

Federal Housing Finance Agency  
Office of Inspector General



# **Report of Administrative Inquiry into Allegations of Misconduct by the FHFA Director**

The Federal Housing Finance Agency (FHFA) Office of Inspector General (OIG) received Hotline complaints alleging misconduct by the FHFA Director.  OIG conducted an administrative inquiry into these allegations, and issued a report of administrative inquiry to the President of the United States, the Office of Government Ethics, and our Congressional oversight committees, pursuant to our responsibilities under the Inspector General Act of 1978, as amended (IG Act).

While this inquiry was open, FHFA-OIG was unable to release this report.  FHFA-OIG has been advised that it is at liberty to release its report.  Accordingly, we are publishing this report on our website, consistent with our obligations under the IG Act, 5 U.S.C. App., the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a.



OIG-2019-001

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2018

## Executive Summary

This is the second administrative inquiry conducted by the Federal Housing Finance Agency (FHFA or Agency) Office of Inspector General (OIG) into allegations in anonymous hotline complaints claiming that an executive position had been created inappropriately and unnecessarily in the Office of the Chief Operating Officer (OCOO) of FHFA and that the Manager of the Project Management Office (PMO Manager) had been pre-selected for this position.

We first received anonymous hotline complaints in the summer of 2017 alleging that: (1) (b)(6);(b)(7)(C) inappropriately created an executive position in the Office of the Chief Operating Officer (OCOO) for an FHFA employee, the PMO Manager; (2) (b)(6);(b)(7)(C) advised two senior FHFA employees “not to bother applying for the job”; and (3) the creation of a new executive position was inconsistent with FHFA’s prior buy-out. At the conclusion of our fact finding for that first administrative inquiry, in late March 2018, we formally referred the matter to the Office of Special Counsel (OSC) and provided the OSC with a summary of the facts found during that inquiry. On May 3, 2018, the OSC provided us with its preliminary determination that the record as it then existed did not support the allegations that the new executive position had been created improperly or that FHFA executives provided the PMO Manager with an unauthorized preference or advantage in her selection for it. On May 7, 2018, we provided OSC’s written preliminary determination to FHFA and informed the Agency that we had completed our administrative inquiry and planned to close it.

On May 9, 2018, the PMO Manager filed an informal complaint with FHFA’s Office of Equal Employment Opportunity (EEO) alleging violations of her rights under the Equal Pay Act and discrimination (including sexual harassment) on the basis of her sex and race in violation of Title VII of the Civil Rights Act of 1964 (as amended). Subsequently, the PMO Manager provided FHFA with specific allegations in support of her claims. FHFA contracted with the United States Postal Service (USPS) to gather facts and information regarding the PMO Manager’s sexual harassment claim. This fact gathering began on June 14, 2018.

On July 3, 2018, while fact gathering was ongoing, the PMO Manager used her FHFA computer and email address to forward to her counsel an email exchange she had with the contract investigator regarding her disparate treatment EEO claims. She also blind-copied this message to over 100 FHFA managers. The message referenced recordings of conversations between the PMO Manager and the FHFA Director and stated that transcripts of those recordings were attached to it, although they were not. Several minutes later,



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the PMO Manager re-forwarded that email message to her counsel and, once again, the FHFA managers. Attached to that re-forwarded message was an audio file containing a recording of a conversation between the PMO Manager and the FHFA Director, as well as three purported transcripts of other conversations between the PMO Manager and the FHFA Director which were prepared by the PMO Manager. Shortly thereafter, the PMO Manager sent a third email to the more than 100 FHFA managers that read “Sorry – this was sent in error – please disregard [sic].” The body of that email contained the same string of communications as the first two messages.

We were unaware of the PMO Manager’s sexual harassment claim against the Director during our first inquiry. We learned of it in July 2018, after we received three additional hotline complaints citing to the email messages and attachments sent by the PMO Manager. These three anonymous complaints alleged, in summary, that the FHFA Director misused his government position for personal gain by creating an unnecessary executive position for the PMO Manager, (b)(6);(b)(7)(C)

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

We opened a new administrative inquiry into these complaints, and added the five prior anonymous hotline complaints which also alleged the executive position had been created improperly (and for which we had previously completed our work). Our second inquiry, which began in July 2018, focused solely on possible misconduct by the FHFA Director, and this report sets forth our findings from that inquiry.

We requested and received information from FHFA and the PMO manager. We also served subpoenas on the FHFA Director and the PMO Manager; and we interviewed 20 witnesses, including the FHFA Director. Initially, counsel for the PMO Manager cooperated in our inquiry, and provided us with 6 audio recordings of conversations between the Director and the PMO Manager and a total of 8 transcripts of conversations between them, some of which were prepared by the PMO Manager. Thereafter, the PMO Manager declined to cooperate further. She refused to be interviewed by OIG, and she did not comply with FHFA’s request to return her government-issued cellphone. She also did not comply an FHFA-OIG administrative subpoena for audio recordings she made of conversations with the FHFA Director and other materials, even after an Order from a United States District Court required her to do so.

The PMO Manager stated under oath in the USPS fact gathering process that she recorded every conversation she had with the FHFA Director from 2016 through 2018, and that twice a week she attended regularly scheduled senior staff meetings, which the Director also attended. Therefore, her statement





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leads us to believe that she may have additional recordings of conversations between her and the FHFA Director, which, despite our best efforts, we have been unable to secure.

The Inspector General Act of 1978, as amended, (IG Act) requires Inspectors General to timely report substantiated allegations of misconduct by senior agency officials. We have determined that the information we obtained during our administrative inquiry provides a sufficient basis to substantiate one allegation of misconduct by the FHFA Director and to give rise to a second finding of misconduct. Our two findings are:

The FHFA Director Misused his Official Position to Attempt to Obtain a Personal Benefit

Section 702 of the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards), 5 CFR § 2635.702, prohibits an officer or employee from using any authority associated with his federal office in a manner that is intended to coerce or induce a subordinate to provide him with any benefit, financial or otherwise. The FHFA Director is bound by the Standards. We found that the FHFA Director violated Section 702 when he attempted to coerce or induce the PMO Manager to engage in a personal relationship with him by suggesting or implying he would use his official authority to assist her in attaining an executive position with FHFA.

The FHFA Director advised the PMO Manager, and reported to us, that only he could approve the creation of a new executive position and the selection of a candidate to fill it. By his own design, he met alone in his apartment with the PMO Manager, a subordinate who the Director knew desired a promotion to an executive position in the Agency, and raised two possible opportunities for such a promotion. In a recording of a portion of their conversation in the FHFA Director's apartment, the FHFA Director can be heard to intermingle comments about his attraction to the PMO Manager and his admiration of her physical appearance with a discussion of possible paths by which she could advance into FHFA's executive ranks.

We find that there are no circumstances under which it would be appropriate for the head of FHFA to induce a subordinate employee to meet with him alone, in his apartment, for a conversation in which he professes his attraction for that employee and holds out opportunities for the employee to serve in specific executive positions over which he exercises total control.



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## The FHFA Director Was Not Candid

Every agency employee providing information in an OIG inquiry, including the head of an agency, must be fully forthcoming and candid as to all facts and information relevant to the inquiry, even if that employee is not specifically asked about particular facts or information. Thus, an employee must disclose those things that, in the circumstances, are needed to make the employee's statement complete and accurate.

