



NATIONAL CREDIT UNION ADMINISTRATION
Office of Inspector General
Office of Investigations

REPORT OF INVESTIGATION

CASE NUMBER: 17-CO-06
DATE: June 4, 2018
CASE TITLE: Sarah Vega
CASE STATUS: Closed - pending
VIOLATIONS: Unauthorized Receipt of Expenses

PREDICATION

On August 30, 2017, the National Credit Union Administration (NCUA) Office of Inspector General (OIG) received an anonymous complaint regarding J. Mark McWatters, NCUA Chairman, and Sarah Vega, NCUA Chief of Staff. The complaint alleged that McWatters and Vega incur extravagant travel expenditures, and unlike prior Chairmen, McWatters and Vega travel business class, not coach. In addition, the complaint alleged that they also seek reprogramming funds to cover their lavish travel spending (meals, hotels, and representation expenses).

SUBJECT INFORMATION

Sarah Vega, NCUA Chief of Staff.

DISTRIBUTION:

J. Mark McWatters
Chairman

CASE AGENT:

(b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
(b)(6);(b)(7)(C)
(Signature)

APPROVED:

Marta Erceg
Counsel/Assistant Inspector
General for Investigations

(Handwritten signature)
(Signature)

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POLICIES AND INSTRUCTIONS

A. Background on NCUA

The National Credit Union Administration (NCUA) regulates, charters, and supervises federal credit unions. With the backing of the full faith and credit of the United States, the NCUA operates and manages the National Credit Union Share Insurance Fund, insuring the deposits of account holders in all federal credit unions and most state-chartered credit unions.

<https://www.ncua.gov/about/leadership/Pages/default.aspx>.

The NCUA is an independent agency in the executive branch of the Government, and is under the management of an NCUA Board. 12 U.S.C. § 1752a(a). The Board consists of three full-time members appointed by the President, by and with the advice and consent of the Senate. Id. § 1752a(b)(1). Currently, there is one vacancy on the Board. The President designates the Chairman of the Board. Id.

The management of the NCUA is vested in the Board. Id. § 1752a(d). However, the Board may delegate to any officer or employee of the NCUA any of its authorities as it deems appropriate. Id. § 1766. The Board has delegated to the NCUA Executive Director the authority to set and change NCUA employee travel, relocation, and travel and relocation reimbursement policies. NCUA Delegation TRV 6.

The salaries and expenses of the Board members and employees are paid from fees and assessments (including income earned on insurance deposits) levied on the credit unions that the NCUA insures. Id. § 1766.

The Board has the authority to “make such payments in advance or by way of reimbursement...without regard to the provisions of any other law applicable to executive or independent agencies of the United States.” Id. § 1766(i)(2).

B. NCUA Policies and Legal Opinions

1. Representation Expenses

NCUA Board members and their senior policy advisors (one for each of the Board members) have been authorized to use the NCUA’s “representation fund” to cover expenses at NCUA-hosted meetings or events. NCUA Instruction No. 2020.20 (REV), issued in 2006, defined representation expenses as those incurred by one or more NCUA personnel while “conducting certain official agency business functions” with non-NCUA individuals such as credit union industry representatives. The instruction required NCUA officials to exercise sound judgment and use appropriate discretion in the expenditure of NCUA funds in conducting matters related

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to official business and provided that the purchase of food, beverages, and other expenses is only permissible if considered to be prudent and necessary for legitimate agency purposes and the accomplishment of NCUA's mission. To claim reimbursement, the instruction required agency staff to submit a memorandum, with receipts for expenses attached, detailing the date the expense was incurred, a description of the expense, the purpose of the meeting or function and identification of those in attendance, and noted that summary receipts that do not itemize purchases would not be considered acceptable documentation.

As mentioned, NCUA's Executive Director has been delegated the authority to issue policies on travel and representation expenses through NCUA delegation TRV 6. After issuance of NCUA Instruction 2020.20 (REV), NCUA's Executive Director issued policy memoranda regarding representation expenses. All of these policy memoranda prohibited NCUA funds to be used for reimbursement of alcohol or entertainment expenses.

The policy memorandum applicable to the time period at issue in our investigation (2016-2017) is SSIC 1400, NCUA Policy on Travel by NCUA Board Members and Senior Policy Advisors, Use of Representation Fund by Board Members, and Purchases of Business Related Supplies by Board Members (1/8/14) (SSIC 1400). SSIC 1400 stated that "[a]s a general rule, the representation fund may be used to cover expenses of credit union industry representatives at NCUA-hosted meetings or events," and that "[t]he representation fund may be used to cover expenses of other non-NCUA participants such as government officials and news media personnel under certain circumstances, but Board Members should exercise restraint and judgment in this use of representation fund." Consistent with all earlier policies, the 2014 policy provided that "[t]he representation fund will not be used under any circumstance to cover expenses for alcoholic beverages or entertainment."

SSIC 1400 also provided that employees must use the government-issued charge card for all official business expenses, unless the expense was exempt. Regarding reimbursement claims, the policy provided that "[a]ll representation fund reimbursement claims are completed in Concur and approved by the Office of the Executive Director. Receipts must be attached in Concur documenting all representation expense reimbursement claims." The policy referred to NCUA Instruction No. 2020.2 (REV) for a more detailed explanation of representation expenses and their usage. That instruction requires itemized receipts for reimbursement. The policy also cited the Federal Travel Regulation, which prohibits the use of funds for alcohol and entertainment expenses.

After the OIG advised the Office of Executive Director (OED) of our investigation, OED issued a revised instruction providing that NCUA Board members, their senior policy advisors, and the NCUA Executive Director may use the representation fund only to cover the expenses of NCUA representatives at NCUA-hosted meetings or events, alcoholic beverages and entertainment do not qualify for reimbursement, and summary receipts that do not itemize purchases will not be considered acceptable documentation. See NCUA Instruction 2020.2 (REV. 3), Representation

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Expenses (10/6/17). There have been very few claims for representation expenses since issuance of the revised instruction.

