Bond Fund investors when he invited them, but that Mark Trouville insisted on paying for the tickets and hotel accommodations. According to the Trouvilles, on February 5, 2005, the day before the Super Bowl, they flew to Tallahassee and rented a car at their own expense, then drove to Jacksonville. When they arrived at the Holiday Inn, the room had been paid for. They said that they asked at the front desk how much the room cost and were told that the rate was approximately \$80 to \$100 per night. That night, they attended a party at McLeod's house. The Trouvilles said that Mark Trouville took McLeod aside at the party and gave McLeod \$1,200 in cash for the tickets, which Trouville had withdrawn in several ATM visits, plus additional cash to cover the cost of the hotel room. Mark Trouville showed the

⁷⁴ Credit card records show that McLeod purchased airline tickets costing \$2,083.40 total for the Kruskalls to fly from Washington, D.C., to Jacksonville on May 19, 2006, the same date as McLeod's wife's 30th birthday.

OIG two tickets with a face value of \$600 each. The next day, they took a shuttle to the stadium where the Super Bowl was held, briefly attended a tailgate party, and watched the game from seats in a catered corporate skybox.

Mark Trouville told the OIG that he paid for the tickets and hotel because he was aware that McLeod did business with the DEA, and he was concerned about the appearance of impropriety. However, he said that he did not consult with an ethics officer when determining how much to pay, and he relied on the amounts that McLeod and the hotel told him.⁷⁵

As detailed above, Mark Trouville selected McLeod to provide seminars in 2002 and 2010, and he recommended the use of McLeod at the 2008 IACP Conference. Mark Trouville denied that either his investment in the FEBG Bond Fund or his acceptance of Super Bowl tickets from McLeod influenced his decisions with respect to McLeod's dealings with the DEA.

We found no evidence that Trouville's wife had any involvement in official decisions relating to McLeod.

3. Joseph Lawler

Joseph Lawler, a special agent in the Atlanta Field Division, invested \$44,403.16 in the FEBG Bond Fund beginning in November 2000.⁷⁶ Lawler told the OIG that he met McLeod at seminars held in the DEA's Phoenix Field Division in the mid- and late 1990s and became a client of McLeod's during that time. Between August 2008 and August 2009, Lawler received payments from McLeod from his investment totaling \$18,000, which he told the OIG he used for home renovations. Lawler said that he believed that he was investing in McLeod's companies and was earning 10 to 12 percent interest.

Lawler attended the Super Bowl with McLeod in 2005. Lawler told the OIG that he saw McLeod teach at the DEA Training Academy in January 2005, and that at the seminar McLeod said he had extra tickets and invited Lawler and his wife to come down to Jacksonville for the Super Bowl. Lawler and his wife drove to Jacksonville, attended a party at McLeod's house on Saturday night, and then went to the Super Bowl that Sunday. Lawler said that McLeod paid for the hotel and the Super Bowl tickets, which were for seats in McLeod's skybox.

Lawler said that it did not occur to him that he was accepting Super Bowl tickets from a DEA vendor.⁷⁷ He said that he and McLeod had known each other for 10 years by the time he attended the Super Bowl. He said that McLeod described Lawler as his "best friend in DEA" at a 2009 golf tournament, and that he regarded

⁷⁵ After reviewing a draft of the report, Trouville reiterated that he relied on the amount McLeod told him, stating, "McLeod told me this was the price!"

⁷⁶ Joseph Lawler is a pseudonym.

⁷⁷ After reviewing a draft of the report, Lawler stated that he knew McLeod put on seminars at various DEA offices around the country but did not know McLeod was a DEA "vendor."

McLeod as a "friendly, Southern" kindred spirit. Lawler told us that he had no responsibility for scheduling seminars, talked to no one within DEA about his FEBG Bond Fund investment, and was not in a position to do anything to help McLeod.

4. Bethany Wolfe

Bethany Wolfe, a special agent in the New England Field Division, invested \$95,000 in the FEBG Bond Fund on May 3, 2006.⁷⁸ Wolfe said she met McLeod in late 2000 at a DEA-sponsored seminar in the Detroit Field Division. She told the OIG that McLeod described the investment to her as a 5-year certificate of deposit paying 8 to 10 percent, which she said she assumes was because McLeod knew that she worked as an auditor in a brokerage firm before she became a DEA agent. Wolfe received a \$15,000 payment from her investment from McLeod on June 16, 2009.

Wolfe told the OIG that she attended the Super Bowl with McLeod in 2005 and 2008, when the New England Patriots were in it. She said that when the Super Bowl was held in Jacksonville in 2005, McLeod said that he got tickets to the Super Bowl because he was a Jacksonville Jaguars season ticket holder. However, as described above, FEBG documents show that McLeod paid more than \$100,000 total for 16 Super Bowl packages that included hotel accommodations, and that packages including hotel rooms cost \$5,900 per person. She said that she drove up from Port St. Lucie, Florida, then stayed at a hotel on Saturday night and at McLeod's house on Sunday night. According to FEBG documents, Wolfe's hotel room was part of McLeod's Super Bowl package. She said that she did not give McLeod any money for the trip, but that she saw Terry Bradshaw at the game and had him autograph the ticket for McLeod's wife, then framed it in a double-sided glass frame.

Wolfe said that in 2008 McLeod told her he was not sure that he would have a Super Bowl ticket for her, but that she and her sister flew to Phoenix to meet up with the group. She told the OIG that she had jokingly commented to McLeod that the Patriots were having a perfect season, so she should get a ticket to the Super Bowl. She said that McLeod happened to end up with two extra tickets, which he gave to her and her sister. FEBG documents show that McLeod paid \$96,320 for 16 Super Bowl packages worth \$6,020 per person, including 8 double occupancy hotel rooms and 16 tickets, plus \$1,400 to purchase 2 additional tickets on December 5, 2007, 2 months before the Super Bowl.

Wolfe said that she did not think of the Super Bowl tickets as gifts. She told the OIG that she considered McLeod to be a friend. She said that in December 2006 she spent Christmas with McLeod and his family at their house, and that she visited McLeod and his wife in Jacksonville in August 2009.

We found no evidence that Wolfe was involved in any DEA decisions pertaining to McLeod.

⁷⁸ Bethany Wolfe is a pseudonym.

5. George Hardin

George Hardin, a Tucson agent, was not a Bond Fund investor.⁷⁹ He told the OIG that he met McLeod at a seminar in the DEA's Tucson office in 1994 or 1995 and subsequently used McLeod as his TSP advisor.

Hardin attended the Super Bowl with McLeod in 2004, 2008, 2009, and 2010. Hardin told the OIG that these were company trips, and that the skybox at the 2010 Super Bowl in Miami was a corporate box. Hardin said that McLeod paid for his Super Bowl tickets and hotel every year and used airline miles for his flight to the Super Bowl in Tampa. Bank records show that McLeod redeemed airline miles to pay for Hardin's flights to and from the 2009 Super Bowl, but we have no records documenting how McLeod paid for airline tickets in other years. Hardin said that he and Kruskall picked up large tabs for meals and drinks on many occasions.

Hardin said that he considered McLeod to be a friend. He said that he saw McLeod at golf tournaments and went to dinner a few times with McLeod and his family. In July 2009, Hardin flew to Jacksonville, Florida, to play golf with McLeod and stayed at McLeod's house on Amelia Island. Credit card statements indicate that McLeod used airline miles and paid \$85 for airline tickets for Hardin's trip to Jacksonville.

We found no evidence that Hardin was involved in any DEA decisions pertaining to McLeod.

B. "Free" or Discounted Services

McLeod provided free or discounted services to several DEA employees who invested in the FEBG Bond Fund, including free annual tax preparation and mortgages for which he waived fees and "bought down" the interest rate. McLeod offered these services to his "special clients" as a benefit of investing in the FEBG Bond Fund, not just to DEA employees. While we do not know McLeod's motivation for providing these services, the evidence suggests that he did so to help conceal and perpetuate the Ponzi scheme by discouraging FEBG Bond Fund investors from withdrawing funds and restricting discussions about the investments and interest payments to a single accountant and a mortgage broker employed by McLeod.

1. Tax Preparation

Between 2005 and 2010, McLeod paid a Jacksonville accountant to prepare income tax returns for certain FEBG Bond Fund investors. The list of tax clients did not include all FEBG Bond Fund investors or all DEA employees who had invested, and it is unclear how McLeod determined which investors received these "free" services. Recipients of tax preparation services included Braun, Trouville, Kruskall, Lawler, Wolfe, and several other DEA employees. The cost ranged from \$400 to more than \$800, paid for from FEBG's operating account.

⁷⁹ George Hardin is a pseudonym.

