



**U.S. Securities  
and Exchange  
Commission**

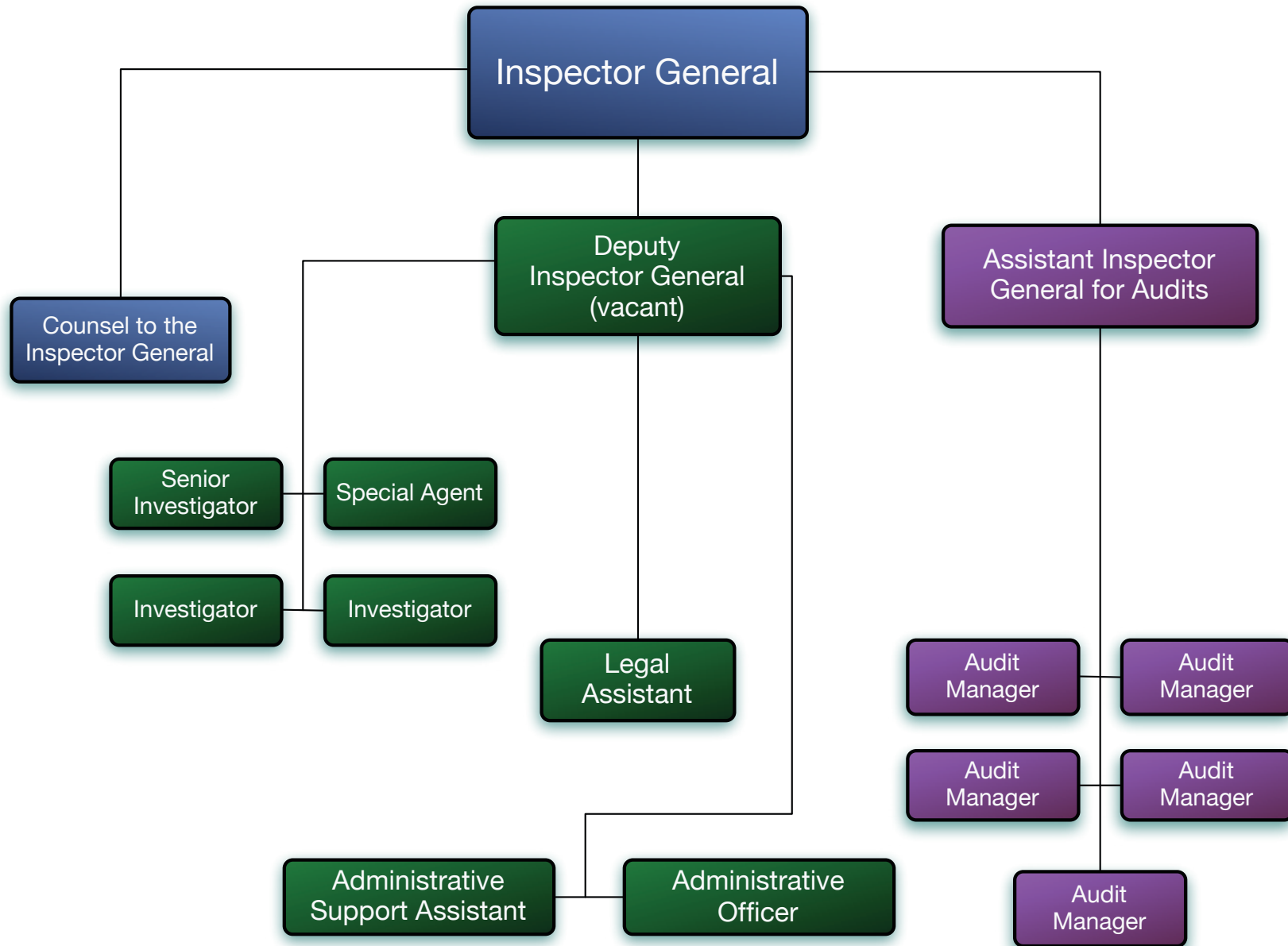
# OFFICE OF INSPECTOR GENERAL SEMIANNUAL REPORT TO CONGRESS



**October 1, 2007 - March 31, 2008**

# Organizational Chart

## Office of Inspector General



October 1, 2007 - March 31, 2008



U.S. Securities  
and Exchange  
Commission

# OFFICE OF INSPECTOR GENERAL

## SEMIANNUAL REPORT TO CONGRESS

### Mission

The mission of the Office of Inspector General is to promote the integrity, efficiency, and effectiveness of the critical programs and operations of the Securities and Exchange Commission. This mission is best achieved by having an effective, vigorous and independent office of seasoned and talented professionals who perform the following functions:

- Conducting independent and objective audits, evaluations, investigations, and other reviews of Commission programs and operations;
- Preventing and detecting fraud, waste, abuse, and mismanagement in Commission programs and operations;
- Identifying vulnerabilities in Commission systems and operations and recommending constructive solutions;
- Offering expert assistance to improve Commission programs and operations;
- Communicating timely and useful information that facilitates management decision-making and the achievement of measurable gains; and
- Keeping the Commission and the Congress fully and currently informed of significant issues and developments.





# SEMIANNUAL REPORT TO CONGRESS

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## Message from the **Inspector General**

I am very honored to have been appointed to the position of Inspector General for the U.S. Securities and Exchange Commission (SEC or Commission) on December 24, 2007. I am further honored to be engaged in the important work of the SEC Office of Inspector General (OIG), which plays the vital role of guardian of integrity and efficiency in the SEC and protector of the public trust against fraud, waste and abuse.

We have made a great deal of accomplishments over the past several months, and much work remains to be done. We are committed to working with the Commission to address its management challenges and to ensure the efficiency, effectiveness and integrity of agency operations. I strongly believe that a vibrant and vigorous Office of Inspector General is critical to achieving these goals.

During this reporting period, our auditors issued several reports on a variety of issues and subjects that are essential to Commission programs and operations. We initiated an inspection of the Commission's Personnel Security/Suitability Program based on complaints we received from Commission officials regarding significant delays in processing background investigations, and information acquired during prior OIG audits. We found that significant organizational issues were preventing the Commission from having an effective program, and that the Commission did not comply with key requirements of a Homeland Security Presidential Directive and Office of Management and Budget guidance. We recommended that the Commission develop comprehensive operating procedures, create an information system to track work processes, evaluate and restructure staff resources, and acquire appropriate work and storage space to ensure the Personnel Security/Suitability Program operates in an efficient and effective manner.

We also conducted an audit of the agency's student loan repayment program, under which agency employees may receive payment of their outstanding loan balances for Federally insured or guaranteed student loans up to \$10,000 annually and \$60,000 overall, as a recruitment and retention incentive. According to the Office of Personnel Management, in FY 2006, the Commission awarded more funds in total than any other agency in the Federal government, except for the Department of Justice, Department of Defense, and Department of State. In addition, the Commission paid more money per recipient than any other Federal agency that had a significant number of recipients. Our audit found that several aspects of the student loan repayment program needed significant improvement. We found a number of weaknesses in the program's internal controls and identified 12 employees who left the Commission and were required to repay \$129,336 in total to the student loan program because the terms of the service agreements had not been met. As a result of our audit, the Commission has instituted efforts to collect these funds.

We also conducted several audits and inspections relating to the Division of Enforcement's coordination with receivers and other third party agents, the Commission's process for reviewing Self-Regulatory Organization proposed rule changes, the Office of Information Technology's controls over laptops, and the usefulness of a Commission Intranet site. In all of these cases, our reports identified significant issues and made numerous recommendations designed to improve agency processes and operations. These recommendations were well-received by management and are being implemented.

In investigative matters, I have instituted new procedures that will allow for more thorough, comprehensive and substantive investigations. These procedures include ensuring that the complainant is interviewed first and on the record whenever feasible, that significant interviews of complainants, subjects and critical witnesses be conducted under oath and on the record with a full transcript as appropriate, that perjury warnings be provided to subjects and/or witnesses being interviewed where there is any possibility or indication that full and truthful testimony might not be given, and that assurances of confidentiality be given to potential witnesses who have expressed reluctance to come forward in an official investigation. Our reports of investigation have been modified to provide for specific findings and recommendations, including whether the OIG believes disciplinary action should be taken. We have also requested that management inform us of disciplinary action taken in response to a report of investigation within 45 days of issuance of the report and have followed up with management both prior to and at the 45-day mark.

We have also increased our investigative staff by over forty percent. One of our investigators has recently been deputized by the U.S. Marshals Service in order to increase the OIG's authority in pursuing criminal investigations. In addition, during the reporting period and after a competitive procurement process, we entered into a contract with an outside vendor to establish and operate an OIG Hotline that will include a toll-free number that can be called 24 hours a day, 365 days a year, as well as a web-based system through which complaints may be made anonymously or in confidence. This arrangement will encourage and facilitate the reporting of complaints to our Office. We also began work on a wholesale redesign of the OIG website to make it more complete, informative, professional in appearance and useful to the public. We anticipate the redesign to be finalized during the next reporting period.

On February 27, 2008, the OIG entered into a Memorandum of Understanding (MOU) with the Commission's Office of Information Technology (OIT), wherein OIT recognized the importance and urgency of OIG investigative requests for e-mails and other information technology support. In the MOU, OIT provided written assurance that all OIG requests for e-mails will receive the highest priority among Commission e-mail requests and agreed to provide computer forensic and other technical support as requested. As a consequence of the MOU, the OIG has been able to obtain employee e-mails needed for investigations much more quickly than in the past.



The changes described above have resulted in the issuance of numerous investigative reports regarding significant issues, such as perjury by supervisory attorneys, misuse of government equipment and resources, disruptive conduct in the workplace on the part of a senior official, and the misrepresentation of professional credentials. I have personally taken on the investigations of several high-profile matters and made significant progress on these cases during the reporting period.

The accomplishments of our Office have been enhanced by the support of the SEC Chairman, Chief of Staff, Executive Director, management team and employees. I look forward to continuing this productive and professional working relationship as we help the SEC meet its important challenges.



H. David Kotz  
Inspector General





# SEMIANNUAL REPORT TO CONGRESS

## MANAGEMENT AND ADMINISTRATION

### AGENCY OVERVIEW

The United States Securities and Exchange Commission (SEC or Commission) aims to be the standard against which Federal agencies are measured. The SEC's vision is to strengthen the integrity and soundness of the United States securities markets for the benefit of investors and other market participants, and to conduct its work in a manner that is as sophisticated, flexible, and dynamic as the securities markets it regulates.