After we interviewed Chairman Mark McWatters and Chief of Staff Sarah Vega as part of this investigation, Executive Director Mark Treichel provided us a copy of a May 11, 2000, legal advice memorandum from then-General Counsel Robert Fenner to then-Executive Director Carolyn Jordan. In the memorandum, the General Counsel noted that the Comptroller General generally considers liquor, along with food and other refreshments, as a form of entertainment and views entertainment as essentially personal, even where it occurs in a business-related context. However, the memorandum stated that with Board authorization and in appropriate circumstances, the NCUA may purchase alcoholic beverages at "representational" events involving the NCUA hosting non-agency personnel. In that regard, the General Counsel noted that no statute specifically authorized or prohibited NCUA spending on employee entertainment, including alcohol, and such expenditures are legally permissible if the Board determines them to be necessary or incident to the achievement of an NCUA purpose. The General Counsel stated that his advice only pertained to the legality of purchasing alcohol with NCUA funds, and that whether such purchases were good policy was another matter. As an example, the General Counsel noted that the Department of Justice had determined that it could legally purchase food and beverages in support of the Combined Federal Campaign, but DOJ advised that good judgment and precautions must be exercised relative to the amount of the expenditure, the quantum of the expenditure, the quantum of benefit to be gained, the importance of the benefit to the mission and goals served by the appropriation, prior practice, and public perceptions of the expenditure. The NCUA's General Counsel concluded his memorandum by stating:

These words of warning are particularly appropriate when the expenditure involves alcohol. Alcohol may lead to embarrassment or poor duty performance if it is consumed at the wrong place, at the wrong time, or in excessive amounts. The NCUA may be sued if alcohol consumption precipitates personal injury or property damage. The media, the trades, or the public-at-large might also perceive any policy authorizing expenditures on alcohol, even a carefully-crafted policy, as inappropriate.

No NCUA policy ever has authorized the reimbursement of representation expenses for alcohol. NCUA General Counsel Michael McKenna updated the legal memorandum on April 27, 2018, stating the conclusion that although it would be legal to expend funds on alcohol, NCUA policy memoranda from as far back as 2007 expressly prohibited the use of representation funds for alcohol expenses. McKenna also stated that the 2006 instruction did not address alcohol and alcohol was not prohibited in an instruction until the 2006 instruction was updated in October 2017. He said that NCUA Instruction 1800.3 (Rev. 1), effective November 9, 2016, provided that "instructions are directives of continuing authority and reference, which remain in effect until superseded or cancelled."

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Vega stated in her December 4, 2017, interview that she knew that she could not be reimbursed for alcohol expenses because it was discussed, not because she knew what was in agency policy. In her April 17, 2018, interview, Vega said that she has nothing to do with the representation expenses policy, and that only the OED works on the representation policy.

2. Airfare

SSIC 1400 provides:

Government employees may only be reimbursed for the cost of business or first class travel under limited circumstances. 41 C.F.R. § 301-10.123. Generally, NBU [non-bargaining unit] employees, including Board Members and SPAs [Senior Policy Advisors], may fly business class only as permitted in the *NBU Travel Manual* ¶ 2-7.C or its equivalent. First class accommodations and seating may be used only in the rare circumstances described in ¶ 2-7.D of the *NBU Travel Manual*.

NBU Travel Manual ¶ 2-7.C provides that circumstances justifying the use of the business-class air accommodations include “the origin and/or destination are OCONUS [Outside the Continental United States].” NBU Travel Manual ¶ 2-7.D provides that circumstances justifying the use of first-class air accommodations include when:

No coach or business-class airline accommodations are reasonably available.
‘Reasonably available’ means available on an airline that is scheduled to leave within 24 hours of the proposed departure time, or scheduled to arrive within 24 hours of proposed arrival time.

SSIC 1400 further provides:

Government employees must not claim reimbursement for any costs attributable to travel, for personal convenience, by an indirect route or an interruption in travel. 41 C.F.R. § 301-10.8; NBU Travel Manual ¶ 2-1. Government employees’ travel costs are based on their official duty station, which for Board Members and SPAs is Alexandria, Virginia....Only the lesser of the actual total expenses incurred or the amount of expense that would have been incurred via the direct route will be reimbursed. NBU Travel Manual ¶ 2-1.

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3. Taxicabs and Uber

The NBU Travel Manual, ¶ 2-5 provides that reimbursement for employees may be authorized or approved for “usual taxicab fares” with regard to travel and ¶ 2-6 provides for reimbursement for usual taxicab fares between the office and the employee’s residence only if the employee is dependent on public transportation for such travel, officially ordered to work outside of regular working hours, and is traveling during hours of darkness or infrequently scheduled public transportation. Services such as Uber have not yet been addressed in the NBU Travel Manual. However, an October 6, 2017, Travel Authorization for Board Members and Senior Policy Advisors provides that reimbursement for Uber, Lyft, and ride-sharing services are authorized at the “mid-tier level.”

SYNOPSIS

The investigation revealed that Vega was reimbursed with NCUA funds for alcohol expenses in the amount of \$2,425, which were associated with 27 meals in 2016 and 2017, the period that was the scope of our investigation.¹ NCUA policy authorizes “representation funds” to reimburse NCUA Board members and their staff for food, beverages, and other expenses while conducting certain official agency functions. NCUA policy, however, does not permit reimbursement for alcohol expenses. There were additional meal reimbursements for Vega for which we were not able to obtain itemized receipts from restaurants to compare against the reimbursement claims, in order to determine whether alcohol expenses were reimbursed.

We previously issued a report on May 15, 2018, to the Deputy Counsel to the President, Compliance and Ethics, regarding Chairman McWatters.

The United States Attorney’s Office for the Eastern District of Virginia declined prosecution of both cases on March 29, 2018.

DETAILS

A. Sarah Vega, NCUA Chief of Staff

On December 4, 2017, the RA and Sharon Separ, former Counsel to the Inspector General/Assistant Inspector General for Investigations, interviewed Sarah Vega, Chief of Staff, NCUA, in connection with this investigation. (Exhibit 1)

The RA provided Vega with a Garrity Advisement (Acknowledgement of Rights), which she signed.

¹ The two numbers referenced in this paragraph (\$2,425; 27 meals) are corrected from the report that we issued on June 4, 2018.

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Vega stated that as the Chief of Staff, she serves at the direction of the Chairman and that among her other duties, she manages the day-to-day activities of the Chairman's office. Vega said she has been Chief of Staff since late January 2017, after the Presidential Inauguration when McWatters became the Chairman. Vega related that she has been at the NCUA for more than 9 years and started as the Chief of Staff for former NCUA Chairman Michael Fryzel in September 2008. Vega related that she also served as a Senior Policy Advisor to both Fryzel and McWatters, respectively, when they served as Board Members (not Chairmen).

According to Vega, the Chairman, by statute, speaks on behalf of the agency, so he receives speaking invitations for meetings, conferences, dinners, and lunches. As a result, Vega's work depends on the Chairman's schedule and other incoming obligations that can shift daily. With regard to invitations, Vega stated that Supples receives the invitations and then the Chairman prioritizes them. Vega added that if the Chairman decides to attend, then Vega always accompanies him. However, there are times when she attends events alone, and represents the Chairman.

Vega said that Katie Supples, Staff Assistant to the Chairman, makes all travel arrangements for her and if Vega has travel questions, she asks Supples. According to Vega, Supples is the expert and travel arrangement is one of her primary responsibilities. Vega stated that if Supples has a question or concern, or cannot answer one of Vega's questions, then Supples goes to John Kutchey, Deputy Executive Director, for a response. Vega added that if the issue is a fiscal issue, Supples checks with Rendell Jones, Chief Financial Officer.

