



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

August 1, 2023

TO: The Honorable Sean O'Donnell  
Inspector General  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2410T)  
Washington, D.C. 20460

James Payne  
DAEO  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2310A)  
Washington, D.C. 20460

Justina Fugh  
Director, Ethics Office  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2311A)  
Washington, D.C. 20460

**Re: Investigation into Apparent Ethics Violations by Principal Deputy General Counsel, Melissa Hoffer, While Seeking Employment with the Commonwealth of Massachusetts**

Dear Mr. O'Donnell and Ms. Fugh,

Protect the Public's Trust (PPT) is a nonpartisan organization dedicated to promoting integrity in government and restoring the public's trust in government officials. Through our investigatory efforts into ethics violations and misconduct at the Environmental Protection Agency (EPA), we have discovered yet another apparent ethics violation, this time involving Ms. Melissa Hoffer. The violations we have identified below further undermine confidence in the commitment of EPA leadership to enforce basic ethics compliance. Ms. Hoffer served as one of the highest-ranking lawyers at EPA, yet she apparently failed to comply with routine ethics obligations when seeking employment with a non-federal entity. While certainly not the first instance PPT has identified at the EPA, the apparent "look-the-other-way" approach to ethics violations under the current administration is a primary reason for the public's plummeting trust in the federal government.



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In years past, actions comparable to those of Ms. Hoffer that we document below would likely have resulted in an abrupt investigation. At the very least, the public would have expected an on-the-record admonishment of what amounts to a failure to comply with ethics laws and a sustained appearance of impropriety. Yet it seems that senior agency ethics officials and agency leadership uttered not a word about such evident misconduct. As deafening as the silence has been, the message to other senior political appointees is equally distressing. Such misfeasance only perpetuates public distrust of the agency and underscores the visible double standard that exists for senior officials in the current administration compared to their predecessors.

Ethics and integrity at the EPA should still matter, and the American public would be right to think they should be held in even higher regard in a Biden Administration touting itself as the most ethical in history. Accordingly, we urge the Office of the Inspector General to promptly initiate an investigation into the multiple instances of apparent misconduct by Ms. Hoffer identified in this complaint.

## **I. Overview**

Ms. Hoffer joined EPA on January 21, 2021, after serving for more than eight years in the Massachusetts Attorney General's Office, where she rose to the level of Chief of the Energy & Environment Bureau, enforcing environmental laws. Upon joining EPA, Ms. Hoffer served as Acting General Counsel until the confirmation of Jeff Prieto as General Counsel on November 3, 2021. Thereafter, she served as Principal Deputy General Counsel until she left EPA on December 30, 2022.<sup>1</sup>

At some point during her tenure at EPA, Ms. Hoffer entered into negotiations and reached an agreement with Massachusetts pursuant to which she returned to employment with the Commonwealth as "Climate Chief" in the newly created, cabinet-level "Office of Climate Innovation and Resilience." In her prominent new role, she was widely touted as the nation's first state "climate czar."<sup>2</sup>

As discussed below, however, while she was at EPA Ms. Hoffer failed to timely disclose her negotiations and agreement to return to employment with Massachusetts, and also failed to provide a written statement that she would recuse herself from certain matters involving Massachusetts while negotiations were ongoing and after an employment agreement had been reached. Both failures certainly appear to have been violations of blackletter federal ethics law.

Moreover, during this same period Ms. Hoffer was in a position that she acknowledged gave her the power to directly affect the interests of Massachusetts. For obvious reasons, federal ethics

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<sup>1</sup> Melissa Hoffer LinkedIn profile, <https://www.linkedin.com/in/melissa-hoffer/>

<sup>2</sup> Zack Budryk, *Yahoo! News*, June 13, 2023, <https://news.yahoo.com/nation-first-state-climate-czar-090000618.html>



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law expressly required Ms. Hoffer to recuse herself from certain matters involving Massachusetts unless she first obtained a waiver. Yet there is no evidence in the record that she ever requested or obtained a waiver that would have allowed her to participate in such matters. These circumstances also give rise to a significant question as to whether Ms. Hoffer met her ethics obligations while pursuing employment with Massachusetts. PPT calls upon your office to investigate these matters and any related misconduct.

