

Chapter 1 : [USC04] 18 USC Ch. BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Â§ - Bribery of public officials and witnesses Â§ - Definitions Â§ - Compensation to Members of Congress, officers, and others in matters affecting the Government.

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Chapter 2 : US Code Title 18 Section

Memorandum of Attorney General Regarding Conflict of Interest Provisions of Public Law , Feb. 1, , 28 F.R. January 28, Public Law , "To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes," came into force January 21,

Bribery, fraud, misuse of government funds and failure to disclose a conflict of interest are common examples of this crime. The buzz all over the media is corruption, corruption, corruption. Understandably corruption has changed Zimbabwe. Over several decades, our values have been eroded; everyone believes money can buy a contract, an appointment, a university admission, a degree, in fact an entire lifestyle. People seem powerless in the face of corrupt networks and endemic rot yet everyone agrees that the most harmful consequence of endemic corruption in Zimbabwe is the apathy that engenders the culture of acceptance. Honest citizens are discouraged from going into politics or suffer from apathy, as a result of the distaste corrupt practices have generated. The Government of President Mnangagwa has a tough job on its hands "and it is showing a lot of promise. But tackling corruption is not easy: Courts are not too keen to give decisions in corruption cases. That kind of decision often has roots in failed cases against prominent politicians, making it manifestly more difficult for prosecutors to prove political corruption. But, how could actions that look so corrupt not be a crime? The introduction of the Corruption Act and the abuse of office has amended the power to convict. Prosecuting a political corruption case is difficult and this is not in Zimbabwe alone but the whole world. But the power of money to get donors political access and influence has expanded with the whittling away of corruption laws. Donors pour money into races to get officials who will support their favoured goals. Those who emerge victors strive hard to protect their friends who are corrupt but sponsored them during elections. Governments, the private sector, and civil society alike have consequently declared the fight against bribery and corruption a priority in their overall endeavour and politics. Zimbabwe should break the duck and deal decisively with corruption, graft and racketeering. There should not be any sacred cows and corrupt individuals should not hide behind political expediency. Shortcomings in the system need to be rectified. These are at the root of the problem at the legislative level. In addition, many law enforcement agencies are technically not up to dealing with complex crimes such as corruption in an appropriate manner. Legal and institutional shortcomings may have a strong impact on the effectiveness of prosecution when investigations target corrupt businessmen or politicians; these cases are often characterised by a high degree of sophistication concerning the methods of committing and camouflaging the crimes. This complexity contrasts with the broad lack of training of investigators and prosecutors in specific relevant matters such as forensic accounting, public funds or insider trading. Unsuitable institutional provisions, especially insufficient independence of the law enforcement agencies from interfering government bureaus, add to these problems. The influence a leading figure can exercise on his or her trial constitutes a second major obstacle. Supported by skilled lawyers, such defendants can obstruct the prosecution with lengthy appeals, and unnecessary postponements which are aimed at frustrating the system. Sometimes they even manage to influence the legislative bodies to amend legal provisions in their favour. Reporting of corruption cases within public administration and by citizens at large faces another difficulty arising from the secret nature of corruption and, in most instances, the lack of individual victims that would come forward with information about an act of corruption and thus trigger an investigation. A person, in seeking to uncover instances of bribery, may also fear the vengeance of the accused, especially when his or her reporting leads to the launching of an investigation and possibly the conviction of the criminal. Additional problems arise from a lack of independence of the law enforcement authorities and undue influence exercised on them, in particular by prominent politicians or wealthy businessmen. Because of the lack in many states of legal provisions ensuring the protection of whistle-blowers, the detection and prosecution rates remain low despite otherwise comprehensive legal and institutional anti-corruption frameworks. Most of these aspects require legislative measures.

Chapter 3 : Federal prosecution of public corruption in the United States - Wikipedia

18 u.s.c. 11 - bribery, graft, and conflicts of interest chapter - prohibition on release and use of certain personal information from state motor vehicle records (sections -).