Separ asked Vega about being reimbursed for a \$133.99 UberBlack expense on Monday, January 2, 2017, a holiday, to travel from Dulles Airport to her home in Alexandria (approximately 35 miles in distance). In trying to determine whether this was a personal or business expense (Vega has a home in Chicago, where her husband lives), Separ asked Vega why she travelled to Alexandria. Vega did not know why she was traveling from Dulles to Alexandria on a holiday or whether she was coming into Alexandria for a normal work week, or whether there were industry meetings that week. Vega also did not remember whether anyone else rode in the Uber with her. When Separ asked her why she took an UberBlack, at such a high cost, Vega replied that "it was not prohibited then, but it is now as a result of the change to the Board travel policy issued by the OED recently [in 2017]." Vega stated that if something was not expressly prohibited, then she assumed it was acceptable.

For the period reviewed, Separ noted that Vega used her personal credit card for 21 out of 25 representation expense meals. Vega stated that when she worked for Fryzel, they both always used their personal credit cards. She then stated that she was not aware that government policy prohibits use of a personal credit card for official business. Finally, Vega added that a further explanation might have been that she pulled out the wrong card or forgot to carry it with her. On the other hand, Vega stated that she always used her government-issued card for travel, because Supples used it to charge airfare and other expenses, such as the hotel.

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The RA asked Vega about her recurring meals with Fryzel. She stated that they were all business related because he was a former Chairman and Board Member. She also indicated that he headed the transition team for the NCUA during the recent administration transition. She added that he had significant industry contacts and still had quite a bit of engagement and involvement in the credit union industry.

Separ asked Vega about the numerous meals with John McKechnie. She stated that McKechnie was the former Public and Congressional Affairs (PACA) director at the NCUA and he now works for a lobbying firm. According to Vega, he is an active industry lobbyist and interacts with Congress. She stated that when former PACA director Todd Harper left the NCUA last January, McKechnie was advising her and McWatters about a potential replacement.

The RA pulled out several menus to go over with Vega to determine what specific items she and her guests might have ordered that resulted in extremely high final bills. In particular:

Joe's Seafood, 4/17/17. Vega stated that no alcohol was claimed on this voucher (the summary receipt indicated \$449.60 for three people) and that to the best of her knowledge, she always backed out alcohol from the claim voucher when it was reflected in the bill. The RA asked Vega how she knew to back out alcohol if she was unaware and/or unfamiliar with the policy regarding representation expenses. Vega explained that it must have been discussed somewhere along the line and she knew about it, but not because she knew what was in the agency policy. She then stated that she consistently backed out alcohol.

Our later review of the itemized receipt associated with this meal revealed that Vega was reimbursed \$138 for alcohol.

The RA also asked Vega about a representation expense claim for a meal on June 6, 2017, at Graces Mandarin, National Harbor, for \$156.37, where she did not indicate who the guests were. She stated that it was a credit union industry meeting, but she could not recall who the guest(s) might have been.

The RA asked Vega about the NCUA policy that for meals claimed, she must provide itemized receipts. Vega stated that she gives Supples all summary receipts (that provide the total amount charged and on which she writes the names of meal guests) and stated that she did not know that the policy required itemized receipts. She stated further that Supples never requested them and Kutchey signed off on all of her voucher claims without ever asking for them. She stated that the new (2017) update to the travel and representation expense policy is more restrictive. She claimed that if Kutchey knew that the requirement for her to submit itemized receipts was in the previous policy, then he should have advised her and Supples. She stated that if Supples was aware of this requirement, then she (Supples) would have requested additional information from her (Vega). When Separ asked her specifically about the 2014 representative expenses policy,

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Vega stated that she could not recall a 2014 policy. She stated that she knew a policy existed, but she cannot recall ever reviewing it. She stated that neither Kutchey nor Treichel ever briefed her on it or otherwise brought it to her attention.

The RA showed Vega her travel voucher for a trip in which Vega claimed air fare of \$250.40 to Chicago, where her husband lives, on Friday, March 17, 2017, and returned to Alexandria on Monday, March 20, 2017. The RA asked her how she justified claiming this expense, which appeared to be personal. Vega stated that she went straight to a credit union industry meeting, but she could not recall which meeting it was. Vega landed in Chicago O'Hare Airport at 5:00 p.m. on March 17. She claimed representation expenses for a dinner at GT Prime Steakhouse, 16 miles away from O'Hare, in the amount of \$257.75. She claimed on her expense voucher that the dinner was with Fryzel. The restaurant receipt showed a dinner end time of 8:21 p.m. Separ asked Vega how she was able to get from O'Hare during a Friday rush hour to attend an industry conference and then finish dinner at a restaurant, all before 8:30 p.m. Vega could not explain this and said she would get back to the RA with the industry meeting details. We never received this information from Vega.

The RA asked Vega about a June 2017 trip to Chicago, for which she submitted a reimbursement voucher for a representation expense meal dated June 2, 2017, in which she indicated that two people attended the meal, but the restaurant receipt showed three people. Vega stated she would get back to the RA to explain this conflict.

Regarding first class air fare by McWatters and Vega to Hawaii in June 2017 (at a cost of \$3,647 for McWatters and \$2,523 for Vega), Vega stated that Supples advised that she and McWatters could fly first class. Her understanding was that she could fly business class outside the continental United States and if business class was not available, then first class was permitted.

When asked about her lodging for a Vienna, Austria trip, Vega stated that she and McWatters stayed at a different hotel than Senior Policy Advisor Michael Radway. As background, Vega explained that Radway and Board Member Rick Metsger had arranged to attend the conference, one that only the Chairman and his Chief of Staff usually attend. However, Metsger and Radway made their plans to attend the conference before the presidential election, when Metsger was Chairman. At the last minute, Metsger could not attend, but Radway decided to go anyway. Radway flew coach class (at a cost of \$1,542) and Vega and McWatters flew business class (at a cost of \$11,484 for Vega and \$11,974 for McWatters) to Vienna. Vega's and McWatters' hotel (\$2,774 for Vega and \$2,222 for McWatters) was significantly more expensive than Radway's hotel (\$1,739).

On April 17, 2018, the RA and Marta Erceg, Counsel to the Inspector General/Assistant Inspector General for Investigations, conducted an interview with Vega in connection with this investigation. (Exhibit 2)

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The RA read a Kalkines Warning to Vega and then Vega signed it.