The SEC's mission is to protect investors, facilitate capital formation and maintain fair, orderly, and efficient markets. To achieve its mission, the SEC enforces compliance with the Federal securities laws, promotes healthy capital markets through an effective and flexible regulatory environment, fosters informed investment decision-making, and maximizes the use of human capital and technological resources. The SEC oversees the disclosures of almost 13,000 public companies and the activities of about 11,000 investment advisors, nearly 1000 fund complexes, and 5,700 broker-dealers.

In order to accomplish its mission most effectively and efficiently, the SEC is organized into four main divisions (Corporation Finance, Enforcement, Investment Management, and Trading and Markets), and also has 18 functional offices. The Commission's headquarters is located in Washington, D.C., and there are 11 regional offices located throughout the country. In FY 2007, the SEC had 3,465 full-time equivalents (FTEs), consisting of 3,403 permanent and 62 temporary FTEs.

### OIG STAFFING

During the reporting period, the Commission filled the position of Inspector General. The new Inspector General, H. David Kotz, previously served as the Inspector General for the Peace Corps. As Inspector General at the Peace Corps, Mr. Kotz was responsible for overseeing the internal operations of Peace Corps programs in Washington, D.C., at 11 regional offices, and in nearly 70 countries around the world. Mr. Kotz initially joined the Peace Corps staff in October 2002, and he also served as an Associate General Counsel for several years.

Mr. Kotz previously worked at the U.S. Agency for International Development (USAID), where he was an Attorney Advisor in the Office of the General Counsel and later a Chief in the Office of Labor and Employee Relations. Prior to his government service, Mr. Kotz worked at three law firms: Pepper Hamilton LLP in Washington D.C.; Stults & Balber, P.C., in New York City; and Graham & James in New York City. Mr. Kotz graduated cum laude from the University of Maryland in 1987 with a B.A. in Government and Politics, and earned his J.D. at Cornell Law School in 1990.

This reporting period also marked the retirement of the Deputy Inspector General, Nelson Egbert, and the adding of several new positions in the office, including the position of Assistant Inspector General for Audits, which was filled by Jacqueline Wilson in March 2008. Ms. Wilson served on active duty in the U.S. Air Force from 1986-1995, and began her career in the Federal government in 1995 working as a senior auditor at the Federal Energy Regulatory Commission, Office of Chief Accountant,

where she conducted financial audits and made accounting determinations for jurisdictional utility companies. From 2001-2007, Ms. Wilson worked as an Audit Manager in the Office of Inspector General (OIG) at the Defense Intelligence Agency, Department of State, and the Pension Benefit Guaranty Corporation, where she supervised teams that conducted complex performance and financial related audits and reviews of agency activities and operations. From 2007-2008, she served as the Financial Audit Branch Chief for the Defense Information Systems Agency OIG. Ms. Wilson earned a Bachelor of Science degree in Labor Relations from the University of Wisconsin-Parkside in 1984 and a Master of Business Administration degree in Accounting from Hawaii Pacific University in 1993.

In addition, we hired an Administrative Support Assistant, Teresa Supples, and are finalizing the addition of two investigators and a legal assistant.



# SEMIANNUAL REPORT TO CONGRESS

## RESPONSES TO CONGRESSIONAL INQUIRIES

During the reporting period, the OIG responded to several inquiries and requests for information from Congressional Committees, as well as individual members of Congress.

On February 4, 2008, the Inspector General received a letter from Senator Charles E. Grassley, Ranking Member of the Senate Committee on Finance. In that letter, Senator Grassley congratulated the Inspector General on his appointment, requested a written summary of reforms to be undertaken by the new Inspector General and offered to assist him in achieving his goals. Senator Grassley also requested a detailed written response from the Inspector General concerning actions taken to date by the Commission in response to the Senate Finance and Judiciary Committees final report, issued in August 2007, on allegations of a former SEC attorney.

On February 13, 2008, the Inspector General provided a ten-page response to Senator Grassley, thanking him for his support in connection with the Inspector General's new duties. In response to Senator Grassley's request, the Inspector General outlined a series of directives he had issued prescribing changes in the OIG's investigative procedures, as well as changes implemented to the OIG's Office of Audits and Inspections. The Inspector General also provided Senator Grassley with an update on the status of the OIG's re-investigation of the claims made by the former SEC attorney. (The current status of this matter is discussed in the section on Pending Investigations.) In that regard, he provided assurances that bringing this matter to closure is among his highest priorities as the new Inspector General. In addition, the Inspector General provided detailed answers to each of the specific questions asked by the Senator concerning the status of actions taken in response to the

August 2007 Senate Report. Further, the Inspector General agreed to follow up on changes the Commission indicated it had implemented, and planned to implement, in response to the Report's recommendations. The Inspector General also met with Senate Finance Committee staff to discuss all of these issues.

On December 7, 2007, the OIG received a request from Senator Henry A. Waxman, Chairman of the House Committee on Oversight and Government Reform. That request sought specific information concerning OIG recommendations made since January 2001 that had not yet been implemented. On January 30, 2008, the Inspector General provided detailed information to Chairman Waxman discussing the status of open recommendations made by the OIG between January 2001 and January 2008. The Inspector General also met with Committee staff to discuss this request, as well as other pertinent issues.

In addition, on December 12, 2007, the OIG received a request from staff of the Senate Committee on Banking, Housing and Urban

Affairs, for additional information on several matters discussed in the OIG's Semiannual Report to Congress for April 1, 2007 to September 30, 2007. These issues included contract ratifications and unauthorized commitments, information technology management, and staff performance management. The Inspector General met with Committee staff members on January 22, 2008, and provided them with detailed, written information on each of the issues about which they had inquired.

During the reporting period, the OIG also replied both verbally and in writing to several inquiries from Members of Congress about matters of interest to individual constituents. These matters are discussed in the sections on Investigation and Inquiries Conducted and Pending Investigations and Inquiries. In one of these matters, the Inspector General met with the constituent and his attorney. The Inspector General also provided the constituent and the Congressional office with a letter the constituent had requested concerning the OIG's review of his complaint.



# SEMIANNUAL REPORT TO CONGRESS

## ADVICE AND ASSISTANCE PROVIDED TO THE AGENCY

During this reporting period, the OIG provided advice to management on a number of serious issues that were brought to our attention. This advice was conveyed through written communications, as well as oral briefings and meetings with agency officials. In addition to recommending improvements in existing procedures, we provided numerous comments on policy and rule changes that were being implemented as a result of OIG recommendations.

### Performance Management Policy

A prior OIG audit on Enforcement Performance Management (Audit Report No. 423, issued on February 8, 2007) found significant problems with the Division of Enforcement's performance management process and made numerous recommendations for improvements. In response, the Executive Director stated that the existing agency-wide performance management program needed considerable improvements and that the Commission would

adopt a new program designed to address the current deficiencies beginning in FY 2008.

During this semiannual period, the OIG reviewed several drafts of the agency's new performance management policy and provided three separate sets of substantial written comments. In addition, the OIG provided verbal comments on particular aspects of the draft policy and management's revisions based on the OIG's comments.

The OIG was particularly concerned that the draft policy did not appear to address many of the recommendations for improvement contained in the OIG audit report. These included recommendations that the agency develop procedures to ensure the timely completion and documentation of various performance appraisal steps. The OIG stressed to management the importance of specifying in the policy the consequences that will occur if a manager fails to complete a required step on time. The OIG also recommended, among other things, that the draft policy be revised to state clearly (1) which

performance documents should be provided to the employee and when they should be provided; (2) whether, and under what circumstances, supplemental memoranda can be used in the performance management process; (3) whether, and under what circumstances, probationary employees may be placed on performance improvement plans; (4) whether supervisors who are separating from the Commission must prepare a written narrative on the performance of employees under their supervision; and (5) that supervisors should not use reassignments to avoid addressing performance problems. The OIG further recommended that the policy be revised to reflect that possible cases of employee misconduct should be reported to the OIG.

The Inspector General met with the Associate Executive Director for Human Resources regarding the substance of the OIG's comments and discussed the OIG's concerns about the draft performance management policy. The Associate Executive Director for Human Resources agreed to incorporate the OIG's comments, and the draft policy has been revised to reflect the OIG's significant comments and concerns.

### **Workplace Violence Prevention**

During a prior reporting period, the OIG recommended that the Office of Human Resources (OHR) update the agency's policy prohibiting workplace violence (which had not been updated since December 6, 1999) and develop formal procedures for preventing and addressing workplace violence. Because these steps had not been completed, we followed up on these recommendations during the reporting period.

The Inspector General met with the Associate Executive Director for Human Resources and conveyed the OIG's concerns about the issue of workplace violence. In addition, the OIG provided specific comments on an updated prevention of workplace violence policy. These comments were considered and a revised policy was issued to all agency employees on January 28, 2008. The OIG also suggested that, in addition to revising the policy, management needed to implement a more comprehensive workplace violence prevention program that included detailed procedures and training. The Associate Executive Director for Human Resources agreed to work on developing such a comprehensive program and thanked us for our input and comments on this important issue.

### **Misuse of Computer Resources**

As discussed in the investigative section below, the OIG developed evidence in several investigations conducted during the reporting period that employees were misusing SEC computer resources. As a consequence, the OIG made several recommendations to management with a view toward preventing this type of misconduct in the future. The OIG also provided comments on revised rules pertaining to employee and contractor computer use.

- On November 17, 2007, the OIG issued a memorandum to management concerning the large number of recent investigations showing that employees accessed adult pornography or other inappropriate material from their Commission computers, despite the agency's Internet filter. The OIG made several recommendations for improvements in policies and procedures. These recommendations in-



cluded that management (1) update, consolidate and clarify the existing Internet usage policies and ensure their easy accessibility from the Commission's Intranet site; (2) send reminders to all Commission employees and contractors that accessing or downloading pornographic materials from Commission computers is strictly prohibited and may result in disciplinary action; (3) revise the current prohibition on accessing and downloading pornography contained in the Commission's "Rules of the Road" governing employee and contractor computer use to make it clearer, more inclusive and consistent with other policies; and (4) revise the warning messages that users receive when an attempt to access pornography is blocked by the Internet filter.

- On February 4, 2008, the OIG issued another memorandum to Commission management addressing the recent OIG investigations that uncovered evidence that Commission employees or contractors were using government computer resources and official time to support private businesses. The OIG memorandum pointed out that, in some instances, the amount of time and resources expended in support of the private businesses was quite substantial. The OIG memorandum further explained that while current Commission policies and rules prohibited employees from using government office equipment to maintain or support a private business, the OIG investigations demonstrated that several employees were not abiding by these rules. Therefore, the OIG recommended that management remind all Commission employees and contractors of the prohibition on using Commission resources and time to support private busi-

nesses, as well as the possible penalties for violating this prohibition.

