



**Tennessee Valley Authority
Office of the Inspector General**

Report of Administrative Inquiry

**ALLEGATION OF CONFLICT OF
INTEREST BY TVA BOARD CHAIRMAN –
WILLIAM (BILL) B. SANSOM
OIG FILE NO. 17A-15138**



Tennessee Valley Authority
Office of the Inspector General

EXECUTIVE SUMMARY

ALLEGATION OF CONFLICT OF INTEREST BY TVA BOARD CHAIRMAN – WILLIAM (BILL) B. SANSOM OIG FILE NO. 17A-15138

This investigation was initiated after an allegation was made at the April 18, 2013, TVA Board of Directors' (Board) meeting that Board Chairman William (Bill) B. Sansom was in violation of a conflict of interest statute, the TVA Conflict of Interest Policy, and TVA's nepotism policy. Specifically, a member of the public alleged Mr. Sansom held financial interests in companies which did business with TVA and that Mr. Sansom had a son-in-law who worked for TVA.

Our investigation found the following:

- Board members are required to comply with both the conflict of interest statute found at Title 18, United States Code, § 208 (18 USC § 208) and the TVA Conflict of Interest Policy.
- 18 USC § 208 prohibits a government official from participating “personally and substantially” in a “particular matter” in which he or she has a personal financial interest. There is no evidence that Mr. Sansom has taken action on a “particular matter” which affects his personal financial interest and, therefore, cannot be said to have a conflict of interest under this statute.
- The TVA Conflict of Interest Policy (see attached) defines a conflict as a Board member holding a financial interest in (1) a distributor, (2) an entity in the electricity business, or (3) an entity that might be adversely affected by the success of TVA's electricity business. There is an exception for such holdings of \$25,000 or less. A review of Mr. Sansom's financial disclosure statement shows he has not reported a holding in any such company and is not in violation of the policy.
- The allegation that Mr. Sansom's son-in-law works at TVA and the implication that this might violate TVA's nepotism policy is untrue. Mr. Sansom's son-in-law does not work for TVA, but for a local school system.
- Although the alleged conflicts of interest are not cognizable under law or policy, the TVA Conflict of Interest Policy allows the Board to address appearances of conflict to determine if the appearance is reasonably held and if any action should be taken. The investigation produced evidence relevant to the Board's consideration of this allegation. For instance, the companies mentioned often did not do business with TVA or, if so, in only small amounts. The decisions to contract with these companies were made below Board level and did not involve Mr. Sansom.



Tennessee Valley Authority
Office of the Inspector General

August 5, 2013

William D. Johnson, WT 7B-K

ALLEGATION OF A CONFLICT OF
INTEREST BY TVA BOARD CHAIRMAN –
WILLIAM (BILL) B. SANSOM
OIG FILE NO. 17A-15138

We have completed our investigation of an allegation we received alleging TVA Board Chairman Bill Sansom had conflicts of interest. Our investigation found the following.

BACKGROUND

On April 18, 2013, Garry Morgan, a member of the public, spoke at the TVA quarterly Board meeting and made several allegations that Mr. Sansom had conflicts of interest involving his role as TVA Board Chairman and his private financial interests. Additionally, Mr. Morgan suggested the possibility Mr. Sansom was involved in nepotism. Specifically, Mr. Morgan alleged the following:

- Mr. Sansom owned more than \$25,000 in stock in a particular company and that this was prohibited by the TVA Conflict of Interest Policy.
- Mr. Sansom was a director at TVA while he was also a director at First Horizon (a bank) and that TVA Health Savings Accounts were held by First Horizon.
- Mr. Sansom worked for American Limestone Company until 1979 and may have financial interests in the company and successor companies which could conflict with his role at TVA.
- Mr. Sansom owns stock in Astec Industries, which Mr. Morgan estimated to total about \$59,000 on April 16, 2013. Mr. Morgan further stated this amount exceeded the \$25,000 ownership limit in the TVA Conflict of Interest Policy.