At the start of our interview with the FHFA Director on February 15, 2018, in connection with the initial administrative inquiry regarding these matters, we advised the Director that his interview was part of an administrative inquiry into allegations that FHFA senior executives had improperly created a new executive position and pre-selected the PMO Manager to fill it. We find that the Director lacked candor when he omitted information that was material to our inquiry. Specifically, he omitted: (1) any mention of his personal friendship with, and mentorship of, the PMO Manager; and (2) that he had a "plan," dating back to at least June 2016, under which the PMO Manager could advance into FHFA's executive ranks.

We provided a draft of this report to the FHFA Director; his November 26, 2018, written response (Response) is attached as the Appendix. The Director's Response is notable for what it does not contain. Nowhere does the FHFA Director deny that: (1) he invited a subordinate to meet with him alone, in his apartment; (2) during that meeting, he professed his physical attraction for that employee and held out opportunities for that employee to be promoted into specific executive positions; and (3) he knew this subordinate employee sought these executive positions over which he exercised total control.

Nor does the Director offer any evidence or assertions that contradict our findings. Rather, he claims that this report is incomplete because we lack the balance of the recordings made by the PMO Manager of her conversations with the Director. The Director states that the missing recordings would show that the PMO Manager, and not the Director, initiated most of the conversations. The Director, however, does not explain why that information would be exculpatory to a claim of misuse of government position for personal gain.

Lacking any exculpatory facts, the Director criticizes the inquiry that brought his misconduct to light. In particular, the Director alleges that: the report represents a "rush to judgment" so we could vindicate our independence and integrity; we improperly investigated a matter under Title VII and compromised FHFA's EEO process; our administrative inquiry was flawed; and we misled a federal court in our subpoena application. For the reasons set



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forth in this report, we flatly reject each of the process issues raised by the FHFA Director.

We follow the facts wherever they lead and we report the good and the bad. When our fact-finding identifies deficiencies in FHFA's programs and operations, shortcomings in FHFA's implementation of policies and guidance, inadequate internal controls, or wrongdoing by FHFA employees or senior executives of entities under FHFA's conservatorship, we report the evidence that demonstrates the deficiencies, shortcomings, or wrongdoing in accordance with professional standards. This inquiry and report were conducted in conformance with the Counsel of the Inspectors General on Integrity and Efficiency (CIGIE) *Quality Standards for Investigations* (2011) and the CIGIE *Quality Standards for Federal Offices of Inspector General* (2012). We stand by the integrity of our administrative inquiry and by our two findings.

We are issuing this report to the President of the United States for such action as he deems appropriate, and to the Office of Government Ethics and to our Congressional oversight committees. We are referring to the OSC the allegations about (b)(6);(b)(7)(C) for its review and determination and are providing to OSC the evidentiary record we compiled in this second inquiry, given that the OSC has the statutory authority to determine whether FHFA senior executives engaged in any (b)(6);(b)(7)(C)

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

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## ABBREVIATIONS .....

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

CIGIE	Council of the Inspectors General on Integrity and Efficiency
DGC	Deputy General Counsel
DOC	Division of Conservatorship
EEO	Equal Employment Opportunity
FHFA	Federal Housing Finance Agency
IG Act	Inspector General Act of 1978 (as amended)
PMO	Project Management Office
OCOO	Office of the Chief Operating Officer
OIG	Federal Housing Finance Agency Office of Inspector General
OMWI	Office of Minority and Women Inclusion
OQA	Office of Quality Assurance
OSC	U.S. Office of Special Counsel
The Standards	The Standards of Ethical Conduct for Employees of the Executive Branch
USPS	United States Postal Service

## BACKGROUND.....

In the summer of 2017, the FHFA Office of Inspector General (OIG) received two anonymous hotline complaints which included allegations that: (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) inappropriately created an executive position within OCOO for an FHFA employee, the PMO Manager;<sup>1</sup> (2) (b)(6);(b)(7)(C) advised two senior FHFA employees “not to bother applying for the job;” and (3) the creation of a new executive position was inconsistent with FHFA’s prior buyouts.

We forwarded the anonymous complaints to an FHFA Deputy General Counsel (DGC) and requested a response within 30 days.<sup>2</sup> On September 15, 2017, that DGC reported to us that (b)(6);(b)(7)(C) did not create a new executive position for the PMO Manager. According to that DGC, (b)(6);(b)(7)(C) recommended to the FHFA Director that a new position be created to oversee the management of the Office of Quality Assurance (OQA) and the Project Management Office (PMO). The OQA was located in the OCOO and the PMO was being relocated from the Division of Conservatorship (DOC) to the OCOO. The FHFA Director approved (b)(6);(b)(7)(C) recommendation, in writing, on July 14, 2017.<sup>3</sup> The DGC advised us that FHFA had not advertised the opening for that new position, and that he intended to ask (b)(6);(b)(7)(C) to reconsider

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<sup>1</sup> Her official position was Supervisory Management & Program Analyst. Within FHFA’s Division of Conservatorship and at the time (b)(6);(b)(7)(C) was considering whether to create a new executive position within OCOO, her title was Senior Advisor and PMO Manager.

<sup>2</sup> At page 2 of his Response, the FHFA Director claims that “the FHFA-OIG was intimately involved in delaying [the PMO Manager’s] being able to compete for a position of advancement within FHFA and in the delays that ultimately led her to file an EEO complaint against FHFA,” and OIG “made it impossible for FHFA to advance [the PMO Manager] within FHFA from the summer of 2017 until May of 2018, because [OIG] dragged its feet on an investigation that could and should have been completed long before it was.”

As explained above, it was not possible for the PMO Manager to apply for this executive position in the summer of 2017, because the position had not yet been announced. Moreover, OIG promptly forwarded the first two hotline complaints it received in the summer of 2017 to a DGC and requested a response within 30 days. The DGC reported that the FHFA Director had approved the creation of a new executive position, but the new vacancy had not been announced and that he intended to ask (b)(6);(b)(7)(C) to reconsider filling that position. Until a position description had been drafted and the vacancy announcement posted, there was no claim to investigate.

Contrary to the assertion of the FHFA Director, FHFA could not “advance” her into an executive position until she competed and was selected for such a position because she was not an executive, and the newly created executive vacancy was first announced on November 20, 2017. OIG commenced its first administrative inquiry in January 2018, and completed its fact-finding in less than three months. By any measure, a three-month inquiry, in which more than 12 witnesses were interviewed and numerous FHFA documents were obtained and reviewed, is not “foot dragging.”

<sup>3</sup> The DGC further reported that (b)(6);(b)(7)(C) denied “discourag[ing] FHFA employees from applying” for the position, and he credited that denial.



filling that position. He subsequently reported that (b)(6);(b)(7)(C) intended to advertise the position and fill it.

On November 20, 2017, FHFA posted a job announcement for the new executive position, which was open only to FHFA employees and only for two weeks. On November 27, 2017, the DGC agreed to notify us before FHFA offered the new executive position to anyone.

### *OIG's First Administrative Inquiry*

We received three additional anonymous hotline complaints concerning the new executive position, after it was posted.