- Subsequent to the issuance of the memoranda described above, the agency's Office of Information Technology (OIT) provided a draft revised "Rules of the Road" for the OIG's review and comment. The OIG provided both verbal and written comments on the revised draft. In written comments, the OIG, among other things, recommended that OIT make several revisions to the draft Rules of the Road, including emphasizing that (1) employees should not use SEC information technology resources for any illegal or prohibited activity (e.g., to view pornography), personal gain, or private or personal businesses; (2) violations of criminal law or other misconduct by SEC employees or contractors should immediately be reported to the OIG; (3) users of SEC computer resources have no expectation of privacy and expressly consent to monitoring of their network activities; and (4) misuse of Commission computer resources, including the accessing or downloading of pornography, may result in disciplinary action, up to and including dismissal and, in some circumstances, criminal prosecution. OIT indicated that the OIG provided helpful comments, the majority of which were incorporated into the recently issued revised Rules of the Road.
- The OIG also provided comments to OIT on a revised draft implementing instruction establishing policies and procedures for the use of digital forensic tools. The OIG made several suggestions to improve the clarity of the instruction. These included, among other things, specifying what type of information must be provided in a request for use of digital forensic

tools, clarifying who must receive the request, adding procedures for how the tools will be employed, and clarifying what types of records should be maintained regarding use of the tools.

- On March 21, 2008, the OIG issued a memorandum to OIT pointing out that, in several matters investigated during the reporting period, Commission employees were able to access pornographic images from their Government computers by searching for images using Internet search engines and turning off the SafeSearch Filter feature. The OIG recommended that OIT expeditiously implement, on a Commission-wide basis, newly-available technology that would prevent employees from turning off the SafeSearch Filter feature. The OIG also recommended that OIT continue to monitor new developments in technology in order to restrict employees' ability to circumvent the Commission's Internet filter to access pornographic websites.

## **Security Enhancements in Parking Garage**

During an investigation conducted during the period, an OIG investigator personally toured the Commission's headquarters parking garage and learned of certain inadequacies in the security of the Commission's headquarters parking garage. Thereafter, the OIG conducted a review of the security in the parking garage to determine if it met Federal standards.

In the course of its review, the OIG examined the Security Standards for Leased Space issued by the Interagency Security Committee on September 29, 2004. The OIG found that while the Commission has already implemented certain security measures (e.g., the garage has distress buttons to be pressed when assistance is needed to which Commission security guards respond), the security of the Commission's parking garage did not meet a significant requirement of the standards. On October 22, 2007, the OIG issued a memorandum to management recommending that action be taken expeditiously to enhance security in the parking garage. Management concurred with the recommendation and agreed to take appropriate remedial measures.



# SEMIANNUAL REPORT TO CONGRESS

## AUDITS AND INSPECTIONS

### OVERVIEW

The OIG's Office of Audits and Inspections focuses its efforts on conducting and supervising independent audits and inspections of the Commission's programs and operations. The Office evaluates the Commission's programs and operations to determine compliance with governing laws, regulations, and policies, as well as whether resources are safeguarded and appropriately managed, funds are expended properly, desired program results are achieved, information is reliable, etc. The Office also uses contractors to conduct audits and inspections in specialty or highly technical areas.

The Office of Audits and Inspections decides to conduct an audit or inspection by determining how the Office's objectives can best be met. In general, the Office conducts an audit when firm criteria or data exist, sample data is measurable, or testing internal controls is an integral component of the Office's objectives. Audits typically focus on areas such as the oversight and examination of

regulated entities, protection of investor assets, and evaluation of internal administrative activities. All of the Office's audits are conducted in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States (the Yellow Book).

Inspections, on the other hand, are performed when the project involves highly technical areas, non-audit services, or consulting services. All inspections are conducted in accordance with the Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

### SUMMARY OF AUDITS AND INSPECTIONS

#### Background Investigations (Inspection Report No. 434)

The OIG initiated an inspection of the Commission's Personnel Security/Suitability Program (the Program) based on complaints

we received from Commission officials regarding significant delays with processing background investigations, as well as deficiencies observed during the OIG's pervious audit of the Electronic Documents Program (Audit Report No. 428), issued on July 25, 2007. We thereafter modified our initial inspection objectives to focus our work on significant organizational issues that affected the overall efficiency and effectiveness of the Program and, in our view, warranted quick management action. Fieldwork was performed from October 2007 to February 2008 in accordance with Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

The Commission initiates background investigations of employees, contractors and other individuals who require long-term access to Commission controlled facilities and/or information systems. Once the background investigation is completed, the results are evaluated and, if appropriate, identity credentials are issued. The Office of Human Resources (OHR) Personnel Security/Suitability Branch (PSB) administers the background investigation process and makes decisions regarding an individual's suitability for employment. PSB is responsible for determining the type of background investigation that should be conducted, arranging the Office of Personnel Management's (OPM's) completion of investigations, maintaining personnel security files, and issuing guidance regarding the Program.

The OIG issued a detailed inspection report on March 28, 2008. We found that significant organizational issues are preventing the Commission from having an effective

Program. We also found that the Commission did not comply with key requirements of Homeland Security Presidential Directive 12 (HSPD-12), Policy for a Common Identification Standard for Federal Employees and Contractors, Federal Information Processing Standard (FIPS) Publication 201-1, and Office of Management and Budget (OMB) guidance related to:

- (1) reviewing initial results of OPM investigations prior to granting interim clearances permitting individuals to have unescorted access to Commission facilities;
- (2) conducting background investigations on existing employee and contractors; and
- (3) reporting reliable data to OMB regarding the Commission's progress in implementing HSPD-12.

Lastly, we identified a matter related to the Commission's issuance of HSPD-12 compliant identity cards that we believe warrants quick resolution by management. We found that OHR had not provided the resources necessary to fulfill its required roles under the new HSPD-12 credential system. As a result, the Commission could not begin to issue new credentials, which greatly increases the likelihood that the Commission will not meet the required October 2008 deadline to have new credentials in place.

The OIG's report made a total of nine recommendations for improvements. We recommended the Commission develop comprehensive operating procedures, create an information system to track work processes, evaluate and restructure staff resources, and acquire appropriate work and storage space for the Program. We also recommended that the Commission take immediate action to correct the

noncompliance issues with respect to HSPD-12 and FIPS 201-1. OHR management concurred with all nine of our recommendations and, in some instances, took immediate action to address identified deficiencies.

### **Student Loan Program (Audit Report No. 439)**

The OIG conducted an audit of the Commission's student loan repayment program (SLP) from October 2007 to February 2008 in accordance with generally accepted government auditing standards. The SLP was established government-wide in accordance with 5 U.S.C. § 5379, as an incentive to recruit and retain highly qualified employees by paying their outstanding loan balances for Federally insured or guaranteed student loans. Federal student loan repayment programs must be developed in accordance with this statute and Office of Personnel Management (OPM) regulations. After negotiations with the National Treasury Employees Union (NTEU) in FY 2003, the Commission established its SLP.

Under statutory requirements, agencies can make SLP awards to employees up to \$10,000 annually and a maximum of \$60,000. Employees who receive an SLP award must sign a three-year service agreement. The Commission requires employees to commit to another year of service for each award approved thereafter. Pursuant to statute, an employee must repay the entire award if, before completing the service agreement, he or she voluntarily leaves the Federal government for the private sector, or is dismissed for poor performance, unless repayment is deemed to be "against equity and good conscience or against the public interest."

In FY 2007, according to the Office of Human Resources, the Commission paid approximately \$3.4 million in SLP awards to 369 employees. According to OPM, in FY 2006, the Commission awarded more funds in total than any other agency in the Federal government, except for the Department of Justice, Department of Defense, and Department of State. In addition, the Commission paid more money per recipient than any other Federal agency that had a significant number of recipients.

The OIG issued a comprehensive audit report on March 27, 2008. The audit found that several aspects of the SLP needed significant improvement. We identified weaknesses in the SLP's internal controls relating to approvals, and the lack of documentation for certain parts of the process (e.g., repayments by employees who do not complete the required employment service agreement). We also observed deficiencies in the areas of independent verification, management records, safeguarding personal information, and separation of duties. In addition, we found serious concerns with the Commission's process to identify and collect debts from employees who leave the Commission without completing their employment service agreement. We identified 12 employees who left the Commission and were required to repay \$129,336 in total to the SLP, because the terms of the service agreement had not been met. As a result of our audit, the Commission has instituted efforts to collect these funds.

We further found that the SLP justification memorandum process needs improvement to ensure that criteria established by OPM and the agency's Collective Bargaining Agreement with NTEU are meaningful. Finally, we identified a compliance issue that the

Commission needs to address to ensure that SLP funds are used in an appropriate manner.

The audit report contained 19 recommendations, including that SLP officials strengthen internal controls, identify and collect debts from former employees, improve the justification memorandum process, plan for compliance issues, and include applicable information in vacancy announcements. The implementation of these recommendations should strengthen the SLP's internal controls and correct the deficiencies outlined in the report.

Commission management concurred with all 19 of our recommendations and stated that they have already begun revising program operating procedures. They also expressed their intention to establish more stringent loan verification procedures with lenders. Commission management committed to work collaboratively with the Office of Financial Management to establish procedures to collect funds from employees who leave the Commission prior to completing their SLP service agreements.

### **Oversight of Receivers and Distribution Agents (Inspection Report No. 432)**

From March 2007 to September 2007, the OIG conducted an inspection of the Division of Enforcement's (Enforcement's) coordination with receivers and other third party agents, such as distribution agents, to determine whether improvements in Enforcement's oversight of receivers and distribution agents were needed. This inspection was performed in accordance with the Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

A court or the Commission may appoint a receiver or distribution agent to safeguard assets, create a proposed distribution plan, and distribute assets in accordance with a distribution plan approved by the court or the Commission. In some administrative proceeding cases, Commission staff may distribute assets.

For assets within the jurisdiction of the court presiding over an Enforcement civil case, the Commission typically recommends possible receivers to the court, which then appoints a receiver to preserve the property of the defendant(s). A receiver may be appointed when there is danger that, in the absence of such an appointment, the property could be lost, removed or dissipated. In Commission civil cases, a receiver is authorized to garner assets and take over a business or public company. For the purposes of our audit, we used the term, "distribution agent" to include all third party agents (except receivers) in both civil and administrative proceedings who oversee or disburse funds through an appointment outlined in a court or Commission order.

