



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR



Investigation

Former Deputy Secretary Violated Ethics Laws

This is a revised version of the report prepared for public release.



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REPORT OF INVESTIGATION

I. EXECUTIVE SUMMARY

In August 2023, then U.S. Department of the Interior (DOI) Deputy Secretary Tommy P. Beaudreau disclosed to the DOI Office of Inspector General (OIG) that his private portfolio manager made unauthorized purchases of stock contrary to Beaudreau's instructions, and that two of the stock investments, ExxonMobil and Chevron, were companies listed on the DOI's List of Prohibited Investments. Beaudreau requested that, at the recommendation of the Office of Government Ethics (OGE), the OIG review the matter. We opened an investigation to determine whether Beaudreau's ownership of these stocks violated any laws or DOI policy.

We found that Beaudreau failed to monitor his investment account and recuse himself from particular matters in which he held a financial interest as required by his Ethics Agreement and Certification of Ethics Agreement Compliance. We also found that Beaudreau owned ExxonMobil and Chevron stock for approximately one year in violation of the DOI's supplemental ethics regulation, 5 C.F.R. § 3501.103(b)(1)(ii), and the Standards of Ethical Conduct, 5 C.F.R. § 2635.403. Finally, we concluded that Beaudreau violated the Federal conflict of interest statute, 18 U.S.C. § 208, when he participated in a meeting involving a particular matter in which he knew he held a financial interest that would be directly and predictably affected by the matter. In making these findings, we note that there are factors mitigating Beaudreau's culpability, which are discussed in detail in this report.

In accordance with the *Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority*, we referred our findings to the U.S. Department of Justice (DOJ) Public Integrity Section (PIN), which declined to prosecute the matter.

We offered Beaudreau the opportunity to review portions of the draft report. Beaudreau accepted this offer and provided comments. We made minor clarifying revisions to the draft report in light of Beaudreau's comments but made no substantive changes to our analysis or conclusions.

We are providing this report to the Secretary of the Interior for any action deemed appropriate.

II. RESULTS OF INVESTIGATION

A. Facts

1. *Beaudreau's Nomination and Confirmation as Deputy Secretary and Ethics Agreement, Training, and Advice*

On April 14, 2021, President Biden nominated Beaudreau to be Deputy Secretary of the DOI. Prior to his nomination, on March 17, 2021, Beaudreau completed a nominee Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e) (hereinafter "public financial disclosure report").¹ Beaudreau did

¹ The Ethics in Government Act of 1978, as amended, codified at 5 U.S.C. ch. 131, imposes detailed requirements for public financial disclosure by senior Government officials to promote transparency in Government and prevent actual or apparent conflicts of interest between a Government official's

not report owning any individual stocks on his report, and there was no evidence that he owned any at that time.

On April 16, 2021, Beaudreau signed a letter (hereinafter “Ethics Agreement”) prepared in consultation with the Departmental Ethics Office (DEO) and addressed to the DOI’s Designated Agency Ethics Official (DAEO), which described the steps he would take to avoid any actual or apparent conflicts of interest if he was confirmed for the position of DOI Deputy Secretary.² In his Ethics Agreement, Beaudreau acknowledged the requirements imposed upon him by 18 U.S.C. § 208, which required that he not participate personally and substantially in any particular matter in which he knew that he had a financial interest directly and predictably affected by the matter. Beaudreau’s Ethics Agreement went on to state,

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), or obligations of the United States.³

In his Ethics Agreement, Beaudreau also acknowledged that his position as Deputy Secretary was “subject to the prohibitions against holding any financial interest in federal lands or resources administered or controlled by the U.S. Department of the Interior extended to me by supplemental regulation, 5 C.F.R. § 3501.103(b)” and confirmed that he would “not hold any such interests during my appointment to the position of Deputy Secretary.”⁴

On June 17, 2021, the U.S. Senate confirmed Beaudreau as Deputy Secretary of the DOI. According to Beaudreau’s private portfolio manager (“Portfolio Manager”), Beaudreau participated in a conference call with Portfolio Manager and Portfolio Manager’s assistant on June 17, 2021. Portfolio Manager stated that Beaudreau explained during the call that his position with the DOI subjected him to a series of ethics rules. Portfolio Manager told us that, during the June 17, 2021 call, Beaudreau instructed him not to buy individual stocks. Portfolio Manager’s assistant provided us with his contemporaneous notes from the June 17, 2021 conference call, which stated that “Tommy is restricted from owning any stocks.”

On June 23, 2021, Beaudreau began serving as the Deputy Secretary in the Office of the Secretary at the DOI. That same day, Beaudreau received preliminary ethics training from the DEO, which included information about the DOI’s supplemental ethics regulation, 5 C.F.R. § 3501.103(b)(1)(ii). The DOI’s supplemental ethics regulation prohibits certain DOI employees, including Beaudreau, from acquiring or holding any direct or indirect financial interest in Federal lands or resources administered or controlled by the DOI absent a waiver

financial holdings and their official duties. Through the filing of a public financial disclosure report, senior Government officials report, as required, their assets, income, sources of compensation exceeding \$5,000 in a year, and the assets and income of their spouses and dependent children. Office of Government Ethics (OGE), *Overview*, <https://www.oge.gov/web/278eGuide.nsf/Overview>.

² Unless otherwise noted, when substantially the same advice was given by the DAEO and the Alternate Designated Agency Ethics Official (ADAEO) we refer to them collectively as the DEO.

³ Ethics Agreement at 1-2 (Apr. 16, 2021).

⁴ *Id.* at 4.

from the DAEO. These prohibited financial interests include stock or bond interests in most oil, gas, and mining companies that operate on Federal lands, including ExxonMobil and Chevron.

To assist DOI employees in complying with the regulation, DEO ethics officials publish a List of Prohibited Investments every year that sets forth companies in which DOI employees are prohibited from owning stocks, bonds, and other investments. Beaudreau told us he received a copy of the 2021 List of Prohibited Investments and understood that he was prohibited from holding a financial interest in the companies identified therein. Beaudreau did not provide Portfolio Manager, or the company at which Portfolio Manager worked (hereinafter “Investment Management Company”), with his Ethics Agreement or the 2021 List of Prohibited Investments.⁵ On July 29, 2021, Beaudreau signed an Ethics Recusals & Screening Arrangement that the DEO prepared for him with his assistance. In this document, Beaudreau again acknowledged that the DOI’s supplemental regulations prohibited him from owning “stock or bond investments in many companies that hold DOI-granted permits and leases in Federal lands” and confirmed that he had received the 2021 List of Prohibited Investments.⁶

On September 14, 2021, Beaudreau signed a Certification of Ethics Agreement Compliance. In this document, Beaudreau certified that, “If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.”

On January 13, 2022, the DAEO emailed Beaudreau the 2022 List of Prohibited Investments. Beaudreau did not provide Portfolio Manager or Investment Management Company with a copy of the 2022 List of Prohibited Investments.⁷ As in 2021, the 2022 List of Prohibited Investments included ExxonMobil and Chevron.

2. Portfolio Manager Purchases Stock Contrary to Beaudreau’s Instructions

On May 15, 2022, Beaudreau filed his 2022 annual public financial disclosure report, which included the financial interests held by Beaudreau and his spouse from January 1, 2021, through December 31, 2021. Beaudreau did not report owning individual stocks on this report, and the evidence showed that he did not own individual stocks for the period covered by the report.

On June 22, 2022, Portfolio Manager purchased stock in multiple individual companies through a third-party brokerage firm (“Brokerage Firm”) for Beaudreau and his spouse’s joint investment account. The purchase included stock in ExxonMobil and Chevron. At the time of purchase, the value of the ExxonMobil stock was \$4,920.16 and the value of the Chevron stock was \$4,879.71. As ExxonMobil and Chevron were on the DOI’s 2022 List of Prohibited Investments, Beaudreau was prohibited from owning these investments in any amount without a waiver from the DAEO. Beaudreau told us that he did not authorize Portfolio Manager to make these purchases, and we found no evidence that he did so. Furthermore, we found no evidence that Beaudreau or his spouse knew Portfolio Manager had purchased these stocks at the time the purchases were made. The evidence showed, however, that after the stock purchases were made, the stock holdings appeared on monthly and quarterly investment account statements that Investment Management Company and Brokerage Firm mailed to Beaudreau and his spouse.

Six months later, on December 23, 2022, Beaudreau signed an Updated Ethics Recusals & Screening Arrangement that the DEO prepared for him. In this updated document, Beaudreau confirmed, “I do not currently hold financial interests identified on the 2022 List of Prohibited Investments.” Beaudreau told us that

⁵ Beaudreau was not legally required to provide these documents to his Portfolio Manager or the Investment Management Company.