The RA noted to Vega that in her last interview, she said that she was not familiar with the representation expenses policy. In response, Vega said that she has not provided input into the policy. The RA asked Vega if she was familiar with the policy's requirement for itemized receipts and Vega responded that she was now familiar with the requirement. She said she had no knowledge of that beforehand, and neither did Supples or Kutchev. Vega said Supples was the person who first told her about representation expenses when she began working at the NCUA in 2008, serving as Chief of Staff for Fryzel. Vega stated she has not received any official training on policies and procedures and no one from the Office of the Chief Financial Officer (OCFO) briefed her. There was no onboarding orientation process when she started at the NCUA. In response to the RA's question why the representation expenses policy changed in October 2017, Vega responded that part of it was just an update, and that NCUA had just undertaken a major reorganization.

The RA provided Vega a Credit Union Journal article from 2012 that discussed Board members' travel expenses and asked her if she was familiar with it. Vega stated that she did not have first-hand recollection of the article. She said that the trade media (covering credit union issues) would run an article on that topic every year.

In response to the RA's question about whether invitations have declined since October 2017, Vega said that she and McWatters have declined invitations. She said that McWatters is one of two candidates to be Director of the Consumer Financial Protection Board (CFPB); therefore, his profile is higher now. There was also the issue with AIG (McWatters voting to decertify AIG while owning AIG stocks and warrants) and the related OIG investigation. She said that created a lot of distractions. Thus, there has been no time to have representation dinners.

In response to the RA's question about whether she uses her government or personal card for representation expenses, Vega said that sometimes she has used her personal card because she did not have her government card with her either because her government card had been cancelled due to fraud or because she does not like to carry it with her (so she does not use it accidentally on personal expenses).

The RA asked Vega about what kind of discussions she and McWatters have at representation expense meals. Vega stated that they discuss areas where NCUA can take up regarding new rulemakings and improvements.

In response to the RA's question about why virtually all of her representation expenses are in the evening, Vega said that she does not like to leave the office during the day because she does not like to break up the day. She then noted that there is more engagement with the community of credit unions here at the NCUA than at other FIRREA (financial regulatory) agencies.

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In response to the RA's question about how she gets to the dinners, Vega said that sometimes by Metro but usually by Uber. She said that when she is with McWatters, they usually take Uber, normally UberBlack (the most expensive level of Uber). She said that given the level of McWatters' position, they took UberBlack cars versus having a driver and a fleet of cars like the Federal Deposit Insurance Corporation (FDIC). For a chairman, Vega stated that it is unusual that the NCUA Chair does not have access to a fleet of cars.

In response to a question about the reimbursement process, Vega said that she gives her receipts to Supples and signs the voucher after Supples prepares it. Vega said she does not know how to use Concur, refuses to learn it, and is too old school for learning Concur.

Vega stated that no one ever asked her to submit itemized receipts and that she has never submitted an itemized receipt. The RA then provided Vega an itemized receipt from 2015 that she had submitted. Vega said that must have been rare. She added that if Kutchey thought itemized receipts were required under the policy, he would not have approved her vouchers.

The RA asked Vega whether she pays when she has meals with McWatters. She said she does pay because McWatters is "an Obama ethics pledge" (Executive Order 13490, Ethics Commitments by Executive Branch Personnel, provides that every appointee in every executive agency appointed on or after January 20, 2009, shall sign a pledge that provides in part that the appointee will not accept gifts from registered lobbyists or lobbying organizations for the duration of their service). Vega stated that McWatters wanted her to pay for the meals. In contrast, when she was Chief of Staff for Chair Fryzel, Fryzel paid for the meals himself. She said that McWatters was concerned about credit union people at the dinner picking up the check in light of the Obama ethics rule.

Vega stated that she lives in Alexandria full-time, within walking distance of the office. She also has a home in Chicago where her husband lives.

The RA showed Vega the 31 summary receipts she submitted for reimbursement, which provided the total amount charged for each restaurant, and Vega confirmed that she submitted the receipts, it was her handwriting on the receipts indicating who was at the dinners (except in a few instances where it was Supples' handwriting, based on information Vega had provided Supples or Supples taking information from a calendar), and it was Vega's signature on the receipts. Vega said that when she indicated a subtraction on her receipts, it meant that she had subtracted out alcohol on her reimbursement voucher.

The RA then showed Vega itemized receipts (listing all food and drinks ordered) associated with Vega's reimbursement claims, which showed that Vega received reimbursements for alcohol totaling \$2,425. Vega told the RA that her failure to deduct alcohol was an oversight. However, Vega varied in whether she subtracted out alcohol from her reimbursement claims as follows:

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- 52% of the time (16 of 31 receipts): Alcohol was purchased and Vega submitted the entire cost of the alcohol for reimbursement;
- 32% of the time (10 of 31 receipts): Alcohol was purchased and Vega submitted some of the cost of the alcohol for reimbursement;
- 10% of the time (4 of 31 receipts): Alcohol was purchased and Vega submitted none of the cost of the alcohol for reimbursement; and,
- 3% of the time (1 of 31 receipts): Alcohol was not purchased.

For more details regarding these receipts, see Exhibit 2.

The RA asked Vega how it was an oversight for her not to subtract alcohol from her vouchers some of the time. Vega said that she had no explanation and that some of the vouchers were from 2016, and some had wrong amounts and some were right.

The RA asked Vega what was discussed at meals after \$250 of alcohol had been consumed. Vega responded, "Credit union issues...they are meetings." When the RA asked whether \$400 dinners were reasonable expenditures, Vega responded, "Minus the issue of the alcohol, not unreasonable." She said that it was reasonable for the level of the restaurant and that the reasonableness depends on the person viewing the expense. She said that the restaurants they went to were business restaurants where people go to have business meetings. She said that the definition of "reasonable" needs to be spelled out.

The RA asked Vega whether anyone said that alcohol could be reimbursed and Vega said no.

Erceg asked whether the names of the people Vega indicated on her vouchers in Concur were not accurate as to who was really at the dinners. Vega said, "Those parties are there." The RA asked whether she submitted her receipts soon after the dinners. Vega stated that it could be weeks later. The RA asked about Vega's use of room service and hotels, and Vega said no alcohol was included, and she was not sure whether she even ordered room service.

The RA asked Vega about expensive flights, asking, "Why so high?" Vega responded that she had no idea. She said it was business class and that the reservation was not made late. In response to a question from Erceg, Vega stated that no one from OCFO spoke to her about cheaper airfare options. Vega also said that the quotes for airfare would be coming from Omega (NCUA's travel agency). She also said that she and McWatters have the option to fly business class.

B. J. Mark McWatters, NCUA Chairman

On April 17, 2018, the RA and Erceg interviewed J. Mark McWatters, Chairman, NCUA, in connection with this investigation. (Exhibit 3)

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The RA read the Kalkines Warning to McWatters and then McWatters signed it.

When he arrived at the NCUA in August 2014, McWatters said someone may have explained representation expenses to him. McWatters said he was told he could go to dinner and had the authority to pick up other people's expenses. He signed the Obama Ethics Pledge, so someone cannot buy his coffee, but he can buy coffee for the other person.