The OIG issued an inspection report on December 12, 2007. We found that Enforcement's oversight of receivers and distribution agents should be enhanced. Court and Commission orders appointing receivers and distribution agents do not typically require them to report their efforts to garner assets, administrative costs incurred, the financial condition of the assets collected and their planned future activities. As a result, receivers and distribution agents report this information to varying degrees and with little consistency. Additionally, Enforcement does not consistently review or track the financial information it receives from receivers and distribution agents.

We identified three recommendations that Enforcement should take to improve its oversight of receivers and distribution agents. First, we recommended that Enforcement ensure that receiver and distribution agents provide periodic, formal reports describing their efforts to garner assets, administrative costs incurred, the financial condition of the assets collected, and planned future activities. Second, we recommended that Enforcement request that receivers and distribution agents provide, in a specified format, a final accounting of all assets collected and disbursed. Enforcement should specify the reporting provisions in a written document, such as the proposed court or Commission appointment order.

Lastly, we recommended that Enforcement provide guidance or training to staff who have oversight of receivers and distribution agents. The guidance should explain how to:

- review the receiver's/distribution agent's fees;
- identify, question, and object to excessive fees;
- specify a receiver's/distribution agent's reporting responsibilities in an appointment order;
- stay informed of a receiver's/distribution agent's current and planned activities;
- evaluate the cost effectiveness of a receiver's/distribution agent's activities; and
- draft a distribution plan.

The report also discussed whether Enforcement or an outside party should audit the receiver's or distribution agent's records. This audit could include reviewing a sample of a receiver's or distribution agent's

administrative costs and fund recipients to identify inflated costs or improper disbursements. Enforcement management concurred with the report's recommendations and indicated that they found the report particularly useful and planned to implement its recommendations as soon as possible.

### **SRO Rule Filing Process (Audit Report No. 438)**

The OIG conducted an audit of the Commission's process for reviewing Self-Regulatory Organization (SRO) proposed rule changes. The scope of the audit covered 1,014 and 1,143 proposed rule changes the Commission processed in 2006 and 2007, respectively, as well as all proposed rule changes open as of November 7, 2007. Fieldwork was performed from September 2007 to February 2008, in accordance with generally accepted government auditing standards.

An SRO is a non-government organization that has the power to create and enforce industry regulations and standards. SROs include national securities exchanges and securities associations registered with the Commission, such as the New York Stock Exchange and the American Stock Exchange. SROs protect investors through the establishment of rules that promote ethics and equality. They are required to file proposed rule changes with the Commission in order for the new rules to become effective. The Commission approves certain rules before they can take effect, while other rules are effective upon filing, without Commission approval.

The audit objectives were to: (1) verify Commission compliance with the requirements of the Securities Exchange Act of 1934 (the Exchange Act) and the Division

of Trading and Market's (TM's) policies and procedures; (2) evaluate TM's Self-Regulatory Organization Rule Tracking System (SRTS); (3) follow up on recommendations made in a prior OIG audit of TM's SRO Rule Filing process (Commission Review of SRO Rules, No. 272, issued July 14, 1998); and (4) identify improvements to the Commission's SRO rule filing process.

The OIG issued a detailed audit report on March 31, 2008. The audit found that the Commission's SRO rule filing process was effective and well-organized. In addition, while some timeliness issues are outside the Commission's control (e.g., when the Commission is waiting for an SRO to file an amendment), overall we found that the Commission's timeliness in processing proposed rule changes needs improvement. The Commission did not consistently approve proposed rule changes within the prescribed statutory timeframe in eight of 15 instances we reviewed.

Further, TM does not have policies outlining the criteria for following up with SROs on open proposed rule changes, requesting SROs to withdraw proposed rule changes, or disapproving or rejecting proposed rule changes. We believe that establishing and adhering to such policies would improve TM's timeliness. Timely processing is essential because it assists the SROs in remaining competitive with foreign exchanges and futures exchanges, electronic communications networks and alternative trading systems, which can change their trading or trade new products with greater ease and without Commission review.

The audit also found that one SRO did not post two proposed rule changes to its

website within two days of filing them with the Commission, as required by Rule 19b-4 of the Exchange Act. We believe that TM should remind the SROs of this requirement.

We further found that public comment letters were not always available on the Commission's website, in TM's official rule files or in the SRTS System. Additionally, we identified several TM official SRO rule files that were incomplete and found that TM did not have a written policy identifying all of the documents to be included in these files.

According to the OIG's sample data, information recorded in SRTS was accurate and timely entered overall. Additionally, SRTS was effective in receiving and tracking proposed rule changes and in developing management reports. However, staff did not consistently record whether the electronic information received included a valid digital signature. The digital signature is important because it provides assurance that the information has not been altered. We also identified certain enhancements that should be made to SRTS.

The audit report included 19 recommendations to improve TM's timeliness in processing proposed rule changes, follow up on open proposed rule changes, ensure that TM's official rule files are complete and public comment letters are available, improve TM's policies and procedures and enhance SRTS. Management concurred with all 19 of the report's recommendations and stated that it recognized the inherent value in taking a critical look at the SRO rule filing process to address any deficiencies in a timely and efficient manner.



### **Controls Over Laptops (Inspection Report No. 441)**

The OIG conducted an inspection of the Office of Information Technology's (OIT) controls over laptops from October 2007 to February 2008, in accordance with the Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. Our objective was to assess the adequacy of controls over laptops and compliance with relevant guidelines.

The OIG issued an inspection report on March 31, 2008. The report focused on data obtained from the Office of Administrative Services (OAS) and OIT's Asset Management Branch and found deficiencies that warranted swift remedial action.

Our inspection concluded that OIT does not have proper accountability over laptops, which we determined are sensitive items that contain proprietary information and, if lost or stolen, could negatively affect the Commission's image. We became aware of OIT's ongoing encryption initiative and commended them for this needed security measure. Our report noted, however, that although encryption can mitigate the risk of data being accessed from a laptop, it does not eliminate the need to have proper accountability over the equipment. We also determined that controls over laptops were weak due to the failure to take inventory, or use another method, to ensure the Commission has an accurate account of its laptops.

We further concluded that effective accountability of laptop computers simply did not exist. First, OAS's property management policy did not identify laptops as sensitive

property. Second, a Commission-wide inventory of laptop computers had not been performed since 2003. Third, due to the absence of a baseline inventory, we were unable to trace ownership of laptops to specific individuals. As a result of these weaknesses, we found that Commission laptops were susceptible to theft without detection.

The inspection report made five recommendations, including that laptops be classified as sensitive Commission property and properly inventoried. Commission management concurred with all of our recommendations and pledged to implement them expeditiously.

### **Usefulness of IM's Website (Inspection Report No. 436)**

The OIG conducted an inspection of the Division of Investment Management's (IM's) Intranet site, IMweb, to determine whether it was useful for staff and to identify areas in which it could be improved. We conducted this inspection between August 2007 and January 2008 in accordance with the Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

Our inspection found that IMweb offered limited utility to IM staff as a whole. Although IM's Office of Financial Analysis (OFA) sent links of the IMweb reports to all IM staff, of the 19 personnel in IM we contacted, nine indicated they did not even know about IMweb. Of these, only four indicated they had ever used the site. We further found that the screen reader software utilized by visually impaired staff is difficult to use with IMweb.

We did find that staff in OFA and IM's Office of Disclosure and Review (ODR) used IMweb. OFA staff found the website useful for posting financial and statistical reports, such as fund watch reports, "dashboard" data, and fund industry statistics, in electronic form. OFA posted electronic links to its reports in IMweb instead of distributing paper copies. ODR staff used the analyses of fund returns in the stock, bond, and money market "watch" reports. In addition, staff we interviewed in the Commission's Office of Compliance, Inspections, and Examinations found the fund watch reports to be useful.

The OIG issued an inspection report on March 28, 2008, that made three recommendations discussing how IM could improve the usefulness of its Intranet. We recommended that IM identify clear objectives for its Intranet before implementing any improvements, incorporate website and systems development best practices in its Intranet improvement efforts, and ensure that the Intranet site complies with accessibility requirements of Section 508 of the Rehabilitation Act of 1973. Commission management concurred with all of our recommendations.

### **Enterprise Architecture Assessment (Inspection Report No. 442)**

In September 2007, we awarded task order #0010 to contract SECHQ1-03-D-0176 to ECS Federal, Inc. (ECS) for an inspection of the progress of the Commission's efforts to develop information technology enterprise architecture (EA), as required by the Clinger-Cohen Act of 1996 and Office of Management and Budget (OMB) guidance.

ECS conducted the EA inspection between August 2007 and March 2008 on behalf of OIG. The inspection was conducted in accordance with the Quality Standards for Inspections, issued in January 2005, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. In responding to the task order, the ECS team developed a six-step methodology designed to evaluate the Commission's architecture, and its migration strategy, for compliance with statutory and OMB requirements and to make appropriate recommendations for improvements.

The OIG issued a report on March 31, 2008, providing the results of ECS's inspection. With respect to the Commission's overall status and progress in meeting EA mandates and objectives, ECS found the Commission had made progress in developing and documenting a comprehensive EA program. Using the OMB Federal Enterprise Assessment Framework 1 as a guide, ECS found the Commission generally performed well in the Completion Capabilities areas, very well in the Use Capabilities areas, but poorly in the Results Capabilities areas.

With respect to recommendations made during an OIG EA audit conducted in 2004 (Audit Report No. 381), ECS found the Commission has made some progress toward obtaining business owner validation and support of the current "as-is" enterprise architecture. The inspection also found the Commission's Office of Information Technology (OIT) had developed and documented a coherent EA program.

Further, ECS found the OIT EA group had made significant progress in establishing a communications strategy to introduce EA successfully throughout the Commission. ECS determined that OIT EA personnel had established an Intranet site to assist with the promulgation and distribution of information related to EA. However, while communications were improved on the Intranet, a great deal of the information was outdated. In addition to the Intranet site, the OIT EA group had undertaken several outreach initiatives, including periodic briefings, newsletters and brown bag lunches, designed to demonstrate the value of EA to the business line constituency.

ECS also found the Commission had developed and documented an excellent EA program for the type and size of its

organization. The “as-is” and “to-be” architectures were clearly defined, the transition strategies were documented, and the program was being effectively managed. ECS determined, however, that senior level management have not fully embraced the EA program and that, until this is done, the Commission will not reap the full benefits of the program.