Conflicts, and Ethics, and Bribery! The hairs on the back of your neck may tingle; or, you may become warmer, or colder; or you may feel a bit of perspiration on your forehead – but something tells you to stop and take a second look before the next step. You may not be able to put your finger on it, but, you can feel when the situation is just not right, and you may be facing a conflict of interest, an ethical dilemma, or the offer of an unacceptable gratuity. Each day you face many situations where you act with no thoughts about whether it is ethical or not. Some situations, though, are more subjective and require some thought about what rules guide acceptable behavior. Where there are no specific rules, how do we determine the best course of action? The accusations were based on his possible conflict of interest. In another example, a mortgage loan originator makes an exception to policy for the terms of a home purchase loan. The relationship creates a conflict of interest that should preclude the originator from executing loans for family members. A conflict of interest could be defined as a situation that occurs when a person or company acts in a manner to promote self-interests rather than the established best interest of the business or customer. A conflict of interest may cause a situation that is unethical, that violates current policy or the law, or all of the above. Commercial banks must follow specific rules about conflicts of interest, and, the bank regulatory agencies publish guidance and require policies supporting conflict of interest management. While the Consumer Financial Protection Bureau CFPB has not published separate guidance specifically for conflicts of interest, it incorporates the standards of managing conflicts of interest in publications issued for the entities it supervises and its own activities. Certain conflicts of interest violate either federal laws or state laws, or both. Dealings involving insiders – Dealings with persons or entities connected with the [company] in a way that might affect its judgment represent a potential conflict of interest or self-dealing activity. Inappropriate financial benefit – A [company] may gain an inappropriate financial benefit if it generates additional fee-based business for itself or an affiliate in one of the following ways: If a [company] obtains financial benefits including goods and services from a service provider whether affiliated or not , the benefits must be authorized and must not be provided in exchange for using that provider. Systems should be sufficient to alert the [company] when a [company] employee serves [a customer or vendor of] the [company] for a fee, competes with the [company], receives loans from fiduciary clients, accepts gifts or bequests from fiduciary clients, receives goods and services from vendors, or executes personal securities transactions that are counter to the best interests of account beneficiaries. Bribery is typically considered illegal and can be punishable by jail time or stiff fines if authorities find out about the bribe. Even a gift or gratuity of little monetary value, if it influences the actions of the receiver, could be considered a bribe. Some organizations follow IRS guidelines for de minimis benefits. Commercial banks are governed by the federal Bank Bribery Act, which prohibits commissions or gifts in various situations – offering loans or gratuities to financial institution examiners, acceptance of loans or gratuities by financial institution examiners, any receipt or commission or gift for procuring loans, and others. Most states also have laws about bribery, conflicts of interest, or other inappropriate business behavior. Other monetary or in-kind gains can be illegal when obtained through a financial service. With respect to federally-related residential real estate secured loans, the Real Estate Settlement Procedures Act RESPA prohibits kickbacks and unearned fees given or accepted in connection with a settlement service. Codes of Ethics or Conduct – The stated commitment to and general guidelines about ethics, conflicts of interest, and other expectations are the starting point. Most large companies have a published code of ethics – a set of general guidelines to encourage employees to behave ethically and responsibly and others may implement a policy of the same nature. Smaller institutions may have a more informal approach, but, any commitment by management must be clearly communicated to all employees. Training is a good idea. Organizations often have established codes of ethics based on the industry or trade. Monitoring and auditing for compliance – Periodic reviews of company operations or records should include compliance to ethical standards as well as

legal and regulatory requirements. In any case, if the hairs on the back of your neck are bristling, proceed with caution. It could be the best pause you ever take. What might the most recent 60 enforcement actions brought by the CFPB portend for the future?