⁶ Ethics Recusals & Screening Arrangement from Tommy Beaudreau to DAEO and Director, DOI DEO at 4 (July 29, 2021).

⁷ Beaudreau was not legally required to provide the 2022 List of Prohibited Investments to his Portfolio Manager or the Investment Company.

he did not review any of the monthly or quarterly investment account statements he received in the mail prior to signing this document.

3. Beaudreau Discovers He Owns Stock, Including Shares of ExxonMobil and Chevron

Like all public filers, Beaudreau was required to file his 2023 annual public financial disclosure report for calendar year 2022 (“2023 annual public financial disclosure report”) by May 15, 2023.⁸ Sometime on or before May 15, 2023, Beaudreau contacted the DAEO requesting an extension to file his 2023 annual public financial disclosure report.⁹ On May 15, 2023, the DAEO granted Beaudreau’s request extending the deadline to June 14, 2023.

According to Beaudreau, he reviewed his investment account statements on June 11, 2023, to prepare his 2023 annual public financial disclosure report. Beaudreau told us that this was when he first discovered numerous purchases of shares of individual stocks, including ExxonMobil and Chevron. Beaudreau immediately contacted Portfolio Manager by telephone and text message once he learned of the stock purchases.

Portfolio Manager told us that Beaudreau instructed him to “[p]ut it back the way it was before” and reminded Portfolio Manager that he was not supposed to purchase stocks. Text messages between Beaudreau and Portfolio Manager on June 11, 2023, corroborate Portfolio Manager’s description of his conversation with Beaudreau. In one text message, Beaudreau stated to Portfolio Manager, “just have to fix it tomorrow so I can file my disclosure by Wednesday.” Portfolio Manager responded, “Done.” In another text message, Portfolio Manager informed Beaudreau that he would “talk to my compliance officer tomorrow and explain the situation. I think we will treat this as a trade error on our part, which it was...[because] [i]t was a clear client restriction that wasn’t followed.” We found no evidence that Beaudreau knew of the stock purchases, including the purchase of ExxonMobil and Chevron stock, before June 11, 2023.

4. Beaudreau Notifies the DAEO That Portfolio Manager Purchased Individual Stocks

Two days later, on June 13, 2023, Beaudreau notified the DAEO that Portfolio Manager had purchased shares of individual stocks without his authorization. According to the DAEO, Beaudreau indicated that he “needed time to figure out what was going on.” Beaudreau did not tell the DAEO the specific stocks Portfolio Manager had purchased and did not seek a written waiver from the DAEO enabling him to participate in particular matters in which he held a financial interest.¹⁰ The DAEO gave Beaudreau a second extension to file his public financial disclosure report, extending the deadline to July 13, 2023.¹¹

The DAEO told us that, at the time Beaudreau reported this to her, she reminded Beaudreau that so long as he held individual stocks, “he had to be mindful of his conflict of interest recusals under [18 U.S.C. §] 208.”¹²

⁸ See 5 U.S.C. § 13103(d) (establishing the May 15 deadline for annual public filers) and 5 C.F.R. § 2634.201(a) (implementing regulations also referencing May 15 deadline).

⁹ The DAEO told us that, “given [Beaudreau’s] travel and work schedule, we granted a 30-day extension.”

¹⁰ See 5 C.F.R. § 2640.301 (providing the requirements for issuing a waiver under 18 U.S.C. § 208(b)(1)); see also 5 C.F.R. § 3501.103(e) (providing the requirements for issuing a waiver for prohibited investments).

¹¹ See 5 C.F.R. § 2634.201(g) (providing that the “reviewing official may, for good cause shown, grant an additional extension of time which must not exceed 45 days”).

¹² See 18 U.S.C. § 208(a) (providing that an officer or employee of the executive branch of the United States cannot participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in a particular matter in which, to his knowledge, he or his spouse have a financial interest).

At 2 p.m. on June 13, 2023, Beaudreau received a text message from Portfolio Manager advising Beaudreau that Portfolio Manager was still working with Brokerage Firm to resolve the stock purchases. The message stated, “No word from [Brokerage Firm] yet. I will have our guy reach out to them in the morning. They can be slow to act on shit like this but I know you’re eager to get it resolved, as am I...I will keep you updated.” At 4:35 p.m., Beaudreau responded to Portfolio Manager via text message stating, in part, “If you don’t mind, I’d appreciate pulling out the stops. The most graceful way for me is a footnote that says no harm no foul, the transactions were negated. I don’t care if it costs me money – least of my concerns...”

Also on June 13, 2023, Beaudreau’s Executive Assistant sent a meeting invite on Beaudreau’s behalf to senior-level officials within the Office of the Secretary and the Bureau of Safety and Environmental Enforcement (BSEE)¹³ for a “Meeting on BSEE Well Control Rule.” The meeting was scheduled for June 14, 2023.

5. *Beaudreau Participates in the Well Control Rule Meeting on June 14, 2023*

On June 14, 2023, Beaudreau attended the meeting on the Well Control Rule.¹⁴ The “Well Control Rule” referred to a rule proposed by BSEE in 2022¹⁵ in response to an Executive Order directing Federal agencies to review all regulations passed by the prior administration and take action to ensure that “national objectives” such as the promotion and protection of “public health and the environment” were being met.¹⁶ The Well Control Rule was one of several regulations identified for review in accordance with the Executive Order,¹⁷ and BSEE’s 2022 proposed rule sought to reinstate certain provisions that had been rescinded in 2019.¹⁸ Specifically, the 2022 proposed rule involved an earlier Well Control Rule enacted in 2016,¹⁹ which mandated new industry standards on operators of oil, gas, and sulfur wells in the U.S. Outer Continental Shelf (OCS) in the wake of the Deepwater Horizon oil spill.²⁰ In 2019, the prior administration revised the 2016 rule, loosening

¹³ BSEE is a bureau of the DOI and is responsible for “improving safety and ensuring environmental protection related to the offshore energy industry, primarily oil and natural gas, on the U.S. Outer Continental Shelf (OCS).” Department of the Interior, Bureau of Safety and Environmental Enforcement, *About BSEE*, <https://www.bsee.gov/who-we-are/about-bsee>.

¹⁴ On the date of the Well Control Rule meeting, Beaudreau’s holdings of ExxonMobil stock were valued at \$5,888.96, and his holdings of Chevron stock were valued at \$5,183.97.

¹⁵ Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 87 Fed. Reg. 56,354 (Sept. 14, 2022).

¹⁶ Executive Order 13990 of January 20, 2021, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, 86 Fed. Reg. 7037, 7037-7038 (Jan. 25, 2021).

¹⁷ See President’s Fact Sheet: List of Agency Actions for Review, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/> (referencing Executive Order 13990 and providing a list of Federal agency actions, including DOI actions, that would be reviewed, which included the Well Control Rule).

¹⁸ 84 Fed. Reg. 21,908 (May 15, 2019) (codified at 30 C.F.R. pt. 250). ExxonMobil and Chevron also submitted written comments for BSEE’s consideration prior to finalization of the 2019 rule. See Letter from Gantt H. Walton, Vice President, Washington Office, ExxonMobil, to BSEE Regulations and Standards Branch (Aug. 3, 2018), <https://www.regulations.gov/comment/BSEE-2018-0002-33476>, and Letter from Mark Hatfield, Vice President, Gulf of Mexico Business Unit, Chevron, to BSEE Regulations and Standards Branch (Aug. 6, 2018), <https://www.regulations.gov/comment/BSEE-2018-0002-46047>.

¹⁹ 81 Fed. Reg. 25,888 (April 29, 2016) (codified at 30 C.F.R. pt. 250). Representatives from ExxonMobil and Chevron met with BSEE representatives, and ExxonMobil and Chevron submitted written comments for BSEE’s consideration prior to finalization of the 2016 rule. See Letter from Susan E. Carter, Senior Director, Federal Relations, ExxonMobil, to BSEE Regulations and Standards Branch (Oct. 1, 2015), <https://www.regulations.gov/comment/BSEE-2015-0002-0178> and Letter from Steve Thurston, Vice President, Deepwater Exploration & Projects, Chevron North America Exploration and Production Company, to BSEE (Oct. 2, 2015), <https://www.regulations.gov/comment/BSEE-2015-0002-0177>. At the time the 2016 Well Control Rule was enacted, Beaudreau was the DOI Chief of Staff.