- Mr. Sansom owned shares in Martin Marietta Materials which Mr. Morgan estimated the value at \$78,072.08. Mr. Morgan alleged this would “exceed the \$25,000 ownership interest limits established by the Tennessee Valley Authority’s Conflict of Interest Policy.” However, Mr. Morgan was unsure if Mr. Sansom still had an interest in Martin Marietta Materials. By pointing out that Martin Marietta Materials produced construction aggregates used in flue gas desulphurization, Mr. Morgan also raises the question of whether matters involving TVA scrubber projects at fossil plants could benefit Mr. Sansom personally.
- Mr. Sansom may have a relative who works for TVA as a material handler.

These allegations trigger analysis under the federal conflicts of interest statute 18 USC § 208, the TVA Conflict of Interest Policy, and the TVA nepotism policy. Additionally, there is the question of whether Mr. Sansom had personal financial interests which create the appearance of a conflict even though there is not, in fact, a conflict.

18 USC § 208

18 USC § 208(b) prohibits government officers or employees from participating “personally and substantially” in their official capacity in a “particular matter” in which he or she has a financial interest. To participate “personally and substantially” means the officer or employee would have to take action which affected his or her financial interest. Furthermore, the action must be about a specific subject matter involving specific parties and not simply general interests. In fact, matters which are broad in scope may not require an officer or employee be disqualified from participation even though he or she might be remotely affected by the matter. If such a particular matter arises which the official or employee can affect by taking official action, then he or she is disqualified from working on that matter.

The conflict allegations levied by Mr. Morgan do not suggest any instance in which Mr. Sansom has participated in a decision through the TVA Board that has had a direct and predictable effect on his personal financial interests. The allegation presents the issue of whether Mr. Sansom’s investment in Martin Marietta Materials might lead to his approval of an action that would lead TVA to make purchases from that company. However, there is no evidence Mr. Sansom has taken such an action and whether such a matter which directly affects Martin Marietta Materials might arise in the future is speculative. If a matter came before the Board that would directly affect Mr. Sansom’s financial interests he would have to recuse himself from taking action. However, after interviewing and reviewing Mr. Sansom’s financial holdings, there is no evidence he has voted or taken any action as a Board member regarding a particular matter in which he held a personal financial interest.

TVA Board members are aware of the need to refrain from voting on matters directly affecting their financial interests and work with TVA ethics officials to avoid such conflicts. Board members are required to keep ethics officials apprised of their financial interests and the ethics officials review those interests in light of particular matters before the Board to ensure members recuse themselves when necessary.

TVA CONFLICT OF INTEREST POLICY

The TVA Conflict of Interest Policy (as enacted by the TVA Board) imposes ethical duties on TVA Board members in addition to those found in 18 USC § 208. The policy does not allow Board members to own a financial interest in the following three types of investments:

1. Distributors of TVA power;
2. Entities involved in the wholesale or retail generation, transmission or sale of electricity; and
3. Entities reasonably perceived to be likely to be adversely affected by TVA's success as a producer or transmitter of electricity.

Under the policy, a financial interest does not include ownership of publicly traded companies when valued at \$25,000 or less. Thus, a Board member who held \$25,000 or less of publicly traded stock in one of the three types of investments listed above would not be in violation of the policy.

None of the financial interests mentioned in the allegation fall within the three categories of investments prohibited in the TVA Conflict of Interest Policy. First Horizon is a banking company; American Limestone (in whatever form it may still exist) mines rock; Astec manufactures equipment for paving roads, processing aggregate and drilling wells; and Martin Marietta Materials produces construction aggregates. The allegation emphasizes that Mr. Sansom may own more than \$25,000 in First Horizon, Astec and Martin Marietta Materials and therefore be in violation of the policy. However, because the policy only applies to holdings in distributors, entities competing with TVA, and entities likely to be adversely affected by TVA's success, the \$25,000 exception is irrelevant in this case.