From January to March 2018, we conducted an administrative inquiry into the five hotline complaints, all of which were directed at the Agency and (b)(6);(b)(7)(C). None of the allegations suggested an improper relationship between the PMO Manager and the Director.<sup>4</sup> In the course of our inquiry, we reviewed relevant Agency documents and interviewed 12 witnesses, including the FHFA Director and the PMO Manager. In January 2018, we requested that FHFA place a “legal hold” on the position, pending the outcome of our inquiry into the allegations in the hotline complaints, to which FHFA agreed.<sup>5</sup>

### *Interview of the FHFA Director*

The FHFA Director was interviewed on February 15, 2018. He reported that, several years ago, he determined to retain sole authority to approve the creation of all executive positions within FHFA because he wanted to have the appropriate number of executives in the agency. He further explained that, pursuant to a directive issued by President Trump, each agency had to consider whether any vacant executive position could be eliminated and must justify the creation of any

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<sup>4</sup> This inquiry was conducted by career law enforcement personnel and career investigative counsel.

<sup>5</sup> In January 2018, a panel concluded interviews of the candidates for the new executive position and determined that the PMO Manager was the most qualified candidate.

At page 2 of his Response, the FHFA Director contends that FHFA-OIG breached the confidentiality of the PMO Manager when it communicated to him that the panel had unanimously selected the PMO Manager for the new position. His assertion is incorrect.

The fact that the panel had unanimously selected the PMO Manager was not tightly-held. In late January 2018, the DGC informed FHFA-OIG that the panel had selected the PMO Manager. However, he did not advise that this selection was to be held in confidence. Indeed, the Chief of Staff to the FHFA Director, who was not a member of the panel, learned about the selection when she inquired about the result of the interview process for the position. She stated, in her signed declaration to the USPS contract investigator, that she assumed the PMO Manager's selection was rolled into the transfer of the PMO to the OCOO (which occurred in January 2018), and congratulated the PMO Manager on her selection. In sum, the PMO Manager had no privacy right that was violated when we reported the panel's selection recommendation to the FHFA Director.

new executive position. According to the Director, he had to be satisfied that any new executive would increase the Agency's efficiency.<sup>6</sup> He stated that a number of FHFA employees, including the PMO Manager, expressed frustration that promotions to executive positions were available only through attrition because FHFA was "top-heavy."

The FHFA Director explained that beginning in 2016, there was a consensus among FHFA senior executives to transfer the PMO from DOC to OCOO, and that this transfer was a priority for 2017. However, he maintained that the allegation that (b)(6);(b)(7)(C) lobbied to create a new executive to manage the PMO for a specific employee was untrue. He denied both that he approved the creation of the new executive position in OCOO expressly for the PMO Manager and that the PMO Manager lobbied him directly to create an executive position for her.

The FHFA Director explained that he also retained sole authority to select a candidate to fill an executive vacancy. He stated that he usually followed recommendations made by his subordinates in selecting individuals to fill executive positions. He told us that he was unaware of the employees who applied for the new executive position and did not know the recommendation from the panel.

The FHFA Director acknowledged that, during his tenure, he spoke to a number of FHFA employees about the PMO Manager's abilities, but not specifically about whether she should be made an executive. According to the Director, FHFA has a number of talented employees, including the PMO Manager. In his view, the PMO Manager had great experience handling FHFA's relationship with Fannie Mae and Freddie Mac and standing up DOC. He noted that the PMO Manager was a trusted lieutenant to the former Deputy Director of DOC, prior to her retirement, and that this former Deputy Director had spoken highly about the PMO Manager.

During this interview, the FHFA Director made no mention that he had previously discussed possible executive opportunities with the PMO Manager in private conversations and had a mentoring relationship with her.

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<sup>6</sup> In effect at the time that the FHFA Director approved (b)(6);(b)(7)(C) recommendation to create a new executive position was FHFA's Order No. 4, "Delegation of Authority to Approve Personnel Actions, Determinations, and Requests," which was issued by the previous FHFA Director on January 5, 2009. Under that order, the FHFA Director retained the authority to approve requests for executive positions. The current FHFA Director explicitly retained that authority when he replaced Order No. 4 with Order No. 4, Amendment No. 4 on September 15, 2017. In addition, on February 10, 2017, the FHFA Director sent a memorandum to all FHFA executive staff requiring them to "make a compelling case" for any new position and the need to fill it in response to the "Presidential Memorandum Regarding the Hiring Freeze," issued by the President on January 23, 2017.



### *Interview of the PMO Manager*

The PMO Manager was interviewed on March 16, 2018. She explained that senior FHFA executives recommended and implemented the reorganization that moved the PMO to OCOO. The PMO Manager reported that she never heard that (b)(6);(b)(7)(C) had discouraged employees from applying for the new executive position or that he favored any applicant. She denied that (b)(6);(b)(7)(C) told her that he had a preferred candidate for the position; she had been told in advance of the selection process that she would be selected for the new executive position; or she was the preferred candidate for it.<sup>7</sup>

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<sup>7</sup> Three days after this interview, on March 19, 2018, the PMO Manager filed a whistleblower complaint with FHFA-OIG and asked for anonymity. Her complaint made two allegations. First, she alleged that FHFA officials misused the OIG hotline and filed false claims in order to perpetuate discrimination in the FHFA workforce. Second, she alleged her rights under Title VII of the Civil Rights Act of 1964 (as amended) were violated when she was discriminated against on the basis of sex and race. She did not make any allegations against the FHFA Director.

At page 2 of his Response, the FHFA Director claims that OIG created an actual or apparent conflict of interest that precluded it from investigating his misconduct when OIG alerted him to the fact that the Agency's EEO office declined to accept for filing the PMO Manager's EEO claim. The Director's claim is erroneous, both as a matter of fact and law.

By letter dated March 27, 2018, the then-Deputy Inspector General for the Office of Investigation in FHFA-OIG recommended, in writing, to then-counsel for the PMO Manager that the PMO Manager bring her Title VII claims to the attention of FHFA's EEO office. A senior investigative counsel in FHFA-OIG underscored that recommendation in an email April 18, 2018, "we believe that the FHFA EEO Office should promptly and fully investigate [the EEO] matter in the first instance."

By early April 2018, the PMO Manager had disclosed both her identity and her Title VII claims to FHFA officials. An April 4, 2018, letter from then-counsel to the PMO manager reported that FHFA's EEO office had advised the PMO Manager that she could not pursue EEO counseling unless she could identify the individuals who discriminated against her. FHFA documents show that the PMO Manager raised her Title VII claims to (b)(6);(b)(7)(C) a senior FHFA official, orally and in writing; (b)(6);(b)(7)(C) drafted a response, which was vetted by lawyers in FHFA's Office of Counsel, and that response was sent to the PMO Manager; (b)(6);(b)(7)(C) forwarded the PMO Manager's claims to FHFA's Office of Minority and Women Inclusion (OMWI) and to FHFA's EEO office, located within OMWI; and an OMWI official then provided the PMO Manager with an EEO intake form and spoke with her about filing an informal EEO complaint.

FHFA-OIG had a reasonable, good faith belief that the PMO Manager had voluntarily revealed both her identity and the same Title VII claims raised in her hotline complaint to senior officials in FHFA in April 2018. Pursuant to Section 4(a)(5) of the IG Act of 1978, as amended, FHFA-OIG has both the duty and responsibility to bring to the FHFA Director's attention the fact that the Agency's EEO function had turned away the PMO Manager's Title VII claims. The Inspector General fulfilled that responsibility when she provided this information to the FHFA Director on April 25, 2018.