## **II. Allegations of Misconduct**

On August 17, 2021, Ms. Hoffer recognized that the financial interests of a prospective employer would be imputed to her by 18 U.S.C. § 208(b)(1) and that a written waiver was required for her to participate in particular matters involving the prospective employer.<sup>3</sup> Although she apparently had no financial conflicts of interest at that time, Ms. Hoffer expressly stated that she would “remain vigilant and notify OGC/Ethics immediately should my financial situation change.”<sup>4</sup> As discussed in detail below:

- 1) Ms. Hoffer failed to timely notify the ethics office of her change in financial situation resulting from her negotiations and agreement for employment with Massachusetts,
- 2) Ms. Hoffer failed to submit a written recusal statement for particular matters involving Massachusetts during the relevant time period, and
- 3) Ms. Hoffer failed to seek or obtain a written waiver to participate in particular matters affecting Massachusetts, even though her position made it highly likely that she would be confronted with such matters.

As a result, it seems apparent that Ms. Hoffer violated federal ethics law in all of these respects.

### **A. Ms. Hoffer Failed to File a Notification with the Ethics Office Within Three Days of Commencement of a Negotiation or Agreement with Massachusetts**

As a political appointee obligated to file periodic financial statements, Ms. Hoffer was also required to provide EPA’s Ethics Office with notice within three business days of any negotiations or agreement reached about employment or compensation with any non-Federal entity.<sup>5</sup> This obligation is codified at 5 CFR Part 2635 Subpart F (2022-12-31) -- Seeking Other Employment:

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<sup>3</sup> Recusal Statement from Melissa A. Hoffer, Acting General Counsel, to Michael S. Regan, Administrator, executed August 17, 2021, at 2.

<sup>4</sup> *Id.*

<sup>5</sup> Negotiations “means discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person. The term is not limited to discussions of specific terms and conditions of employment in a specific position[.]” 5 CFR § 2635.603



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## § 2635.607 Notification requirements for public financial disclosure report filers regarding negotiations for or agreement of future employment or compensation.

(a) **Notification regarding negotiations for or agreement of future employment or compensation.** A public filer who is negotiating for or has an agreement of future employment or compensation with a non-Federal entity must file a statement notifying an agency ethics official of such negotiation or agreement within three business days after commencement of the negotiation or agreement. This notification statement must be in writing, must be signed by the public filer, and must include the name of the non-Federal entity involved in such negotiation or agreement and the date on which the negotiation or agreement commenced. (Emphasis added.)<sup>6</sup>

In this regard, it appears that the Director of EPA's Ethics Office first learned of Ms. Hoffer's decision to return to employment with Massachusetts in an email sent by Ms. Hoffer on Friday, December 16, 2022, in which Ms. Hoffer bluntly stated:

I will be leaving EPA on December 30 for a job in [Massachusetts] governor-elect Healey's new administration starting January 5.

Jeff will announce this to OGC Monday, and between now and then it is close hold.

I wanted to let you know so that I can be sure to timely complete any necessary steps and obtain the agency's advice on any recusal issues going forward.

The Commonwealth will announce my appointment Monday and would like a quote from Janet.

Please let me know if you have any concerns.<sup>7</sup>

Ms. Fugh responded (just 35 minutes later):

Oh, gosh, congratulations! . . . .

Attached is the **negotiations notification form** that you are required to submit within 3 business days of entering negotiations with the new employer. Please fill it out now. The date to put down is the date that you and the new employer had a

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<sup>6</sup> eCFR :: 5 CFR Part 2635 Subpart F, <https://www.law.cornell.edu/cfr/text/5/2635.607>

<sup>7</sup> Doc. 2. Hoffer Comms with Ethics re leaving EPA. EPA-2023-002180 Ethics Offboarding Political Appointees, <https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-2.-Hoffer-Comms-with-Ethics-re-leaving-EPA.-EPA-2023-002180-Ethics-Offboarding-Political-Appointees.pdf>



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mutual meeting of the minds about your hire, even if things like job title, salary or start date weren't yet nailed down. The reason you are required to notify us so early is so you will recuse from participation in any particular matter that will affect (in this case) the Commonwealth of Massachusetts as a party or as a member of any affected class . . . (Bolding in original, underline added.<sup>8</sup>)