NEPOTISM

The allegation that Mr. Sansom's son-in-law may be a TVA employee is of concern because both federal law and TVA policy prohibit a TVA official from hiring a relative if the official may exercise control over the relative hired. However, our investigation shows the TVA employee alleged to be related to Mr. Sansom is not. The confusion occurred because the TVA employee shares the same name as Mr. Sansom's son-in-law. Mr. Sansom's son-in-law does not work for TVA but for a local school district.

APPEARANCE OF A CONFLICT

Title 5, Code of Federal Regulations, § 2635.502 (5 CFR § 2635.502) provides that if a federal employee knows his or her involvement in a particular matter involving specific parties might lead a reasonable person with knowledge of the relevant facts to question his impartiality then the employee should refrain taking action on that matter unless the employee has disclosed the facts to the agency designee and received permission.

While the responsibility of determining the reasonableness of the appearance of a conflict under 5 CFR § 2635.502 rests with the federal employee and permission to participate in a matter where there is the appearance of a conflict lies with the agency designee, members of the the public form their own opinions based on their knowledge of the situation. Accordingly, the public should consider the following facts when forming an opinion of whether Mr. Sansom's financial interests and his duties at TVA would lead a reasonable person to believe there is an appearance of a conflict for any particular matter he has participated in as Chairperson of the TVA Board.

First Horizon National Corporation

- First Horizon National Corporation is the parent of First Tennessee Bank. Mr. Sansom served on the Board of Directors of First Horizon for a number of years before leaving in 2012.
- First Tennessee provides the TVA purchase card and pays TVA for doing so.
- First Horizon provided TVA with medical savings accounts for employees until 2010. TVA paid First Horizon a total of \$6,300,828.60 on the contract.
- We found no evidence that Mr. Sansom voted on any matter involving TVA and First Horizon or First Tennessee.

American Limestone

- Mr. Sansom was an employee of American Limestone until 1979.

- Mr. Sansom states he has no ownership interest in American Limestone or any of its successor companies.
- We found no evidence Mr. Sansom participated as a Board member in any issue where American Limestone and TVA were parties.

Astec Industries and Astec Mobile Screens, Inc.

- TVA's only business with Astec Industries occurred in 2009 and was for \$578.40.
- TVA contracted with Astec Mobile Screens in 2006 and paid the company \$15,830.55.
- We found nothing suggesting Mr. Sansom participated on any issue directly involving these companies in TVA while he has served on the Board.

Martin Marietta Materials

- TVA last did business with Martin Marietta Materials in 2006 in the amount of \$5,380.75.
- During Mr. Sansom's tenure on the TVA Board, there is no evidence he has participated in any matter in which TVA and Martin Marietta Materials were parties.

FINDINGS

The allegations that Mr. Sansom's financial interests and his position as a TVA Board member create a conflict of interest (or the appearance of a conflict) can be broken down into four issues. Namely, (1) whether he has a conflict under federal law, (2) whether he has a conflict under TVA policy, (3) whether he reasonably appears to have a conflict even if there is no actual conflict, and (4) whether he has violated laws and policies which prohibit nepotism at TVA.

There is no evidence Mr. Sansom has a conflict of interest under federal law as set forth at 18 USC § 208. The statute prohibits a federal government official or employee from participating "personally and substantially" in a "particular matter" involving the government and the personal financial interest. We found no facts to suggest Mr. Sansom participated in such a matter.

The TVA Conflict of Interest Policy prohibits Board members from holding three types of financial interests. Board members may not have holdings in distributors of TVA power, entities engaged in the retail or wholesale generation, transmission or sale of electricity, or entities which would be adversely affected by TVA's success. Our investigation found Mr. Sansom's holdings did not include any such financial interests.