McWatters said he was told by NCUA staff that he could not get reimbursed for alcohol. He said he just found out that itemized receipts are required and that requirement was also a surprise to Supples, Vega, and Kutchey. McWatters stated that it is not an excuse for him or staff to not know about the requirement for itemized receipts.

In deciding which meetings to attend, McWatters said that if people specifically say that they want him to be there and he has not met those particular officials, e.g., from a particular state-wide trade association, he attends the meeting. He added that it is important for Vega to attend these meetings with him, because they work as a team with different functions.

McWatters stated that he usually takes Uber and sometimes a taxi to go to meals. McWatters pointed out that other bank regulators have agency cars that executives have access to. In addition, the FDIC has a very nice dining room with waiters. McWatters said that in contrast, at NCUA, there are only vending machines.

In response to the RA's question about why Vega pays for nearly all the dinners he attended with her, he responded, "She just did it; I always took it as part of her job." He also stated, "It sounds right, I guess" that he had representation dinners for which Vega was reimbursed from NCUA funds 16 times in 2016 and 16 times in 2017.

Regarding McWatters' air travel, the RA asked why his \$12,213 flight to Barcelona for a speaking engagement at the DCUC (Defense Credit Union Council) was so high, and McWatters said that was a good question. McWatters said he does not believe the high cost was associated with the reservations being made at the last minute. He said that Vega went with him on the trip (Vega's ticket cost \$9,788).

Regarding a trip to Vienna, for which his ticket cost \$11,974, the RA asked why Vega went as well (Vega's ticket cost \$11,484). McWatters said that Vega is an important part of his team, and that there is a bifurcation of their functions.

When the RA asked whether Supples or Kutchey ever asked about itemized receipts, McWatters said no, because they did not know about the requirement for itemized receipts. He said that the length of the dinners needed to be 3+ hours because there needs to be time for discussion and debates and it is his only chance to learn.

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C. Dinner Guests

On April 3, 2018, the RA and Erceg interviewed John McKechnie, Senior Partner, Total Spectrum, regarding meals he attended with Vega and/or McWatters in 2016 (5 meals) and 2017 (11 meals). (Exhibit 4)

McKechnie stated that he has participated in meals with Vega and McWatters. He said that he was the former Director of Public and Congressional Affairs at the NCUA from 2006-2011. He said he got to know Vega when she was working for former Chair Fryzel. McKechnie said he “remembers breaking bread” with Vega and McWatters. McKechnie said he would get back to the RA regarding the specific dates of the meals he attended.

On April 4, 2018, McKechnie emailed the RA stating that he searched his calendar and did not record specific appointments or meetings with either Vega or McWatters, but he met with Vega and/or McWatters 3-4 times in both 2016 and 2017 to discuss credit union industry positions and reactions to NCUA regulatory actions. He said that his institutional knowledge of NCUA, having served as Director of Public and Congressional Affairs from 2006-2011, was also discussed.

On April 3, 2018, the RA interviewed Lucy Ito, President and Chief Executive Officer, National Association of State Credit Union Supervisors, regarding meals she attended with Vega and/or McWatters in 2016 (6 meals) and 2017 (2 meals). (Exhibit 5)

Ito asked for the meal dates so she could check her calendar to verify the dates. After discussing the dates with Ito, she confirmed she attended meals with either Vega and/or McWatters.

On April 4, 2018, the RA and Erceg interviewed John Bratsakis, President and Chief Executive Officer of the Maryland/DC Credit Union Association, regarding meals he attended with Vega and/or McWatters in 2016 (6 meals) and 2017 (2 meals). (Exhibit 6)

Erceg told each of these interviewees that she and the RA looked at vouchers submitted by Vega and McWatters and that on some of those vouchers, their name appears as having participated in the meal. Erceg further told them that eventually, we would produce a report that might include their names and titles, and that she wanted to confirm that they were at the meals, specifically in 2016 and 2017.

Bratsakis stated that he has attended CEO dinners and Question & Answer dinners with Vega and McWatters. Bratsakis added that there is an annual meeting in which McWatters participates as a panel member in which he says a few words about the NCUA.

Bratsakis stated that they went to dinner at a restaurant that was not part of the annual dinner but was a CEO roundtable discussion with CEOs of different credit unions participating. This is

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done a few times a year. Bratsakis added that there might have been a time here or there when he went to dinner with Vega and McWatters and no one else was there.

On April 25, 2018, the RA emailed Michael Fryzel, former NCUA Chairman, regarding meals he may have had with Vega and/or McWatters in 2016 and 2017. (Exhibit 7)

On April 26, 2018, Fryzel recalls having met with McWatters and Vega between the dates of the 2016 election and 2017 inauguration and thereafter. Fryzel indicated that he served on President Trump's Transition Team as the lead for NCUA as well as being responsible for the landing activities. He indicated that he had meetings with them together and separately on numerous dates during that period as he developed the Agency Action Plan with their input as well as that of dozens of other NCUA staff members. He added that he may also have met McWatters and Vega at mutually attended conferences or to discuss activities and important issues affecting the credit union industry.

D. Katie Supples, Staff Assistant to the Chairman

On October 11, 2017, the Reporting Agent (RA) interviewed Katie Supples, Staff Assistant to the Chairman, NCUA, in connection with this investigation. (Exhibit 8)

Supples stated that she prepares and submits Vega's travel vouchers into Concur, NCUA's travel and expense reimbursement system, including inputting her explanations for the expenses. Supples said that when McWatters and Vega travel, they tell her the destination, which airport they are travelling from, and where they want to stay, and then she sends them options to review. Supples added that she books all flights for McWatters and most flights for Vega, because Vega books some of her own flights. When travel is completed, McWatters and Vega provide Supples with their receipts and she prepares their travel vouchers. Supples then prints the travel vouchers and has McWatters and Vega sign hard copies signifying that they agree with the entries. After McWatters and Vega sign their travel vouchers, Supples submits them into Concur.

After submitting the vouchers into Concur, Supples said Kutchey approves the vouchers in Concur. Supples added that she submits everything that is needed for approval into Concur.

The RA asked Supples if there would be a reason the travel voucher would be missing a receipt. Supples stated that if the government credit card is used, Concur will link the charge directly from the card to the voucher. Supples added that this is not possible when a personal credit card is used.

The RA asked Supples about the process for foreign travel. Supples stated that when McWatters travels outside the United States, his travel is approved by the Executive Director. McWatters approves Vega's foreign travel. Supples said that prior to travel, the Office of the Chief

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Financial Officer (OCFO) receives the request for foreign travel. OCFO reviews the submission and forwards it to the State Department for clearance.

Regarding the use of business class and first class air travel, Supples stated for a flight outside the continental United States, business class can be used. According to Supples, the travel policy provides the option of using first class if no coach or business class is available. Supples also stated that for some airlines, business class and first class are the same and that the available classes of reservations vary from market to market. Supples said that when she makes reservations for business class or first class, she usually calls OMEGA, the NCUA's travel agency, and discusses what is needed.