Chapter 4 : NASA - Ethics Program

Federal Laws on Bribery, Graft, and Conflicts of Interest Within 18 U.S. Code Chapter 11, there are 25 different statutes, one of which was repealed. All of the rest of the statutes either define criminal conduct for which you could be prosecuted, or provide more clarity on the meanings of the words used elsewhere within Chapter

Prior Provisions A prior section , act June 25, , ch. See Amendment note below. A to C , respectively, and realigned their margins, and in subpar. A to C , respectively, and realigned their margins, in subpar. Effective Date of Amendment Pub. Short Title of Amendment Pub. A number of departments and agencies of the Government have suggested that the Department of Justice prepare and distribute a memorandum analyzing the conflict of interest provisions contained in the new act. I am therefore distributing the attached memorandum. One of the main purposes of the new legislation merits specific mention. That purpose is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For the most part the conflict of interest statutes superseded by Public Law 87â€” imposed the same restraints on a person serving the Government temporarily or intermittently as on a full-time employee, and those statutes often had an unnecessarily severe impact on the former. As a result, they impeded the departments and agencies in the recruitment of experts for important work. Public Law 87â€” meets this difficulty by imposing a lesser array of prohibitions on temporary and intermittent employees than on regular employees. I believe that a widespread appreciation of this aspect of the new law will lead to a significant expansion of the pool of talent on which the departments and agencies can draw for their special needs. These included six sections of the criminal code, 18 U. It is the purpose of this memorandum to summarize the new law and to describe the principal differences between it and the legislation it has replaced. The Act accomplished its revisions by enacting new sections , , and of title 18 of the United States Code and providing that they supplant the above-mentioned sections , , and of title 18 respectively. First of all, however, it is necessary to describe the background and provisions of the new 18 U. Special Government Employees [New 18 U. The consequences of this generalized treatment were pointed out in the following paragraph of the Senate Judiciary Committee report on the bill which became Public Law 87â€” The laws were therefore directed at activities of regular Government employees, and their present impact on the occasionally needed expertsâ€”those whose main work is performed outside the Governmentâ€”is unduly severe. The recruiting problem noted by the Committee generated a major part of the impetus for the enactment of Public Law 87â€” The new 18 U. Summary of the Main Conflict of Interest Provisions of Public Law 87â€” A regular officer or employee of the Governmentâ€”that is, one appointed or employed to serve more than days in any period of daysâ€”is in general subject to the following major prohibitions the citations are to the new sections of Title He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another 18 U. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest 18 U. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government 18 U. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities 4 during the last year of his Government service 18 U. This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government 18 U. A special Government employee is in general subject only to the following major prohibitions: He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially. The restrictions described in

subparagraphs a and b apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service 18 U. This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially. It will be seen that paragraphs 2, 3, and 4 for special Government employees are the same as the corresponding paragraphs for regular employees. Paragraph 5 for the latter, describing the bar against the receipt of salary for Government work from a private source, does not apply to special Government employees. As appears below, there are a number of exceptions to the prohibitions summarized in the two lists. Subsection a of this section in general prohibits a Member of Congress and an officer or employee of the United States in any branch or agency of the Government from soliciting or receiving compensation for services rendered on behalf of another person before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest. The subsection does not preclude compensation for services rendered on behalf of another in court. Subsection a is essentially a rewrite of the repealed portion of 18 U. However, subsections b and c have no counterparts in the previous statutes. Subsection b makes it unlawful for anyone to offer or pay compensation the solicitation or receipt of which is barred by subsection a. Subsection c narrows the application of subsection a in the case of a person serving as a special Government employee to two, and only two, situations. First, subsection c bars him from rendering services before the Government on behalf of others, for compensation, in relation to a matter involving a specific party or parties in which he has participated personally and substantially in the course of his Government duties. And second, it bars him from such activities in relation to a matter involving a specific party or parties, even though he has not participated in the matter personally and substantially, if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of a year. This section contains two major prohibitions. The first prevents an officer or employee of the United States in any branch or agency of the Government from acting as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not. It also prevents him from receiving a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof. This portion of section is similar to the repealed portion of 18 U. The second main prohibition of section is concerned with more than claims. It precludes an officer or employee of the Government from acting as agent or attorney for anyone else before a department, agency or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest. Section provides for the same limited application to a special Government employee as section. In short, it precludes him from acting as agent or attorney only 1 in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and 2 in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the year past. Since new sections and extend to activities in the same range of matters, they overlap to a greater extent than did their predecessor sections and. The following are the few important differences between sections and. Section applies to Members of Congress as well as officers and employees of the Government; section applies only to the latter. Section bars services rendered for compensation solicited or received, but not those rendered without such compensation; section bars both kinds of services. Section bars services rendered before the departments and agencies but not services rendered in court; section bars both. It will be seen that while section is controlling as to Members of Congress, for all practical purposes section completely overshadows section in respect of officers and employees of the Government. Section permits a Government officer or employee to represent another person, without compensation, in a disciplinary, loyalty or other personnel matter. Another provision declares that the section does not prevent an officer or employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt. The waiver is available to the officer or employee, whether acting for any such person with or without compensation, but only if approved by the official making appointments

