Office of the DAEO : 4400
U.S. Department of Homeland Security
Washington, DC 20528-0485

Homeland Security

May 19, 2009

TO: Janet A. Napolitano
Secretary

Philip R. Reitinger

FROM: Robert F. Coyle
Designated Agency Ethics Official

SUBJECT: Amended Certification of Public Interest Waiver for Philip R. Reitinger

Pursuant to the authority in Section 3 of Executive Order 13490 delegated to me by the Director, Office of Management and Budget, and for the reasons stated in the attached two memoranda dated March 24, 2009 and May18, 2009, and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Philip R. Reitinger in the positions of Deputy Under Secretary for National Protection and Programs Directorate and Director of the National Cybersecurity Center, in the Department of Homeland Security. This certification amends and supersedes the certification dated March 24, 2009. Philip R. Reitinger shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to his former employer Microsoft Corporation, or the Software Assurance Forum for Excellence in Code and the Information Technology Information Sharing and Analysis Center. This waiver does not otherwise affect Mr. Reitinger's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.

Secretary

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

May 18, 2009

MEMORANDUM FOR: Robert E. Coyle
Designated Agency Ethics Official

FROM: Janet Napolitano

SUBJECT: Appointment of Philip R. Reitinger as Director, National Cybersecurity Center

I intend to designate Philip R. Reitinger as the Director of the National Cybersecurity Center (NCSC) as provided in National Security Presidential Directive-54/Homeland Security Presidential Directive-23. Mr. Reitinger is currently the Deputy Under Secretary for the Department of Homeland Security's (DHS) National Protection and Programs Directorate (NPPD), a position for which he has previously been granted a waiver from paragraph 2 of Executive Order 13490, the revolving door ban for entering appointees. His waiver addresses the fact that his DHS responsibilities would require him to participate in particular matters involving Microsoft, SAFECode, or the Information Technology Information Sharing and Analysis Center (ITISAC). As discussed below, while the duties of this position have a significantly lower likelihood that "particular matters involving specific parties" that would be likely to involve any of those three entities as a party or the representative of a party, such matters could be encountered. Therefore, please advise whether the waiver given for his duties as Deputy Under Secretary will permit Mr. Reitinger to serve as NCSC Director without facing an unresolved conflict. If the existing waiver does not cover Mr. Reitinger as the Director of the Center, I request that the bar imposed by paragraph 2 of Executive Order 13490 in connection with his duties as Director of the Center be waived.

Mr. Reitinger holds a Bachelor of Engineering degree in Electrical Engineering and Computer Science from Vanderbilt University (1984, first in graduating engineering class with a 4.0 grade point on a 4.0 scale). He also holds a Juris Doctor degree from Yale (1987). Mr. Reitinger's former employer was Microsoft, where he was employed as the Chief Trustworthy Infrastructure Strategist from 2003 to his appointment in March 2009 to his current position. Mr. Reitinger was not a lobbyist, but an executive in Microsoft. Prior to his service with Microsoft, Mr. Reitinger was employed principally in various roles in the Executive Branch of the Federal Government, with duties largely related to criminal law enforcement, most recently computer and intellectual crimes.

Since the NCSC was established in March 2008, it has been responsible for promoting collaboration and consultation among numerous Federal cybersecurity centers to improve situational awareness of cyber threats to federal networks. As described in the NCSC Concept of

Operations, the NCSC also encourages sharing and collaboration of information gained through engagement with private sector and foreign partners. The Director reports directly to me and provides support to the Secretary of Defense, Attorney General, Director of National Intelligence, and assistants to the President in performance of their respective cybersecurity responsibilities. The Director is expected to remain apprised of state-of-the-art information technology and analytics tools and methodologies, but his interaction with the private sector and foreign entities is not to conflict with or be independent of the work and processes of existing U.S. Government relationships and frameworks. The Director also shares responsibility with the Office of the Director of National Intelligence (ODNI) to oversee the network that connects member cybersecurity centers. The ODNI maintains technical and budget responsibilities, oversees implementation of network connectivity, and coordinates budgetary and programmatic reporting to the Office of Management and Budget. Once the network is operational, the Director will maintain the architecture for day-to-day collaboration. Mr. Reitinger's responsibilities will not include matters related to award of contracts to his former employer or others; nevertheless, NCSC functions may involve Microsoft, SAFECode, or the ITISAC as parties to particular matters involving specific parties or as a representative of members of the broader communications sector to such matters.

Mr. Reitinger's service as NCSC Director is essential to the efficient and effective conduct of the Department's cybersecurity responsibilities because of his unique expertise, industry perspective, and responsibilities for cyber programs with NPPD. It is the public interest that he serve as the NCSC Director. The Secretary of Defense, Attorney General, and Director of National Intelligence support this appointment.