For representation expenses, Supples said that McWatters and/or Vega submit the receipt to her and she includes it as an expense in the travel voucher. Supples stated that she notes that the expense was for a credit union industry meeting and indicates the attendees and the expense amount. Supples said she has no other documentation regarding representation expenses.

On April 17, 2018, the RA and Erceg conducted a follow-up interview with Supples in connection with this investigation. (Exhibit 9)

The RA noted that when he previously interviewed her, Supples knew all the details about the NCUA's policy on travel, including first class travel. Supples agreed with that statement. Supples, who has been in her position at the NCUA since 2008, said she did not know about the requirement for itemized receipts. The RA noted that the representation policy was only three pages long and asked, "You didn't know?" Supples repeated that she did not know. The RA then asked whether she would sign a statement, which would be voluntary. Supples agreed to sign a statement. Supples said that the OED did not know about the requirement for receipts either. She thinks Kutchev would have told her had he known about the requirement. The RA said that Kutchev said he knew itemized receipts were required but they softened the requirement. Supples responded, "Interesting." Supples said that she did not have time to write a statement now because she was working on a voucher, but that she would write a statement when she was finished with the voucher.

At 11:14 am, about an hour after her interview had concluded, Supples called the RA and asked whether not providing a statement would be viewed as a failure to cooperate with the OIG, and the RA said no. Supples then said she would not provide a statement.

E. Office of the Executive Director (OED)

On October 25, 2017, the RA interviewed John Kutchev, Deputy Executive Director, NCUA. Kutchev provided the following in connection with this investigation. (Exhibit 10)

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Kutchey stated that his role in the travel process is as an approving official. Kutchey said that he receives the completed travel vouchers for McWatters, Vega, Board Member Rick Metsger, and Senior Policy Advisor Michael Radway through Concur from Katie Supples and Donna Giobbi, Staff Assistant to Board Member Metsger. Kutchey said that he gives verbal advice to Supples or Giobbi when asked. Kutchey stated that he discusses travel questions or concerns before the travel takes place.

The RA asked Kutchey if McWatters, Vega, Metsger, or Radway ask him any travel questions. Kutchey said that Metsger is “in tune with perception” when it comes to travel. Kutchey stated that McWatters and Vega work with Supples on any travel issues.

The RA asked Kutchey if he shared any travel concerns with Treichel. Kutchey stated that using representation expenses for dining with the same people over time is a concern for him, but that it is not against policy to do so.

The RA questioned Kutchey about the previous representation expense policy, which indicated that a memorandum must be submitted to claim the expense. Kutchey added that Concur is used to document representation expenses and if receipts are attached to the voucher and Kutchey knows who the meeting participants were, he will approve the expense.

The RA asked Kutchey when using business class and first class was permissible. He stated that if the flight was outside the continental United States, business class is allowable, and that first class can be used if no coach or business class was reasonably available. When asked what “reasonably available” meant, Kutchey said if they have tight schedules, McWatters, Vega, Metsger, and Radway can use first class and he leaves this to the discretion of the traveler. Kutchey added that according to policy, first class can be used when required because of the agency mission.

Kutchey stated that he does not question what is discussed at a dinner that McWatters or Vega attended.

On October 30, 2017, the RA conducted a follow-up interview with Kutchey. (Exhibit 11) The RA asked Kutchey why summary meal receipts are deemed as suitable documentation when the representation expense policy indicates that summary receipts are not acceptable. Kutchey stated that “I know what the policy says but we have softened on that.” He added that as long as he has a receipt showing the number of people at the meal, then he is fine with accepting that receipt as documentation. Kutchey said that some of the better restaurants do not provide itemized meal receipts.

On April 17, 2018, the RA and Erceg conducted another follow-up interview with Kutchey in connection with this investigation. (Exhibit 12)

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The RA noted that he has seen only one itemized receipt in Concur, and asked if Kutchev just missed the requirement for itemized receipts. Kutchev responded that it was his error not to know about itemized receipts being required. He said he got together with Supples once they realized that itemized receipts were required by the policy. He said he just followed the practice of what was done before (not requiring itemized receipts). Kutchev said that he has told McWatters and Vega and prior Board chairs and their staff at different times that the NCUA cannot pay for alcohol, and that they should make sure not to claim for alcohol. He said some of the Board members followed that instruction. The RA noted that sometimes alcohol is not taken out at all from the reimbursement request. Kutchev responded that the policy clearly says no alcohol. Erceg asked Kutchev whether he has wondered whether alcohol was charged when he sees a summary receipt for \$500 in reviewing a reimbursement claim. Kutchev responded, "They have expensive taste." In response to a question from Erceg whether he was ever told to look the other way, Kutchev said no.

The RA asked Kutchev about McWatters and Vega taking very expensive flights, \$12,000 for example. Kutchev responded that their airfares fell within policy, so it was approved. He did tell them that the expensive flights were going to stick out. The RA asked about McWatters' and Vega's reimbursement for expensive Uber rides, like a \$250 Uber ride from Washington, DC to Alexandria. Kutchev said that McWatters and Vega used UberBlack for a while but there was no discussion about their spending \$250 for a DC-Alexandria Uber ride. Kutchev further stated that every other agency has a fleet of cars that are available day and night.

In response to the RA's question about McWatters and Vega listing dinner participants on receipts, he remembers instances where participants were not listed or where the summary receipt was missing.

In response to the RA's question about why the representation expense policy was changed in October 2017, Kutchev said that they put the policy out to try to anticipate issues that would be raised in our investigation.

On April 24, 2018, the RA and Erceg interviewed Mark Treichel, Executive Director, NCUA, in connection with this investigation. (Exhibit 13)

Treichel stated he has been with NCUA since Columbus Day 1986, and has served in his present position as Executive Director for 5-1/2 years. He started in November 2012 shadowing the departing Executive Director before he left, and became Executive Director on January 1, 2013. Treichel said that from April 2000 to April 2003, he was Deputy Executive Director. Treichel said that his role regarding representation expenses and travel is that he establishes the policy and Deputy Executive Director Kutchev approves the reimbursement vouchers.