The inspection report contained seven recommendations to improve the agency’s EA program. Management concurred with all of the recommendations and indicated they would integrate the EA program with the agency’s capital planning and investment control process and other core management processes, and more actively involve the business leaders in the EA strategy.





# SEMIANNUAL REPORT TO CONGRESS

## INVESTIGATIONS

### OVERVIEW

The OIG investigative unit responds to allegations of violations of statutes, rules and regulations, and other misconduct, by Commission staff and contractors. The misconduct investigated ranges from criminal wrongdoing and fraud to violations of Commission rules and policies and the Government-wide ethical standards of conduct. The OIG currently receives complaints through an office electronic mailbox or by mail, facsimile and telephone. During the reporting period, we undertook efforts to enhance our receipt of complaints by entering into a contract with an outside vendor to provide both telephone and web-based Hotline reporting services. We are also beginning a redesign of the OIG website to make it more complete, informative and useful to the public. We anticipate the redesign to be completed over the next few months. Both of these efforts are expected to encourage and facilitate the reporting of complaints to the OIG.

The OIG investigative unit conducts thorough and independent investigations into allegations received in accordance with the

Quality Standards for Investigations, issued in December 2003, by the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. In instances where it is determined that something less than a full investigation is appropriate, the OIG investigative unit conducts a preliminary inquiry into the allegation. If the information obtained during the inquiry indicates that a full investigation is warranted, the OIG will commence an investigation of the allegation.

Upon the opening of an investigation, the primary OIG investigator assigned to the case prepares a comprehensive plan of investigation that describes the focus and scope of the investigation, as well as the specific investigative steps to be performed during the investigation. Pursuant to newly enacted procedures, in all investigations, the OIG investigator interviews the complainant first whenever feasible and conducts all significant interviews under oath and on the record. Where there is any reason to believe a witness will not provide truthful testimony, the OIG investigator provides an appropriate perjury warning. In addition, the OIG

investigator gives assurances of confidentiality to potential witnesses who have expressed reluctance to come forward.

Where allegations of criminal conduct are involved, the OIG investigative unit notifies and works with the Department of Justice and the Federal Bureau of Investigation as appropriate. The OIG recently entered into a memorandum of understanding with the Commission's Office of Information Technology to provide necessary assistance for OIG investigations, including the prompt retrieval of employee e-mail accounts as requested by the OIG investigators. The OIG investigative staff meets with the Inspector General frequently (at least monthly) to review the progress of ongoing investigations. The OIG investigative unit also meets periodically with the Commission's Ethics Counsel to coordinate activities.

Upon completion of an investigation, the OIG investigator prepares a comprehensive report of investigation that sets forth in detail the evidence obtained during the investigation. Investigative matters are referred to the Department of Justice and Commission management as appropriate. In the investigative reports provided to Commission management, the OIG makes specific findings and recommendations, including whether the OIG believes disciplinary or other action should be taken. The OIG requests that management report back on the disciplinary action taken in response to an OIG investigative report within 45 days of the issuance of the report. The OIG follows up with management prior to and at the 45-day mark to determine the status of disciplinary action taken in the matter.

## INVESTIGATIONS AND INQUIRIES CONDUCTED

### Investigations of Perjury by Supervisory Attorneys

During the reporting period, the OIG investigated two matters involving allegations of perjury by supervisory Commission attorneys. Both matters resulted in referrals to the Public Integrity Section of the Criminal Division of the Department of Justice.

- In one matter, the OIG received an anonymous complaint that a Commission supervisory attorney was not a bar member and had falsely represented that fact in a declaration filed in Federal court. The OIG's initial investigation into the allegation confirmed that the supervisor was not a bar member, but had claimed to be a member of a particular state bar and the bar of a Federal court in a declaration filed in an SEC litigation matter.

OIG investigators interviewed the subject of the investigation, who initially dishonestly claimed he was a bar member. However, shortly after examination by the OIG investigators, he recanted that claim and acknowledged he had never been admitted to any bar, repeatedly lied about that fact, and made false statements about his bar and court membership in the Federal court declaration. The evidence showed that the supervisor had passed the bar examination and filed an initial application for bar membership but had never completed the process. Shortly after the OIG interview, the supervisor resigned from the Commission.

We referred the evidence to the Public Integrity Section of the Criminal Division of the Department of Justice, which immediately opened a case in the matter. An OIG investigator worked closely with the Public Integrity Section in its criminal investigation of the matter. The OIG investigator conducted or participated in interviews of several Commission managers and staff, a partner at the law firm where the subject of the investigation previously worked, and the judge in the Federal court matter in which the false declaration was filed. The OIG also obtained and reviewed numerous relevant documents from Commission files, the clerk of the court in which the supervisor's bar application had been filed, and other sources.

After a thorough investigation and consideration of all the evidence and mitigating factors, the government entered into a non-prosecution agreement with the former Commission supervisor. In return for an agreement not to prosecute him for the conduct that was the subject of the criminal investigation, the former supervisor agreed that he would not solicit or accept Federal government employment for a period of ten years from the date of his separation from the Commission.

- In the second matter, the OIG investigated an allegation that a supervisor, who was an attorney, had committed perjury on several occasions during testimony given in an investigation of an Equal Employment Opportunity (EEO) complaint filed by a subordinate. The OIG investigator thoroughly reviewed and analyzed the relevant record in the underlying EEO matter. The OIG investigator also took sworn testimony from the

supervisor, the EEO complainant and several other witnesses. The supervisor resigned from the Commission immediately following his OIG testimony.

On March 31, 2008, the OIG issued an extensive report of investigation to the Public Integrity Section of the Criminal Division of the Department of Justice, Commission senior management, and the agency's Ethics Counsel. In that report, the OIG concluded that the supervisor made materially false and misleading statements under oath during the investigation of the subordinate's EEO complaint, in violation of both criminal statutes and the rules of the state bars of which the supervisor was a member.

Specifically, the OIG found three separate instances in which the superior's sworn EEO testimony was untruthful. The OIG determined that the supervisor had been untruthful based on the sworn testimony of the EEO complainant and other witnesses, as well as direct contradictions between the supervisor's EEO testimony and his subsequent sworn testimony before the OIG. The OIG report also pointed out that the perjurious statements were material in nature as they attempted to refute claims made in the subordinate's EEO complaint.

In addition to referring the matter to the Public Integrity Section for consideration of criminal prosecution, the OIG recommended that the Commission's Ethics Counsel refer the matter to the state bars of which the attorney was an active member. The OIG also informed Commission senior management that the OIG would have recommended serious

disciplinary action against the employee had he not resigned before the investigation was completed.

### **Investigation of Disruptive Behavior by a Senior Manager**

The OIG conducted an investigation of allegations that a Senior Officer (the SEC equivalent of Senior Executive Service) verbally and physically assaulted a colleague in the office. The OIG investigator obtained and reviewed e-mails of the employees involved in the altercation for the relevant time period and obtained additional e-mails printed from one of the employee's home computer. OIG investigators also took testimony from or interviewed 17 different SEC employees and obtained relevant notes and documents.

On December 31, 2007, the OIG issued a comprehensive report to senior management describing the findings of its investigation. The evidence showed that the Senior Officer had engaged in a verbal and physical tirade toward a colleague, which constituted a disruptive act in the workplace. The evidence concerning a possible assault was referred to the appropriate United States Attorney's Office, which declined prosecution.

The OIG investigation also uncovered evidence that the Senior Officer had a history of intimidating and controlling behavior in the workplace. Several of the Senior Officer's colleagues and subordinates (some of whom requested and were granted confidentiality) informed the OIG that this individual was also rude and belittling to staff, exhibited erratic behavior, and instilled fear in others. We also found that the Senior Officer and a colleague lacked candor in their sworn testimony to the OIG investigator.

The OIG referred the matter to management and recommended that serious disciplinary action be taken against the Senior Officer. The OIG further recommended that both individuals found to have lacked candor in their testimony be specifically and strongly reminded about their obligations to provide full and truthful testimony to the OIG in official investigations. Management's decision on disciplinary action is pending.

### **Investigation of Misrepresentation of Professional Credentials and Misuse of Computer Resources**

The OIG investigated an allegation that a Commission staff member had misrepresented to colleagues and others that she was a Certified Public Accountant (CPA). OIG investigators obtained and reviewed seven months of the employee's e-mails. The OIG contacted the applicable state accountancy board and obtained confirmation that the employee was not licensed. An OIG investigator took the employee's testimony under oath and reviewed a notarized written statement provided by the employee. In addition, the OIG investigator interviewed the employee's current and prior supervisors.

The OIG provided a report of investigation to management on March 27, 2008. The evidence showed that the employee was not a CPA, but had nevertheless used a signature block indicating she was a CPA on hundreds of emails sent to colleagues and persons outside the Commission. Importantly, the evidence showed the employee continued to use the CPA signature block on some e-mails even after the state accountancy board clearly informed her she was not a CPA. The employee also admitted in testimony that she had told co-workers she was a CPA. We found no evidence, however, that the employee misrepresented herself as a



CPA to firms registering with the Commission.

The OIG investigation also found evidence that the employee violated Commission policies permitting limited personal use of government office equipment by sending and receiving an excessive amount of personal e-mails during duty hours. The OIG investigators found thousands of personal e-mails, including lengthy strings the employee exchanged with friends and some e-mails containing inappropriate sexual content.

The OIG referred both the misrepresentation of credentials and the excessive personal e-mail use to the appropriate United States Attorney's Office, which declined prosecution. The OIG then referred the matter to management for consideration of disciplinary action, up to and including dismissal. The OIG also suggested that management give strong consideration to revoking the employee's recurring telework schedule. Management's decision on disciplinary action is pending.

### **Investigation of Time and Attendance Abuse**

During the period, the OIG conducted an investigation into an allegation that an employee who had been placed on leave restriction for time and attendance violations continued to abuse time and attendance by numerous unaccounted-for absences from the office. The OIG obtained and analyzed building access history records for the employee for a nine-month period. The OIG also reviewed numerous other relevant records, including the leave restriction memorandum that had been given to the employee and his leave request forms. The OIG investigator took the sworn testimony of the employee and his current supervisor, and

interviewed officials from the company responsible for building security.

On March 13, 2008, the OIG issued a detailed report to management describing the findings of its investigation. The OIG investigation revealed that during the nine-month period examined, the employee had been absent from the office without taking leave for more than 400 hours. The investigation found that the employee had leave balances available but did not request leave for the time spent out of the office. When confronted with the building access records, the employee did not deny that he may have come in late or left early some days and was unable to explain his absences in the middle of the day. We also found that the employee's testimony about the circumstances under which he was given the leave restriction memorandum lacked credibility.