²⁰ The Deepwater Horizon oil spill occurred in 2010. See Environmental Protection Agency, Deepwater Horizon – BP Gulf of Mexico Oil Spill, <https://www.epa.gov/enforcement/deepwater-horizon-bp-gulf-mexico-oil-spill> (“On April 20, 2010, the oil drilling rig *Deepwater Horizon*, operating in the Macondo Prospect in the Gulf of Mexico, exploded and sank resulting in the death of 11 workers on the Deepwater Horizon and the largest spill of oil in the history of marine oil drilling operations.”).

the regulatory restrictions contained in the 2016 rule.²¹ If approved, BSEE's 2022 proposed rule would reinstate some of the 2016 regulatory restrictions and testing requirements that the 2019 rule had rescinded.²²

As part of the rule making process for the 2022 proposed rule, BSEE issued a public notice stating that it sought to "revise certain regulatory provisions published in the 2019 final well control rule" to "further ensure operations are conducted safely and in an environmentally responsible manner," and that it would accept public comments on the proposed rule before November 14, 2022.²³ On November 10, 2022, Chevron submitted its comments on the proposed rule.²⁴ In its comments, Chevron expressed concerns with some of BSEE's proposed revisions to the rule and suggested changes to the proposed rule for BSEE's consideration.²⁵ With regard to at least one proposed provision, Chevron questioned "whether the potentially drastic change in approach in the proposed language is economically feasible."²⁶ The evidence showed that BSEE considered Chevron's comments and incorporated some of Chevron's recommendations into its proposed final rule.²⁷ When we interviewed Beaudreau, he told us that "Exxon and Chevron both hold leases in the Gulf of Mexico...and are subject to...BSEE's safety rules, including [the Well Control Rule]."

During the June 14, 2023 meeting, Beaudreau received a briefing on the Well Control Rule, including BSEE's proposed revisions to the rule, some of which were based on public comments BSEE received during the public notice and comment period. A senior official at the meeting told us that, while not required, the June 14, 2023 meeting was a customary meeting used to brief senior-level officials like Beaudreau on significant regulatory changes to ensure consensus among DOI and BSEE senior leaders with the rule's proposed final language before the rule was circulated for final approval. The senior official told us that it was "typical when we're going from proposed to final [rule], to sit down with leadership and say, 'Here's where we're going on these 5 or 10 big issues – how does that sound? Thumbs up, thumbs down, thoughts, whatever.'" As Deputy Secretary, Beaudreau was one of several senior officials required to officially approve the final rule before it was published in the Federal Register.²⁸

When we interviewed Beaudreau about his participation in the June 14, 2023 meeting, Beaudreau told us that he did not direct any changes or make any recommendations to BSEE's proposed revisions to the rule and

²¹ 84 Fed. Reg. 21,908 (May 15, 2019) (codified at 30 C.F.R. pt. 250).

²² Interior Department Takes Steps to Strengthen Offshore Safety Standards, <https://www.doi.gov/pressreleases/interior-department-takes-steps-strengthen-offshore-safety-standards> (September 12, 2022).

²³ Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 87 Fed. Reg. 56,354 (Sept. 14, 2022); see also Department of the Interior, Interior Department Takes Steps to Strengthen Offshore Safety Standards, <https://www.doi.gov/pressreleases/interior-department-takes-steps-strengthen-offshore-safety-standards> (Sept. 12, 2022) (press release summarizing purpose of proposed revisions to 2019 rule).

²⁴ While ExxonMobil did not submit public comments on BSEE's 2022 proposed rule, it had submitted comments and engaged with BSEE on earlier versions of the rule. For example, during the public comment period for the 2016 Well Control Rule, ExxonMobil submitted comments to BSEE explaining its estimate that the industry cost to comply with the proposed rule would exceed \$25 billion. See Letter from Susan E. Carter, Senior Director, Federal Relations, ExxonMobil, to BSEE Regulations and Standards Branch (Oct. 1, 2015), <https://www.regulations.gov/comment/BSEE-2015-0002-0178> (written comments submitted by ExxonMobil during the public comment period).

²⁵ Letter from Brad Middleton, Chevron Vice President, Gulf of Mexico Business Unit, to BSEE Regulations and Standards Branch (Nov. 10, 2022), <https://www.regulations.gov/comment/BSEE-2022-0009-0008>.

²⁶ *Id.* (internal quotations omitted).

²⁷ Compare Letter from Brad Middleton, Chevron Vice President, Gulf of Mexico Business Unit, to BSEE Regulations and Standards Branch (Nov. 10, 2022), <https://www.regulations.gov/comment/BSEE-2022-0009-0008> with Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 88 Fed. Reg. 57,334 (Aug. 23, 2023) at Section IV ("Section-by-Section Summary and Responses to Comments on the Proposed Rule").

²⁸ See DOI *How to Prepare Regulations and Federal Register Notices Handbook*, 318 DM HB at 28, <https://www.doi.gov/document-library/handbook/318-dm-hb-how-prepare-regulations-and-federal-register-notices-2> (Sept. 23, 2013) (requiring final review and approval by Secretary's Office before publication in the Federal Register). Beaudreau's official approval occurred on August 11, 2023, after his ExxonMobil and Chevron stock was sold. The final Well Control Rule was published in the Federal Register on August 23, 2023.

initially recalled that, when presented with the proposed revisions, he “probably” said something like “This looks good.” In response to subsequent questions during his OIG interview, Beaudreau confirmed that, during the June 14 meeting, he affirmatively concurred with BSEE’s proposed revisions to the Well Control Rule:

OIG Interviewer 1: The-- just to be clear, that meeting, you don’t recall there being any substantive discussion regarding, you know, the rules themselves, any changes or anything? It was just, “This is where we are,” and you said, “Okay, it looks good”?

Beaudreau: Correct. Yeah.

OIG Interviewer 2: Okay. So we’re [BSEE officials] presenting a final product to you, mainly, or you know, what we feel is our final product and showing you, “Okay, this is what we have mentioned, as far as what’s in the Control Rule,” and your response is “Okay, great,” you know, “Looks – looks good”?

Beaudreau: That’s my recollection, yes.

Beaudreau also stated that he had “been engaged for a long time, going back to the Obama administration on this rule and I didn’t make any changes or tweaks to it at this point.”

When we interviewed a senior official at the meeting about Beaudreau’s participation in the meeting, she told us that she did not “remember the meeting itself” but that she “almost always write[s] down what the deputy secretary [i.e., Beaudreau] says.” The senior official provided us with her contemporaneous meeting notes from the Well Control Rule meeting in which she wrote: “Laura [Daniel-Davis, Principal Deputy Assistant Secretary for Land and Minerals Management] and Tommy [Beaudreau] like it,” “Timing – Tommy [Beaudreau] thinks it makes sense,” and “TB [Tommy Beaudreau]: super exciting.” The senior official confirmed that her meeting notes reflected her understanding of Beaudreau’s responses to the proposed rule during the meeting on June 14. The senior official also told us that Beaudreau had “always had a personal interest in the offshore world. So he was particularly excited to see this [rule] get finished.”

6. *Brokerage Firm Issues a “Trade Error” Resulting in the Sale of Beaudreau’s Stock*

After consulting with Investment Management Company, on June 15, 2023, Brokerage Firm sold the 39 stocks Portfolio Manager purchased for Beaudreau without his authorization, including ExxonMobil and Chevron.²⁹ At the time of the sales, Beaudreau had held these stocks in his joint investment account for approximately one year, from June 22, 2022, through June 15, 2023. Brokerage firm processed the transaction as a “trade error,”³⁰ which became effective on June 16, 2023.³¹ On June 29, 2023, Beaudreau and his spouse declined any monetary gains associated with the sale of the 39 individual stocks.³²

²⁹ On June 15, 2023, the date Beaudreau’s individual stocks were sold, his holdings of ExxonMobil stock were valued at \$5,929.84 and his holdings of Chevron stock were valued at \$5,223.24.

³⁰ According to Brokerage Firm’s website, a “trade error” includes an unauthorized or unintended purchase of stock on behalf of a client or the failure to follow specific client instructions.

³¹ The sales occurred on June 15, 2023, and Beaudreau’s account reflected that he no longer owned any individual stocks, including ExxonMobil and Chevron, as of June 16, 2023.

³² In accordance with their standard policy, Brokerage Firm donated the monetary gains from the stock sales to charity.