Office of the DAEO
U.S. Department of Homeland Security
Washington, DC 20528-0485

Homeland Security

March 24, 2009

TO: Janet A. Napolitano
Secretary

Philip R. Reitinger

FROM: Robert E. Coyle
Designated Agency Ethics Official

SUBJECT: Certification of Public Interest Waiver For Philip R. Reitinger

Pursuant to the authority in Section 3 of Executive Order 13490 delegated to me by the Director, Office of Management and Budget, and for the reasons stated in the attached memorandum and after consultation with the Counsel to the President, I hereby certify that a waiver of the restrictions of paragraph 2 of the ethics pledge is in the public interest for appointee Philip R. Reitinger in the position of Deputy Under Secretary for National Protection and Programs Directorate in the Department of Homeland Security. Philip R. Reitinger shall not be restricted from participating in any particular matter involving specific parties that is directly and substantially related to Microsoft Corporation, the Software Assurance Forum for Excellence in Code, or the Information Technology Information Sharing and Analysis Center. This waiver does not otherwise affect Mr. Reitinger's obligation to comply with other provisions of the Ethics Pledge or with all other pre-existing government ethics rules.

U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

March 24, 2009

MEMORANDUM FOR: Robert E. Coyle
Designated Agency Ethics Official

FROM: Janet Napolitano

SUBJECT: Waiver of Ethics Commitment

I intend to appoint Philip R. Reitinger to the position of Deputy Under Secretary for National Protection and Programs Directorate (NPPD). Microsoft is Mr. Reitinger's current employer. In addition, he is a member of the board of directors of the Software Assurance Forum for Excellence in Code (SAFECode) and he is an officer in the Information Technology Information Sharing and Analysis Center (ITSAC). A significant portion of the duties of this position relate to cybersecurity and necessarily involve Microsoft, SAFECode, and ITSAC in a number of ways. Consequently, Mr. Reitinger will be barred by the Ethics Commitment from being involved with certain matters in which any of these entities has an interest or is represented. Pursuant to Section 3 of Executive Order 13,490, I request the prohibition of Section 1, paragraph 2 of Executive Order 13,490, the revolving door ban for all entering appointees, be waived in Mr. Reitinger's case because it is in the public interest to do so. Mr. Reitinger would bring essential private sector experience in critical infrastructure, focused on cybersecurity and infrastructure protection to Department of Homeland Security (DHS). Despite a diligent search, no candidate has been identified who would not bring similar conflicts with him or her. No identified candidate would bring with him or her the native ability, training, and experience that Mr. Reitinger offers.

Mr. Reitinger holds a Bachelor of Engineering degree in Electrical Engineering and Computer Science from Vanderbilt University (1984, first in graduating engineering class with a 4.0 grade point on a 4.0 scale). He also holds a Juris Doctor degree from Yale (1987). He has been employed with Microsoft since 2003 as the Chief Trustworthy Infrastructure Strategist. Mr. Reitinger is not a lobbyist; he is an executive in Microsoft. Prior to his service with Microsoft, Mr. Reitinger was employed principally in various roles in the Executive Branch of the Federal Government with duties largely related to criminal law enforcement, most recently computer and intellectual crimes.

DHS is responsible for working a new cybersecurity public/private sector partnership, which is a high priority for the Department, the Administration, and the Nation. Mr. Reitinger has broad and deep experience working within the important and complex government and private industry partnership organizations and will be key to rapidly affecting change. This experience is critical to our ability to defend public and private critical infrastructure. Specifically, his work on the

CSIS Commission on Cybersecurity for the 44th Presidency, on the President's National Security Telecommunications Advisory Committee (NSTAC) and the ITU High Level Experts Group on Cybersecurity demonstrate his unique background. He brings a combination of government and private sector views drastically needed in DHS for the cybersecurity mission. His past experience with the Information Technology Sector Coordinating Council, including its creation, and as the sector's Information Sharing and Analysis Center President, is crucial to moving DHS's capabilities and capacity to meet its requirements.

[redacted]

The need for this waiver is driven by the fact that Microsoft, SAFECode, and ITSAC are entities governed by the critical infrastructure role of DHS. Mr. Reitinger's work at DHS would require that he participate in particular matters involving a specific party that is directly and substantially related to these three entities in connection with the Department's regulatory function. In addition, it is likely that Microsoft and ITSAC will be represented in meetings that are not open to the public that the Deputy, NPPD, would attend, for example, the FACA-exempt Critical Infrastructure Partnership Advisory Council (CIPAC). Due to the level of the position and the structure of the work, Mr. Reitinger is not expected to be involved in matters related to award of contracts to his former employer or otherwise, however his regulatory and coordination roles may have impact in Microsoft, SAFECode, ITSAC, and the associated industry sector. Cybersecurity and Federal governance is an emerging field. It is critical to the public and the country that the regulatory work in this area produces effective regulations that can be implemented by the industry sector and work in concert with the Administration's efforts to stabilize the economy. Mr. Reitinger's unique prospective coming from the industry will ensure the effectiveness of the Federal Government's regulatory work.

Processes and controls are in place that will review Mr. Reitinger's role in this position. Mr. Reitinger will report to the Under Secretary for NPPD, a position requiring Senate confirmation. All regulatory work is thoroughly reviewed by Office of General Counsel, an independent authority within DHS that does not report to NPPD. Additionally, Mr. Reitinger's work would affect the entire sector, not just these entities. Therefore the industry itself is in a position to play the watch dog role to DHS's work in the cyber sector.