In a subsequent exchange of emails the same day, Ms. Fugh reiterated, “please complete the attached negotiation notification form as soon as you can.”<sup>9</sup>

PPT has obtained Ms. Hoffer’s “Notification of Negotiation or Agreement” (“Notification”), which indicates that her negotiations or agreement with Massachusetts began on November 28, 2022. However, Ms. Hoffer did not sign the Notification until nearly a month later, on December 27, 2022, and it was received by the Ethics Office the same day.<sup>10</sup> Thus, on its face, the Notification signed by Ms. Hoffer was submitted nearly a month after she claimed her negotiation or agreement with Massachusetts began (well past the statutory requirement of three business days) and, as such, Ms. Hoffer violated her ethics obligations under § 2635.607(a).

## **B. Ms. Hoffer Failed to Submit a Recusal Statement While Negotiating or After Reaching an Employment Agreement with Massachusetts**

Not only did Ms. Hoffer have an obligation to file a Notification, it appears she also should have filed a recusal statement pursuant to 5 CFR § 2635.607:

(b) **Notification of recusal.** A public filer who files a notification statement pursuant to paragraph (a) of this section must file with an agency ethics official a notification of recusal whenever there is a conflict of interest or appearance of a conflict of interest with the non-Federal entity identified in the notification

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<sup>8</sup> Ms. Fugh seems to assume that negotiations are irrelevant, at least until Ms. Hoffer and Massachusetts reached a “mutual meeting of the minds” about her employment. However, this interpretation is not supported by applicable law. Specifically, 2635.603(b)(1)(i) defines negotiations as “discussion or communication with another person, or such person's agent or intermediary, mutually conducted with a view toward reaching an agreement regarding possible employment with that person. The term is not limited to discussions of specific terms and conditions of employment in a specific position[.]” Emphasis added. Accordingly, the operative date as to when negotiations commenced could easily have been long before Ms. Hoffer reached an actual “mutual meeting of the minds” about employment with Massachusetts. Therefore, a question remains as to whether Ms. Hoffer included the correct date for when her negotiations or agreement began.

<sup>9</sup> <https://protectpublicstrust.org/wp-content/uploads/2023/06/Doc.-2.-Hoffer-Comms-with-Ethics-re-leaving-EPA.-EPA-2023-002180-Ethics-Offboarding-Political-Appointees.pdf>

<sup>10</sup> <http://protectpublicstrust.org/wp-content/uploads/2023/06/Doc.-1-Hoffer-Not.-of-Neg-or-Agree.-from-EPA-2023-002180-Ethics-Offboarding-Political-Appointees.pdf>



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statement. The notification statement and the recusal statement may be contained in a single document or in separate documents. (Emphasis added.)

The Notification belatedly signed and submitted by Ms. Hoffer contains an express “Recusal Statement” that identifies three issues for Ms. Hoffer to consider in assessing whether she had an obligation to recuse: Whether EPA’s work affects Massachusetts; whether the work of her office affects Massachusetts<sup>11</sup>; and whether the work Ms. Hoffer participates in “affects or will affect” Massachusetts. Not surprisingly, Ms. Hoffer identified all three issues as applying to her work at EPA vis-à-vis Massachusetts. In light of her own determinations about her ability to affect the interests of Massachusetts, Ms. Hoffer certainly had an appearance of a conflict of interest while negotiating or after reaching an employment agreement with Massachusetts. At a minimum this appearance of a conflict required her to submit a recusal statement pursuant to 5 CFR § 2635.607(b). Yet no such recusal appears in the record.

Moreover, it is highly probable that Ms. Hoffer had *actual* conflicts of interest with Massachusetts during the relevant period and that these conflicts also would have obligated her to file a recusal statement. That is, just before Ms. Hoffer joined EPA, the Ethics Office compiled a list of *thirty-seven cases* pending in the Office of General Counsel where Massachusetts was a party or intervenor.<sup>12</sup> It is a virtual certainty that Ms. Hoffer would have had an obligation to recuse herself from these matters unless she first obtained a written waiver or other authorization allowing her to participate. Given the likelihood of actual conflicts of interest with a prospective employer with whom Ms. Hoffer was negotiating, as well as an obvious appearance of a conflict of interest, she should have completed the recusal statement within three business days of entering into negotiations or an employment agreement with Massachusetts. She did not do so in apparent violation of her ethics obligations under 5 CFR § 2635.607(b).