2. Subsidized Mortgages

McLeod handled mortgage refinancing for Braun in April 2006. McLeod appears to have waived his fees and paid points so that the Brauns could obtain a discounted rate. On April 10, 2006, McLeod sent an e-mail to the mortgage broker asking, "Can I waive all my 'fees' and pay down this rate [on the mortgage for the Brauns]? I really need this loan to happen ASAP as they are the biggest referral base for my firm and really great friends. I know they are causing you a headache but we need to make this one happen!" On April 21, 2006, McLeod sent another e-mail to the mortgage broker: "Just wanted to say 'Thanks' for taking care of Mike and Kathy Braun for me. They are extremely happy with the outcome and I've been able to save my reputation." McLeod also appears to have waived his fees and "bought down" the interest rate on the Brauns' mortgage for a vacation house in February 2007.

When asked about these e-mails, Braun said that McLeod had referred him to the mortgage broker, but that he did not know that McLeod had waived any fees or otherwise subsidized the mortgages. He told the OIG that he never referred business to McLeod or recommended that anyone use McLeod, and that press reports stating that he had referred a client to McLeod "were absolute [expletive]." Braun said that he did not consider McLeod a close friend, although he acknowledged that McLeod and his wife had stayed at Braun's house at some time after the mortgage, when McLeod was in Washington, D.C. for a seminar at another agency. He said that during this visit he witnessed McLeod verbally abuse his (McLeod's) wife and after that had only a few business-related interactions with McLeod.

In June 2007, McLeod directed his mortgage lending business, MCMG, to prepare a mortgage pre-approval letter for the Kruskalls without performing a credit check as "a favor." McLeod also appears to have paid to buy down interest rates for the Kruskalls and other FEBG Bond Fund investors. In an August 2007 e-mail, McLeod identified the Kruskalls and two other FEBG Bond Fund investors as his "special clients" and stated, "We are not making any money on these mortgages outside of a normal \$500 fee. . . . I provide mortgages to my special clients with no anticipation of making a dime on them. It is a service vehicle only!!!" In an e-mail sent two weeks later, McLeod stated, "We aren't making anything on the. . . Braun's [sic], Kruskall's [sic] or [Hoffman] mortgages as I've stated in the past! This needs to be done to buy down rates as much as possible on these FEBG Special Clients!"

Kruskall told the FBI that an MCMG employee brokered first and second mortgages for the purchase of his current house. According to Kruskall, the first mortgage was a five-year balloon, interest-only mortgage for approximately \$791,000, and the second mortgage was for \$140,000. Kruskall said that the house they purchased was a "stretch," but that McLeod came up with the idea that Kruskall could receive \$55,234 in upfront interest every year from his total FEBG Bond Fund investment (\$520,621) and use that to make his mortgage payments. During his interview with the OIG, Kruskall called this a "crazy mortgage that [he] couldn't afford" without the payments from the Bond Fund.

CHAPTER FIVE ANALYSIS

In this Chapter we present our analysis regarding the factors that contributed to McLeod's ability to gain and maintain access to DEA employees as potential clients and Bond Fund investors. We then turn to potential ethics violations by DEA employees in their dealings with McLeod.

I. Analysis of Acts and Omissions that Potentially Facilitated McLeod's Access to DEA Employees

In this section we analyze the factors that enabled McLeod to establish and maintain his access to DEA employees as potential clients and Bond Fund investors. We assessed the role of the following DEA acts and omissions in facilitating McLeod's access: (1) failing to adequately vet McLeod's credentials and qualifications as a financial advisor and expert in federal retirement benefits; (2) allowing McLeod to promote his private investment services to DEA employees during DEA-sponsored seminars in violation of applicable prohibitions on advertising or promoting private businesses on federal property; (3) failing to recognize and act on several incidents that could have suggested there were problems with McLeod's advice and legitimacy; (4) allowing DEA field divisions to utilize unapproved vendors for providing retirement or financial planning training to DEA employees; and (5) allowing McLeod's support of the DEA SBF to influence decisions to utilize him as an instructor.

A. Insufficient Vetting of McLeod

We have been unable to determine conclusively what vetting the DEA conducted before allowing McLeod to teach retirement and financial planning seminars in DEA field divisions and at the DEA Training Academy. Bob Michelotti, the first DEA official to ask McLeod to provide a seminar, said that he performed a local background check and a DEA database search on McLeod in 1989. James McCullough told the OIG that the DEA Training Academy had an informal vetting process for off-the-shelf vendors prior to 2002, and that he thought an NCIC database check would have been performed before allowing McLeod to enter the facility. However, McCullough said that no formal background checks were conducted on potential private instructors at the time McLeod began teaching at the DEA Training Academy. Moreover, the DEA Training Academy did not adopt the adjunct instructor policy requiring NCIC and NADDIS searches until November 2004, and did not fully implement it until 2006, after McLeod had stopped teaching at the DEA Training Academy. We found no evidence documenting that McLeod underwent any background checks.

It is clear that no one at DEA required McLeod to demonstrate his educational and professional qualifications for providing financial planning training. McLeod did not list any college or graduate degrees in written marketing materials submitted to the DEA Training Academy. Witnesses told us that he frequently mentioned during

seminars and in individual conversations that he had attended the University of Georgia on a baseball scholarship, claiming at various times to possess finance, business administration, and law degrees. We appreciate that it would not necessarily be anyone's responsibility to check claims McLeod made about his credentials *during* presentations, and that verifying the educational credentials of every financial planning instructor might be impractical and time-consuming. However, we believe that the DEA Training Academy should have requested a written description of McLeod's academic qualifications.

McLeod's written submission to the DEA Training Academy did include a list of professional certifications toward which he "[had] completed or [was] completing" studies, including Certified Retirement Planner, Certified 401(k) Fund Counselor, Certified Divorce Planner, and Certified Employee Benefit Specialist (CEBS). His marketing materials were confusingly written and seemed to imply that McLeod actually held several of these designations. While we did not seek to confirm the validity or significance of each designation he listed, we learned in the course of our review that McLeod did not obtain the CEBS certification. Moreover, none of the certifications were on FINRA's list of accredited professional designations. Had DEA officials attempted to check McLeod's certifications, they may have learned that he was "pumping up" his credentials with incomplete certifications or certifications requiring minimal study.

It is similarly clear that McLeod did not undergo a credit history check before being allowed to teach DEA seminars. At various times between 1987 and 2007, McLeod's credit report would have reflected a bankruptcy, overdue child support, and a federal tax lien. We recognize that procedures implemented after McLeod stopped teaching at the DEA Training Academy require criminal and credit history checks for instructors. Had these procedures been in place while McLeod was teaching, the results of his credit check may well have raised red flags to DEA personnel who were considering hiring McLeod to teach retirement and financial planning.

There are factors, however, that mitigate the DEA's lack of due diligence. An August 2011 FINRA fact sheet recommends that agencies check that the person who wants to provide a retirement seminar is properly qualified. See BAL 11-107. Suggested steps include verifying FINRA licenses or registrations, investment adviser registrations, and insurance agent licenses, and confirming background information using FINRA BrokerCheck or through the SEC or appropriate state regulators. Had DEA officials performed these checks, they would have found that McLeod had legitimate brokerage and financial adviser licenses. A search of the FINRA BrokerCheck and SEC Investment Adviser databases would have revealed few concerns about him.

Additionally, despite some concerns by DEA Human Resources personnel about misinformation provided by McLeod, he apparently possessed extensive knowledge of the federal retirement system and built a reputation among at least some agents for being able to answer complex questions about retirement benefits. Many other agencies, including the Secret Service, IRS Criminal Investigation, ICE,

and FBI, used McLeod to provide retirement benefits and financial planning training over many years.

The former Unit Chief of Planning and Evaluation told the OIG that most law enforcement training programs do not perform criminal and credit history checks for outside instructors. While we did not contact other law enforcement agencies to verify this statement, the fact that McLeod taught at other law enforcement agencies, as well as the FBI Academy and the Federal Law Enforcement Training Center, indicates that the DEA was not alone in its failure to adequately evaluate McLeod.

B. Advertisement and Promotion of McLeod's Individual Investment Services on Federal Property

As described in Chapter Two, retirement and financial planning guidelines issued by OPM state that agencies must insure that their financial education activities do not provide specific financial investment advice or "promote any particular products, services, professional credentials, firms or individuals."⁸⁰ Additionally, 41 C.F.R. § 102-74.410 prohibits persons entering in or on federal property from "soliciting . . . commercial or political donations, vending merchandise of all kinds, displaying or distributing commercial advertising, or collecting private debts," with exceptions for certain activities not relevant here.

McLeod promoted himself and his businesses during some DEA seminars by providing information about the services offered by FEIS and FSAMG in PowerPoint presentations and in advertisements distributed to seminar attendees. For example, during a July 2008 seminar at the DEA's North Central Laboratory in Chicago, Illinois, McLeod handed out a brochure for FEBG and FSAMG, a separate brochure for term life insurance offered through FEBG, and an advertisement entitled, "Six (6) Reasons to Invest with FSAMG." After some seminars, such as those at the SOD, McLeod met individually with prospective clients. During mandatory seminars at the DEA Training Academy, McLeod did not openly promote his own products and services, but he made people aware that he was a financial planner and was available.