7. Beaudreau Engages With the DEO Regarding His Public Financial Disclosure Report

Beaudreau requested that the DEO consult with the Office of Government Ethics (OGE)³³ to confirm whether Beaudreau had to disclose the stock purchases on his 2023 annual public financial disclosure report. The DEO did so on June 29, 2023, and on June 30, 2023, OGE responded that, under the ethics laws, filers were required to report all purchases, including unauthorized purchases, on their public financial disclosure reports.

On July 10, 2023, the DEO met with Beaudreau to further discuss the reporting requirements for his 2023 public financial disclosure report. The DAEO subsequently granted Beaudreau a third extension to file his report, extending the deadline to August 12, 2023. On July 14, 2023, OGE confirmed its prior guidance, telling the DEO that under the Ethics in Government Act, Beaudreau was required to report all assets held during the preceding calendar year.

8. Beaudreau Tells the DEO That the Stock Purchases Included Companies on the DOI's List of Prohibited Investments

On July 17, 2023, the DEO met with Beaudreau and told him that OGE confirmed that he was required to report all assets held during the preceding calendar year. During this meeting, Beaudreau provided the DEO with a list of the individual stocks that Portfolio Manager had purchased on June 22, 2022. The DAEO told us that this July 17 meeting was when her office first learned that Beaudreau had acquired and held stock in ExxonMobil and Chevron, both prohibited holdings under DOI regulations. The DEO then assisted Beaudreau with reporting the stock purchases and subsequent sales on his 2023 annual public financial disclosure report. The DEO also assisted Beaudreau with reporting the purchase and sale of the stocks on a periodic transaction report (OGE Form 278-T), which Beaudreau was also required to file under the ethics laws.³⁴

9. Beaudreau Signs and Submits His 2023 Annual Public Financial Disclosure Report and Periodic Transaction Report

On August 4, 2023, Beaudreau signed and submitted his 2023 annual public financial disclosure report and periodic transaction report. In these reports, Beaudreau reported owning stock in 39 different companies between June 22, 2022, and June 19, 2023, including ExxonMobil and Chevron.³⁵ In both reports, Beaudreau included endnotes explaining the nature of the stock purchases. In these endnotes, Beaudreau stated that the stock “was owned as result of a trade error made by the filer’s investment advisor contrary to the filer’s instructions and without the filer’s knowledge,” and that “[a]t all times while the filer held this asset, its market value was held at approximately \$5,000.”³⁶ Both Beaudreau’s 2023 annual public financial disclosure report

³³ OGE is a Federal agency that oversees the Executive Branch’s ethics and financial disclosure programs. OGE certifies the public financial disclosure reports of certain high-level officials, including Beaudreau, and may decline to certify a public financial disclosure report for several reasons, including its determination that the Government official has not provided sufficient information or has not complied with the ethics rules.

³⁴ Public filers, such as Beaudreau, are required to disclose “any purchase, sale, or exchange” of securities that exceed \$1,000 in value “within 30 days of receiving notification of a covered transaction, but no later than 45 days after such transaction.” The DAEO informed us that the OGE allowed Beaudreau to reflect the purchase and sale of the individual stocks on one periodic transaction report even though the stock purchases occurred in 2022 and the sale of those stocks occurred in 2023.

³⁵ Tommy Beaudreau, 2023 annual public financial disclosure report (Aug. 4, 2023) and periodic transaction report (Aug. 4, 2023). We reviewed Beaudreau’s public financial disclosure report and determined that there were no other prohibited holdings or other financial interests that presented potential conflict concerns. We also note that the purchase date of the reported stocks is reflected as June 22, 2022, and the sale date is reflected as June 19, 2023, but that sale date listed on the 2023 annual public financial disclosure report and the periodic transaction report is incorrect. Documentation from Portfolio Manager showed that Brokerage Firm sold the stocks on June 15, 2023, and processed the sales as “trade errors” effective June 16, 2023. Further, the stock markets were closed on Monday, June 19, 2023, due to the Federal holiday. Beaudreau confirmed that the June 19, 2023 sale date reflected on his 2023 annual public financial disclosure report and periodic transaction report is incorrect.

³⁶ Beaudreau included this same language in his 2023 annual public financial disclosure report and similar language in his periodic transaction report in the endnotes of each document for each individual stock Portfolio Manager purchased. See Tommy Beaudreau, annual public financial disclosure report

and periodic transaction report also stated that he and his spouse “declined any gains associated with these trade errors and no longer own any of the assets purchased as a result of the trade errors.”³⁷ By signing these reports, Beaudreau certified that “the statements I have made in this form are true, complete and correct to the best of my knowledge.”³⁸

10. *Beaudreau Reports His Prohibited Investments to the DOI OIG*

In a memorandum to the DOI OIG dated August 8, 2023, Beaudreau reported that, in June 2022, Portfolio Manager made “unauthorized purchases” of stock, including “stocks in two companies that are on the Department’s prohibited list.”³⁹ Beaudreau also requested that, at the recommendation of the OGE, the OIG “review the transactions involving the two prohibited securities.”⁴⁰

On August 28, 2023, the DAEO assessed Beaudreau a \$200 late filing fee for failing to timely report the stock purchases made in 2022.⁴¹ Beaudreau timely submitted the \$200 late filing fee to the ADAEO, who submitted the funds to the U.S. Treasury.

On October 3, 2023, the DEO completed its review and certified Beaudreau’s 2023 annual public financial disclosure report and periodic transaction report. The DEO then sent Beaudreau’s reports to OGE for its review. As of the date of this report, OGE has not certified Beaudreau’s 2023 annual public financial disclosure report or his periodic transaction report.⁴²

11. *Beaudreau Resigns From the DOI*

Beaudreau resigned from the DOI on October 27, 2023.⁴³ On November 27, 2023, Beaudreau timely filed his final public financial disclosure report, called a termination report.⁴⁴ The OGE certified Beaudreau’s termination report on February 23, 2024.

B. Analysis

We evaluated whether Beaudreau complied with his Ethics Agreement and Certification of Ethics Agreement Compliance. We also evaluated whether Beaudreau’s ownership of stock in ExxonMobil and Chevron violated the DOI’s supplemental ethics regulation, 5 C.F.R. § 3501.103(b)(1)(ii), and the Standards of Ethical Conduct, 5 C.F.R. § 2635.403. Finally, we analyzed whether Beaudreau violated the Federal conflict of interest statute,

(Aug. 4, 2023) and periodic transaction report (Aug. 4, 2023) (stating “this purchase was the result of a trade error made by the filer’s investment advisor contrary to the filer’s instructions and without the filer’s knowledge. As of the date of filing, the filer no longer owns this asset”).

³⁷ Tommy Beaudreau, annual public financial disclosure report at “Endnotes” (Aug. 4, 2023); see also Tommy Beaudreau, periodic transaction report at “Comments of Reviewing Officials” (Aug. 4, 2023) (stating that Beaudreau and his spouse declined any gains associated with the trade errors).

³⁸ Tommy Beaudreau, 2023 annual public financial disclosure report at 1 (Aug. 4, 2023) and periodic transaction report at 1 (Aug. 4, 2023).

³⁹ Tommy Beaudreau, Mem. to DOI OIG (Aug. 8, 2023). In his August 8 memorandum, Beaudreau notes that he brought this matter to the OIG’s attention on August 3, 2023.

⁴⁰ *Id.*

⁴¹ See 5 C.F.R. § 2634.704 (requiring the filer to “remit a late filing fee of \$200 to the appropriate agency, payable to the U.S. Treasury” if a report is filed more than 30 days after it is due).

⁴² OGE told us that it is OGE’s practice not to certify a filer’s reports that fall within the scope of an OIG investigation until after the investigation is complete.

⁴³ Beaudreau told the OIG that his resignation was not related to his financial disclosure reports or the OIG’s investigation.

⁴⁴ See OGE, *For Ethics Officials*, https://www2.oge.gov/web/278eGuide.nsf/For_Ethics_Officials (1.01: Types of Reports and Filing Deadlines).

18 U.S.C. § 208, by participating in his official capacity in particular matters in which he knew he held a financial interest that would be directly and predictably affected by the particular matter.

We found that Beaudreau failed to monitor his investment account and recuse himself from particular matters in which he held a financial interest as required by his Ethics Agreement and Certification of Ethics Agreement Compliance. We also found that by acquiring and holding ExxonMobil and Chevron stock from June 22, 2022, until June 16, 2023, Beaudreau violated the DOI's supplemental ethics regulation, 5 C.F.R. § 3501.103(b)(1)(ii), and the Standards of Ethical Conduct. Finally, we concluded that Beaudreau's participation in the June 14, 2023 Well Control Rule meeting violated the Federal conflict of interest statute, 18 U.S.C. § 208.