The Inspector General has publicly explained the reasons for her disclosures to the House Financial Services Committee on September 27, 2018:

We got a letter from her then-counsel on April 4, saying the EEO office, FHFA had rejected her claim. I was quite concerned about that because these are EEO issues, they facially sounded quite intensely serious to me. EEO has a pretty short timeline. I felt that appropriate for the EEO office to deal with it. [The PMO Manager] had already identified herself and her complaint to the EEO office.

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***OIG Refers to the Office of Special Counsel the Evidentiary Record of its Administrative Inquiry, and OSC Reaches a Decision on the Matter***

Congress established the OSC as an independent federal investigative agency, the primary mission of which is “to protect[] federal employees and applicants from prohibited personnel practices.” Therefore, we concluded the OSC was the appropriate entity to determine whether a prohibited personnel practice, had occurred regarding the creation of or selection for the new executive position.

We spoke with OSC officials during the inquiry to alert them that we intended to refer the matter to the OSC at the conclusion of our fact finding and formally referred the matter to OSC on March 22, 2018. The OSC accepted our referral, and on April 2, 2018, we provided the OSC with a summary of the facts found during our administrative inquiry, including documents provided by FHFA. On April 5, 2018, we met with OSC attorneys. The fact finding for our administrative inquiry was complete at that time.

By letter dated May 3, 2018, the OSC reported to us that it had reached a preliminary determination that the record as it then existed did not support the allegations that the new executive position was improperly created, or that FHFA executives provided the PMO Manager with an unauthorized preference or advantage in her selection by the panel.

On May 7, 2018, we provided OSC’s written preliminary determination to FHFA and informed it that we had completed our administrative inquiry and planned to close the inquiry.

FHFA advised us that, as of November 28, 2018, the position remained vacant.

***FHFA’s Investigation of the PMO Manager’s EEO Complaint***

On May 9, 2018, the PMO Manager filed an informal complaint with FHFA’s EEO office, alleging violations of her rights under the Equal Pay Act and discrimination (including sexual harassment) on the basis of her sex and race in violation of Title VII of the Civil Rights Act of

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What I said to [the FHFA] Director [ ] was very simple. We’ve gotten a complaint, that complaint is from [the PMO Manager] who previously made it to the EEO office which rejected it and – and frankly, sir, you need to do your job and tell the EEO office [to process the complaint]. It wasn’t until

July that anyone in my office became aware of any claims of sexual harassment, which had nothing to do with our prior work.

Even assuming that the PMO Manager had some anonymity to protect, which she did not, Section 7(b) of the Inspector General Act, as amended, required the Inspector General to disclose the identity of the PMO Manager to the FHFA Director without her consent because she determined that such disclosure would be “unavoidable during the course of the investigation.” In sum, compliance with the IG Act does not create an actual or apparent conflict of interest, notwithstanding the Director’s assertion.

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1964 (as amended). Subsequently, the PMO Manager provided FHFA with specific allegations in support of her claims.

As part of her harassment claim the PMO Manager alleged that:

Information withheld because allegations are outside the scope of FHFA-OIG's investigation.

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

FHFA contracted with the USPS to gather facts and other information related to the PMO Manager's Title VII sexual harassment claim. The fact gathering, which began on June 14, 2018, included obtaining sworn statements, portions of audio recordings the PMO Manager chose to produce, and unofficial "transcripts" prepared by the PMO Manager.<sup>8</sup>

On July 3, 2018, while the fact gathering process was underway, the PMO Manager used her FHFA computer and email address to forward to her personal counsel an email exchange she had with the USPS contract investigator.<sup>9</sup> She also blind-copied over 100 FHFA managers.<sup>10</sup> The message referenced recordings of conversations between the PMO Manager and the FHFA Director and stated that transcripts of those recordings were attached to it, although they were not.

Several minutes later, the PMO Manager re-sent that email message to her counsel and, once again, blind-copied the same group of FHFA managers. Attached to that message was a file named "Watt Employment Charade Process" containing an audio recording of a portion of a conversation between the PMO Manager and the FHFA Director. Also attached were three purported transcripts of recorded conversations between the PMO Manager and the FHFA

<sup>8</sup> The report by the USPS contract investigator did not contain findings of fact and conclusions of law, and did not address the allegations of misconduct by the FHFA Director that are the subject of this report.

<sup>9</sup> Any FHFA employee who seeks to access FHFA servers, whether through a government-provided computer, laptop, or personal computer, must first agree to terms and conditions in which the employee acknowledges no expectation of privacy.

<sup>10</sup> The PMO Manager blind copied her first two messages to an FHFA email list, called "2018 Managers Conference," which included more than 100 FHFA managers.

Director which the PMO Manager labeled, “Four Types Attraction,” “Tattoo,” and “Why Have You Rejected My Advances.”<sup>11</sup>

Shortly thereafter, the PMO Manager sent a third message to the same group of FHFA managers that read, “Sorry – this was sent in error – please disregard [sic].” The three purported transcripts and the recorded conversation were, once again, appended to the message.

### *OIG’s Second Administrative Inquiry*

We first learned of the PMO Manager’s sexual harassment claim against the Director in July 2018, when we received three additional hotline complaints citing to the email messages and attachments sent by the PMO Manager. These complaints alleged, in summary, that the FHFA Director misused his government position for personal gain by creating an unnecessary executive position for the PMO Manager, (b)(6);(b)(7)(C)

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

We opened a new administrative inquiry into these complaints and added the five prior anonymous hotline complaints which also alleged the executive position had been created improperly (and for which we had previously completed our work).<sup>12</sup> This inquiry focused solely on possible misconduct by the FHFA Director<sup>13</sup> and was expressly authorized by the IG Act, as amended, which vests us with authority to investigate possible waste, fraud, and abuse in the operations and programs of FHFA and by FHFA officials. Contrary to the Director’s assertion, this inquiry proceeded separately from the Agency’s investigation into the PMO

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<sup>11</sup> These were not actually transcripts, although they have the outward trappings of transcripts. Each of these three purported transcripts appeared to be produced by a certified transcription company because: each contained introductory pages labeled, “Transcript of Recorded Conversation;” each had a job number and the name of a court reporter who worked for the transcription company and provided the transcription; and each included a signed certification by the named court reporter, under penalty of perjury, that the transcript was a “full, true and correct transcription” of the recording.

We learned subsequently, from the USPS contract investigator’s report, that these three purported transcripts were created by the PMO Manager in 2018 from her recollections of 2016 conversations, using a “template” of a transcript from the transcription company. As we explain later in this report, the PMO Manager declined to provide either to the USPS contract investigator or to us the recordings of these conversations that these “transcripts” purported to document. Therefore, we treated each of these purported transcripts as the PMO Manager’s 2018 recollections of conversations that took place during 2016.

<sup>12</sup> The field work for this inquiry was conducted by career government attorneys who serve as senior executives in OIG.

<sup>13</sup> As we advised counsel for the PMO Manager in March and April 2018, and the FHFA Director, jurisdiction for the Title VII claim raised by the PMO Manager rests initially with FHFA and then with the Equal Employment Opportunity Commission.

Manager's EEO claims and did not compromise or supplant that investigation. We conducted this inquiry in conformance with the *Quality Standards for Investigations* promulgated by CIGIE, and with CIGIE *Quality Standards for Federal Offices of Inspector General*.