Allowing McLeod to promote and distribute advertisements for his business on federal property violated 41 C.F.R. § 102-74.410. Additionally, although OPM did not issue its guidance for conducting financial seminars until October 2006, the seminars after this date at which McLeod distributed business cards or advertisements failed to comply with OPM's instructions to ensure that speakers do not promote particular products or firms or distribute materials with the company's name on them.⁸¹ See BAL 06-107, Attachment 3.

⁸⁰ See OPM, *Retirement Financial Literacy and Education Strategy* (Oct. 2005); BAL 06-107.

⁸¹ We recognize that FINRA states that a firm sponsoring a financial education seminar must identify itself clearly and prominently in the materials distributed to participants. See BAL 11-107. However, this requirement cannot sanction promotional activity on federal property in violation of the OPM guidance or the 41 C.F.R. § 102-74.410.

While the promotional brochures distributed by McLeod in 2001 and 2008 are the best evidence of advertising materials that violate these federal prohibitions, it is highly unlikely that they were the only examples. PowerPoint presentations found in FEBG files and on McLeod's computer contained information about McLeod's businesses or had the FEBG corporate logo on every page. Although we cannot link these presentations to specific DEA seminars, they suggest that the materials McLeod routinely used contained promotional materials. Although information about the contents of McLeod's seminars is limited, a recording obtained by the OIG indicated that McLeod made attendees aware that he was a financial planner and urged them to "call [him] on [his] business card number." One evaluation of a seminar given by McLeod at the DEA Training Academy stated, "Mr. McLeod is very arrogant. It would have been more interesting to listen to if he hadn't been talking so much about himself and his accomplishments." It is likely that violations of the prohibitions on distributing or displaying advertisements or promoting particular products, services, professional credentials, firms or individuals in the regulations and guidelines were widespread rather than limited to a few specific instances or individuals.

The contents of these seminars raise another concern. McLeod marketed his ability to provide personalized retirement benefits analyses as a distinguishing feature of his seminars. Before some seminars, DEA staff distributed an FEBG questionnaire requesting financial information. While seminar attendees could choose whether to complete these questionnaires, in some instances the questionnaires served as an entry point for employees to become clients of McLeod and to purchase additional financial products from him, placing the DEA in the position of facilitating client relationships with its employees. This was especially so for seminars where McLeod was allowed to meet individually with attendees in DEA facilities to discuss services he could provide. Moreover, by permitting McLeod to distribute forms collecting personal and financial information about federal law enforcement agents, the DEA created the impression that it trusted McLeod with this information.

While we have little evidence regarding what DEA officials—rather than McLeod himself—said at seminars, we found no evidence that officials used written or oral disclaimers stating that the DEA was not endorsing or giving preferential treatment to McLeod. To the contrary, several witnesses told us that their SACs commended McLeod for his knowledge of the federal retirement system and created the impression that McLeod was the "DEA's retirement guy," though these witnesses did not recall who made these comments or when. Beyond the 2008 e-mail stating that McLeod's seminar was "highly recommended for informational purposes by SAC Derek Maltz," we could not identify specific documentation of laudatory comments made by particular DEA officials about McLeod.

We believe that the mandatory nature of many of these trainings, the distribution of questionnaires or promotional materials at seminars, and McLeod's repeated use as a speaker at DEA events over many years inevitably created the appearance that he had the imprimatur of DEA, particularly in the absence of any disclaimer to the contrary. We further believe that DEA officials failed to consider the impact that these factors may have had on employees, particularly in light

of his personal and business relationships with certain DEA officials and his long, well-known history of making substantial contributions to the DEA SBF.

DEA's new Division Order 206 addresses some of these concerns. As discussed above, this order prohibits adjunct instructors from promoting their business or soliciting customers while at the Office of Training or any government-owned or leased facility, and it requires adjunct instructors to abide by this prohibition. This order also requires class coordinators to read a disclaimer stating that the DEA does not endorse the speakers, their employers, or their products or services, and it requires vendors providing gratuitous services to post a prominent disclaimer. However, although the order states that it prohibits promotion and solicitation while at the Office of Training or "any government-owned or leased facility," it applies only to Office of Training personnel and approved adjunct instructors. In the case of McLeod, the most egregious examples of solicitation and business promotion occurred in DEA field divisions, not at the DEA Training Academy. Neither this order nor the updated adjunct instructor approval procedures implemented by the DEA Training Academy would address this concern.

Following McLeod's suicide, a DEA working group prepared a "best practices" document providing ground rules for contracting with financial experts. These ground rules include that the financial planner will not promote his business or solicit customers while in a government-owned or leased facility; will not distribute business cards or other information identifying his business or distribute contact information in class; will provide only educational assistance; and will prominently indicate in his presentation that the information provided is for educational purposes only.

We believe that Division Order 206 and the "best practices" document are a good start. However, neither document implements a mandatory, agency-wide prohibition on promotion and solicitation in government-owned or leased facilities. We believe that the DEA should expand the prohibition to ensure that all parts of the agency are in compliance with 41 C.F.R. § 102-74.410 and the OPM guidance for conducting financial seminars, and we include this as a recommendation in Chapter Six.

C. Failure to Recognize and Act on Red Flags about McLeod

We attempted to determine whether DEA officials missed any "red flags" about McLeod that might have alerted them about his character or qualifications. The FEBG Bond Fund itself, which possessed many of the hallmarks of a Ponzi scheme, arguably was the most extreme red flag that should have led the agency to question the use of McLeod. On its face, it seems odd that law enforcement agents, some of whom must have had substantial experience in investigating sophisticated financial transactions attendant to drug enterprises, could have been so credulous about an investment that was simply "too good to be true." However, law enforcement agencies are, by their nature, close associations of a type that we found to be particularly ripe for affinity fraud: in such circumstances, acceptance into the affinity group may serve as a proxy for due diligence and induce otherwise wary people to invest. As Anthony Marotta stated, "You would say to yourself,

'How could he rip DEA off? We'd kill him. . . .' Who would have the brass to do it to law enforcement? And at the back of your mind, there's a little voice that goes off, and we chose to ignore it because you saw bosses who were involved, and things like that." By insinuating himself as "DEA's retirement guy" and with the DEA SBF, it appears that McLeod effectively insulated himself from scrutiny, even by experienced federal law enforcement agents whose job it otherwise was to engage in such scrutiny.

Contributing to McLeod's success in maintaining his scheme was the way in which he limited dissemination of information about it among and between members of the group. We found no evidence that McLeod marketed the FEBG Bond Fund during DEA seminars or, indeed, that it was widely known within DEA. By contrast, even close friends did not discuss it or know that the others were participating. In fact, information about the FEBG Bond Fund was so limited that McLeod was able to maintain his scheme for more than 20 years despite giving conflicting stories about the Fund's underlying investments to different participants.

We also considered other facts that could have been warning signs about McLeod. Beginning in 2001, DEA Human Resources personnel voiced concerns about misinformation allegedly provided by McLeod, particularly his advice to invest only 5 percent in the TSP and withdraw 7 percent of savings per year during retirement. As noted above, this advice was unconventional, and the concerns expressed by Human Resources personnel about it were well-founded. However, a dispute about the best investment strategy does not equate to a warning about dishonesty or fraudulent behavior. Moreover, we did not find evidence that Human Resources personnel shared particular, substantive concerns about McLeod's investment practices with senior DEA officials or with the field divisions. Senior DEA officials, including Leonhart and Braun, were generally aware that Human Resources personnel had concerns about McLeod but thought that these concerns were the product of bureaucratic infighting about who should conduct retirement training rather than complaints about McLeod's competence or accuracy.

We found that McCullough appropriately identified and acted upon inappropriate behavior by McLeod when he removed McLeod from the adjunct instructor list at the DEA Training Academy. As detailed above, McCullough told us he terminated McLeod as an instructor at the Training Academy after several arguments with McLeod in which McLeod used obscenities, threatened to get McCullough removed as SAC, and threatened to sue McCullough. McCullough also told us he terminated McLeod because he was giving bad financial information at his seminars, although McCullough told us he could not recall the specifics.

However, the testimony is less clear as to whether McCullough informed senior DEA officials or DEA field divisions about the basis for McLeod's ban from the DEA Training Academy. McCullough told the OIG that he sent an agency-wide telex stating that the DEA Training Academy had suspended using McLeod as an instructor because McLeod had presented false and misleading information during seminars, and that he subsequently received calls from SACs and managers around the country seeking the details behind the telex. We were unable to find evidence corroborating McCullough's claim. No DEA officials we interviewed recalled having

seen such a telex, and the DEA's official response to our request for the telex stated that a copy of it could not be found.

Some DEA officials attributed McCullough's decision not to use McLeod at the DEA Training Academy to a personal disagreement and continued to hire McLeod to provide seminars based on their own positive experiences with him. As discussed in more detail below, because field divisions can decide which instructors to use to provide training, particularly free training, there was no mechanism to prohibit the use of McLeod after his removal from the DEA Training Academy.

