

Top ATF Official Involved in F&F Receiving Double Pay by Taxpayers and Private Sector

Written by Grassley Press
Friday, 24 August 2012 11:59

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Issa and Grassley: Top ATF Official in Operation Fast and Furious Remains on Extended Paid Leave while Simultaneously Employed by Major Financial Services Company

WASHINGTON – Sen. Chuck Grassley and Rep. Darrell Issa have asked the Acting Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) to explain how a top ATF official involved in Operation Fast and Furious, Bill McMahon, can remain on paid leave while simultaneously drawing an additional six figure salary from a major financial services company. Given McMahon’s extensive involvement in the leadership failures of Operation Fast and Furious, Grassley and Issa sought a detailed explanation of why the Justice Department would approve this special arrangement for McMahon.

“Under any reading of the relevant personnel regulations, it appears that ATF management was under no obligation to approve this sort of arrangement,” wrote Issa and Grassley. “Given McMahon’s outsized role in the Fast and Furious scandal, the decision to approve an extended annual leave arrangement in order to attain pension eligibility and facilitate full-time, outside employment while still collecting a full-time salary at ATF raises a host of questions about both the propriety of the arrangement and the judgment of ATF management.”

The letter continues: “ATF has essentially facilitated McMahon’s early retirement and ability to double dip for nearly half a year by receiving two full-time paychecks—one from the taxpayer and one from the private sector. Moreover, ATF did not wait for the Office of Inspector General to complete its report on Fast and Furious before approving the arrangement. This is in sharp contrast to the posture the agency has taken with whistleblowers like Special Agent John Dodson, who is told he must wait until the Inspector General’s report is complete before the agency will even consider his simple request for a statement retracting the false

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statements made about him by agency leadership.”

The text of their letter is available [here](#) and embedded below. The first part of the final report on the joint Congressional investigation of conduct in Operation Fast and Furious is available [here](#). The report presents evidence detailing numerous errors and decisions by ATF officials and the Arizona U.S. Attorney’s Office that led to serious problems – including inter-agency communication failures between ATF, DEA, and FBI.

Here is a copy of the text of the letter.

August 21, 2012

Mr. B. Todd Jones

Acting Director

Bureau of Alcohol, Tobacco, Firearms, and Explosives

99 New York Avenue, NE

Washington, DC 20226

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Dear Acting Director Jones:

It has come to our attention that ATF's former Deputy Assistant Director for Field Operations, William McMahon, has recently obtained full-time employment in the private sector while remaining a full-time employee in ATF's Office of Professional Responsibility. In addition to retaining his position at ATF, McMahon is also serving as Executive Director of the Global Security and Investigations Group at J.P. Morgan in the Philippines. A senior ATF official confirmed McMahon's status during a phone call last week. This unusual arrangement is apparently designed to allow Mr. McMahon to reach retirement eligibility while on extended leave for four or five months and simultaneously begin a second career before separating from government employment.

Our most recent joint staff report on Operation Fast and Furious, released on July 31, 2012, scrutinized the role McMahon played in the operation. [\[1\]](#) We detailed his failure to supervise the activities of the Phoenix Field Division during Fast and Furious, his admitted failure to read important documents he was responsible for authorizing, and his false testimony regarding his role in authorizing applications for wiretaps in the case.

[\[2\]](#)

Despite these failings, ATF not only continues to keep him on its payroll, but also has authorized him to take several months of annual leave while earning a six-figure salary from ATF and an even larger salary at the same time working in the private sector.

While the legality of McMahon's outside employment and leave arrangement may arguably be unclear, the fact that ATF management chose to authorize it is not. Under any reading of the relevant personnel regulations, it appears that ATF management was under no obligation to approve this sort of arrangement. Given McMahon's outsized role in the Fast and Furious scandal, the decision to approve an extended annual leave arrangement in order to attain pension eligibility and facilitate full-time, outside employment while still collecting a full-time salary at ATF raises a host of questions about both the propriety of the arrangement and the judgment of ATF management.

On July 18, 2012, we wrote to you regarding your message in "ChangeCast #8: Choices and

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Consequences” and the chilling effect it might have on future whistleblowers. While we appreciated the clarification you provided after we raised concerns, this decision regarding McMahon appears to send the opposite message of the one you said you intended in that ChangeCast. Rather than imposing consequences for his admitted failures, the ATF appears to be rewarding McMahon. Through this unusual arrangement, ATF has essentially facilitated McMahon’s early retirement and ability to double dip for nearly half a year by receiving two full-time paychecks—one from the taxpayer and one from the private sector. Moreover, ATF did not wait for the Office of Inspector General to complete its report on Fast and Furious before approving the arrangement. This is in sharp contrast to the posture the agency has taken with whistleblowers like Special Agent John Dodson, who is told he must wait until the Inspector General’s report is complete before the agency will even consider his simple request for a statement retracting the false statements made about him by agency leadership.