As we did before, we are referring to the OSC the allegations regarding improper creation of a new executive position, and pre-selection of the PMO Manager. We are also providing to OSC the evidentiary record we compiled in this second inquiry, given that the OSC has the statutory authority to determine whether FHFA senior executives engaged in any (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C)<sup>14</sup>

### ***OIG's Efforts to Obtain Audio Recordings, Transcripts, and Other Documents***

FHFA provided us with the July 3, 2018, emails and attachments sent by the PMO Manager to her counsel and the FHFA managers. Thereafter, we sent requests for information to FHFA, and to the FHFA Director and the PMO Manager, through their respective counsel. FHFA provided responsive documents. The PMO Manager's counsel sent us six recordings made by her client of conversations with the FHFA Director:

- one recording of a conversation that occurred purportedly on June 17, 2016;
- three recordings of portions of a conversation on November 11, 2016;
- a duplicate of one of the November 11, 2016, recordings; and
- one recording of a phone conversation that occurred on May 10, 2018.

After listening to those recordings, which appeared to stop and start during the conversations being recorded, we concluded that none was a complete record.

The PMO Manager's counsel also produced:

- transcripts of the June 17, 2016,<sup>15</sup> and the three November 11, 2016, recordings, identified above;
- a transcript of a conversation with the FHFA Director that occurred purportedly on March 13, 2018 (but no recording for that conversation); and

<sup>14</sup> In the draft report we provided to the FHFA Director for his response, we referred to an Appendix A, which set forth a summary of the facts concerning the creation of the new executive position within OCOO. Because (b)(6);(b)(7)(C) related to the creation of the executive position within OCOO is ongoing, we have not included Appendix A as part of this final report. Once OSC completes its review, we will report OSC's determination in our Semi-Annual Report as required under Sections 5(a)(19) and 5(a)(22)(B) of the IG Act.

<sup>15</sup> The transcript of the conversation is dated June 17, 2016. However, the FHFA Director testified that the dinner meeting occurred on June 8, 2016, which was confirmed by the charge on his credit card statement. For purposes of this report, we refer to the recording of that meeting, and transcript, as June 17, 2016.



- three unofficial “transcripts” prepared by the PMO Manager of other conversations with the FHFA Director that occurred purportedly in 2016, which were substantially similar to the purported transcripts sent by the PMO Manager on July 3, 2018 (but no recordings for those conversations).

We also received from the USPS contract investigator, through FHFA, a recording of a phone conversation that occurred on May 8, 2018, between the PMO Manager and the FHFA Director.

To ensure that all materials, including recordings, relevant to our administrative inquiry were produced by the FHFA Director and the PMO Manager, we issued separate administrative subpoenas to them on July 18, 2018.<sup>16</sup> Counsel for the FHFA Director and for the PMO Manager accepted service of the subpoenas.<sup>17</sup>

On July 27, 2018, the FHFA Director produced responsive materials. Counsel for the PMO Manager assured us that the PMO Manager would cooperate, and expressly authorized us to travel to the PMO Manager’s residence to retrieve from her copies of her audio recordings of conversations with the FHFA Director. That counsel asked for technological assistance to transfer all audio recordings to an encrypted flash drive and explained that such technological assistance was “the only impediment to the production” of the recordings. We agreed to provide that assistance.

From July 24, 2018, to the issuance of this report, the PMO Manager did not cooperate in our inquiry, although we advised her, both orally and in writing, that our inquiry focused solely on allegations of misconduct by the FHFA Director, for which she was only a witness. We asked FHFA to provide to us the government cell phone issued to the PMO Manager because the PMO Manager said she used it to record conversations with the FHFA Director. The Agency asked the PMO Manager to return that phone. The USPS contract investigator’s report stated that the PMO Manager recounted that she had taken the government cell phone issued to her to a third party “data recovery provider who was able to recover data from [her] work phone.” However, the PMO Manager declined to return this FHFA-issued government cell phone to FHFA.

After the PMO Manager refused to comply with our administrative subpoena, we sought the assistance of the Office of the US Attorney for the Eastern District of Virginia to file a petition with the Court to enforce the subpoena. At that time, our second administrative inquiry was

<sup>16</sup> Neither the PMO Manager nor her counsel provided to us any recordings of conversations between January 1, 2016, and June 7, 2016; between June 9, 2016, and November 10, 2016; and between November 12, 2016, and May 9, 2018.

<sup>17</sup> Upon the receipt of the subpoenas, neither counsel questioned the independence of this administrative inquiry, challenged the subpoena as issued for an improper purpose (such as harassment, intimidation, or retaliation), or claimed that we lacked authority to issue it.

approximately one month old, and we believed that the information sought from the PMO was essential to our ability to conduct the inquiry.

The PMO Manager stated in her signed declaration to the USPS contract investigator, dated August 8, 2018, that “there were two regular weekly [senior staff] meetings that [she] attended with the Director...” and that she “recorded all conversations with [the FHFA Director] from 2016 to present.” Her statement led us to believe that she may have additional recordings of her conversations with the FHFA Director. To the best of our knowledge, the PMO Manager was, and remains, the sole source for these additional recordings. Despite our best efforts, we have been unable to secure those recordings.

At pages 3, 4, and 6 of his Response, the FHFA Director seizes on representations in our moving papers to claim that we have demonstrated “an apparent willingness to have the Justice Department deceive the United States District Court” because we reached two findings without obtaining the recordings sought in the subpoena.

Once again, the Director’s claim has no factual basis. On October 5, 2018, after a full round of briefings and a hearing, the judge ordered the PMO Manager to produce all materials sought by the subpoena. On October 15, 2018, the PMO Manager appealed to the United States Court of Appeals for the Fourth Circuit. While we recognized that this litigation could lead us to obtain the materials in the possession of the PMO Manager, we were mindful that such litigation could take many months to resolve. Moreover, the IG Act requires us to timely report substantiated allegations of misconduct by senior agency officials. We determined, after close review of the information obtained during our second administrative inquiry, that the information we had acquired to date was sufficient to substantiate misconduct by the FHFA Director. It is the statutory mandate that creates the exigency of time, and not, as the Director suggests the expiration of his term on January 6, 2018.

We conveyed this analysis to the Office of the US Attorney for the Eastern District of Virginia and an agreement was reached with counsel for the PMO Manager to dismiss her appeal. Together, the parties sought to dismiss the subpoena enforcement action, which was approved by the Court on November 1, 2018. In dismissing this action, the Court raised no concerns about the legitimate basis either for the petition or the dismissal.

### ***Review of Audio Recordings***

Audio recordings provide contemporaneous evidence of statements made by the FHFA Director to the PMO Manager. As we have explained, we obtained, from counsel for the PMO Manager and from the USPS contract investigator (through FHFA), recordings made by the PMO Manager of portions of four conversations with the FHFA Director, two of which

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occurred after the executive position was created and the PMO Manager was selected by the panel to fill it. We caused transcripts to be made for each of these recordings.<sup>18</sup> Two of these recordings, from conversations between the PMO Manager and the Director in June and November 2016, are relevant to this inquiry.

*The June 17, 2016, Recording:*

The FHFA Director confirmed that he and the PMO Manager met for dinner at the Rosa Mexicano restaurant in June 2016 and that this dinner was one of two meals that they shared off-site and alone. The portion of the recording produced to us begins in the middle of a conversation that purportedly occurred in June 2016 in a restaurant, with the PMO Manager asking the FHFA Director when the (b)(6);(b)(7)(C) position, which is an executive position, would become vacant. The FHFA Director responded, “I don’t know what the timing is. [The (b)(6);(b)(7)(C) wouldn’t be surprised if it was sooner rather than later.” At a subsequent point in the recording, the Director suggested that the Chief of Staff position, an executive position, would become vacant after his current Chief of Staff moved to a different position.