Leonhart told us that during McLeod's bizarre February 2008 telephone call to her at home, McLeod told her that he had been fired by McCullough over the videotaping incident. We considered whether this information, together with McLeod's "bizarre" behavior during the phone call, was a red flag that Leonhart should have considered when she approved McLeod as a speaker for the SAC conference in November 2008. We received conflicting information regarding communications between Leonhart and McCullough after the February 2008 phone call. Leonhart said McCullough told her that McLeod had not been banned and denied that the videotape incident had occurred; McCullough told us he said the opposite to Leonhart.

We were surprised that Leonhart approved the use of McLeod at the SAC conference in light of the February phone call and his admission that he had been banned from the DEA Training Academy. However, as described to us these incidents did not raise direct questions about McLeod's honesty, his expertise in financial planning, or his skills as a speaker. For this reason, we cannot say that Leonhart necessarily erred in approving McLeod to speak at the conference.

In short, although there were adverse facts about McLeod that became known to some DEA officials, we did not find that these facts were widely disseminated or provided sufficient warning about McLeod's honesty for us to find specific fault with any DEA officials for failing to act to restrict his access to DEA employees.

D. Lack of Centralized Training Responsibility

The DEA provides retirement benefits and financial planning training through four separate sources: the DEA Training Academy, which primarily uses outside instructors to provide instruction during mandatory agent and analyst courses; DEA Human Resources personnel, who have at times taught retirement benefits seminars at the DEA Training Academy and in the field, but who cannot provide financial planning instruction; DEA field divisions, which organize periodic financial trainings using outside instructors; and beginning in 2007, EAP-sponsored financial education classes, which to date have relied on education-only companies to provide general financial planning information. We were told that a history of infighting between these offices about who had responsibility for providing retirement benefits training led senior DEA officials to minimize legitimate complaints about McLeod from DEA Human Resources personnel.

Additionally, DEA field divisions have the ability to use outside vendors who are not on the approved adjunct instructor list at the DEA Training Academy, particularly when planning management conferences. We determined that this limited the ability of James McCullough, the former SAC of the DEA Training Academy, to prevent field divisions from using McLeod after his removal from that list in 2005. While we could not independently corroborate that McCullough sent a broadcast telex about McLeod, even had McCullough sent such a telex, he told us that it was not a training directive and would not have bound field divisions. We believe that the Office of Training is best positioned to evaluate outside instructors under its adjunct instructor approval processes, particularly including the background criminal and credit checks it has implemented since 2006, and that it should have more control over the process.

We recognize that the Office of Training recommended McLeod as early as 1998 and used him to teach classes at the DEA Training Academy for several years. By 2005, when McLeod stopped teaching at the DEA Training Academy, he had taught DEA seminars for as many as 10 years and had gained a reputation for his knowledge of the federal retirement system. As a result, the field divisions that kept using McLeod after his removal from the list of approved adjunct instructors were not relying on an untested vendor. Moreover, witnesses told us, and internal FEBG e-mails indicate, that rumors attributed McLeod's removal from the DEA Training Academy to a personal falling out between McLeod and McCullough, not to concerns about his information or behavior. This history underlines the importance of having a central authority to vet and approve instructors.

E. Preferential Treatment of McLeod Based on his Support of the DEA Survivors Benefit Fund

Contributions to the DEA SBF were part of McLeod's marketing strategy, and McLeod made large donations to the DEA SBF even when he could not pay other business expenses. DEA witnesses told the OIG that McLeod was known for being a large donor to the DEA SBF and received recognition from DEA officials for his contributions. Several witnesses said that they viewed McLeod's contributions positively. For example, Jeff Maldonado said that McLeod's contribution to the DEA SBF at the November 2008 SAC Conference lessened his suspicions of McLeod and made him think that McLeod had a personal interest in the DEA. Chris McKee, who worked briefly for McLeod after retiring from the DEA in 2004, said that donating to the DEA SBF gave McLeod status and an "air of credibility," and recognition of McLeod by DEA officials conveyed to agents that McLeod was "doing the right thing." McKee told the OIG, "[I]n my opinion, the way McLeod got his feet in DEA was writing checks [to the DEA SBF]."

Based on this information, we considered whether DEA officials allowed McLeod's support of the DEA SBF to influence their decisions to utilize him as an instructor. We found no direct link between McLeod's contributions to the DEA SBF and decisions to hire him for particular seminars. In particular, we did not find sufficient evidence to conclude that the decision to use McLeod as a speaker at the November 2008 SAC Conference was based on his \$20,000 contribution to the DEA SBF, or that McLeod's unpaid seminar at a May 2010 Miami Field Division

Management Conference was the result of the \$25,325 he contributed to the DEA SBF golf tournament in Miami in April 2009.

We found at least one instance in which DEA SBF contributions were clearly a factor in a DEA official's actions. FEBG documents show that in early 2005 Anthony Marotta, then an ASAC in the Detroit Field Division, learned that the division had accepted a free seminar from a competing benefits firm and called the Detroit DTC to remind him about McLeod's contributions to the DEA SBF. Marotta told the OIG that he contacted the DTC because of a sense of "loyalty" based on McLeod's long relationship with the DEA and history of contributing to the DEA SBF. However, Marotta's actions apparently did not result in additional seminar business for McLeod: we found no record of seminars in the Detroit Field Division after August 2004.

It is unlikely that Marotta's actions were an isolated occurrence. McLeod's e-mails suggest that other DEA officials may have declined offers of free seminars from the same competing vendor, either because of a similar sense of loyalty to McLeod or because the competitor lacked an established reputation. McLeod's e-mails, particularly the January 2008 e-mail voicing his intent to withhold contributions from DEA SBF golf tournaments based on a lack of support for his business, suggest that he expected his financial support to engender loyalty to him.

Even absent a direct link between a contribution to the DEA SBF and a particular DEA decision to hire McLeod, we believe that the "air of credibility" created by McLeod's contributions to the DEA SBF, as well as the familiarity resulting from his frequent interaction with agents at golf tournaments, played a key role in his ability to gain and maintain access to the DEA. We concluded that the goodwill that McLeod generated through his support of the DEA SBF facilitated his being hired to give seminars and thereby obtaining access to DEA employees who later became clients. Based on this, we believe that the DEA should conduct a review of the relationship between it and the DEA SBF and issue guidance regarding this relationship so that others associated with the DEA SBF in the future cannot similarly exploit that relationship in their dealings with the DEA.

II. Possible Ethics Violations

As detailed in Chapter Three, numerous DEA employees hired McLeod to provide personal financial services or made personal investments with McLeod, including investments in the Bond Fund. McLeod made gifts to some of the DEA employees who invested with him, including Super Bowl tickets and accommodations, discounted mortgages, and free tax preparation services. Some employees who invested with McLeod or received gifts from him participated in their capacity as DEA employees in decisions to select McLeod to provide seminars. Additionally, some DEA employees also solicited McLeod for large contributions to the DEA SBF, a private charity providing benefits to the families of fallen DEA agents. These circumstances give rise to potential violations of a variety of federal ethics statutes and regulations, which we describe in this section.

A. Receipt of Gifts

As detailed in Chapter Four, McLeod made gifts of significant value to several DEA employees, including Super Bowl trips, free tax preparation services, and subsidized mortgages. These gifts to federal employees, some of whom were involved in DEA decisions affecting McLeod, raise potential issues [REDACTED]. They also raise potential violations of prohibitions on accepting gifts from prohibited sources and gift reporting requirements.

1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

82 [REDACTED]

(Cont'd.)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

2. Gifts from Outside Sources

The Standards of Ethical Conduct for Employees of the Executive Branch contain broader prohibitions on the acceptance of gifts from outside sources [REDACTED]. Subpart B sets forth the following relevant prohibitions:

- An employee shall not, directly or indirectly, solicit or accept a gift from a prohibited source. See 5 C.F.R. § 2635.202(a)(1). "Prohibited source" includes any person who does business or seeks to do business with the employee's agency, or has interests that may be substantially affected by performance or nonperformance of the employee's official duties. See 5 C.F.R. §§ 2635.203(d)(2), (4).
- An employee shall not, directly or indirectly, solicit or accept a gift given because of the employee's official position. See 5 C.F.R. § 2635.202(a)(1).

- An employee shall not accept gifts from the same or different sources on a basis so frequent that a reasonable person would be led to believe the employee is using his public office for private gain. See 5 C.F.R. § 2635.202(c)(3).⁸³

The regulations define a "gift" as a "gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value," which includes "services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. See 5 C.F.R. § 2635.203(b).