Because of the large number of hours involved, the OIG referred the theft of government time to the appropriate United States Attorney's Office, which declined prosecution in the matter. We also referred the matter to agency management. Given the large number of hours and other aggravating factors, including the leave restriction warning, lack of credibility in certain testimony and a prior disciplinary action, we recommended that management take disciplinary action, up to and including dismissal. The OIG also recommended that management give strong consideration to charging the employee for the unauthorized absences. Management's decision on disciplinary action is pending.

### **Investigation of Misuse of Government Parking Permit**

The OIG investigated an allegation that an employee was misusing a government-

purchased parking permit to park in the building garage, rather than paying for monthly or daily parking. The OIG obtained and reviewed the results of surveillance of the parking garage that was performed by the Commission's security guard service, including photographs of the employee's vehicle with the suspect permit. An OIG investigator personally observed the vehicle parking in the garage with the suspect permit displayed. The OIG issued a subpoena for records of payments made by the employee to the company that operates the parking garage. The OIG also obtained building access records for the employee, as well as state registration records for the employee's vehicle.

In addition, OIG investigators interviewed a total of ten witnesses, including several individuals who had observed the employee's vehicle parked in the garage with the suspect permit and the three parking garage attendants. An OIG investigator conducted an initial interview of the subject of the investigation, who subsequently declined to provide testimony under oath, invoking her Fifth Amendment privilege against self-incrimination.

The OIG issued an extensive report of investigation on March 25, 2008. The OIG investigation uncovered abundant evidence that the employee had misused a government parking permit for her personal parking on numerous occasions. Several individuals observed the employee's vehicle parked in the garage with the suspect permit on at least seven separate occasions. On all but one occasion, the permit number was blocked from view by a decal on the vehicle. Other evidence, including the building access records and the interviews of the garage attendants, revealed that the employee parked in the garage on a regular basis and generally used

the type of permit purchased by the government, rather than an individually-purchased monthly parking permit.

When interviewed, the employee admitted taking a government parking permit without authorization on one occasion and using it to park in the garage. The employee claimed, however, that during the period her car was observed in the garage, she had only parked in the garage a few times and she either paid the daily parking rate or the attendants let her park for free. This testimony was not deemed credible, in light of the overwhelming evidence described above.

Because of the seriousness of the matter, we referred it to the appropriate United States Attorney's Office, which declined prosecution in lieu of administrative action. We therefore referred the matter to management, recommending it take disciplinary action, up to and including dismissal. Management's decision on disciplinary action is pending.

### **Investigations of Misuse of Computer Resources to View Pornography**

During the reporting period, the OIG arranged with the agency's Office of Information Technology (OIT) to receive lists of agency employees who had numerous attempts to access pornographic websites from their Commission computers that were blocked by the agency's Internet filter, as well as instances where they successfully accessed pornography or inappropriate material. Depending on the frequency of the accesses and attempted accesses and the nature of the material accessed, the OIG either conducted a full investigation or a more limited inquiry, as follows.

- In one investigated matter, the OIG's examination of logs of an employee's Internet activity and images recovered from his computer hard drive revealed evidence that the employee had attempted to and successfully accessed pornography from his Commission computer on multiple occasions. In sworn testimony before the OIG, the employee admitted accessing Internet pornography during and after work hours, saving sexually-explicit images and videos to his computer hard drive, and on one occasion uploading a sexually-explicit video to a website. The employee attributed his repeated violations of Commission rules and policy to a long-standing addiction to Internet pornography.

During his OIG testimony, the employee initially denied accessing Internet pornography subsequent to being made aware of the OIG investigation into his computer misuse. Upon further examination, the employee admitted, however, that he had in fact again accessed two of the pornographic websites he had frequently visited after learning of the OIG investigation. The employee admitted that he did so in order to erase, among other things, pornographic bookmarks and the sexually-explicit video he had uploaded. The employee further admitted he knew it was unlawful to obstruct an OIG investigation, but maintained he acted out of panic.

The OIG referred the employee's perjury and obstruction to the appropriate United States Attorney's Office, which declined criminal prosecution. The employee resigned from the Commission shortly after providing testimony to the OIG, but prior to the

official referral of the matter to management for disciplinary action.

- In another investigated matter, the OIG uncovered evidence that an employee had, in a one-month period, over 16,000 attempts to access websites that the Internet filter blocked as pornography, many of which occurred during duty hours. The investigation further found numerous instances when the employee successfully accessed sexually suggestive and inappropriate websites. The OIG investigation also revealed that the employee had previously been suspended for three days for conduct unbecoming a Federal employee and that an arbitrator upheld this penalty. The employee declined to testify in the OIG investigation, invoking his Fifth Amendment privilege against self-incrimination.

The OIG issued a report to management on January 23, 2008, recommending disciplinary action, up to and including dismissal. Based on the OIG's report of investigation, management placed the employee on administrative leave and proposed his removal for use of government computer resources for other than authorized purposes and misuse of official time. The employee subsequently tendered his resignation from the Commission.

- The OIG investigated a matter in which an employee had received several hundred access denials categorized as pornography during two time periods totaling approximately 40 days, many of which occurred during duty hours. A forensic examination of the employee's computer hard drive performed at the OIG's request un-

covered numerous pornographic images. The forensic analysis also disclosed hard core pornography video files contained on a portable thumb drive that had been connected to the employee's Commission laptop computer.

The OIG requested that the employee appear for sworn testimony in the OIG's investigation. Before that testimony took place, however, the employee tendered his resignation and requested an adjournment of the scheduled testimony. On March 14, 2008, the OIG provided a report to management describing the results of the investigation. The OIG informed management that due to the serious nature of the employee's misconduct, the OIG would have recommended inappropriate disciplinary action, up to and including dismissal, if the employee had not already resigned his position.

- Another OIG investigation disclosed that an employee received almost 3,000 denials classified as pornography during two non-consecutive months, and that these denials were received during the employee's normal work hours. Forensic analysis of the employee's Commission laptop hard drive conducted at the OIG's request revealed numerous pornographic images. The employee appeared for sworn testimony, asserted his Fifth Amendment privilege against self-incrimination, and refused to answer questions concerning use of his Commission laptop and whether he had accessed or attempted to access Internet pornography.

On March 25, 2008, the OIG issued a report to management discussing the results of its investigation. The OIG

determined that the employee violated Commission rules and policies, as well as the government-wide ethical standards of conduct, based on his attempts to access, and his successful accessing of, Internet pornography from his government computer. The OIG, therefore, recommended that management take appropriate disciplinary action, up to and including dismissal. Management's decision on disciplinary action is pending.

- The OIG commenced an investigation based on information showing that a supervisor had made numerous attempts to access Internet pornography resulting in access denials. This individual supervised an employee whom the OIG had previously investigated for accessing Internet pornography, and the OIG had contacted the supervisor during the course of the prior investigation.

Forensic analysis of the supervisor's hard drive conducted at the OIG's request revealed sexually explicit and pornographic images stored on the hard drive. The forensic analysis also revealed that the supervisor had successfully accessed on numerous occasion websites containing links to advertisements for sex services. While the OIG investigation was pending, the supervisor resigned from the Commission.

- In six other matters, the OIG issued memorandum reports to management summarizing employees' misuse of official time and resources to attempt to access Internet pornography. The evidence also showed that each of these employees successfully accessed either pornography or inappropriate material. In each instance, the OIG recommended that management take

appropriate disciplinary action. In response to the OIG recommendations, management provided three employees with written counseling memoranda. Two employees were reprimanded, and management revoked the recurring telework of one of these employees. One employee referred resigned before disciplinary action was taken.

### **Investigations of Misuse of Government Resources and Time to Operate Private Businesses**

During the period, the OIG investigated two allegations that Commission employees had misused government time and resources to support private businesses, in violation of Commission policy. Both investigations found evidence to support the allegations of misuse of Commission resources and official time.

- In one matter, the OIG investigated an allegation that an employee was using Commission computer resources and official time to support a private photography business. The OIG obtained and analyzed files copied from three computers used by the employee. The OIG investigator also obtained and reviewed the employee's Commission e-mails for a three-month period. In addition, the OIG investigator interviewed ten witnesses, several of whom had observed the employee looking at personal photography during work hours. OIG investigators also took the sworn testimony of the subject.

The OIG issued a comprehensive report of investigation on December 26, 2007. The OIG investigation found that the employee had been a professional photographer for several years and disclosed significant evidence that

the employee used Commission computer resources and official time in connection with his private photography business. Much of this evidence was based on the employee's own admissions on the record, including testimony that he had saved hundreds of photographs taken in connection with his private photography business to official Commission computers. Several witnesses confirmed that the employee looked at personal photographs on Commission computers during work hours.

The OIG investigation further uncovered evidence that the employee consistently used Commission e-mail to exchange messages about his photography business. In addition, the OIG investigation found evidence that the employee lacked candor on several topics during his sworn OIG testimony, including how frequently he used Commission e-mail for his photography business.

The OIG concluded that the evidence in the matter demonstrated serious violations of Commission policies and the government-wide ethical standards of conduct and recommended that the agency take appropriate disciplinary action. In response to the OIG report of investigation, management proposed to suspend the employee for 14 days. Management also issued written instructions to the employee, directing that he delete any files related to his private photography business from his currently-assigned Commission computer and refrain from using Commission resources or time for his photography business.

- In the other matter, the OIG investigated an anonymous complaint that a Commission employee was misusing

official time and resources to sell real estate, among other misconduct. The OIG obtained and reviewed three months of the employee's Commission e-mails and reviewed the results of forensic analysis of the employee's computer hard drive. The OIG also subpoenaed the employee's personal cell phone records for a four-month period. In addition, the OIG investigator interviewed the employee's supervisor and other witnesses.

The OIG investigation found that the employee had obtained her real estate license and thereafter sought approval to engage in outside employment. Her supervisor had granted that approval based upon her representation, among others, that she would not use Commission resources and time for that outside activity. The OIG investigation uncovered evidence that the employee did, in fact, use Commission time and resources to conduct real estate business, despite her representation she would not do so. Specifically, the OIG investigation found evidence that the employee had sent and received e-mails pertaining to her real estate business and had visited real estate websites from her Commission computer. Moreover, the OIG's analysis of the employee's personal cell phone records showed that she made or received numerous cell phone calls during the work day.