This is not the culture of change that you promised to bring to ATF.

In light of McMahon’s outside employment at J.P. Morgan, please answer the following questions to help us better understand how this could have occurred:

- 1) 5 C.F.R. § 3801.106(b)(1) prohibits “outside employment that involves ... litigation, investigations, grants, or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.” Accordingly, what steps, if any, did ATF take prior to approving the arrangement to ascertain whether McMahon’s position at J.P. Morgan would involve any “litigation, investigations, grants, or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker?”
- 2) If no such steps were taken, why not?
- 3) If such steps were taken, please describe the determination ATF made regarding the prohibition in 5 C.F.R. § 3801.106(b)(1)(iii) and the basis for ATF’s determination in detail.
- 4) If ATF determined that McMahon’s work at J.P. Morgan would be prohibited by 5 C.F.R. § 3801.106(b)(1)(iii), was the prohibition waived in accordance with section 3801.106(b)(2)?

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- 5) If the prohibition was waived, what were the grounds for the waiver?
- 6) What is the current employment status of William McMahon at ATF?
- 7) When is William McMahon eligible for full retirement benefits from ATF?
- 8) When will William McMahon officially leave ATF?
- 9) Who at ATF gave final approval of McMahon's employment with J.P. Morgan? On what date was this approval given?
- 10) On what date did McMahon's outside employment commence?
- 11) How much ATF sick leave has McMahon used while being employed at J.P. Morgan?
- 12) How much ATF sick leave does McMahon have remaining?
- 13) How much ATF annual leave has McMahon used while being employed at J.P. Morgan?
- 14) How much ATF annual leave does McMahon have remaining?
- 15) On how many other occasions in the last three years has ATF authorized a similar arrangement involving (a) approving annual leave extending over several months, (b) an employee not yet eligible to retire prior to commencing annual leave, (c) approval of full-time employment while on annual leave, and (d) a career field where the employee's experience at ATF is directly related to the outside employment and can be reasonably seen as a motivating

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factor in the hiring decision? For each prior similar instance, please provide a detailed explanation of the circumstances and the reason for authorizing the arrangement.

16) When did you first become personally aware of McMahon's employment at J.P. Morgan?

17) Do you approve of this particular outside employment arrangement?

In addition, please provide the following documents:

18) All internal documents and communications relating to McMahon's scheduled separation from ATF, including memos, e-mails, and hand written notes, including, but not limited to, communications with ATF's designated agency ethics official.

19) All internal documents relating to McMahon's outside employment at J.P. Morgan, including memos, e-mails, and hand written notes, including, but not limited to, communications with ATF's designated agency ethics official.

20) A detailed timeline of the involvement of the ATF Office of Chief Counsel regarding McMahon's employment at J.P. Morgan.

21) A full copy of ATF's personnel manual, including, but not limited to, policies regarding sick leave, annual leave, and outside employment.

22) Detailed information regarding McMahon's time and attendance at ATF, including records from the WebTA program, from August 1, 2011 until the present.

Please provide the requested documents and your detailed responses to these questions as soon as possible, but no later than 5:00 p.m. on September 4, 2012. When producing

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documents to the Committee on Oversight and Government Reform, please deliver separate production sets to both the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committees prefer, to the extent possible, to receive documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at “any time” investigate “any matter” as set forth in House Rule X. The Senate Judiciary Committee’s jurisdiction includes, inter alia, oversight of the Department of Justice and the agencies under the Department’s jurisdiction. An attachment to this letter provides additional information about responding to the Committees’ request.

If you have any questions concerning this matter, please contact Tristan Leavitt of Senator Grassley’s staff at [\(202\) 224-5225](tel:(202)224-5225), or Henry Kerner of Chairman Issa’s staff at [\(202\) 25-5074](tel:(202)25-5074). We look forward to receiving your response. Thank you for your prompt attention to this matter.

Sincerely,

Darrell Issa, Chairman

Charles E. Grassley, Ranking Member

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Committee on Oversight and

Committee on the Judiciary

Government Reform

U.S. Senate

U.S. House of Representatives

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

U.S. House of Representatives, Committee on Oversight and Government Reform

The Honorable Patrick Leahy, Chairman

U.S. Senate, Committee on the Judiciary

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The Honorable Michael E. Horowitz, Inspector General

U.S. Department of Justice