The definition of "gift" does not include anything for which the employee pays "market value." See 5 C.F.R. § 2635.203(b)(9). "Market value" is defined to mean the retail cost the employee would incur to purchase the gift. See 5 C.F.R. § 2635.203(c). The regulations state that the market value of a gift of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit shall be the face value of the ticket. See 5 C.F.R. § 2635.203(c). However, where an event is held in a skybox or private suite, the employee may not rely on the face value of the ticket. Instead, the employee must determine the value by adding the market value of the most expensive publicly available ticket to the event to that of the food, parking, and any other tangible benefits provided in connection with the gift of attendance. See OGE Informal Advisory Memorandum 07 X 2, 2007 WL 5065674 (O.G.E.).⁸⁴ This is so even if the skybox or private suite tickets bear a purported face value, unless the tickets are available to the general public at that face value amount. See *id.*

Additionally, the regulations contain exceptions that allow government employees to accept certain gifts. See 5 C.F.R. § 2635.204. The following exceptions are potentially relevant to this review:

- An employee may accept a gift given under circumstances that make it clear that it is motivated by a family relationship or personal friendship rather than by the position of the employee. Relevant factors in making this determination include the history of the relationship and whether the family member or friend personally pays for the gift. See 5 C.F.R. § 2635.204(b). In a 2006 advisory letter, OGE set forth the factors indicating a personal relationship: the length of time of the relationship, the intimacy of the relationship including any family interaction, the nature of personal activities outside the work context, and the frequency of outside contacts. See OGE Informal Advisory Letter 06 X 3, 2006 WL 4512823 (O.G.E.). This exception does not

⁸³ The Standards of Ethical Conduct also prohibit the acceptance of a gift in return for being influenced in the performance of an official act. See 5 C.F.R. §§ 2635.202(b), 2635.202(c)(1). ■■■■■

⁸⁴ OGE advised that employees determine the value of food and beverages received as part of attendance by dividing the cost of the catering bill for the suite by the number of attendees, or estimate the value by using the prices listed in the venue's catering menus for the items provided.

extend to amicable business relationships between a federal employee and a government contractor. See 5 C.F.R. § 2635.204(b) (Example 2).

- An employee may accept meals, lodging, transportation, and other benefits resulting from his outside business or employment activities when it is clear that such benefits have not been offered or enhanced because of his official status. See 5 C.F.R. § 2635.204(e)(2).

Gifts accepted under these exceptions do not violate the basic obligations of public service—that employees avoid holding conflicting financial interests, using public office for private gain, soliciting or accepting gifts from prohibited sources, or taking actions that create the appearance of violating the law or ethical standards, among other obligations. See 5 C.F.R. §§ 2635.101(b), 2635.204. Nonetheless, the regulations caution that it is “never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source or because of his official position.” 5 C.F.R. § 2635.204.

McLeod was a DEA vendor or was seeking to do business with the agency, and therefore clearly was a “prohibited source.” See 5 C.F.R. §§ 2635.203(d)(2), (4). The Super Bowl trips, tax preparation services, and discounted mortgages all were “gifts” from within the meaning of 5 C.F.R. § 2635.203(b). Some DEA employees accepted Super Bowl trips from McLeod totaling thousands of dollars over several years, potentially creating the appearance that these employees were using their public offices for private gain. See 5 C.F.R. § 2635.202(c)(3). Unless an exemption or exception clearly applies, the acceptance of such trips and services would violate the gift rules. See 5 C.F.R. §§ 2635.202(a)(1), (c)(3).

None of the items provided by McLeod were exempt from the definition of “gift.”⁸⁵ Trouville told the OIG that he reimbursed McLeod more than \$1,200 in cash for the face value of his and his wife’s Super Bowl tickets and the standard room rate for his hotel accommodations, and thus his attendance was not a “gift.” See 5 C.F.R. § 2635.203(b)(9). However, Trouville’s payment did not represent the fair market value of the Super Bowl tickets. Because the seats were in a catered skybox, Trouville was not entitled to rely on the face value of the tickets; under the ethics regulations, he should have estimated the value based on the costs of the most expensive publicly available tickets plus the market value of the food, parking, and other tangible benefits provided in connection with the gift of attendance. See OGE Informal Advisory Memorandum 07 X 2, 2007 WL 5065674 (O.G.E.). The cost of the Super Bowl packages provided by McLeod was \$5,900 per person, not the

⁸⁵ We acknowledge that the items that McLeod provided to DEA employees were paid for from Bond Fund proceeds, including possibly proceeds invested by these same employees. The employees did not know this at the time, and obviously believed they were receiving something of value from McLeod. Although there is no case law or guidance on point, we do not believe that the fact that McLeod used stolen funds to buy the gifts creates an exception or defense to the prohibition on gifts from prohibited sources. This seems particularly true where, as here, it is likely that the employees would not have recovered some or all of the funds invested in McLeod’s Ponzi scheme, including those that may have been used to pay for tickets or other gifts to them on their behalf.

\$600 printed on each ticket, and Trouville and his wife each received a gift in the amount that exceeded their payment.

Nor does the evidence clearly establish that an exception applies. We acknowledge that the DEA employees who received gifts from McLeod were his private clients and had outside business relationships with him. Hardin, Wolfe, Lawler, and Keith Kruskall and his wife all told the OIG that they did not think of the items they received as "gifts" because they had independent business and personal relationships with McLeod. As described above, McLeod gave Super Bowl tickets to local friends and business associates as well as DEA officials, and he provided free tax preparation services and discounted mortgages to select FEBG Bond Fund investors inside and outside the DEA. McLeod may have intended these gifts to help conceal and perpetuate his Ponzi scheme, not only by creating the veneer of financial success, but also by discouraging FEBG Bond Fund investors from withdrawing funds and restricting discussions about the investments and interest payments to a small circle of professional advisors.

Despite this, we cannot conclude that the exception for gifts based on the recipients' outside business relationships with McLeod rendered the tickets and services permissible. For that exception to apply, it must be "clear" that the gifts were not offered or enhanced because of the recipients' official status. While we found no evidence in internal FEBG e-mails or documents that the official status of the recipients played a role in McLeod's gift-giving, we cannot know why or how McLeod selected the gift recipients. Absent this information, the evidence provides no "clear" assurance that the official status of the recipients was immaterial.⁸⁶ And if the exception does not clearly apply, then acceptance of gifts from a prohibited source would be impermissible.

We note that even if these gifts technically were permissible, McLeod was a DEA vendor and a prohibited source when he paid for the 2005 Super Bowl. At a minimum, the DEA employees who accepted Super Bowl trips from McLeod exhibited extremely poor judgment by failing to consider the appearance that these trips created or to consult an ethics officer to ascertain their legality. That is particularly true for Kruskall and Trouville who were involved to some extent and at various times in assisting McLeod to obtain speaking engagements with the DEA that enhanced his reputation there and, ultimately, his business interests. Regardless of the recipients' personal or business relationships with McLeod, they should have been more cognizant of the potential appearance of impropriety created by the acceptance of expensive tickets and free or discounted services from a prohibited source. We believe it would have been prudent for these employees to

⁸⁶ It also is unlikely that the exception for gifts motivated by personal friendship applies. Although most of the recipients told us they had personal friendships with McLeod and had been overnight guests in McLeod's house or otherwise socialized with him, McLeod used funds from his corporate bank account to pay for Super Bowl expenses, and thus did not personally pay for the items provided to the recipients, one of the relevant factors used to determine whether a gift is clearly motivated by personal friendship. See 5 C.F.R. § 2635.204(b) (Example 2). After reviewing a draft of the report, several employees who attended the Super Bowl with McLeod stated that they had no knowledge of how McLeod paid for it.

have declined gifts from McLeod, and that the failure of Kruskall and Trouville to do so represented a lapse of judgment no doubt fueled by their financial and, at least to some extent, their personal relationship with him. Moreover, given their involvement with McLeod obtaining speaking engagements at DEA, they both should have consulted with their ethics advisor before accepting anything of value from him.

3. Reporting of Gifts

At least two DEA employees who received gifts from McLeod were obligated to report them. The Ethics in Government Act of 1978, as amended, requires senior officials in the executive, legislative, and judicial branches to file public reports of their finances and other interests outside the Government, including certain gifts. See 5 U.S.C. app. 4 §§ 101-111. The statute and OGE regulations specify which officials in the Executive Branch must file public financial disclosures, including, among others, employees who occupy positions classified above GS-15, such as officials in the Senior Executive Service. See 5 U.S.C. app. 4 § 101(e)(3); 5 C.F.R. § 2634.202(c).⁸⁷ Reviewing officials within each agency certify and maintain these reports. See 5 C.F.R. § 2634.605.

For purposes of the disclosure regulations, "gift" means a "payment, advance, forbearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor." 5 C.F.R. § 2634.105. Employees who file public financial disclosure forms must report gifts aggregating \$350 or more received from any source other than a relative.⁸⁸ See 5 U.S.C. app. 4 § 102(a)(2)(A); 5 C.F.R. § 2634.304(a). These employees must identify the source of the gift, the value of the gift, and a brief description of the gift. For in-kind gifts related to travel, employees must provide an itinerary, state the dates of travel, and describe the nature of the expenses provided. See 5 U.S.C. app. 4 § 102(a)(2)(A); 5 C.F.R. § 2634.304(a). Gifts to the employee's spouse or dependent children also must be reported unless they are received totally independent of the relationship of the spouse or dependent child to the reporting individual. See 5 U.S.C. app. 4 § 102(e)(1)(C); 5 C.F.R. § 2634.309(a)(2).