1. Beaudreau Failed to Comply With His Ethics Agreement and Certification of Ethics Agreement Compliance

As discussed above, to be confirmed as DOI Deputy Secretary, Beaudreau was required to sign and certify his compliance with an Ethics Agreement between himself and the DAEO. That agreement reminded Beaudreau of the prohibitions contained in 18 U.S.C. § 208 regarding financial conflicts of interest as well as agency-specific restrictions on the acquiring and holding of certain financial interests as set forth at 5 C.F.R. § 3501.103(b).⁴⁵

Beaudreau's Ethics Agreement also required that he take certain steps to ensure compliance with his ethics obligations. Specifically, Beaudreau's Ethics Agreement stated that if Beaudreau had "a managed account or otherwise use[d] the services of an investment professional during [his] appointment," he would "ensure that the account manager or investment professional obtain[ed] [his] prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts . . . or obligations of the United States."⁴⁶ Moreover, when Beaudreau signed his Certification of Ethics Agreement Compliance on September 14, 2021, Beaudreau certified that he was "continuing to monitor purchases" in his managed accounts.⁴⁷

The evidence established that, upon his confirmation as Deputy Secretary in June 2021, Beaudreau orally advised Portfolio Manager that, as Deputy Secretary, he was subject to certain ethics restrictions and directed Portfolio Manager not to purchase any individual stocks on his behalf. The evidence showed, however, that Beaudreau did not ensure that Portfolio Manager followed these instructions and failed to monitor purchases made by Portfolio Manager as required under his Ethics Agreement and Certification of Ethics Agreement Compliance.

Specifically, Beaudreau told us that he did not review the monthly account statements he received from Brokerage Firm or the quarterly account statements he received from Investment Management Company, which would have shown the purchases of stocks made in his and his spouse's joint investment account. Beaudreau also admitted that he did not review his investment account statements prior to executing the Updated Ethics Recusals & Screening Arrangement with the DAEO on December 23, 2022, in which Beaudreau told the DEO that he did not currently hold any financial interests on the DOI's 2022 List of Prohibited Investments when, in fact, he did. We also found no evidence that Beaudreau took any other steps to ensure Portfolio Manager was following the instructions Beaudreau had given him in June 2021.⁴⁸ The evidence showed that each month, Beaudreau received the account statements showing Portfolio Manager's

⁴⁵ Ethics Agreement at 1-2, 4 (Apr. 16, 2021).

⁴⁶ *Id.* at 1-2.

⁴⁷ Office of Government Ethics, *Certification of Ethics Agreement Compliance* for Tommy Beaudreau at 1 (Sept. 14, 2021).

⁴⁸ We note that, while not required to do so, Beaudreau did not provide Portfolio Manager with any written instructions or guidance, such as a copy of his Ethics Agreement or Certification of Ethics Agreement Compliance, nor did he provide Portfolio Manager with the DOI's List of Prohibited Investments.

unauthorized stock purchases; had Beaudreau reviewed these statements, he would have seen the unauthorized June 2022 stock purchases and could have taken steps to avoid holding the Prohibited Investments in his joint investment account for approximately one year.

Moreover, by attending the June 14, 2023 Well Control Rule meeting, Beaudreau failed to comply with his duty to recuse from particular matters in which he held a conflicting financial interest prior to his divestiture of the stock as required by his Ethics Agreement.⁴⁹ Specifically, Beaudreau's April 16, 2021 Ethics Agreement advised Beaudreau of the prohibitions under 18 U.S.C. § 208 and made clear that if an actual or potential conflict of interest arose during his appointment, he had to consult with agency ethics counsel and take the measures necessary to resolve the conflict, such as recusing himself from any particular matter that presented a conflict.⁵⁰ We note that, on June 13, 2023, after Beaudreau disclosed to the DAEO that Portfolio Manager had made unauthorized stock purchases, the DAEO reminded Beaudreau of the restrictions imposed upon him under 18 U.S.C. § 208. However, Beaudreau did not inform the DAEO on June 13, 2023, that Portfolio Manager's unauthorized stock purchases included shares of ExxonMobil and Chevron stock even though Beaudreau knew this to be the case at the time. He also did not seek additional ethics guidance from the DEO prior to participating in the June 14, 2023 Well Control Rule meeting or recuse himself from this meeting as he was required to do under his Ethics Agreement. Beaudreau did not take these steps even though he knew the June 14 meeting involved proposed revisions to a rule with which ExxonMobil and Chevron would be required to comply.

2. Beaudreau Owned ExxonMobil and Chevron Stock in Violation of the DOI's Supplemental Ethics Regulation and the Standards of Ethical Conduct

As noted above, the DOI has a supplemental ethics regulation, 5 C.F.R. § 3501.103(b)(1)(ii), that prohibits high-level DOI employees from holding certain financial interests. Specifically, the supplemental regulation states that "the Secretary and employees of the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS-15 and above" may not "acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department."⁵¹ Prohibited financial interests include an employee's ownership in stocks, bonds, or other financial interests in most oil, gas, and mining companies that hold leases on Federal lands. Moreover, the Standards of Ethical Conduct, specifically 5 C.F.R. § 2635.403, provides that employees may not acquire or hold any financial interest that they are prohibited from acquiring or holding by statute or supplemental agency regulation.

Beaudreau was Deputy Secretary of the DOI, the second highest official in the Office of the Secretary. Thus, he was subject to the DOI's supplemental ethics regulation. Beaudreau's Ethics Agreement, Ethics Recusals and Screening Arrangement, and Updated Ethics Recusals and Screening Arrangement advised Beaudreau of the DOI's supplemental ethics regulation, which prohibited Beaudreau from holding any direct or indirect financial interest in Federal lands or resources administered or controlled by the DOI, including any stock or bond investments in companies that hold DOI-granted permits and leases in Federal lands.

By signing his Ethics Agreement in April 2021 and his Ethics Recusals and Screening Arrangement in July 2021, Beaudreau acknowledged that he was subject to the DOI's supplemental ethics regulation, and that he understood that it restricted him from owning "stock or bond investments...in certain companies with oil [and]

⁴⁹ The reason that the June 14, 2023 Well Control Rule meeting constitutes a particular matter presenting a conflict of interest under 18 U.S.C. § 208 is discussed in more detail in section 3, below.

⁵⁰ Ethics Agreement at 1-2 (Apr. 16, 2021).

⁵¹ 5 C.F.R. § 3501.103(b)(1)(ii).

gas...rights in Federal lands” because such ownership presented a potential conflict with his official duties.⁵² Beaudreau confirmed during his interview that he understood this restriction. Moreover, Beaudreau also acknowledged in his July 2021 Ethics Recusals and Screening Arrangement that he received the DOI’s 2021 List of Prohibited Investments, which included ExxonMobil and Chevron as Prohibited Investments, and that he understood that this meant he was prohibited from holding any financial interest in these companies.⁵³ Despite Beaudreau’s knowledge of this restriction, the evidence showed that Beaudreau held ExxonMobil and Chevron stock from June 2022 through June 2023 in an investment account he owned jointly with his spouse in violation of the DOI’s supplemental ethics regulation and the Standards of Ethical Conduct.

We recognize that there are mitigating factors impacting Beaudreau’s culpability. We found no evidence that Beaudreau authorized Portfolio Manager’s stock purchases that gave rise to the violations; to the contrary, the evidence established that Beaudreau gave Portfolio Manager specific instructions not to purchase any individual stocks while he was the Deputy Secretary. We found Beaudreau’s statement that he did not authorize the stock purchases credible and note that his statement is corroborated by Portfolio Manager’s interview statements and Portfolio Manager’s assistant’s notes from their meeting with Beaudreau. We also recognize that, upon discovering the stock purchases, Beaudreau took immediate steps to have the transactions cancelled, and he and his spouse disavowed any gains from the sale of the stock. Further, at the recommendation of OGE, Beaudreau referred Portfolio Manager’s purchase of the two Prohibited Investments to the DOI OIG for review.

At the same time, however, Beaudreau is an attorney who had served as a DOI political appointee in a prior administration. He therefore knew or should have known the ethics obligations placed on high-level DOI officials. Moreover, upon his confirmation as Deputy Secretary, the DEO again advised him of his ethics obligations under the law as well as the requirement that he continue to monitor stock purchases should he choose to maintain a managed investment account, which he did not do.