to his position. And in no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility. Finally, section gives the head of a department or agency the power, notwithstanding any applicable restrictions in its provisions or those of section , to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract. However, this action is open to the department or agency head only upon his certification, published in the Federal Register, that the national interest requires it. Subsections a and b of this section contain post-employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch, the independent agencies or the District of Columbia. The matters are those involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while holding a Government position. Subsection b sets forth a 1-year postemployment prohibition in respect of those matters which were within the area of official responsibility of a former officer or employee at any time during the last year of his service but which do not come within subsection a because he did not participate in them personally and substantially. More particularly, the prohibition of subsection b prevents his personal appearance in such matters before a court or a department or agency of the Government as agent or attorney for anyone other than the United States. For example, if an individual transfers from a supervisory position in the Internal Revenue Service to a supervisory position in the Post Office Department and leaves that department for private employment 9 months later, he will be free of the restriction of subsection b in 3 months insofar as Internal Revenue matters are concerned. He will of course be bound by it for a year in respect of Post Office Department matters. The proviso following subsections a and b authorizes an agency head, notwithstanding anything to the contrary in their provisions, to permit a former officer or employee with outstanding scientific qualifications to act as attorney or agent or appear personally before the agency for another in a matter in a scientific field. The quoted language does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter. Subsection a bars permanently a greater variety of actions than subsection b bars temporarily. The conduct made unlawful by the former is any action as agent or attorney, while that made unlawful by the latter is a personal appearance as agent or attorney. However, neither subsection precludes postemployment activities which may fairly be characterized as no more than aiding or assisting another. On the other hand, he is forbidden for a year, in the first case, to appear personally before the agency as the agent or attorney of his company in connection with a dispute over the terms of the contract. And he may at no time appear personally before the agency or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract. Comparing subsection a with the antecedent 18 U. Subsection a also goes further than the latter in imposing a lifetime instead of a 2-year bar. Subsection b has no parallel in 18 U. It will be seen that subsections a and b in combination are less restrictive in some respects, and more restrictive in others, than the combination of the prior 18 U. Thus, former officers or employees who were outside the Government when the Act came into force on January 21, , will in certain situations be enabled to carry on activities before the Government which were previously barred. For example, the repeal of 5 U. On the other hand, former officers or employees became precluded on and after January 21, from engaging or continuing to engage in certain activities which were permissible until that date. This result follows from the replacement of the 2-year bar of 18 U. Subsection c of section pertains to an individual outside the Government who is in a business or professional partnership with someone serving in the executive branch, an independent agency or the District of Columbia. Although included in a section dealing largely with post-employment activities, this provision is not directed to the postemployment situation. The paragraph at the end of section also pertains to individuals in a partnership but sets forth no prohibition. This paragraph, which is of importance mainly to lawyers in private practice, rules out the possibility that an individual will be deemed subject to section , , a or b solely because he has a partner who serves or has served in the Government either as a regular or a special

Government employee. This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of sections and which forbid certain actions in his capacity as a representative of persons outside the Government. Subsection a in substance requires an officer or employee of the executive branch, an independent agency or the District of Columbia, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest. Subsection b permits the agency of an officer or employee to grant him an ad hoc exemption from subsection a if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services.