The Director asked the PMO Manager: “What do you want, not just limited to the things I’ve laid out, what do you want to do?” She responded: “I think I’ve definitely been looking for kind of, you know, an expansion in role. The chief of staff is ideal, but that’d be up to you, I guess.” The FHFA Director explained that his term was limited to five years, which would be “a downside to having the chief of staff position” because “it doesn’t necessarily carry over” and is “a discretionary position.” The PMO Manager replied, “I don’t think I’m going to stay at FHFA for the rest of my life” and “I think I can find other places.” The FHFA Director concurred: “And being chief of staff to me would position you for a lot of places.”

*The November 11, 2016, Recording:*

The FHFA Director confirmed that it is his voice on this recording of a conversation with the PMO Manager and that this conversation took place in his apartment in November 2016. Text messages between the FHFA Director and the PMO Manager sent and received from his

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<sup>18</sup> The PMO Manager declined to produce recordings for three conversations she had with the FHFA Director during 2016 for which she created three unofficial “transcripts,” one version of which was attached to her July 3, 2018, email. The report of the USPS contract investigator recounted what the PMO Manager told the investigator: the PMO Manager used a template from a transcription service company to create unofficial “transcripts” of her recollections of these three 2016 conversations; at her request, a third party data recovery service provider recovered data from a government cell phone issued to her; after the third-party data recovery provider recovered data from that government issued cell phone, the PMO Manager listened to recordings that she thought had been erased; she compared the recordings to her unofficial “transcripts” created from her memory; she found that the recordings were “consistent with minor deviations”; she “modified” her unofficial “transcripts” to “match the recordings”; she provided those modified unofficial “transcripts” to the contract investigator; and she did not make the recordings available to that investigator.



private cell phone during the period November 4-11, 2016, show that the Director first invited the PMO Manager to his apartment over the weekend of November 12-13, 2016, and that she agreed to meet with him on November 11, a federal holiday.<sup>19</sup>

At pages 10-11 of his Response, the Director maintains that we have “chosen to ignore” a text message in order to reach the “disingenuous” conclusion that he induced the PMO Manager to come to his apartment. After the FHFA Director and PMO Manager, agreed by text, to meet on Friday, November 11, 2016 (which are set forth in footnote 19), the PMO Manager proposed in a text that the two meet, “at 1,” to which the Director responded, “You can let me know where,” and the PMO Manager replied, “What works for you?” In other words, the PMO Manager left it to the FHFA Director to select a meeting place – and he selected his apartment. The partial recording of the November 11, 2016 conversation between the PMO Manager and the Director underscores that the meeting place was chosen by the Director. In that recording, the Director stated, “I think you finally came – you finally came to the conclusion that I did, that this is the safest place to do this, to have this conversation. It would be the safest place to – if it were going beyond this conversation. But I think you were concerned that I was luring you here for other reasons.”

This recording begins in the middle of a conversation in which the FHFA Director appears to have raised the opportunity for the PMO Manager to fill one of two potential executive positions in FHFA: Chief of Staff and Chief Operating Officer. The FHFA Director characterized the former as “our original plan” which was “to try to bring you into [the current Chief of Staff’s] office, and that would’ve put you in line right behind [the current Chief of Staff] to become chief of staff.” The Director then explained to the PMO Manager that this option “wouldn’t have been a good idea anyway. Because the chief of staff is a position that basically whether you are career or whether you are schedule C, it’s generally going to change when the new director comes in.” He explained further that, in the event his successor chose a different chief of staff, she could “bump back” to her current position or to another position in the Agency equivalent to the one she left.

The FHFA Director continued that he was “not sure” that (b)(6);(b)(7)(C) (b)(6);(b)(7)(C) In the event (b)(6);(b)(7)(C) decided to return to his position (b)(6);(b)(7)(C) he could

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<sup>19</sup> In these texts, the FHFA Director sought to have the PMO Manager visit him for a longer period of time than she was willing. The PMO Manager texted, “I have a few hours tomorrow [between 1 and 3],” to which the Director responds, “Do [yo]u have more, less or no time on Sat or Sun instead? How do you calculate that the time between 1 & 3 is a ‘few’ hours?” The PMO Manager replies, “Lol It’s a lot for me.” The Director then texted, “Sat or Sun or is my option only the ‘few’ hours between 1 & 3 tom[orrow]?” The PMO Manager replied, “Yes Friday.” On her way to his apartment on November 11, 2016, the PMO Manager texted, “About 30 mins out,” and the Director responds, “The ‘few’ gets shorter.”

“take his position back” which was the reason that FHFA could not fill that position, even though the Director acknowledged that the PMO Manager was “doing a lot of the responsibilities that go with” that position.

The PMO Manager expressed her appreciation to the FHFA Director for “putting some thought into it and sharing that with me,” and stated that “I think I would be qualified for either position...” She then said, “I just need to make sure that I feel clear and confident that this is just going to be based on merit and fitness for the position, and that there’s nothing else.”

The FHFA Director replied that he “intended to address that first.” He then told the PMO Manager he thought she was “gorgeous” but he did not “make agency decisions based on who’s gorgeous and who’s not.” He maintained that he had “gone out of [his] way to get this – get our friendship. . . – or whatever it is, out of the public view because when other people start seeing things, they start putting different equations into it.” He reported to the PMO Manager that “the truth of the matter is I don’t pay much attention to other people’s perceptions unless I’m guilty. And I’m guilty of having an attraction to you. That is true.”

The Director acknowledged that he had “tried to accept what you told me, the first time you told me. And that’s fine. I accept it. I know I can draw the line.” After repeating four times that he could “draw the line,” the FHFA Director added, “[m]uch to my disappointment...”

The FHFA Director then asked the PMO Manager, “How are you feeling? What are you feeling?” and she responded, “I think I’ve definitely had concerns with – well definitely with coming here.” Even though he professed to know where to draw the line, he again remarked that his apartment was the “safest place to do this, to have this conversation” and that “[i]t would be the safest place to – if it were going beyond this conversation.”

### *Interviews and Sworn Testimony*

Between July 9, 2018, and October 18, 2018, we interviewed 20 witnesses – some on multiple occasions. Counsel for the PMO Manager did not respond to two written requests by us for an interview with the PMO Manager. A summary of two of these interviews follows.

#### *Interview of the FHFA Director*

On October 11, 2018, we interviewed the FHFA Director under oath, using a court reporter to transcribe the interview.<sup>20</sup> He confirmed that he met the PMO Manager alone in his

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<sup>20</sup> The FHFA Director was represented by counsel at this interview.

apartment in November 2016, and that it is his voice on the recording of a portion of his conversation with the PMO Manager, provided to us by the PMO Manager's counsel.

He testified that he is the only executive in FHFA authorized to approve the creation of a new executive position, and that FHFA remains "top-heavy" with executives, despite his approval of an executive buy-out which the Agency conducted in 2014.<sup>21</sup> The FHFA Director stated that he recognized that circumstances might require him to approve a request to create a new executive position. However, he would do so only if such a request was supported by a "compelling case" based upon "substantial documentation and support." The Director established this standard in a February 10, 2017, memorandum he sent to FHFA executives following the issuance of the "Presidential Memorandum Regarding the Hiring Freeze" by the White House on January 23, 2017.