William D. Johnson

Page 6

August 5, 2013

The appearance of a conflict under the TVA Conflict of Interest Policy must be reasonable. Deciding what is reasonable is ultimately an issue for the Board; however, our investigation revealed evidence relevant to reasonableness. There was no evidence Mr. Sansom participated as a Board member in any matter involving the companies cited, most of the companies did very little business with TVA, and he did not have an ownership interest in one company.

Regarding the nepotism allegation, the investigation found the person alleged to be Mr. Sansom's son-in-law and working at TVA was unrelated to Mr. Sansom.

This report has been designated "TVA Restricted" in accordance with TVA-SPP-12.02, TVA Information Management Policy. Accordingly, it should not be disclosed further without the prior approval of the Inspector General or his designee. In addition, no redacted version of this report should be distributed without notification to the Inspector General of the redactions that have been made.



John E. Brennan
Assistant Inspector General
(Investigations)
ET 4C-K

WDW:MSW:KMM

Attachment

cc (Attachment):

Peyton T. Hairston, Jr., WT 7B-K

Ralph E. Rodgers, WT 6A-K

OIG File No. 17A-15138

Tennessee Valley Authority Conflict of Interest Policy

The Board of Directors of the Tennessee Valley Authority (TVA) adopts this Conflict of Interest Policy which shall be applicable to Board members, the Chief Executive Officer, and employees of TVA.

I. General Principles

Members of the Board of Directors will hold themselves and each other to the highest standards of integrity, honesty, and ethical conduct. Similarly, the Board will require that the Chief Executive Officer and all TVA employees shall conduct themselves with integrity and follow ethical and conflict-of-interest policies established by TVA and the Federal Government in their business practices, actions, and transactions.

II. Policy Applicable to All TVA Employees

The Board of Directors reaffirms that all TVA employees, including TVA Directors and the Chief Executive Officer, shall comply with applicable conflict-of-interest laws, regulations, and policies which govern their business and personal conduct, including but not limited to the general federal conflict of interest statute (18 U.S.C. Section 208) and the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635).

III. Additional Policy Applicable to TVA Directors and the Chief Executive Officer

In addition to the law and policy applicable to all TVA employees, TVA Directors and the Chief Executive Officer shall comply with the following additional policy restricting the holding of certain financial interests:

1. For purposes of this policy, "financial interest" means an interest of a person, or of a person's spouse or minor child, arising by virtue of investment or credit relationship, ownership, employment, consultancy, or fiduciary relationship such as director, trustee, or partner. However, financial interest does not include an interest in TVA or any interest:
 - o comprised solely of a right to payment of retirement benefits resulting from former employment or fiduciary relationship,
 - o arising solely by virtue of cooperative membership or similar interest as a consumer in a distributor of TVA power, or
 - o arising by virtue of ownership of publicly traded securities in any single entity with a value of \$25,000 or less, or within a diversified mutual fund

investment in any amount.

2. Directors and the CEO shall not hold a financial interest in any distributor of TVA power.
3. Directors and the CEO shall not hold a financial interest in any entity engaged in the wholesale or retail generation, transmission, or sale of electricity.
4. Directors and the CEO shall not hold a financial interest in any entity that may reasonably be perceived as likely to be adversely affected by the success of TVA as a producer or transmitter of electric power.
5. Any action taken or interest held that creates, or may reasonably be perceived as creating, a conflict of interest restricted by this additional policy applicable to TVA Directors and the Chief Executive Officer should immediately be disclosed to the Chairman of Board of Directors and the Chairman of the Audit and Ethics Committee. The Audit and Ethics Committee shall be responsible for initially reviewing all such disclosures and making recommendations to the entire Board on what action, if any, should be taken. The entire Board, without the vote of any Director(s) involved, shall determine the appropriate action to be taken.
6. Any waiver of this additional policy applicable to TVA Directors and the Chief Executive Officer may be made only by the Board, and will be disclosed promptly to the public, subject to the limitations on disclosure imposed by law.

Approved by the Board of Directors of the Tennessee Valley Authority

November 30, 2006