## **C. Ms. Hoffer Did Not Obtain a Written Authorization or Waiver from EPA’s Ethics Office to Participate in Party Matters Involving Massachusetts**

Although Ms. Hoffer failed to timely submit the required notification and recusal statement, it may still have been possible for her to have independently obtained a waiver or other authorization to work on party matters involving Massachusetts while negotiating or under an employment agreement with the Commonwealth. For example, the recusal statement Ms. Hoffer belatedly signed as part of the Notification provides for such a waiver:

For as long as I am negotiating for, or have an agreement of, employment or compensation with [Massachusetts], I will not participate personally and

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<sup>11</sup> Given her position as Principal Deputy General Counsel, Ms. Hoffer’s office spanned all of EPA’s Office of General Counsel.

<sup>12</sup> [https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer\\_EPA\\_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf](https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer_EPA_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf)





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substantially in any particular matter that has a direct and predictable effect on the financial interests of this entity, unless I first obtain from OGC/Ethics a written authorization or waiver consistent with 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). I understand that it is my responsibility to consult with OGC/Ethics if I have questions regarding my recusal obligations. (Emphasis added.)<sup>13</sup>

Pursuant to the terms of its FOIA request, PPT should have received any records showing that Ms. Hoffer obtained a written waiver or other authorization to participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of Massachusetts during the relevant time period. Far from showing that Ms. Hoffer sought such a written waiver, the records provided to PPT instead strongly indicate that she never sought a waiver.

In an email dated December 27, 2022, *i.e.*, the day Ms. Hoffer submitted her Notification to the Ethics Office, Ms. Fugh sent a confirming email stating:

*You're soon leaving EPA to join the cabinet of the Commonwealth of Massachusetts and have filed a negotiation notification form. You confirmed that you had appropriately recused yourself from participation in any particular matter that affected MA while you [sic] negotiating for employment.*<sup>14</sup>

It is clear, that Ms. Hoffer first notified the relevant ethics official nearly a month after her negotiations began or an employment agreement was reached and, according to available public records, neither sought nor was granted a written waiver from the ethics office at any time before she left EPA. Plainly, an after-the-fact, self-certification is not what is required or adequate under the law and, therefore, it appears that Ms. Hoffer also violated her ethics obligations under the Notification, 5 CFR § 2635.605(b), and/or 18 U.S.C. § 208(b)(1).<sup>15</sup>

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<sup>13</sup> See also, [eCFR :: 5 CFR 2635.605 -- Waiver or authorization permitting participation while seeking employment](#). Waivers under the criminal liability statute at 18 U.S.C. § 208(b)(1) are implement by 5 CFR 2635.402(d)(2). Both regulations require a waiver to be in writing.

<sup>14</sup> [https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-2.-Hoffer-Comms-with-Eth\[...\].A-2023-002180-Ethics-Offboarding-Political-Appointees.pdf](https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-2.-Hoffer-Comms-with-Eth[...].A-2023-002180-Ethics-Offboarding-Political-Appointees.pdf)

<sup>15</sup> Again, it is striking that Ms. Fugh was willing to accept Ms. Hoffer's claim to have recused at face value. Even if Ms. Hoffer did recuse herself during negotiations, Ms. Fugh's statement leaves open the possibility that Ms. Hoffer did not recuse herself from specific party matters after she had reached an agreement for employment with Massachusetts. It would seemingly have been a simple matter for the Ethics Office to have determined whether any contacts between Ms. Hoffer and Massachusetts had occurred during that time. That Ms. Hoffer was given another pass by the Ethics Office is remarkable and again signals to other appointees that the Ethics Office is, at best, a paper tiger.