According to OGE, the primary purpose of disclosure is to assist agencies in identifying potential conflicts of interest between a filer's official duties and his private financial interests and affiliations. If a potential conflict of interest is identified, several remedies are available to avoid an actual or apparent violation of federal ethics laws and regulations, including divestiture of the conflicting financial

⁸⁷ Certain other executive branch employees are required to file confidential financial disclosure reports. See 5 U.S.C. app. 4 § 107. However, none of the other DEA employees who accepted gifts from McLeod were required to file public or confidential financial disclosure reports.

⁸⁸ OGE adjusts the gift reporting threshold every 3 years. Between 2005 and 2007, the reporting threshold was \$305; between 2008 and 2010, it was \$335. See Final Rule, 73 Fed. Reg. 15,387-15,388 (Mar. 24, 2008). Gifts with a fair market value under a certain dollar threshold (currently \$140) need not be aggregated for purposes of the reporting rules. See 5 C.F.R. § 2634.304(d).

interest; restitution; the establishment of a blind trust; a request for an exemption under 18 U.S.C. § 208(b); or a voluntary request for transfer, reassignment, limitation of duties, or resignation. See 5 U.S.C. app. 4 § 106(b)(3).

Braun and Trouville, both public filers, received gifts from McLeod. As described above, Braun received “free” tax preparation services from McLeod. FEBG e-mails indicate that McLeod also waived his fees and “bought down” the interest rate on mortgages obtained by Braun in 2006 and 2007, though Braun said that he did not know that McLeod had waived these fees. Additionally, Trouville attended the 2005 Super Bowl with McLeod and also received tax preparation services. Neither reported gifts on their public financial disclosure forms for the relevant period.⁸⁹ Given the amount of time that has passed and the fact that Braun retired from the DEA in 2008, we are not referring this issue for further review. None of the other DEA employees who received gifts from McLeod had public or confidential financial disclosure requirements.

B. Ethics Issues Arising Out of the Participation of McLeod’s Clients in DEA Decisions Affecting McLeod

A somewhat different set of ethics issues are raised by the fact that several DEA employees who were private clients of McLeod’s—some of whom were Bond Fund investors—participated in recommending or hiring him to give DEA seminars. These circumstances raise potential conflict of interest and misuse of office violations under the Standards of Ethical Conduct for Employees in the Executive Branch, 5 C.F.R. Part 2635.

Section 2635.502(a) of the Standards of Ethical Conduct regulations provides:

Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the [designated agency ethics official] of the appearance problem and received authorization from the agency designee

The regulation states that an employee who is concerned that other circumstances would raise a question about his impartiality should consult his designated agency

⁸⁹ As discussed above, Trouville and his wife told the OIG that they paid McLeod \$1,200 in cash for the face value of the tickets, plus the ordinary room rate for the hotel during the 2005 Super Bowl. Even assuming this is true, the tickets were for skybox seats, and the actual price of the relevant Super Bowl packages was \$5,900 per person. Trouville accordingly was not excused from the gift reporting requirement by reason of his reimbursing McLeod for a small portion of the value of his gift. See OGE Informal Advisory Memorandum 07 X 2, 2007 WL 5065674 (O.G.E.).

ethics official to determine whether he should participate in a particular matter. See 5 C.F.R. § 2635.502(a)(2).

The definition of “covered relationship” in Section 2635.502 includes a person with whom an employee “has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction.” 5 C.F.R. § 2635.502(b)(1)(i). An employee should not participate in a matter involving specific parties when someone with whom the employee has a “covered relationship” is a party to the matter, or represents a party to the matter, if a reasonable person would question his impartiality in the matter. See OGE Informal Advisory Memorandum 08 X 3, 2008 WL 5761589 (O.G.E.).

As detailed above, our investigation determined that some individuals who were private clients of McLeod’s participated in some manner in recommending or selecting him to give financial planning seminars to DEA employees. These individuals are set forth in the table below:

**FIGURE 5.1
Clients Who Participated in Recommending or Selecting McLeod**

Name	Title	Nature of Involvement	Page References
Anthony Marotta	ASAC, Columbus Resident Office	Contacted Detroit DTC to discourage use of competing benefits vendor.	39
Keith Kruskall (2006)	Staff Coordinator, SOD	Recommended that the SAC hire McLeod to provide training.	40
Keith Kruskall (2008)	ASAC, New York Field Division	At McLeod’s request, told the New York SAC that McLeod would come to New York and provide training to the division for free; also may have contacted the SAC of the SOD about McLeod doing another training.	47
Derek Maltz	SAC, SOD	Selected McLeod to provide free training in 2008.	47
Mark Trouville (2008)	SAC, Miami Field Division	Recommended that McLeod speak at the 2008 SAC Conference.	48
Mark Trouville (2010)	SAC, Miami Field Division	Selected McLeod to speak at the June 2010 Miami Field Division Management Conference.	53

It is important to recognize that McLeod gave more than 130 different seminars in DEA over a period of more than 20 years, and that we were unable to determine who was involved in selecting McLeod for the large majority of them. We believe that is very likely that other current or former DEA agents who were clients of McLeod's were involved in making decisions about hiring him for the DEA, and that the foregoing list is not complete.

Every DEA employee who was a private client of McLeod's had a "covered relationship" with him within the meaning of Section 502. It was plain to every such employee that McLeod benefitted financially each time he was hired to give a DEA seminar, either from the fees he was paid or from the opportunity to recruit new private clients. We believe that a reasonable person would question the impartiality of any private client of McLeod's with respect to whether to hire McLeod for more DEA seminars. DEA employees who were private clients of McLeod's were therefore obligated to recuse themselves from participating in any DEA decision to hire McLeod, or to obtain approval for participating in such decision from an agency ethics official.⁹⁰

We have no evidence that any of the individuals listed above sought approval from a designated ethics official prior to involving themselves in decisions benefitting McLeod. We therefore concluded that each of them violated 5 C.F.R. § 2635.502(a). Again, we believe that ethics violations of this type were widespread in DEA with respect to McLeod due to the large number of DEA employees who retained his services privately and due to the failure of DEA employees to recognize the potential conflict of interest.

The practice of private clients of McLeod participating in hiring him for the agency also implicates Section 2635.702(a) of the Standards of Ethical Conduct, which states that:

An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including non-profit organizations of which the employee is an officer or member, and

⁹⁰ After reviewing a draft of the report, SAC Trouville stated that the sole motivation for selecting McLeod to provide seminars was that McLeod was the best financial advisor regarding employee benefits. Additionally, former SAC Derek Maltz commented that McLeod's 2008 seminar was unpaid, and thus he did not "hire" McLeod. However, payment was not required for the selection of McLeod to provide a seminar to constitute a "particular matter involving specific parties." The ethics regulations define this phrase as including a "specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties," and OGE has interpreted it to include parties involved in the preliminary or informal stages of a matter, such as prospective bidders. See OGE Informal Advisory Memorandum 06 X 9, 2006 WL 5380985 (O.G.E.) (*citing* 5 C.F.R. § 2640.102(l)); OGE Informal Advisory Letter 90 X 12, 1990 WL 485690 (O.G.E.). If Section 2635.502 applies even to pre-contractual activities, where no exchange of money for services has taken place, it is difficult to conclude that an agreement to allow McLeod to provide training would be exempt simply because it was unpaid.

persons with whom the employee has or seeks employment or business relations.

5 C.F.R. § 2635.702. Additionally, under 5 C.F.R. § 2635.702(d) provides:

To ensure that the performance of his official duties does not give rise to an appearance of use of public office or private gain or of giving preferential treatment, an employee whose official duties would affect the financial interests of a friend, relative, or person with whom he is affiliated in a nongovernmental capacity shall comply with any applicable requirements of 5 C.F.R. § 2635.502.

As noted above, Section 2635.502 gives employees the option of recusing themselves from particular decisions or obtaining the approval of a designated ethics official.

Every DEA employee who was a private client of McLeod's was affiliated with him in a non-governmental capacity within the meaning of Section 2635.702(a). As such, these employees were obligated to refrain from using their positions for McLeod's private gain, or to obtain ethics approval before participating in DEA matters affecting McLeod's finances.