It was ultimately up to Beaudreau to comply with his ethics obligations by ensuring that neither he nor someone on his behalf acquired or purchased Prohibited Investments while he was Deputy Secretary. Beaudreau’s failure to do this caused him to hold Prohibited Investments in his joint investment account for approximately one year in violation of DOI’s supplemental ethics regulation, 5 C.F.R. § 3501.103(b), and the Standards of Ethical Conduct, 5 C.F.R. § 2635.403.

3. Beaudreau Violated 18 U.S.C. § 208 When He Participated in the Well Control Rule Meeting on June 14, 2023

Beaudreau’s ownership of ExxonMobil and Chevron stock required that we evaluate whether he participated personally and substantially in his official capacity in any particular matters that would have a direct and predictable effect on ExxonMobil and Chevron during the time Beaudreau knew that he owned stock in these companies. If he had, this would constitute a violation of 18 U.S.C. § 208.⁵⁴ The critical timeframe in this analysis was the period when Beaudreau knew that he owned ExxonMobil and Chevron stock—namely, from June 11 to June 16, 2023.

Our review of Beaudreau’s calendar identified one such particular matter that occurred in the relevant

⁵² Ethics Agreement at 4 (Apr. 16, 2021); Ethics Recusals & Screening Arrangement from Tommy Beaudreau to DAEO and Director, DOI DEO at 4 (July 29, 2021).

⁵³ Ethics Recusals & Screening Arrangement from Tommy Beaudreau to DAEO and Director, DOI DEO at 4 (July 29, 2021).

⁵⁴ Similar to the other findings discussed in this report, we applied the preponderance of the evidence standard to claims of misconduct by current or former DOI employees arising under Title 18 of the U.S. Code. This is the standard applied by the U.S. Merit Systems Protection Board when reviewing a Federal agency’s decision to take adverse action against an employee based on alleged misconduct. 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii).

timeframe, which Beaudreau confirmed in his interview. This was the June 14, 2023 meeting regarding BSEE's 2022 proposed revisions to the Well Control Rule. Our analysis of Beaudreau's participation in that meeting and whether it resulted in a violation of 18 U.S.C. § 208 is set forth below.

18 U.S.C. § 208 prohibits an executive branch employee from participating "personally and substantially" in a "particular matter" in which the employee knows that he, or someone whose financial interest is imputed to him, has a financial interest, if the particular matter will have a "direct and predictable effect" on that financial interest, unless the employee obtains a written waiver or qualifies for an exemption.⁵⁵ The regulations interpreting 18 U.S.C. § 208 make clear that a financial interest may arise from ownership of stocks, bonds, mutual funds, and other financial investments.⁵⁶ We note at the outset that Beaudreau neither sought nor received a written waiver from the DAEO that would have allowed him to own ExxonMobil and Chevron stock notwithstanding their inclusion on the List of Prohibited Investments. Moreover, the de minimis regulatory exemptions to 18 U.S.C. § 208 for stock holdings that do not exceed a certain value⁵⁷ are not relevant to our analysis because they do not apply to financial interests held by an employee in violation of an agency's supplemental ethics regulation.⁵⁸

As discussed below, we determined that the June 14, 2023 meeting involved a particular matter of general applicability, and that Beaudreau's participation in the meeting was personal and substantial. We also found that Beaudreau knew he held ExxonMobil and Chevron stock on the day of the meeting. Finally, we determined that the particular matter would have a direct and predictable effect on ExxonMobil and Chevron. We therefore concluded that Beaudreau violated 18 U.S.C. § 208 when he participated in the June 14, 2023 meeting regarding BSEE's 2022 proposed revisions to the Well Control Rule.⁵⁹

a. The Well Control Rule was a Particular Matter of General Applicability

We first examined whether the June 14, 2023 meeting discussing BSEE's proposed revisions to the Well Control Rule involved the type of matter covered under the statute. We determined that it did.

Section 208 applies only to "particular matters." The term "particular matter" includes "only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons."⁶⁰

There are two types of particular matters under the financial conflict of interest statute: (1) particular matters involving specific parties, and (2) particular matters of general applicability. A particular matter involving specific parties "typically involves a specific proceeding . . . or an isolatable transaction or related set of transactions between identified parties," such as a contract, application, claim, or lawsuit, and involves "a specific party or parties."⁶¹ A particular matter of general applicability is defined as "a particular matter that is

⁵⁵ 18 U.S.C. § 208; *see also* 5 C.F.R. § 2640.103 (defining the terms used in 18 U.S.C. § 208).

⁵⁶ 5 C.F.R. § 2640.103(b).

⁵⁷ 5 C.F.R. 2640.202 (setting forth de minimis exemptions under 18 U.S.C. § 208 for securities not exceeding \$15,000 for particular matters involving specific parties and \$25,000 for particular matters of general applicability).

⁵⁸ 5 C.F.R. § 2640.204 ("None of the exemptions set forth in §§ 2640.201, 2640.202, or 2640.203 apply to any financial interest held or acquired by an employee, his spouse, or minor child in violation of a statute or agency supplemental regulation issued in accordance with 5 C.F.R. 2635.105, or that is otherwise prohibited under 5 C.F.R. 2635.403(b).").

⁵⁹ We referred our findings to DOJ PIN, which declined the matter for prosecution.

⁶⁰ 5 C.F.R. § 2640.103(a)(1).

⁶¹ *Id.* § 2640.102(l).

focused on the interests of a discrete and identifiable class of persons, but does not involve specific parties.”⁶² Safety regulations for trucks on interstate highways or regulations applicable only to companies that operate meatpacking plants are examples of particular matters of general applicability.⁶³ Conversely, a legislative proposal for “broad health care reform” is not a particular matter of general applicability given its impact on a large, diverse group of persons.⁶⁴

We concluded that the 2022 proposed Well Control Rule discussed during the June 14, 2023 meeting was a particular matter of general applicability because the rule focused on the interests of a discrete and identifiable class of persons—namely, operators of oil, gas, and sulfur wells in the OCS. It was neither an isolatable transaction between identified parties, nor was it a broad policy directed to the interests of a large and diverse group of persons.⁶⁵

b. Beaudreau’s Participation in the June 14, 2023 Well Control Rule Meeting was Personal and Substantial

We next examined whether Beaudreau participated personally and substantially in the Well Control Rule meeting on June 14, 2023. We determined that he did.

The participation requirement of 18 U.S.C. § 208 is intended to be construed broadly.⁶⁶ The regulations interpreting 18 U.S.C. § 208 state that “[t]o participate ‘personally’ means to participate directly,” and that “[t]o participate ‘substantially’ means that the employee’s involvement is of significance to the matter.”⁶⁷ To be substantial, the participation “requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.”⁶⁸ The regulations further explain that “[p]articipation may be substantial even though it is not determinative of the outcome of a particular matter,” and that “[p]ersonal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter.”⁶⁹

OGE has advised that the presence of a high-level official at a briefing could amount to substantial participation because “[h]is participation in the discussion, or even his mere presence, could amount to tacit acquiescence in any issues raised at the briefing.”⁷⁰ Accordingly, OGE has cautioned that “whenever a high-level official

⁶² *Id.* § 2640.102(m).

⁶³ See Ex. 2 to 5 C.F.R. § 2635.402(b)(3) and Ex. 3 to 5 C.F.R. § 2640.103(a)(1).

⁶⁴ Ex. 8 to 5 C.F.R. § 2640.103(a)(1).

⁶⁵ See DOI, Interior Department Takes Steps to Strengthen Offshore Safety Standards, Department of the Interior (Sept. 12, 2022), <https://www.doi.gov/pressreleases/interior-department-takes-steps-strengthen-offshore-safety-standards> (announcing that BSEE’s proposed revisions to the 2019 rule sought “to ensure offshore oil and gas operations on the Outer Continental Shelf are conducted with the utmost safety and oversight standards”); see also Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 88 Fed. Reg. 57,334 (Aug. 23, 2023) (final revisions subjecting oil and gas companies conducting offshore drilling operations in the OCS to enhanced safety and environmental protection requirements).

⁶⁶ See *United States v. Selby*, 557 F.3d 968, 972-973 (9th Cir. 2009) (noting agreement among several circuit courts that Congress chose broad wording with respect to § 208’s participation requirement); see also *United States v. Nevers*, 7 F.3d 59, 61-62 (5th Cir. 1993) (Congress intended § 208 to embrace “any participation on behalf of the Government in a matter in which the employee has an outside financial interest”) (emphasis in original); *United States v. Irons*, 640 F.2d 872, 876 (7th Cir. 1981) (legislative history of § 208 “demonstrates an intention to proscribe rather broadly employee participation in business transactions involving conflicts of interest”).