The FHFA Director also testified that he has been the PMO Manager's friend and mentor since at least 2016,<sup>22</sup> and that he met her alone outside of the FHFA workplace on four occasions in 2016: at a restaurant; at a night club; in Rock Creek Park; and at his apartment in Washington, D.C.<sup>23</sup> Although he testified that he has mentored a great many individuals, he could not recall a female mentee other than the PMO Manager whom he invited to his private residence in DC.<sup>24</sup>

The FHFA Director stated that the PMO Manager made it clear to him on multiple occasions that she wanted to be an executive in the agency. He added that "it was general knowledge that [the PMO Manager] was one of the people in the agency who had – who had good skills and should be considered if an executive level position ever got created."

He testified that he assumed the PMO Manager would apply for the new executive position in OCOO when he approved the creation of it. He also confirmed that one of the options he considered for the PMO Manager was the "original plan" to bring her into the Chief of Staff's office that "would've put [her] in line" to become chief of staff. He did not dispute that he discussed the chief of staff and COO positions with the PMO Manager, but thought he never

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<sup>21</sup> In 2014, the Director approved a buyout of 12 FHFA executives at a cost of about \$1.45 million.

<sup>22</sup> The FHFA Director testified that he became the PMO Manager's mentor when she started coming to him for advice after his first meeting with her to discuss the PMO in 2015.

<sup>23</sup> The FHFA Director also recalled meeting her at a restaurant in 2015.

<sup>24</sup> He recalled that a FHFA female IT technician came to his apartment "to set up [his] home computing capabilities with the office" but that he was not in "an ongoing mentoring relationship" with her. He stated that this technician had since retired. During his October 11, 2018, deposition, the Director confirmed that, other than the female IT technician and the PMO Manager, no other female mentees visited his apartment in Washington, D.C.

discussed with her the impediments to her if she competed for the COO position. He explained those impediments to us: if the PMO Manager, who was a grade below an executive, “was competing for the [COO’s] position, there would probably be multiple existing executives who would want that position... And so no way a level 15 probably was going to get that job....”

*Interview of (b)(6);(b)(7)(C)*

We interviewed (b)(6);(b)(7)(C) on October 10, 2018, under oath and before a court reporter who transcribed the interview.<sup>25</sup> (b)(6);(b)(7)(C) testified that he was “transparent” with the PMO Manager and the OQA Manager, and discussed options by which to manage the PMO and OQA, including an option to create a new executive position and an option to place the PMO under an existing executive.

(b)(6);(b)(7)(C) recalled that the PMO Manager reacted negatively to his consideration of an option other than the creation of a new executive position and became upset. Further, she advised that she was “going to go talk to the Director about that.” (b)(6);(b)(7)(C) recalled that he warned the Director about this development and that the Director responded that the PMO Manager had already spoken with him and that he had told the PMO Manager that the decision was up to (b)(6);(b)(7)(C).<sup>26</sup>

## FINDINGS .....

As discussed, we recognize the likelihood that the PMO Manager has additional recordings of her conversations with the FHFA Director which the PMO Manager has not produced in response to our information request, subpoena, and a Court Order. To the best of our knowledge, the PMO Manager was, and remains, the sole source for these additional recordings. However, based on our review of the identified recordings, documents, and information learned during our interviews, we have determined that we have a sufficient basis on which to reach two findings of misconduct by the FHFA Director.

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<sup>25</sup> (b)(6);(b)(7)(C) was represented by counsel at this interview.

<sup>26</sup> When asked whether (b)(6);(b)(7)(C) reported the PMO Manager would complain to the FHFA Director if (b)(6);(b)(7)(C) did not recommend creation of a new position, the FHFA Director answered: “He definitely didn’t tell me that because I would have remembered that.” He did not recall whether the PMO Manager came to see him after she thought (b)(6);(b)(7)(C) might not recommend creation of such a position.

## **1. The FHFA Director Misused his Official Position to Attempt to Obtain a Personal Benefit**

The Standards establish a code of conduct applicable to all officials and employees of the federal executive agencies. At all times relevant to our inquiry, the FHFA Director was subject to the Standards.

Section 702 of the Standards prohibits an officer or employee from using any authority associated with his federal office in a manner that is intended to coerce or induce a subordinate to provide him with any benefit, financial or otherwise.

For the reasons set forth below, we find that the FHFA Director violated Section 702 when he attempted to coerce or induce the PMO Manager to engage in some sort of relationship with him that went beyond their existing “friendship” and/or mentorship by suggesting or implying he would use his official authority to assist her in attaining an executive position within FHFA.

The recording of the Director’s conversation with the PMO Manager on November 11, 2016, establishes that the Director, not the PMO Manager, went “out of [his] way to get this – get our friendship. . . – or whatever it is, out of the public view because when other people start seeing things, they start putting different equations into it.” The PMO Manager made clear in the recording that this off-site, on one meeting at his apartment made her uncomfortable: “I think I’ve definitely had concerns with – well, definitely with coming here.”

The Director explained his personal interest in the PMO Manager: “the truth of the matter is I don’t pay much attention to other people’s perceptions unless I’m guilty. And I’m guilty of having an attraction to you. That’s true.” He went on to say that he had “tried to accept what you told me, the first time you told me,” and was “comfortable with drawing the line where you told me I needed to draw it. So I’ve drawn that line [ ] [m]uch to my disappointment.” He stated that his apartment was the “safest place...to have this conversation” and that “[i]t would be the safest place to – if it were going beyond this conversation.”

The Director continued his discussion of the two executive position options for the PMO Manager, that of Chief of Staff and COO. He had also raised the option of the Chief of Staff position in the recorded conversation with the PMO Manager during the Rosa Mexicano dinner in June 2016. The PMO Manager responded that she thought she would “be qualified for either position,” and asked the FHFA Director to assure her that any promotion “is just going to be based on merit and fitness for the position, and that there’s nothing else.” The FHFA Director responded that he thought she was “gorgeous” but didn’t “make agency decisions based on who’s gorgeous and who’s not.” He asserted that his discussion with the



PMO Manager about two executive positions “has nothing to do with either your beauty or your – or my feelings. But that doesn’t eliminate the feelings or the beauty.”

The Director sought to get the PMO Manager to agree with his perspective about the need to meet, alone, at his apartment:

But you understand I think you finally came – you finally came to the conclusion that I did, that this is the safest place to do this, to have this conversation. It would be the safest place to – if it were going beyond this conversation. But I think you were concerned that I was luring you here for other reasons. I wasn’t concerned about that.

He added that his apartment was “just a safer place to have a conversation” for the PMO Manager because she would otherwise have exposure “sitting in a restaurant, going to Blues Alley, anywhere out in the public” because he was “so well known.”

During his sworn interview, the FHFA Director sought to cast these remarks in an innocent light. According to the Director, he did not have a romantic attraction to the PMO Manager. He testified that the PMO Manager “started to make periodic visits to [his] office, during which [they] would discuss work and non-work topics. The increased frequency of those visits” and the “odd times at which they – the visits started to occur raised [his] suspicions that [the PMO Manager] could be developing an attraction to [him] that would be inappropriate for either an employer/employee relationship or a friendship or a mentor/mentee relationship.” For that reason, he explained that he “requested an off-site meeting with [the PMO Manager] after work hours for the specific purpose of addressing and hopefully eliminating [his] suspicions about [her] intentions” and this meeting occurred at Rosa Mexicano in June 2016.