While the OIG investigation was still pending, the employee resigned from the Commission pursuant to an agreement resolving an Equal Employment Opportunity (EEO) complaint. As part of that agreement, the employee agreed not to apply for employment with any Commission divisions or offices at any time in the future. The OIG investigation found no evidence of criminal violations that

warranted a referral to the Department of Justice.

### **Investigation of Assault by Contract Employee**

The OIG conducted an investigation into an anonymous complaint of an alleged assault by an agency contract employee on Commission premises. The complaint also alleged that the incident had been reported to the subject's employer, who did nothing. The complaint did not identify the victim of the alleged assault, but indicated she worked in the building.

During its investigation, the OIG interviewed the subject of the investigation, as well as several of his managers. Based on these interviews, the OIG determined that no incident like the one alleged in the anonymous complaint had actually occurred. The OIG investigation also found no evidence that the subject's employer had been notified of the alleged incident.

### **OTHER INQUIRIES CONDUCTED**

During the period, the OIG also completed inquiries into several matters brought to its attention, the most significant of which are described below.

- The OIG received an anonymous allegation that a newly-hired supervisor had misrepresented his qualifications for the position by claiming that he had obtained a professional designation he did not have. The OIG performed an inquiry into the allegation and found that the employee's job application and resume nowhere mentioned the credential in question.
- The OIG conducted an inquiry into allegations that the Commission's Freedom of Information Act (FOIA)

Office had improperly replied to two separate FOIA requests by asserting that no responsive documents were found. During this inquiry, the OIG investigator met with the FOIA staff who had worked on the requests and reviewed the files for the two requests, as well as other relevant documents. The OIG inquiry found that in response to one of the two requests at issue, the FOIA office had referred the requester to responsive information that was publicly available. The OIG found that the other request asked for data that was more than twelve years old. The OIG informed the complainant of the results of its inquiry and recommended that he appeal the responses, to the extent he was not satisfied.

- The OIG reviewed complaints from foreign investors forwarding documents that appeared to fraudulently use the SEC's name and seal. The OIG investigator provided the documents to the Federal Bureau of Investigation, which agreed to follow up with an intelligence report. The OIG investigator also forwarded the incoming complaints to the appropriate Commission offices and requested that they advise the complainants as to the authenticity of the documents.
- The OIG received a complaint that an individual's social security number was publicly available in an SEC filing found on the Internet. The OIG investigator determined that the filing containing the individual's social security number was not located on the SEC's website, but rather on a website operated by a private company. The OIG made several attempts to contact the company to request the removal of the individual's social security number from the filing.

- The OIG conducted an inquiry into a constituent complaint forwarded by a Senate office that the SEC had not adequately addressed a problem brought to the SEC's attention. The OIG investigator reviewed the complaint and met with the Commission office that handles investor complaints. The OIG investigator was informed that the SEC did not have jurisdiction over the complaint, but that Commission staff had nonetheless made a number of inquiries in an effort to assist the complainant. The OIG provided this information in a reply to the Senate office and suggested that the complainant contact the state and Federal offices with jurisdiction over the matter.

## **PENDING INVESTIGATIONS AND INQUIRIES**

- The OIG is continuing its re-opened investigation into allegations made by a former Commission attorney that managers gave favorable treatment to a prominent individual by not taking his testimony in an insider trading investigation and then fired the attorney for his complaints about the favorable treatment. These allegations were the subject of an August 2007 final report of the Senate Finance and Judiciary Committees. The Inspector General has met with Senate Committee staff and has personally reviewed the entire OIG investigative file in the matter, as well as numerous interview transcripts obtained from the Senate Committees. To date in this re-opened investigation, 33 witnesses have testified or been interviewed. The Inspector General plans to take additional testimony and finalize the investigation during the next reporting period.
- In a related matter, the OIG is conducting a separate investigation into an allegation that a Commission em-

ployee made a false statement to the OIG in the course of its initial investigation of the allegations made by the former Commission attorney discussed above. The alleged false statement concerned the disposition of the former attorney's original employee personnel folder after he was terminated and whether copies were maintained. During the reporting period, the Inspector General took the testimony under oath of eight current and former Commission employees, including the complainant. The Inspector General plans to take additional testimony and finalize this investigation during the next reporting period.

- The OIG has begun an investigation into an allegation that an employee had a high volume of personal securities trading, raising suspicions that the employee may have engaged in insider trading and violated the Commission's rules governing employee securities transactions. The OIG has subpoenaed the employee's brokerage records and obtained numerous other records pertaining to the employee's securities transactions. The OIG is in the process of conducting a comprehensive review and analysis of this information. The OIG has also obtained the employee's Commission e-mails for a substantial time period and plans to look for any evidence that the employee engaged in insider trading.
- The OIG continues to investigate allegations of misconduct by a Commission attorney in connection with his private representation of a witness in an investigation conducted by local authorities. Specifically, the OIG is determining whether the attorney misused Commission resources, official time and his position in the course of the private representation, and whether the attorney acted unprofessionally in his dealings with the local authorities. The OIG plans to take the subject's testimony on the record.
- The OIG has several investigations and inquiries underway into employees' misuse of Commission resources to support private businesses. The OIG is also reviewing whether the employees misused their position in connection with these private activities. The OIG plans to review employee e-mails and take testimony from the subjects of the investigations.
- The OIG continues to investigate a matter involving the use of Commission computer resources to access Internet pornography. The OIG investigator has reviewed Internet logs showing thousands of attempted and successful accesses of Internet pornography from the employee's Commission computer. In addition, forensic analysis of the employee's computer hard drive conducted at the OIG's request has revealed numerous pornographic images stored on the drive. The employee has declined to testify in the OIG's investigation, invoking the Fifth Amendment privilege against self-incrimination. The OIG is continuing to develop the evidence in this matter.
- In an ongoing investigation, the OIG is reviewing whether a Commission employee violated criminal conflict of interest statutes or ethics regulations in connection with a contract the employee was responsible for monitoring. The OIG is reviewing the employee's e-mails and is having forensic analysis performed of the employee's computer hard drive. The OIG investigator is fully exploring the nature of the relationship between the employee and the president of the contractor. The OIG plans to take the testimony



of these individuals, as well as several other relevant witnesses.

- The OIG has a pending investigation into an allegation that a Commission supervisory attorney participated in an investigation notwithstanding a personal conflict of interest that required his recusal from the investigation. The OIG is also reviewing allegations that various misconduct occurred during the course of the investigation and subsequent litigation. The OIG plans to take testimony from the attorneys who worked on the matter.
- The OIG continues to investigate an anonymous allegation that managers in a Commission regional office unethically instructed staff to close out older cases by making false certifications. In the course of investigating that anonymous allegation, the OIG received additional allegations that regional office management failed to actively pursue enforcement matters, particularly those involving investment management issues. The OIG has conducted numerous confidential interviews of staff members, as well as on-the-record sworn testimony of several supervisors and a staff member.
- The OIG is investigating an allegation that a Commission employee may have used Commission resources to harass outside individuals. The OIG is also looking into whether the employee misused Commission databases to obtain information about these outside individuals. The OIG plans to interview or take testimony from the complainant, other witnesses and the subject of the investigation.
- The OIG is investigating an anonymous allegation that a Commission

manager has misused Commission time, resources and her position. The OIG investigator has undertaken a review of several months of the employee's Commission e-mails, as well as her Internet access log. The investigator has also contacted the outside firm with whom the manager allegedly misused her position. The OIG plans to take testimony of the manager, her supervisors and several colleagues.

- The OIG has two ongoing inquiries related to the Commission's actions concerning naked short selling, an issue about which the OIG has received a multitude of complaints. In one of these inquiries, the OIG reviewed and analyzed the complaints received and met with one of the complainants, who provided a detailed briefing on the topic. The OIG's Office of Audits and Inspections is considering possible audit topics in this area, and the OIG's investigative unit is continuing to review the issue for possible additional investigation. In the other inquiry, the OIG is reviewing allegations that a Commission manager committed perjury in a letter to a Senator that discussed naked short selling in the context of a particular enforcement matter.
- The OIG is continuing an inquiry into various allegations of misconduct on the part of Commission staff and a court-appointed receiver that were made by the subject of a Commission enforcement proceeding and his attorney. The OIG met with the complainant and his attorney, who provided voluminous materials. The OIG is continuing to review these materials and to gather additional relevant information with a view towards determining what further actions are

- appropriate given the OIG's jurisdiction.
- The OIG is also continuing an inquiry into a complaint that a Commission senior attorney failed to consider seriously the complainant's claim of perjury in a self-regulatory organization (SRO) arbitration proceeding that took place approximately ten years ago. The OIG has performed substantial work in the matter, including contacting the SRO and obtaining copies of the relevant records that are still available and reviewing the SEC's files in the matter.
  - In connection with an open inquiry, the OIG reviewed allegations of conflict of interest, conspiracy and false statements in connection with a Commission enforcement matter. The OIG has determined to focus its inquiry on an allegation that a former Commission staff attorney had a conflict of interest that was not disclosed in the enforcement proceeding.
  - The OIG also has an open inquiry into a complaint that a Commission-issued Blackberry was sold on eBay. The OIG investigator retrieved the Blackberry from the person who purchased it on eBay. Forensic analysis performed at the OIG's request confirmed that the Blackberry had belonged to the Commission, but that it was an older model that was defective and turned in by the user for a replacement. The OIG plans to conduct additional investigation into what happened to the Blackberry after the user turned it in.
  - The OIG has a pending inquiry into allegations that Commission staff failed to act in response to specific complaints of securities laws violations in connection with two different stocks. The OIG is in the process of gathering the relevant correspondence and will review it to determine whether Commission staff acted improperly in response to the complaints.



# SEMIANNUAL REPORT TO CONGRESS

## REVIEW OF LEGISLATION AND REGULATIONS

During the reporting period, the OIG reviewed legislation and proposed and final rules relating to the programs and operations of the Commission, pursuant to Section 4(a)(2) of the Inspector General Act. As is discussed in detail in the Section on Advice and Assistance provided to the Agency, the OIG provided extensive comments on revisions to the rules governing employee and contractor use of Commission information technology resources, SECR 24-04.A01, Rules of the Road. The OIG also provided several sets of comments and suggestions on a proposed new agency policy setting forth the rules concerning employee performance management.

In addition, the OIG reviewed statutes, regulations and other Federal guidelines and requirements, and their impact on Commission programs and operations, within the context of the audits, inspections and other reviews conducted during the period,

e.g., the statute authorizing agencies to establish student loan repayment programs, 5 U.S.C. § 5379.