⁶⁷ 5 C.F.R. § 2640.103(a)(2). See also 5 C.F.R. § 2641.201(i) (interpreting “participated personally and substantially” for purposes of 18 U.S.C. § 207 in the same manner as 5 C.F.R. § 2640.103(a)(2)).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ See Office of Government Ethics, *Letter to an Alternate Designated Agency Ethics Official*, OGE 99 x 16 (1999) (discussing personal and substantial participation under 18 U.S.C. § 207, which prohibits former Government employees from making certain communications back to the Government with respect to particular matters in which the Government employee participated personally and substantially).

attends briefings, his involvement bears close scrutiny, to determine whether it was truly limited to the receipt of information.”⁷¹

OGE has further explained that an employee’s mere receipt and review of information, standing alone, is not substantial participation.⁷² However, OGE has also noted that conveying views, even informally, “could be involvement at a level that would be significant to the particular matters,” and that even “inadvertent activity” such as “a single act of participation at a critical step” could be substantial.⁷³

5 C.F.R. § 2641.201(i) provides additional guidance on what it means to participate “personally and substantially” as a Government official in “a particular matter.”⁷⁴ Examples 4 and 5 to § 2641.201(i) are particularly instructive as they describe a scenario much like the one at issue here. Example 4 states:

The General Counsel of the Office of Government Ethics (OGE) contacts the OGE attorney who is assigned to evaluate all requests for “certificates of divestiture” to check on the status of the attorney’s work with respect to all pending requests. The General Counsel *makes no comment* concerning the merits or relative importance of any particular request. The General Counsel *did not* participate substantially in any particular request when she checked on the status of all pending requests.⁷⁵

In contrast, Example 5 states:

The OGE attorney in the previous example completes his evaluation of a particular certificate of divestiture request and forwards his recommendation to the General Counsel. The General Counsel forwards the package to the Director of OGE *with a note indicating her concurrence with the attorney’s recommendation. The General Counsel participated substantially in the request.*⁷⁶

Thus, the regulations interpreting what constitutes participating “personally and substantially” make a distinction between the mere request for and receipt of information related to a particular matter versus the official *communicating his or her concurrence with the recommendation related to the particular matter*. It is in the latter situation where the Government official is found to have participated “substantially.”

We determined that Beaudreau participated personally in the particular matter when he attended the June 14 meeting directly rather than recusing himself or sending a subordinate or other Government official in his place. We also found that Beaudreau participated substantially in the particular matter by attending the meeting as the Deputy Secretary and, as illustrated by Example 5 above, affirmatively expressing his agreement with BSEE’s proposed revisions to the Well Control Rule, which involved substantive changes to the 2019 version of the rule.

⁷¹ *Id.*

⁷² Office of Government Ethics, *Letter to a Designated Agency Ethics Office*, OGE 92 x 25 (1992).

⁷³ *Id.*

⁷⁴ Although 5 C.F.R. § 2641.201(i) is interpreting 18 U.S.C. § 207, the statutory language of § 207 is virtually identical to the statutory language of 18 U.S.C. § 208, the statute at issue here. *Compare* 18 U.S.C. § 207 (restricting former Government employees from making certain communications or representations back to the Government “in connection with a particular matter . . . in which the person participated personally and substantially” as a Government employee) with 18 U.S.C. § 208 (prohibiting Government employees from “participat[ing] personally and substantially as a Government officer or employee” in any “particular matter” in which the employee has a financial interest).

⁷⁵ 5 C.F.R. § 2641.201(i), Ex. 4 (emphasis added).

⁷⁶ *Id.* § 2641.201(i), Ex. 5 (emphasis added).

Specifically, the evidence showed that Beaudreau did not merely receive a briefing or review information during the June 14 meeting. Instead, a preponderance of the evidence showed that, at the meeting, Beaudreau expressly concurred with the revisions to the rule proposed by BSEE, telling BSEE officials something to the effect of “This looks good.” In addition, the contemporaneous meeting notes of a senior official at the meeting showed that Beaudreau’s participation in the meeting not only involved his concurrence with BSEE’s proposed revisions to the rule, but that Beaudreau also expressed his agreement with BSEE’s proposed timing for the rule, and that BSEE’s finalization of the rule was “super exciting.”

A preponderance of the evidence also established that Beaudreau’s presence at the meeting was of significance to the matter. Beaudreau was the second highest-ranking official in the DOI and the highest-ranking official at the June 14 meeting. This meeting was an opportunity for BSEE staff to brief senior-level officials on proposed revisions to a rule that was a high priority for the administration (as evidenced by the 2021 Executive Order) and to ensure consensus among DOI and BSEE senior leaders with BSEE’s proposed final language for the Well Control rule. We also note that Beaudreau had been involved in the 2016 Well Control Rule and thus had a deep understanding of the rule across administrations. Moreover, while the June 14 meeting was not a required step in the rule making process, the evidence established that it was a customary meeting to ensure senior officials were familiar with proposed revisions to the rule prior to the rule being circulated for final review and approval before publication in the Federal Register. Further, in his role as Deputy Secretary, Beaudreau’s official approval of the proposed final rule was required (absent his recusal) before it could be published as a final rule in the Federal Register.⁷⁷

In light of Beaudreau’s personal attendance at the meeting, his affirmative agreement at the meeting with BSEE’s proposed revisions to the Well Control Rule, and his stature as Deputy Secretary, which included the requirement that he formally concur with the final Well Control Rule prior to publication, we concluded that Beaudreau’s participation in the meeting was both personal and substantial, as defined by governing regulations and interpreted by OGE.

c. Beaudreau Knew That He Held a Financial Interest in ExxonMobil and Chevron at the Time He Participated in the June 14, 2023 Well Control Rule Meeting

We next examined whether Beaudreau knew that he and his spouse held ExxonMobil and Chevron stock on June 14, 2023, the date Beaudreau participated in the Well Control Rule meeting. We determined that he did.

An essential element of a § 208 violation is the individual’s knowledge that he has a financial interest in the matter in which he is participating in his official capacity.⁷⁸ Knowledge requires that the individual have awareness of the facts or situation creating the conflict.⁷⁹ Moreover, while § 208 contains a knowledge requirement, it does not require proof of specific intent, which in turn means that it is “a strict liability offense

⁷⁷ See DOI *How to Prepare Regulations and Federal Register Notices Handbook*, 318 DM HB at 28, <https://www.doi.gov/document-library/handbook/318-dm-hb-how-prepare-regulations-and-federal-register-notices-2> (Sept. 23, 2013) (requiring final review and approval by Secretary’s Office before publication in the Federal Register). Beaudreau’s official approval occurred on August 11, 2023, after his ExxonMobil and Chevron stock was sold. The final Well Control Rule was published in the Federal Register on August 23, 2023.

⁷⁸ *United States v. Hedges*, 912 F.2d 1397, 1400-1401 (11th Cir. 1990) (holding that “the statute specifically places the mental state requirement of knowledge in the last element and thus requires that the government official have knowledge of the conflicting financial interest.”); *United States v. Lord*, 710 F. Supp. 615, 617 (E.D. Va. 1989) (specific intent not required to prove a violation of 18 U.S.C. § 208); *K & R Eng’g Co. v. United States*, 616 F.2d 469, 472 (Ct. Cl. 1980) (defendant’s knowledge he held financial interest in the contract sufficient to sustain violation of 18 U.S.C. § 208).

⁷⁹ U.S. Department of Justice, Criminal Resource Manual, CRM 500-999, Criminal Resource Manual 901-999, at 910. Knowingly and Willfully, <https://www.justice.gov/archives/jm/criminal-resource-manual-910-knowingly-and-willfully>.

statute.”⁸⁰ Accordingly, the evidence need establish only that “the employee have ‘knowledge’ that a particular matter involves a personal interest.”⁸¹

We found that Beaudreau knew he had a financial interest in ExxonMobil and Chevron when he participated in the BSEE Well Control Rule meeting on June 14, 2023. The evidence showed that Beaudreau learned that he held ExxonMobil and Chevron stock in a joint investment account with his spouse on June 11, 2023, when reviewing his account statements to prepare his annual public financial disclosure report. Beaudreau told us that he recognized that the June 14 meeting involved the oil and gas industry, but that, “in [his] mind, [he] had no financial interest in Exxon or Chevron [because he] took steps... to cancel” the purchases of ExxonMobil and Chevron stock. However, the evidence showed that Beaudreau had not been informed by Portfolio Manager or anyone else that his stock had been cancelled or sold prior to Beaudreau’s participation in the June 14 meeting.