Chapter 5 : Tackling Graft Needs a Holistic Approach - Zimbabwe Today

CHAPTER 11 "BRIBERY, GRAFT, AND CONFLICTS OF INTEREST Sec. Bribery of public officials and witnesses. Definitions. Compensation to Members of Congress.

What kind of example are we setting for the rest of the world if the leader of the free world is enriching himself while in office? Somehow Donald Trump manages to dumb down everything. Somehow he manages to lower the bar to the point where he can play by a different set of rules. And somehow the media and elected officials just shrug their shoulders and walk away. By his own admission, the president-elect is negotiating business deals at a time when his predecessors were, you know, filling cabinet positions and transitioning to power. He met with his Indian business partners and the Trump Organization signed a Kolkata deal last week. Only the crooked media makes this a big deal! This is not about whether Trump favors one country or president over another, gives a contract to one company or another, or spends more time making money for himself than he does boning up about policy. There are laws on the books about US businesses influencing foreign officials with payments or other inducements. Bribery is what the law calls favors and payments given to foreign officials in exchange for business deals. Not a conflict of interest. Payments and favors going the other way " into the pockets of the president " are so clearly corrupt that they were forbidden by the founding fathers in the constitution. The so-called emoluments clause prohibits gifts and titles from foreign powers as follows: Everything is detailed , declared and surrendered. This process will be hard within the world of international real estate, where foreign powers can grant gifts ranging from planning permits to investments from sovereign wealth funds. The list is almost endless. Spokespeople for President Macri and President-elect Trump have denied reports about the mixing of Trump business and politics on the call. But we do know that the long-stalled Buenos Aires project is now moving forward: For a president who has refused to release his tax returns, the need for transparency is not exactly clear. He knew how to drain the swamp because he had lived in it for so long, buying off begging politicians for so many years that it made him sick. This argument was always a stretch, but clearly many voters bought into his pitch. The damage caused is not confined to public confidence in the United States government. Being leader of the free world is not a casual concept. That cold war phrase encapsulates the long-prized notion that the United States is a beacon of freedom and democracy for the world. As his own transition came to an end, President-elect Kennedy best summed up the notion in his final address in Boston in January They see a president-elect who lost the popular vote by more than 2 million votes and almost 2 percentage points. This is a difficult notion of democracy to explain to a world struggling against authoritarian regimes where votes are routinely ignored and discounted. The work of democracy promotion by the National Endowment for Democracy, established by Reagan, is immeasurably harder as a result of the election. Why should they not do both? America needs to lead by example and that starts with the president.

Chapter 6 : Bribery-Graft-Corruption | Law Office of Carey Caruso

Title United States Code: Bribery, Graft, and Conflicts of Interest, 18 U.S.C. Â§Â§ (Suppl. 3). Contributor Names.

Chapter 7 : Kidero arrested over graft claims - Daily Nation

Journal of Criminal Law and Criminology Volume 75 Issue 3Fall Article 17 Fall Bribery, Graft, and Conflicts of Interest: The Scope of Public Official.

Chapter 8 : Conflicts, and Ethics, and Bribery! Oh, My! - Mortgage Compliance Magazine

the potential for a conflict of interest created by the financial interest involved; or (4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her

spouse or minor child.

Chapter 9 : Corruption and Bribery are Not Conflicts of Interest “ Richard Wolffe

The legal regulations on conflicts of interest for public employees are contained in Section 11 of the Administrative Procedure Act and in Chapter 6, Sections of the Local Government Act.