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## **D. Ms. Hoffer's Pre-Existing Impartiality Determinations did not Insulate Her from Her Obligation to File a Notification and Recusal Statement**

On January 19, 2021, Ms. Hoffer obtained very broad ethics impartiality determinations “in anticipation of” her appointment to EPA that authorized her to participate in thirty-seven particular matters in which Massachusetts was a party. After Ms. Hoffer joined EPA, The Ethics Office restated this determination in a formal impartiality memorandum on February 2, 2021.<sup>16</sup>

Even if Ms. Hoffer participated in a party matter while negotiating or having reached an employment agreement with Massachusetts for which she had previously obtained an impartiality determination, that determination is unlikely to have sufficed to relieve her of her obligations to recuse. First, the impartiality determinations were issued under 5 CFR § 2635.502(d), which does not apply to an employee who is seeking employment.<sup>17</sup> Second, the recusal statement in Ms. Hoffer's Notification requires any waiver to be “consistent with” waivers pertaining to the financial conflict of provisions of 5 C.F.R. § 2635.605 or 18 U.S.C. § 208(b)(1). But in preparing the impartiality determinations for Ms. Hoffer, Ms. Fugh premised her analysis on the determination that Ms. Hoffer did not have any “significant” financial interest in Massachusetts.<sup>18</sup> This was likely no longer to have been the case once Ms. Hoffer entered into negotiations with Massachusetts about assuming a cabinet position.

In this regard, PPT has identified at least sixteen matters that remained pending in the Office of General Counsel for which Ms. Hoffer had received an impartiality determination. However, any pre-existing impartiality determination would have been inadequate to relieve her of an obligation to recuse under the Notification, 5 C.F.R. § 2635.605, and/or 18 U.S.C. § 208(b)(1) while negotiating or after having reached an employment agreement. Moreover, it is highly likely that new matters involving Massachusetts were added to the caseload in EPA's Office of General Counsel during Ms. Hoffer's tenure at EPA and from which she would have been obligated to recuse while negotiating or reaching an employment agreement with Massachusetts. No record of such attempts to recuse were produced in response to PPT's FOIA request nor do they appear to exist in any recorded form. Thus, had Ms. Hoffer participated personally and substantially in a particular matter that had a direct and predictable effect on the financial interests of Massachusetts she may have violated financial conflict of interest laws.

### **III. Violations of Ethics Laws and Regulations**

On August 17, 2021, Ms. Hoffer expressly recognized that the financial interests of a prospective employer would be imputed to her by 18 U.S.C. § 208(b)(1) and that a written waiver was

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<sup>16</sup> [http://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer\\_EPA\\_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf](http://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer_EPA_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf)

<sup>17</sup> 5 CFR § 2635.502 (b)(1)

<sup>18</sup> [https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer\\_EPA\\_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf](https://protectpublictrust.org/wp-content/uploads/2023/06/Doc.-3-Melissa-Hoffer_EPA_Ethics-Impartiality-Determinations-Pre-and-Post-Appointment.pdf)





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required for her to participate in particular matters involving the prospective employer.<sup>19</sup> Although she apparently had no financial conflicts of interest at that time, Ms. Hoffer expressly claimed in her recusal statement that she would “remain vigilant and notify OGC/Ethics immediately should my financial situation change.”<sup>20</sup>

As demonstrated above, no later than November 28, 2022, Ms. Hoffer began negotiating or reached agreement about returning to employment with Massachusetts. Accordingly, Ms. Hoffer had an obligation to file a written notification with the Ethics Office within three business days, but only filed the Notification nearly a month later and, even then, ten days after the ethics office told her to file the Notification “now.” This is an apparent violation of the law under 5 CFR § 2635.607(a).

Additionally, considering her role as Principal Deputy General Counsel with responsibilities presumably spanning legal matters across the entire agency, Ms. Hoffer certainly had the potential for an actual or appearance of a conflict of interest. As such, she was obligated to file a written recusal statement within the same three-day period. Yet the only evidence that Ms. Hoffer recused from prohibited interactions with Massachusetts is an email from the ethics official stating that Ms. Hoffer had “confirmed” that “during negotiations” (but not necessarily after reaching an employment agreement) she had appropriately recused herself from participation in any particular matter that affected Massachusetts while negotiating for employment.<sup>21</sup> Accordingly, Ms. Hoffer likely violated her obligation to submit a written recusal statement under 5 CFR § 2635.607(b).