In response to the RA's question about who wrote the 2014 representation expenses policy, Treichel said the impetus for a policy can start with an office director, who communicates the

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request to Kutchev, who in turn communicates that to Treichel. Treichel said that annually there is a memorandum on representation expenses, generally speaking. When the RA asked whether he had input into the 2014 policy, Treichel said generally, yes. He also noted that there were policies before 2014 also providing that no alcohol may be reimbursed. Regarding the requirement for itemized receipts, the RA noted that the 2014 policy cross references the 2006 instruction (2020.2), which requires itemized receipts. Treichel said that he is not saying that alcohol is allowed. Usually, he puts guidance in interim policies and then he puts everything into the new instruction, which was the case with the October 2017 representation expense policy. He then asked the RA where the 2014 policy said itemized receipts were required. The RA again pointed out the 2014 policy's reference to the 2006 instruction (2020.2), which requires itemized receipts. Treichel said that it is a valid interpretation that because the 2014 policy cross references the 2020.2 instruction, itemized receipts are required. Treichel said his 2014 guidance could have been clearer, however. In response to RA's question about whether he thought itemized receipts were required, Treichel said that the NCUA did not even require receipts for examiners until the last revision of the travel policy.

In response to the RA's question about why someone would subtract alcohol from their reimbursement request sometimes, but not others, Treichel said he did not know. Regarding the 2017 representation expenses policy, Treichel said he may have had some discussion with Vega. When asked whether he had similar discussions with Vega regarding the 2014 policy or previous policies, Treichel said no. In response to the RA's question about whether Vega or anyone else from the Board had input into any of the representation expenses policies, he said former Chair Debbie Matz and her Chief of Staff Steve Bosack did, but neither Vega nor any other Board members nor Board staff likely had any input.

The RA asked about Kutchev's and Supples' roles regarding reimbursement vouchers, and whether Kutchev had come to Treichel with concerns about expensive dinners or \$12,000 flights. Treichel did not recall anything specific, and said he had not heard any concerns from Kutchev about cost. The RA asked Treichel about whether he himself had concerns about cost. Treichel responded that both McWatters' and Vega's airfares were within policy, and it was for them to determine whether the cost was reasonable. The RA asked why there would be such a difference in cost between their flights, e.g., \$11,000 for Vega to Vienna, Austria, and Radway's \$1,500 flight to the same destination. Treichel responded that the policy allows for first class travel if business class is not available, and business class is permissible. He also stated that it is in the eye of the beholder and that what is prudent is up to the Board member and their staff.

In response to the RA's question about whether McWatters and Vega talked to him after we interviewed them, Treichel said yes, and that McWatters told him there were a couple of claims, not very substantive in dollars, and not consistent with what Treichel called his "inconsistent policy." Treichel said that after the interviews, General Counsel McKenna brought out the legal opinion regarding alcohol (a May 11, 2000, memorandum from General Counsel Robert Fenner to Executive Director Carolyn Jordan, which Treichel provided the Inspector General the day

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after the RA interviewed McWatters and Vega). Treichel thinks he requested this legal opinion when he was Deputy Executive Director. The RA asked why he requested the opinion, and Treichel said that he wanted to know whether alcohol would be allowed at a function with NASCUS (National Association of State Credit Union Supervisors) and state regulators. The RA asked whether the issue only pertained to meetings with large groups. Treichel responded that it also may have been tied to representation expenses. He added that alcohol had been served at events and reimbursed before his request for a legal opinion in 2000. Treichel said that if the Board decides it wants to allow alcohol, it could, except that they have delegated this authority to the Executive Director through delegation TRV 6, which is still in place.

He said that the prohibition on alcohol is clear in the Executive Director annual memorandum but not in the instruction. The RA told Treichel that Vega said that she had never seen any of the policies, yet Vega subtracted alcohol out some of the time, and then the RA asked why she would do that if she was not familiar with the policies. Treichel did not know and said that he had talked to Vega after we interviewed her on April 17, about her having issues with making deductions correctly.

F. Office of the Chief Financial Officer (OCFO)

On October 11, 2017, the RA interviewed Rendell Jones, Chief Financial Officer (CFO), NCUA. (Exhibit 14)

Jones stated that his office prepares the reprogramming costs for the Board. Jones stated that his office knows what has been spent and moves the money when needed. In 2017, to date [October 11, 2017], the Board had four instances where funds were reprogrammed as follows:

- 6/30/17 \$25,000
- 6/30/17 \$350
- 8/1/17 \$25,000
- 8/4/17 \$10,000

On December 29, 2017, the RA conducted a follow-up interview with Jones in connection with this investigation. (Exhibit 15)

Jones stated that a traveler can use their personal credit card for certain expenses, including meals when on official travel. The traveler is encouraged to use their government travel card but it is not required for all travel expenses. Jones stated that the government travel card is required for airfare and hotel expenses when on official travel, but not meals.

On April 4, 2018, the RA and Erceg conducted a follow-up interview with Jones in connection with this investigation. (Exhibit 16)

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Jones stated that the office initiating the reprogramming submits the request to him for approval. Jones stated the Board does not have a finance manager so he might warn them when they are on track to spend more than their limit. Jones said that when the Board gets close to its limit, he will, in most cases, move money to cover it. He noted that this is an after-the-fact process because the money has already been spent and disbursed. Jones said that since October 2017, there have not been any reprogrammings of funds for travel expenses for the Board. Jones stated that he has heard from other OCFO personnel about expensive flights taken by some Board members and staff. Jones said he went to Kutchev and said, "This costs a lot of money," and Kutchev was surprised by the expensive flights. Jones said he looks at an expenditure two ways: (1) does it comply with an agency rule and (2) is it advisable? He noted that even if an expenditure complies with an agency rule, it may not be advisable.

The RA asked Jones that if summary receipts are not acceptable documentation, then why are itemized receipts not in Concur? Jones stated that no one has ever mentioned to him anything about itemized receipts and he is disappointed that he was not told by his staff that even though itemized receipts are required, they were not being submitted into Concur.

Jones said that he thinks the Board members knew about the representation expense policy. Michael McNeill, Director, Division of Financial Controls, OCFO, worked with Kutchev on the policy and Kutchev probably spoke to Vega and Radway. Jones said, however, that he does not know what was said during those discussions.

Jones stated that you are supposed to use your government credit card for authorized business expenses, including representation expenses. Jones said that he has not heard any complaints about excessive amounts spent on Uber fares.

On March 19, 2018, the RA and Erceg interviewed Terri Woundy, Supervisory Accountant, OCFO, NCUA, in connection with this investigation. (Exhibit 17)

Woundy said that Concur, NCUA's travel system, was implemented in August 2013 and before that, the NCUA used an in-house eTravel system. Woundy stated that she does not get involved with representative expenses. In response to the RA's question about why there appear to be only summary receipts in Concur, Woundy thought that Supples might maintain itemized receipts.

Woundy said employees must use their government credit card for all official business, including for representation expenses. Erceg asked about the provision allowing for the use of personal credit card for group meals. Woundy said that would be permitted during travel where an employee was going out with a large group of people and everyone was paying for their own meal. She said it would not apply to a meal that was a representation expense.

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The RA asked Woundy about large Uber expenses, like one costing \$130 to go from Alexandria to Washington, DC. Woundy said that a cost comparison would need to be done in Concur to justify that.