McLeod was widely perceived to be an effective financial benefits instructor. We acknowledge that the DEA employees who participated in hiring him for seminars may have believed they were doing so for the benefit of DEA in addition to any benefit to McLeod. However, we believe that the existence of the private financial relationships between DEA employees and McLeod at a minimum created a potential appearance of partiality and an obligation under Section 2635.702(d) for the employees to recuse themselves from decisions affecting McLeod's financial interests or to obtain the approval of a designated ethics official before participating in such decisions. Again, we have no evidence that any of the DEA employees who were clients of McLeod's sought such approval before participating in the decision to hire him.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

91

[REDACTED]



C. Solicitation of DEA SBF Contributions from McLeod

As detailed above, DEA employees regularly solicited funds from McLeod for the SBF. McLeod frequently cited his support for the DEA SBF as a reason that DEA should hire him, and threatened to withhold such support when the business went to others. Several ethics regulations implicate actions taken by government employees on behalf of non-profit organizations, and we thus considered whether the solicitation of DEA SBF contributions from McLeod was improper.

Under 5 C.F.R. § 2635.808(c), an employee may engage in fundraising for a non-profit organization in his personal capacity only in accordance with certain restrictions. Among these are prohibitions on an employee personally soliciting funds or other support for the non-profit organization from any person known to be a "prohibited source," or using his official title, position, or authority associated with his public office to further the fundraising effort.⁹² See 5 C.F.R. §§ 2635.808(c)(1)(i), 2635.808(c)(2). "Personally solicit" means to request or otherwise encourage donations or other support either through person-to-person contact or through the use of one's name or identity in correspondence or by permitting its use by others; it does not include mass-produced correspondence unless the employee knows that the solicitation is targeted at persons who are prohibited sources (or other persons covered by the regulations). See 5 C.F.R. §§ 2635.808(a)(4), 2635.808(c) (Example 3).⁹³

The prohibition on soliciting funds from a prohibited source serves to protect the integrity of the federal acquisition process. It helps to ensure that government contractors do not feel pressured to contribute to charitable causes favored by government employees in order to get government business, and to prevent government employees from favoring particular contractors from whom such contributions have been solicited.

⁹² As discussed above, "prohibited source" includes any person who does business or seeks to do business with the employee's agency, or has interests that may be substantially affected by performance or nonperformance of the employee's official duties. See 5 C.F.R. §§ 2635.203(d)(2), (4).

⁹³ OGE has stated that it also is improper to accept checks from a prohibited source payable to a non-profit organization under 5 C.F.R. § 2635.202(a), which prohibits federal employees from "accepting" as well as soliciting indirect gifts. See OGE Informal Advisory Letter 92 X 23, 1992 WL 518829 (O.G.E.).

As discussed above, FEBG records included numerous solicitation letters addressed to McLeod on DEA SBF letterhead, signed by DEA SACs, ASACs, and agents. While we did not seek to determine the circumstances of every solicitation, many of the written solicitations we found were addressed personally to McLeod. For example, between 2004 and 2007, Marotta signed four letters addressed to McLeod by name, requesting that McLeod sponsor the Columbus DEA SBF golf tournament.⁹⁴ On August 11, 2009, an administrative assistant sent McLeod an e-mail from her DEA account stating that McLeod was invited at the request of the SAC to the Atlanta Field Division golf tournament to be held in September 2009. The e-mail attached a flyer stating that the cost of participating in the tournament was \$150 per person. On May 6, 2009, an ASAC in the Miami Field Division sent an e-mail from his official DEA account requesting that McLeod send a check for silent auction items purchased at the Miami DEA SBF golf tournament. The e-mail included the ASAC's official title in the signature line. If the employees making these solicitations knew McLeod to be a prohibited source, they violated 5 C.F.R. § 2635.808(c)(1)(i) by requesting contributions from him. Based on McLeod's history of making large donations to the DEA SBF over many years, we believe that asking McLeod for contributions was not limited to the solicitations found in FEBG files, and that the violations of this provision were not limited to a few, identifiable individuals.⁹⁵

⁹⁴ After reviewing a draft of the report, Marotta stated that the letters sent to McLeod were among hundreds he sent to businesses asking that they consider sponsoring the Columbus DEA SBF golf tournament. Marotta stated that he sent sponsorship requests to companies that had made contributions to other golf tournaments, but that he also randomly selected local companies from the telephone book and sent letters to them. He said that he generally sent letters to approximately 25 to 30 companies.

⁹⁵ Employees who used their official DEA positions and titles when soliciting contributions to the DEA SBF from McLeod and others also violated 5 C.F.R. §§ 2635.702(b) and 2635.808(c)(2). Section 2635.702(b) states that an employee shall not use or permit the use of his position, title, or any authority associated with his public office "in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another." OGE has stated that this provision prohibits the use of official title or position to suggest that the government endorses or sanctions an employee's personal involvement in a non-profit organization, such as by permitting the use of his official position or title on the organization's letterhead. See OGE Informal Advisory Letter 01 X 9, 2001 WL 34091918 (O.G.E.); OGE Informal Advisory Letter 99 X 15, 1999 WL 33305909 (O.G.E.). Section 2635.808(c)(2) prohibits a government employee from using his official title, position, or authority associated with his public office to further a private fundraising effort. Although it is understandable and commendable that DEA employees have a strong interest in promoting the DEA SBF, federal regulations do not permit the use of an employee's official title or authority to promote the SBF.

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CHAPTER SIX CONCLUSIONS AND RECOMMENDATIONS

In this review, we examined the factors that may have contributed to the ability of a corrupt investment advisor to gain and maintain access to DEA personnel over a period of many years, as well as individual ethics violations by DEA personnel in the course of their dealings with that person, now deceased. While we found no single factor that was responsible, we identified several factors that contributed to Kenneth "Wayne" McLeod's continued use as a vendor. These included insufficient vetting of McLeod, permitting McLeod to promote his business in DEA facilities and through DEA channels, failing to recognize and act on red flags about McLeod, and allowing DEA field divisions to select and use their own vendors without vetting or oversight from headquarters. We also determined that McLeod made large contributions to the DEA SBF over the course of many years as part of his business strategy, and that the "air of credibility" created by McLeod's attendance at DEA SBF events in those field divisions and support for that organization contributed to his continued access to the DEA. This was exacerbated by the closeness of the law enforcement community, and the belief that no one would try to defraud its members.

In this Chapter we present our conclusions and recommendations. We first briefly summarize conclusions. We then set forth our recommendations, which include implementing improved procedures for vetting financial training vendors and regulating their conduct while in DEA facilities. Additionally, given the close relationship between the DEA and the DEA SBF, we believe that the DEA should examine interactions between these entities to ensure that employees acting on behalf of the DEA SBF comply with applicable ethics rules and avoid conflicts of interest.

I. Summary of Conclusions

- We have been unable to determine conclusively what vetting the DEA conducted before allowing McLeod to teach retirement and financial planning seminars in DEA field divisions and at the DEA Training Academy. We believe that the steps taken were insufficient, and that the DEA Training Academy should at least have requested a written description of McLeod's academic and professional qualifications, checked on any relevant claimed professional certifications, and performed a credit check on him. We identified several mitigating facts, including that McLeod had legitimate brokerage and financial adviser licenses, had built a reputation among agents for being able to answer complex questions about retirement benefits, and was used by numerous other government agencies to provide retirement benefits and financial planning training over many years.
- DEA officials permitted McLeod to promote himself and his businesses in DEA facilities, and using DEA official channels. We found no

evidence that officials used disclaimers during seminars stating that the DEA was not endorsing or giving preferential treatment to McLeod. We concluded that these actions violated of 41 C.F.R. § 102-74.410, which prohibits the use of government facilities to promote private business, and failed to comply with OPM guidance for conducting financial seminars issued in October 2006.

- Following McLeod's suicide, the DEA Training Academy adopted Division Order 206, which prohibits adjunct instructors from promoting their business or soliciting customers while at the Office of Training or any government-owned or leased facility, requires class coordinators to read a disclaimer, and requires vendors providing gratuitous services to post a prominent disclaimer. However, the order applies only to Office of Training personnel and approved adjunct instructors. A DEA "best practices" document prepared after McLeod's suicide also provides similar ground rules for contracting with financial experts, including that the financial planner will not promote his business or solicit customers. However, neither document implements a mandatory, agency-wide prohibition on promotion and solicitation in government-owned or leased facilities.
- While the terms of the FEBG Bond Fund arguably were the most extreme red flag that should have led the agency to question the use of McLeod, we concluded that McLeod effectively insulated himself from scrutiny by insinuating himself as the "DEA's retirement guy" and with DEA SBF. Additionally, McLeod limited dissemination of information about the Bond Fund among and between investors, and we found no evidence that McLeod marketed the FEBG Bond Fund during DEA seminars or that it was widely known within DEA. We also considered several other facts that could have been warning signs about McLeod, including information provided by McLeod during seminars, McLeod's behavior during a 2005 disagreement with former SAC James McCullough about videotaping at the DEA Training Academy, and McLeod's demeanor during a February 2008 telephone conversation with then-Acting Administrator Michele Leonhart. Although there were several adverse facts about McLeod that became known to some DEA officials, we did not find that these facts were widely disseminated or provided sufficient warning about McLeod's honesty for us to conclude that any DEA officials clearly erred in failing to act to restrict his access to DEA employees.
- We determined that the DEA provides retirement benefits and financial planning training through four separate sources. Additionally, DEA field divisions have the ability to use outside vendors who are not on the approved adjunct instructor list at the DEA Training Academy, particularly when planning management conferences. We concluded that this limited the ability of McCullough to prevent field divisions from using McLeod after his removal from that list in 2005. We believe that the Office of Training is best positioned to evaluate outside instructors under its adjunct instructor approval processes, particularly

including the background criminal and credit checks it has implemented since 2006, and that it should have more control over the process.