Concerns about Ms. Hoffer’s participation in particular matters involving Massachusetts during the relevant period are well-founded. As Ms. Hoffer acknowledged, she had ample opportunity to take actions that could affect the Commonwealth as an employee of EPA, as a member of OGC, and in her own work as Principal Deputy General Counsel.<sup>22</sup> Even if Massachusetts were not a party to a particular matter, Ms. Hoffer’s work on matters that could affect the Commonwealth as a member of a class of entities was also a significant consideration in determining whether to recuse herself.<sup>23</sup>

At the time Ms. Hoffer joined EPA from employment in Massachusetts government there were thirty-seven pending matters that involved both EPA and her former employer, including cases

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<sup>19</sup> Recusal Statement from Melissa A. Hoffer, Acting General Counsel, to Michael S. Regan, Administrator, executed August 17, 2021, at 2.

<sup>20</sup> *Id.*

<sup>21</sup> At a minimum, had Ms. Hoffer actually recused herself, one would expect that fact to have been made known to her colleagues and administrative staff to assist her in avoiding conflicts as is common in these circumstances, yet the records do not indicate that she did so.

<sup>22</sup> *See*, Notification *supra*. at 1.

<sup>23</sup> *Id.* at 2.



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addressing some of the environmental issues of greatest importance to both entities.<sup>24</sup> Many of these matters remained pending and active during the relevant time period. For example, on November 15, 2022, just days prior to the start of the relevant time period, EPA entered into a consent decree in which it capitulated to the position taken by Massachusetts in a major Clean Air Act case.<sup>25</sup> The Consent Decree was subsequently modified via a filing made by EPA on December 8, 2022, *i.e.*, during the relevant time period.<sup>26</sup> It is a virtual certainty that EPA OGC was involved in the preparation and modification of the Consent Decree and that this work, at a minimum, was performed under Ms. Hoffer's purview, if not with her direct participation. As such, Ms. Hoffer should have provided a written recusal statement to the ethics office due to her financial conflicts of interest and, to the extent she wished to participate in the matter, sought a written waiver from the ethics office.

It is highly unlikely that this is the only example of a matter involving both EPA and Massachusetts that was active during the relevant period. Yet, despite her pledge to remain vigilant and advise the ethics office of her financial conflicts of interest with prospective employers - - not to mention the strictures of federal conflict of interest law - - it seems clear that she failed to notify the office of her negotiations or agreement for employment with Massachusetts, and neither submitted a written recusal statement nor obtained a waiver to participate in matters involving her prospective employer.

## IV. Conclusion

Public service is a public trust. This is the promise that individuals make when they accept positions of authority within the federal government. Historically, the standard has been even higher for political appointees seeking to ensure all Americans that they have an unwavering commitment toward an ethical, objective, and impartial government. The documented actions of Mr. Hoffer, if allowed to stand without comment or correction, represent a sharp turn away from this standard and expectation. That one of the highest-ranking lawyers at EPA could be so oblivious of what would be obvious ethics obligations to anyone acquainted with the facts strains credulity.<sup>27</sup>

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<sup>24</sup> Impartiality determination, from Justina Fugh, Director, Ethics Office and Alternate Designated Agency Ethics Official to Melissa Hoffer, executed January 19, 2021.

<sup>25</sup> See, *State of New York, et al. v. Michael S. Regan, et al.*, No. 21 CIV 252 (S.D.N.Y.) ECF No. 38, <https://protectpublictrust.org/wp-content/uploads/2023/07/Consent-order.pdf>.

<sup>26</sup> *Id.*, ECF No. 40, <http://protectpublictrust.org/wp-content/uploads/2023/07/Doc-40-change-of-deadline.pdf>.

<sup>27</sup> Another consideration: **Massachusetts Bar Association Rules of Professional Responsibility**

Even apart from her obligations under federal ethics law, Ms. Hoffer had obligations under the rules of professional responsibility for members of the bar in Massachusetts. Potential Issues – did she learn confidences and secrets while at Massachusetts that she was in a position to use at EPA? And vice versa? If so, who can raise this issue – does it have to be the client?



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Protect the Public's Trust therefore asks your office to begin an immediate and thorough investigation into the issues identified in this complaint.

I appreciate your dutiful attention to this important issue and look forward to the outcome of your investigation.

Sincerely,

Michael Chamberlain  
Director  
Protect the Public's Trust  
[Michael@protectpublictrust.org](mailto:Michael@protectpublictrust.org)