On March 28, 2018, the RA and Erceg interviewed Michael McNeill, Director, Division of Financial Controls, OCFO, NCUA, in connection with this investigation. (Exhibit 18)

Regarding representation expenses, McNeill said he could not be specific in his responses because the policies changed over the years. Representation expenses used to be mostly for Board members to meet with industry officials over a meal and that alcohol was (and still is) not allowed. However, McNeill stated that in the past there might have been alcohol involved, potentially excessive spending, or potentially too much frequency of meals. McNeill said that some receipts were inconsistently done, some were detailed, and some were not. He said that it started to get better in 2006 when OCFO and the Office of General Counsel worked together and the definition of a representation expense was made tighter.

When the RA asked why itemized receipts might be important, McNeill said that they could show if purchases were reasonable, although McNeill then said that maybe it really does not matter that itemized receipts are not turned in. He said that the OED and the Board are involved with the review process and that OCFO has little involvement. OED approves the travel vouchers.

McNeill stated that if there was alcohol with a meal, the server could put the alcohol charges on a different bill, which the employee would pay with their personal credit card, or the employee could use their government credit card for the entire bill and deduct the alcohol charges from their Concur voucher.

McNeill added that in the past he can remember expenses being incurred and paid for refreshments and decorations for Easter and the fall season. Gift cards were also being given to contractors. When Jones came on as the new CFO, Vega and Supples wanted guidance on such spending.

McNeill added that some expenditures are ridiculous, such as a \$10,000 airfare. McNeill said it may be allowable by policy and not illegal, but such expenditures will show up on General Services Administration exception reports.

On March 28, 2018, the RA and Erceg interviewed (b)(6);(b)(7)(C), Contractor, Division of Financial Controls, OCFO, NCUA, in connection with this investigation. (Exhibit 19)

(b)(6);(b)(7)(C) shared a concern with Woundy about a \$21,000 airfare for McWatters and Vega to Spain. Woundy told her in response, "They don't travel internationally a lot."

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(b)(6);(b)(7)(C) thinks that training is needed at the NCUA regarding which airfares are permissible.

(b)(6);(b)(7)(C) said that Metsger and Radway are much more restrained in their spending than McWatters and Vega. Erceg asked about the use of alcohol on the government credit card.

(b)(6);(b)(7)(C) stated that alcohol is not allowed for reimbursement and if there is alcohol, then it should be on a separate bill/receipt.

G. Office of General Counsel (OGC)

On May 1, 2018, the RA and Erceg interviewed Michael McKenna, General Counsel, NCUA, in connection with this investigation. (Exhibit 20) Also present were Lara Rodriguez, Deputy General Counsel, and Kevin Tuininga, Associate General Counsel for Administrative Law.

The RA provided McKenna the 2006 NCUA instruction on representation expenses and asked whether he had input into it. McKenna stated that he was Deputy General Counsel at the time of the instruction but did not have any input into it.

In response to Erceg asking why the OGC opinion of 2000 regarding alcohol was written, McKenna said he thought it was so that NCUA could serve alcohol at NASCUS (National Association of State Credit Union Supervisors) functions. At the interview, McKenna provided Erceg and the RA an updated legal opinion memorandum dated April 27, 2018, regarding alcohol and representational activities. He said that he created the memorandum after speaking to Kutchey and Treichel after McWatters and Vega were interviewed in this case. He said Kutchey and Treichel asked him whether Board members could use NCUA funds to pay for alcohol. McKenna said he decided to write a new opinion since time had passed since the previous opinion and he wanted to make sure the laws had not changed. McKenna said the updated opinion stated that is it still legal to expend funds on alcohol but that it is against NCUA policy to do so.

Rodriguez noted that the representation expenses policies including the prohibition on alcohol had referred back to the 2006 representation expenses instruction for more detail, and the instruction did not contain the alcohol prohibition. She said that everything is codified now in the 2017 instruction, including the prohibition on reimbursement for alcohol.

Erceg asked about the legal effects of an instruction versus a policy memorandum. McKenna said that it is his personal opinion that an instruction trumps a policy memorandum. However, he said that is not Treichel's view. Treichel believes that a policy memorandum can amend an instruction. McKenna said that regardless, both instructions and policy memoranda "fall within the broad rubric on policy." Tuininga said that there is an "instruction on instructions" that stated that if something is a permanent policy, it goes into an instruction. Erceg noted that the

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2006 instruction did not allow reimbursement for alcohol—it was silent on alcohol. McKenna agreed.

McKenna said no concerns were ever brought to his attention about the cost of Board members' or Senior Policy Advisor airfares. In response to a question from the RA, McKenna stated that he was not aware of the difference in airfare to Vienna for Radway, Senior Policy Advisor for Board Member Metsger (\$1,500), as compared to Vega (\$11,000). McKenna said that he assumed it was due to late booking. He has never provided advice regarding when first class airfare may be purchased. McKenna also said that in 2012, in connection with responding to a Freedom of Information Act request regarding Board travel, he learned that all Board Members and their Senior Policy Advisors flew coach class, with the exception of one flight for a former Board Chair.

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List of Exhibits

- Exhibit 1: Memorandum of Interview – Sarah Vega, December 4, 2017
- Exhibit 2: Memorandum of Interview – Sarah Vega, April 17, 2018
- Exhibit 3: Memorandum of Interview – Mark McWatters, April 17, 2018
- Exhibit 4: Memorandum of Interview – John McKechnie, April 3, 2018
- Exhibit 5: Memorandum of Interview – Lucy Ito, April 4, 2018
- Exhibit 6: Memorandum of Interview – John Bratsakis, April 4, 2018
- Exhibit 7: Memorandum of Activity – Michael Fryzel email, April 26, 2018
- Exhibit 8: Memorandum of Interview – Katie Supples, October 11, 2017
- Exhibit 9: Memorandum of Interview – Katie Supples, April 17, 2018
- Exhibit 10: Memorandum of Interview – John Kutchey, October 25, 2017
- Exhibit 11: Memorandum of Interview – John Kutchey, October 30, 2017
- Exhibit 12: Memorandum of Interview – John Kutchey, April 17, 2018
- Exhibit 13: Memorandum of Interview – Mark Treichel, April 24, 2018
- Exhibit 14: Memorandum of Interview – Rendell Jones, October 11, 2017
- Exhibit 15: Memorandum of Interview – Rendell Jones, December 29, 2017
- Exhibit 16: Memorandum of Interview – Rendell Jones, April 4, 2018
- Exhibit 17: Memorandum of Interview – Terri Woundy, March 19, 2018
- Exhibit 18: Memorandum of Interview – Michael McNeill, March 28, 2018
- Exhibit 19: Memorandum of Interview – (b)(6);(b)(7)(C), March 28, 2018
- Exhibit 20: Memorandum of Interview – Michael McKenna, May 1, 2018