The OIG also tracked legislation and regulations that would impact the Inspector General Community, in coordination with the Legislation Committee of the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency. In particular, the OIG reviewed and implemented procedures to meet new requirements imposed on Inspectors General by the FY 2008 Consolidated Appropriations Act, including provisions pertaining to Inspector General websites. The OIG also provided comments to the Legislation Committee in connection with a legislative proposal to amend the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., to create a general exception for Inspector General activities.





# SEMIANNUAL REPORT TO CONGRESS

## **STATUS OF RECOMMENDATIONS WITH NO MANAGEMENT DECISIONS**

Management decisions have been made on all audit reports issued before the beginning of this reporting period.

## **REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the period.

## **AGREEMENT WITH SIGNIFICANT MANAGEMENT DECISIONS**

The Office of Inspector General agrees with all significant management decisions regarding audit recommendations.

## **INSTANCES WHERE INFORMATION WAS REFUSED**

During this reporting period, there were no instances where information was refused.



## Table 1 List of Reports: Audits and Inspections

Audit / Inspection Number	Title	Date Issued
432	Oversight of Receivers and Distribution Agents	Dec 12, 2007
434	Background Investigations	Mar 28, 2008
436	Usefulness of Investment Management's Website	Mar 28, 2008
438	Self-Regulatory Organization Rule Filing Process	Mar 31, 2008
439	Student Loan Program	Mar 27, 2008
441	Controls Over Laptops	Mar 31, 2008
442	Enterprise Architecture Assessment	Mar 31, 2008





## Table 2

### Reports Issued with Costs Questioned or Funds Put to Better Use (including disallowed costs)

	Number of Reports	Value
A. REPORTS ISSUED PRIOR TO THIS PERIOD		
For which no management decision had been made on any issue	0	0
For which some decisions had been made on some issues	0	0
B. REPORTS ISSUED DURING THIS PERIOD		
Audit of SEC Student Loan Program	1	\$129,336.00
TOTAL OF CATEGORIES A AND B	1	\$129,336.00
C. For which final management decisions were made during this period	1	\$129,336.00
D. For which no management decisions were made during this period	0	0
E. For which management decisions were made on some issues during this period	0	0
TOTAL OF CATEGORIES C, D AND E	1	\$129,336.00



## Table 3

# REPORTS WITH RECOMMENDATIONS ON WHICH CORRECTIVE ACTION HAS NOT BEEN COMPLETED

### RECOMMENDATIONS OPEN 180 DAYS OR MORE

Audit/Inspection # and Title	Issue Date	Summary of Recommendation
320 General Computer Controls	12/26/00	Document the process of adding/deleting users of existing applications.
337 IT Project Management	1/24/02	Develop a System Development Life Cycle checklist and procedures.
		Standardize the contracting language for Information Technology (IT) project management requirements.
365 IT Capital Investment Decision-Making Follow-Up	3/29/04	Publish a charter for the Information Officers Council.
377 Lost and Stolen Securities Program	3/31/04	Review IT investment and security issues.
393 Software Management	3/24/05	Enhance manual controls for software management.
		Implement preventive controls for software management.
		Develop written policies and procedures for software management.
		Perform periodic inventories of software and hardware.
		Develop procedures for software acquired by contractors.
395 Integrity Program: Inspection of Field Offices	5/31/05	Complete the development of an employee manual.
402 Office of the Secretary	9/20/05	Develop a regulation involving updating and posting public company forms on the Commission's website.
406 Federal Information Security Management Act 2005	9/28/05	Conduct Privacy Impact Assessments for all Privacy Act systems.
412 Oversight of the PCAOB	9/28/06	Review the Public Company Accounting Oversight Board's (PCAOB's) disaster contingency plan.
		Develop procedures for several PCAOB oversight issues.
		Consider delegations of authority.
422 Backlog of FOIA Requests for Comment Letters	3/30/07	Develop a tracking system for comment letter postings.

Audit/Inspection # and Title	Issue Date	Summary of Recommendation
425 Federal Information Security Management Act 2006	9/18/06	Reevaluate the major system inventory.
		Improve the identification and documentation of systems.
		Conduct Privacy Impact Assessments.
430 Contract Ratifications	9/25/07	Update Commission regulations (i.e., SECR 10-2) to incorporate requirements.
		Establish procedures to review ratification requirements submitted by the Office of Administrative Services.
		Reevaluate procurement in the regional offices.
		Develop procurement procedures and provide training for the regional offices.
		Evaluate using debit cards for the regional offices.
		Finalize expert witness guidelines.
		Determine necessary training in expert witness contracts.
		Consider requiring appointment letters for Inspection and Acceptance officials and Point of Contact officials (normally trial attorneys).
		Add disciplinary language to ratification guidance.
		Develop procedures to compile contract ratification data semiannually.
421 Investment Company Disclosure Initiatives	9/25/07	Develop outcome-based performance indicators for disclosure initiatives.
423 Enforcement Performance Management	2/8/07	Develop procedures for performance appraisal steps.
		Develop procedures for certification of mid-year reviews.
		Develop procedures for rating employees per Commission policy.
		Provide guidance and training to Enforcement supervisors on rating problem employees.
		Develop procedures for Senior Officer appraisals.
		Update guidance on retention of performance documentation.
		Implement procedures to retain performance documentation for appropriate time.
		Update performance management guidance to address various situations (i.e., involving probationary, newly hired, reassigned, or departed staff) and provide training.

Audit/Inspection # and Title	Issue Date	Summary of Recommendation
428 Electronic Documents Program	7/25/07	Issue program guidance.
		Sample data loading to determine completeness and accuracy.
		Ensure that a contractor corrects reported exceptions.
		Require a contractor to sample paper documents from headquarters.
		Develop written procedures for loading data work from the regional offices.
		Provide regional offices with additional Concordance training and expertise.
		Consider establishing a larger forensics lab.
		Research connectivity problems with Concordance.
		Issue guidance on the preservation of electronic records.
		Decrease and track imaging turnaround times.
		Address contractor performance issues.
		Perform background investigations for thirteen identified contract employees.
		Designate task monitor or program manager
416 Full Disclosure Program's Staff Interpretive Guidance	3/28/07	Consider posting No-Action letters involving shareholder proposals on the Commission's website.
		Consider reviewing the Performance and Accountability Report regarding reporting interpretive guidance data.
		Consider revising the timeliness measure in the Chairman's internal management report (i.e., the Dashboard) to make it consistent with internal goals.
		Consider improvements to the Division of Corporation Finance's interpretive guidance databases.
		Expand the checklist used by Office of Chief Accountant (OCA) to ensure compliance with procedures.
		Modify OCA's procedures to formalize several procedures.
M27 NRSI Password Management	1/29/03	Streamline and automate the user access process for IT systems.



## Table 4 Summary of Investigative Activity

<b>CASES</b>	<b>NUMBER</b>
Cases Open as of 10/1/07	16
Cases Opened during 10/1/07 - 3/31/08	13
Cases Closed during 10/1/07 - 3/31/08	15
Total Open Cases as of 3/31/08	14
Referrals to Department of Justice for Prosecution	7
Prosecutions	0
Convictions	0
Non-Prosecution Agreements	1
Referrals to Agency for Disciplinary Action	8
<b>PRELIMINARY INQUIRIES</b>	<b>NUMBER</b>
Inquiries Open as of 10/1/07	3
Inquiries Opened during 10/1/07-3/31/08	27
Inquiries Closed during 10/1/07 - 3/31/08	19
Total Open Inquiries as of 3/31/08	11
Referrals to Agency for Disciplinary Action	6
Referrals to Other Agencies	2
<b>DISCIPLINARY ACTIONS</b>	<b>NUMBER</b>
Removals (Including Resignations)	7
Suspensions	1
Reprimands	2
Warnings/Other Actions	5





## Table 5 Summary of Complaints Received

DESCRIPTION	NUMBER
Complaints Received	76*
Complaints on which a Decision was made	74
Complaints awaiting Disposition	2
Resulting in Investigations	12
Resulting in Inquiries	28**
Referred to OIG Office of Audits and Inspections	2
Referred to Agency Management/Other Agency Components	11
Referred to Other Agencies	1
Included in Ongoing Investigations or Inquiries	5
Response Sent/Additional Information Requested	4
No Action Needed	13
* Does not include complaints that were clearly misdirected and forwarded elsewhere without analysis	
** A few complaints involved similar issues and were consolidated into the same inquiry	



## Table 6 References to Reporting Requirements of the Inspector General Act

*The Inspector General Act of 1978, as amended, specifies reporting requirements for semiannual reports to Congress. The requirements are listed below and indexed to the applicable pages.*

	<b>INSPECTOR GENERAL ACT REPORTING REQUIREMENT</b>	<b>PAGES</b>
Section 4(a)(2)	Review of Legislation and Regulations	37
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	9-33
Section 5(a)(2)	Recommendations for Corrective Action	9-33
Section 5(a)(3)	Prior Recommendations Not Yet Implemented	45-47
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	24-33, 49
Section 5(a)(5)	Summary of Instances Where Information Was Unreasonably Refused or Not Provided	39
Section 5(a)(6)	List of OIG Audit/Inspection Reports Issued During the Period	41
Section 5(a)(7)	Summary of Significant Reports Issued During the Period	13-33
Section 5(a)(8)	Statistical Table on Management Decisions with Questioned Costs	43
Section 5(a)(9)	Statistical Table on Management Decisions on Recommendations That Funds Be Put To Better Use	43
Section 5(a)(10)	Summary of Each Audit Over Six Months Old for Which No Management Decision Has Been Made	39
Section 5(a)(11)	Significant Revised Management Decisions	39
Section 5(a)(12)	Significant Management Decisions with Which the Inspector General Disagreed	39



Help ensure the integrity of SEC operations by reporting to the OIG suspected fraud, waste or abuse in SEC programs or operations, and SEC staff or contractor misconduct by contacting the OIG.

**Call:**

Hotline (877) 442-0854

Main Office (202) 551-6061

**Web-Based Hotline Complaint Form:**

[www.reportlineweb.com/sec\\_oig](http://www.reportlineweb.com/sec_oig)

**Fax:** (202) 772-9265

**Write:**

Office of Inspector General  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-2736

**Email:**

[oig@sec.gov](mailto:oig@sec.gov)

*Information received is held in confidence upon request.  
While the OIG encourages complainants to provide information on how they may be contacted for additional information, anonymous complaints are also accepted.*



**U.S. Securities  
and Exchange  
Commission**

Additional copies of this report may be obtained by contacting the Office of Inspector General at (202) 551-6061.

The report is also available on the Inspector General's website at <http://www.sec.gov/about/oig.shtml>.