- We determined that contributions to the DEA SBF were part of McLeod's marketing strategy, and that McLeod made large donations to the DEA SBF even when he could not pay other business expenses. While we found no direct link between McLeod's contributions to the DEA SBF and decisions to hire him for particular seminars, witnesses told us that McLeod's contributions led agents to view him favorably and gave him an "air of credibility." We believe that this, as well as the familiarity resulting from McLeod's frequent interaction with agents at golf tournaments, played a role in his ability to gain and maintain access to the DEA. We also concluded that DEA SBF fundraising solicitations sent to McLeod by DEA personnel violated the prohibition on soliciting funds from a prohibited source and using official channels.
- We examined the individual conduct of relevant DEA officials in their dealings with McLeod. We determined that McLeod made gifts of significant value to several DEA employees, including Super Bowl trips, free tax preparation services, and subsidized mortgages. We did not find a sufficient link between McLeod's gifts and any official acts by DEA personnel to support the conclusion that these gifts [REDACTED].
[REDACTED]. However, we found that McLeod was a prohibited source under the ethics regulations, and that the Standards of Official Conduct prohibited DEA employees from accepting gifts from him unless an exemption or exception to those rules clearly applied. We determined that none of the items provided by McLeod were exempt from the definition of a gift, and that the evidence did not clearly establish that an exception applies. Absent the application of this exception, acceptance of such gifts would be impermissible.
- We were particularly concerned by the conduct of two DEA employees who accepted gifts from McLeod even though they were involved to some extent in assisting him to obtain speaking engagements with DEA. We found that, at a minimum, these employees exercised extremely poor judgment in accepting gifts from him, and we concluded that they should have consulted with their ethics advisor before doing so. We also found that two DEA employees failed to report McLeod's gifts as required under ethics regulations. [REDACTED]
[REDACTED]
- We also determined that some individuals who were private clients of McLeod's improperly participated in recommending or selecting him to

give financial planning seminars to DEA employees. [REDACTED]

[REDACTED] Finally, we found that DEA employees improperly solicited funds from McLeod for the DEA SBF using letters on DEA SBF letterhead, signed by DEA SACs, ASACs, and agents in their official capacity.

II. Recommendations

Recommendation #1: Implement Improved Vetting for Financial Education Instructors

We recommend that the DEA improve its selection, vetting, and monitoring of financial education instructors. The DEA should consider establishing requirements for appropriate academic and professional qualifications for financial planning vendors, selecting education-only financial planning instructors to minimize the potential for financial conflicts of interest, selecting financial planners who hold professional designations accredited by FINRA, verifying relevant professional certifications, obtaining seminar materials in advance for internal review or submission to FINRA, and conducting the SEC and FINRA background checks outlined in FINRA's August 2011 retirement fact sheet. We request that the DEA inform us of the steps it takes to improve its processes and provide copies of any revised policies. While we recognize that agency resources are limited, we believe that the number of vendors providing financial education training is not so great that strengthening of the selection, vetting, and monitoring process would consume inordinate resources, particularly as compared to the benefit in ensuring the reputability and quality of those instructing employees on such important matters.

Recommendation #2: Finalize DEA Ground Rules for Classes by Financial Planners

We recommend that the DEA finalize and implement the rules set forth in Division Order 206 and the "best practices" document as part of a mandatory, agency-wide policy to ensure that all parts of the agency are in compliance with 41 C.F.R. § 102-74.410 and the OPM guidance for conducting financial seminars, including prohibiting the solicitation of business and requiring the use of appropriate disclaimers of agency endorsement.

Recommendation #3: Conduct a Review of the DEA's Relationship with the DEA SBF

We recommend that the DEA conduct a review of the relationship between the DEA and DEA SBF and issue guidance regarding this relationship. Such guidance should address, at a minimum, the proper limitations on the use of DEA time and resources in support of DEA SBF fundraising, the ban on soliciting funds from prohibited sources, and the need to avoid favoring or appearing to favor supporters of the DEA SBF in DEA decisions.

The DEA stated that it concurs with these recommendations. In its formal response, the DEA stated that it will submit documentation detailing its efforts to implement these recommendations to the OIG on a quarterly basis, until the corrective actions have been completed. Appendix A contains the DEA's response to this report.

APPENDIX A



U. S. Department of Justice
Drug Enforcement Administration

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Washington, D.C. 20537

NOV 26 2014

MEMORANDUM

TO: Carol F. Ochoa
Assistant Inspector General
Oversight and Review Division
Office of the Inspector General

FROM: 
Michael A. Dixon
Acting Deputy Chief Inspector
Office of Inspections

SUBJECT: DEA's Response to the OIG's Draft Report: *Report of Investigation Regarding the DEA's Relationship with K. Wayne McLeod*

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice (DOJ), Office of the Inspector General's (OIG) Draft Report, entitled: "*Report of Investigation Regarding the DEA's Relationship with K. Wayne McLeod.*"

The OIG report documents two specific issues that DEA requested to be divided into two separate reports. The first issue references specific allegations of misconduct against specific DEA personnel that have not been adjudicated through DEA's formal disciplinary process. The second issue discusses DEA's relationship with K. Wayne McLeod which was the primary scope of the review.

The DEA is not able to comment at this time on the substance of OIG's findings regarding alleged acts of misconduct. Pursuant to DEA's established disciplinary process, the DEA must complete an investigation into the allegations in the Report. The DEA will consider the evidence compiled by the OIG as part of the DEA's process. Upon completion of the DEA's investigation, the DEA will consider disciplinary action if warranted.

DEA Response to the Recommendations

The OIG makes three recommendations for DEA action:

Recommendation 1: Implement Improved Vetting for Financial Education Instructors

DEA concurs with this recommendation. In an effort to improve DEA's selection, vetting,

and monitoring of financial planners that will be instructing for DEA, the Office of Training will add a new section to the Office of Training's Division Order 206. The new section will establish, at a minimum, the following academic and professional qualification guidelines for financial planning instructors:

- All instructors must maintain a current professional designation that is accredited by the Financial Industry Regulatory Authority (FINRA)
- A FINRA BrokerCheck will be conducted on all instructors to verify all relevant professional certifications and background
- All instructors must provide a copy of all instructional material and handouts for internal DEA reviews

NOTE: FINRA BrokerCheck is a free tool that allows you to research the professional backgrounds of brokerage firms and brokers currently or formerly registered with FINRA or a national securities exchange, as well as current or former investment adviser firms and representatives. The following information is provided on individual brokers:

- A summary report that provides an overview of the broker and his or her credentials
- A listing of the broker's qualifications, including current registrations or licenses and industry exams that the broker has passed
- Previous employment data for the past 10 years, both in and outside the securities industry, as reported by the broker
- Any customer disputes or regulatory and disciplinary events on the broker's record

Special Note: The Security and Exchange Commission (SEC) website redirects all background inquiries for brokers to the FINRA BrokerCheck website.

In addition, a new section would be added to Office of Training Division Order 206 requiring that all financial planners instructing for DEA must be submitted and approved as an Office of Training Adjunct Instructor. (The Office of Training Adjunct Instructor process is currently detailed in Division Order 205).

Recommendation 2: Finalize DEA Ground Rules for Classes by Financial Planners.

DEA concurs with this recommendation. In an effort to implement a set of rules that will ensure DEA's compliance with 41 C.F.R. § 102-74.410 and OPM's guidance on conducting financial seminars, prohibiting the solicitation of business, and requiring the use of appropriate disclaimers of agency endorsement, DEA will form a Headquarters-led working group consisting of appropriate Headquarters elements and the Office of Training. This working group will develop a unified DEA policy based on the "best practices" document which addressed legal issues associated with contracting with financial experts and providing classroom conduct ground rules, including restriction on allowing financial planners to promote their business or solicit customers while in a government-owned or leased facility and the Office of Training's Division Order 206. After this unified policy is finalized, DEA Headquarters could then mandate the policy agency-wide.

Recommendation 3: Conduct a Review of the DEA's Relationship with the DEA SBF.

DEA concurs with this recommendation. DEA will conduct a review of DEA's relationship with the SBF. Once the review is complete, DEA will assess any issues that are identified and address as necessary.

Documentation detailing DEA's efforts to implement concurred recommendations noted in this report will be provided to the OIG on a quarterly basis, until the corrective actions have been completed. If you have any questions or concerns regarding DEA's response to the OIG Audit Report recommendations, please contact the Audit Liaison Team at (202) 307-8200.

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