Text messages showed that between June 11, 2023, and June 13, 2023, Beaudreau and Portfolio Manager discussed how to dispose of Beaudreau’s ExxonMobil and Chevron stock holdings. At the time the stock markets closed on June 13, 2023, however, the matter had still not been resolved, and Beaudreau knew that Portfolio Manager was still waiting on confirmation from Brokerage Firm that the stock purchases could be cancelled as “trade errors.” In a text message Beaudreau sent at 4:35 p.m. on June 13, 2023, Beaudreau requested that Portfolio Manager “pull[] out the stops” to resolve the issue, demonstrating Beaudreau’s understanding that the matter was not yet settled. There is no evidence that Portfolio Manager gave Beaudreau any indication that the matter had been resolved prior to the June 14 meeting. Indeed, Beaudreau’s ExxonMobil and Chevron stocks were sold on June 15, and the trade error became effective on June 16. Thus, Beaudreau knew on June 14—the date of the Well Control Rule meeting—that he still owned ExxonMobil and Chevron stock in his joint investment account. Beaudreau also told us that he knew ExxonMobil and Chevron operated offshore wells in the OCS and thus were subject to the Well Control Rule. We therefore concluded that Beaudreau had the requisite knowledge to violate § 208.

d. The Well Control Rule Had a Direct and Predictable Effect on Beaudreau’s Financial Interests

Finally, we examined whether the particular matter discussed at the June 14, 2023 meeting, i.e., BSEE’s proposed Well Control Rule, had a “direct and predictable effect” on Beaudreau’s financial interests, specifically, the financial interests of ExxonMobil and Chevron, in which he held stock.⁸² We concluded that it did.

Section 208’s implementing regulations state that, to have a direct and predictable effect on a financial interest, a particular matter must have a “close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest.”⁸³ Timing and magnitude of the effect does not matter, but the effect cannot be attenuated or “contingent upon the occurrence of events that are speculative or that are independent of, and unrelated to, the matter.”⁸⁴ The effect must be “real, as opposed to a speculative possibility that the matter will affect the financial interest.”⁸⁵ Moreover, the regulations make clear that “[i]t is not

⁸⁰ *Hedges*, 912 F.2d at 1400 (11th Cir. 1990).

⁸¹ Letter to a Designated Agency Ethics Office, OGE 92 x 25 (Dec. 10, 1992) (advising that although § 208 requires knowledge, “it does not require intent”); see also *Lord*, 710 F. Supp. at 617 (E.D. Va. 1989) (specific intent not required to prove a violation of 18 U.S.C. § 208).

⁸² 5 C.F.R. § 2640.103(a)(3).

⁸³ 5 C.F.R. § 2635.402(b)(1).

⁸⁴ *Id.*

⁸⁵ *Id.*

necessary, however, that the magnitude of the gain or loss be known, and the dollar amount of the gain or loss is immaterial” to support a violation of § 208.⁸⁶

OGE has also explained that “an employee may not participate in any particular matter that would have a direct and predictable effect on the financial interests of a company in which the employee (or any imputed person) owns stock, not merely those particular matters that would affect the stock price.”⁸⁷ In other words, “[t]he relevant consideration for analyzing a potential conflict of interest under Section 208 is whether the particular matter would have a direct and predictable effect on the financial interest of the company whose stock the employee owns.”⁸⁸

Here, BSEE’s proposed Well Control Rule had a direct and predictable effect on ExxonMobil and Chevron. As a general matter, the Well Control Rule required all oil and gas companies operating oil, gas, and sulfur wells in the OCS, including ExxonMobil and Chevron, to comply with specific standards intended to improve environmental protection and worker safety of offshore drilling operations. BSEE’s proposed Well Control Rule, if approved, would reinstate some of the safety and other provisions the 2019 Well Control Rule had amended or rescinded. For example, according to BSEE, its 2022 proposed revisions to the rule strengthened testing and performance requirements for well safety valves and other well control equipment to increase safety protections for both workers and the environment.⁸⁹ Thus, the revised rule had a “direct and predictable effect” on ExxonMobil and Chevron.

Other evidence supports our conclusion that BSEE’s proposed Well Control Rule had a direct and predictable effect on ExxonMobil and Chevron. Complying with the increased safety standards of the revised rule would increase the operational costs of the regulated oil and gas companies. As described above, in its comments on the proposed rule, Chevron questioned the economic feasibility of at least one of BSEE’s proposed revisions to the 2019 Well Control Rule and recommended changes to some of BSEE’s other proposed revisions. The evidence showed that BSEE incorporated some of Chevron’s recommendations into its proposed final rule.⁹⁰ Moreover, while ExxonMobil did not submit public comments on BSEE’s 2022 proposed rule, it had submitted comments and engaged with BSEE on earlier versions of the rule in which it estimated that the industry cost to comply with the 2016 Well Control Rule would exceed \$25 billion.⁹¹

As noted above, we recognize that there are factors mitigating Beaudreau’s culpability. These include that Beaudreau did not authorize the stock purchases that led to the violations, and in fact, specifically instructed that no stocks be purchased on his behalf. We also note that, upon discovering the stock purchases, Beaudreau took immediate steps to have the purchases cancelled, sought ethics advice, and reported his ownership of prohibited investments to the DOI OIG after being advised to do so.⁹²

While the unauthorized nature of the purchases does mitigate some of Beaudreau’s culpability with respect to the purchases of the prohibited holdings, it does so only up to a point—specifically, up to the point at which

⁸⁶ *Id.* at § 2635.402(b)(1)(ii).

⁸⁷ Office of Government Ethics, *Legal Advisory: Conflict of Interest Analysis for Stocks under 18 U.S.C. § 208*, OGE LA-20-03 (2020).

⁸⁸ *Id.*

⁸⁹ Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 88 Fed. Reg. 57,334 (Aug. 23, 2023).

⁹⁰ *Compare* Letter from Brad Middleton, Chevron Vice President, Gulf of Mexico Business Unit, to BSEE Regulations and Standards Branch (Nov. 10, 2022), <https://www.regulations.gov/comment/BSEE-2022-0009-0008> with Oil and Gas and Sulfur Operations in the Outer Continental Shelf-Blowout Preventer Systems and Well Control Revisions, 88 Fed. Reg. 57,334 (Aug. 23, 2023) at Section IV (“Section-by-Section Summary and Responses to Comments on the Proposed Rule”).

⁹¹ *See, e.g.*, Letter from Susan E. Carter, Senior Director, Federal Relations, ExxonMobil, to BSEE Regulations and Standards Branch (Oct. 1, 2015), <https://www.regulations.gov/comment/BSEE-2015-0002-0178> (written comments submitted by ExxonMobil during the public comment period).

⁹² Beaudreau and his spouse also waived any monetary gains resulting from the sale of all the individual stocks, including ExxonMobil and Chevron.

Beaudreau learned of the purchases. Once he knew that he owned prohibited investments, it was incumbent on him to avoid engaging in actions that would lead to a conflict of interest. That is the primary issue here: During the June 14 meeting, Beaudreau participated in a particular matter (i.e., the Well Control Rule) personally and substantially *knowing* that he owned stock in companies whose financial interests would be affected by the particular matter that was the subject of the meeting.

Moreover, we also note that Beaudreau failed to monitor his investments, and then waited almost a month to disclose to the DAEO the specific stocks he had held in his joint account. This limited the DAEO's ability to fully advise Beaudreau on his specific holdings and the accompanying risks those holdings presented. This is particularly notable with respect to his failure to immediately disclose his Prohibited Investments, which—by their very nature—presented a high risk of a conflict of interest. Had Beaudreau disclosed this specific information at the time he made his initial disclosure to the DAEO on June 13, the DAEO's advice may have been different and may have alerted Beaudreau to the risks of him attending the June 14 meeting.

III. CONCLUSION

We concluded that Beaudreau failed to monitor purchases made by Portfolio Manager or recuse from the particular matter in which he held a financial interest as required by his Ethics Agreement and Certification of Ethics Agreement Compliance. We also concluded that Beaudreau owned ExxonMobil and Chevron stock for approximately one year in violation of the DOI's supplemental ethics regulations and the Standards of Ethical Conduct. Finally, we concluded that Beaudreau violated 18 U.S.C. § 208 when he participated in the Well Control Rule meeting on June 14, 2023.

IV. SUBJECT

Tommy P. Beaudreau, former Deputy Secretary, DOI, Washington, DC.

V. DISPOSITION

We referred our findings to the DOJ PIN, which declined the matter for prosecution.

We are providing this report to the Secretary of the Interior for any action deemed appropriate.



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