The FHFA Director volunteered that, while en route to Rosa Mexicano, he mentioned to the PMO Manager that there was an attraction between them that needed to be explored so that he could ascertain the PMO Manager’s reaction. She “denied that she had any attraction of the kind I had suspected.” He maintained that he “confirmed that [his] intention was to make sure there was no confusion about whether there was anything other than ‘an attraction of friendship’.” The FHFA Director testified that it was that “clarification” from the PMO Manager “that made it possible for [them] to have [ ] the walk in Rock Creek Park or meet at a performance venue or even have her come to my house to talk about work,” all of which he considered appropriate.

With that background, the FHFA Director explained that his remark on the November 11, 2016, recording that he was “guilty of having an attraction” to the PMO Manager meant only that he had “a friendship attraction” as he did with “all [his] mentees.” The Director opined that there was nothing in the recording that was inconsistent with that meaning. He asserted that he has

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“told a number of [his] mentees that [he] think[s] they’re gorgeous” and that he has a “friendship attraction” to them. The Director acknowledged that no other female mentees had visited his D.C. apartment. He recalled that an FHFA female IT employee, who has since retired, had visited his apartment “to set up [his] home computing capabilities with the office” but that he was not in “an ongoing mentoring relationship” with her.

The Director also maintained that his reference to line-drawing concerned “[the] line between making decisions based on friendship and making decisions based on my responsibilities as Director” of FHFA. The FHFA Director dismissed his reference to his “disappointment” about drawing the line to be “a joke” and commented that both he and the PMO Manager laughed because “she knew [he] was joking” about whether he had a physical or sexual attraction to her. The Director also expressed his belief that the PMO Manager “knows in her heart that there was no effort [by him] to pursue any kind of romantic relationship with her.”

We are not persuaded by the explanations offered by the FHFA Director. Contrary to his testimony, the recording of the November 11, 2016, conversation reveals that the PMO Manager drew the line in question, not the Director. In the recording the Director is heard to say, “**I tried to accept** what you told me, the first time you told me” and that “I’m comfortable with drawing **the line where you told me I needed to draw it.**” (Emphasis added.) As the FHFA Director’s recorded words made clear, the line in question was drawn by the PMO Manager in an effort to place limits on his conduct toward her, which the Director “tried to accept.” Thus, we reject the Director’s explanation for this exchange. We are not persuaded by the Director’s assertion that the PMO Manager considered his statement that he would observe the line “much to [his] disappointment” to be nothing more than a “joke.” Less than a minute after the Director told the PMO Manager that he could “draw[] the line where you told me I needed to draw it,” the PMO Manager said, “I think I’ve definitely had concerns with – well with definitely coming here.”

The Director advised the PMO Manager, in the November 11, 2016, recording, and acknowledged, in both his February 2018 interview and October 2018 testimony to us, that he had sole authority to select candidates to fill executive positions. Had the FHFA Director sought solely to discuss potential advancement opportunities with a mentee, as he maintained, those discussions could, and would, have occurred during business hours in FHFA’s offices.

Moreover, we find the FHFA Director’s alternative explanation is not credible. He asserts that meetings outside FHFA’s office with the PMO Manager were necessary to avoid unjustified suspicions of an inappropriate relationship. But he also maintains that he was concerned that the PMO Manager might have been interested in an inappropriate relationship, and he sought to assure himself that she was not. He acknowledges, in his sworn testimony, that he never met another female mentee at his apartment. Given the Director’s stated

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concerns about the interests of the PMO Manager, the Director should have been especially scrupulous about conducting meetings with the PMO Manager in FHFA's offices. Instead, by his own admission, he treated the PMO Manager differently from other female mentees. A reasonable conclusion is that he did so because he was seeking an inappropriate relationship with her.

We find it more likely than not that the FHFA Director sought to coerce or induce the PMO Manager to engage in some sort of relationship with him that went beyond their existing "friendship" and/or mentorship by inviting her to his apartment (which he characterized as the "safest place to do this, to have this conversation. It would be the safest place to – if it were going beyond this conversation"), and reporting that he was "guilty of having an attraction" to her, by suggesting or implying he would use his official authority to assist her in obtaining an executive position at FHFA which he knew that she sought.<sup>27</sup>

We are not persuaded by the Director's assertion that our findings are misplaced because the balance of the recordings of his conversations with the PMO Manager would show "her initiating conversations with me, a lot more than me initiating conversations with her." Assuming the Director is correct in this regard, the recordings would neither mitigate nor excuse his conduct. There are no circumstances under which it is appropriate for the head of FHFA to induce a subordinate employee to meet with him alone, in his apartment, for a conversation in which he professes his attraction for that employee and holds out opportunities for the employee to serve in specific executive positions over which he exercises total control.

At page 11 of his Response, the FHFA Director complains that we are applying a standard that is "both sexist and inconsistent with current standards of gender equality [and] is also inconsistent with the standard of equality I have been fighting for throughout my professional career." We stand by our finding: had the Director sought only to mentor this subordinate employee (whether male or female), there would have been no reason to induce that employee to meet at the Director's apartment, alone, on a federal holiday, and embark upon a conversation in which the Director intermingles comments about his attraction to that employee and admiration of that employee's physical appearance with a discussion of possible paths by which she could advance into FHFA's executive ranks.

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<sup>27</sup> We do not credit the Director's statement that the possible executive positions he was discussing had "nothing to do with either [her] beauty or [his] feelings" or attraction to her. Were that the case, these discussions would have occurred during office hours within FHFA.



Pursuant to governing federal regulation, 5 C.F.R. § 2638.107, “an agency head is responsible for, and will exercise personal leadership in, establishing and maintaining an effective agency ethics program and fostering an ethical culture in the agency.” To do so, the Agency head must “demonstrate the importance of integrity and ethical values through [his] directives, attitudes, and behavior” and “lead by an example that demonstrates the organization’s values, philosophy, and operating style.”<sup>28</sup> Otherwise, employees will not believe in or abide by the tenets of the agency’s ethical culture. The Director’s conversation with the PMO Manager on November 11, 2016, certainly calls into question his commitment to gender equality, notwithstanding his public pronouncements.

For those reasons, we find that the FHFA Director violated Section 702 of the Standards when he attempted to coerce or induce the PMO Manager to engage in a relationship with him that went beyond their existing “friendship” and/or mentorship by suggesting or implying he would use his official authority to assist her in attaining an executive position with FHFA.

## **2. The FHFA Director Was Not Candid**

Every agency employee, including the head of an agency, providing information in an OIG inquiry must be fully forthcoming and candid as to all facts and information relevant to the inquiry, even if that employee is not specifically asked about particular facts or information. Thus, an employee must disclose those things that, in the circumstances, are needed to make the employee’s statement complete and accurate.<sup>29</sup>

At the outset of the interview with the FHFA Director on February 15, 2018, an OIG Investigative Counsel and an OIG Senior Special Agent informed him that they were conducting an administrative inquiry into allegations that FHFA senior executives had improperly created a new executive position and pre-selected the PMO Manager to fill it. We find that the FHFA Director was not candid during his February 15, 2018, interview for the reasons set forth below.

The FHFA Director stated that he was the only individual in the Agency who: (1) could approve the creation of an executive position in FHFA and (2) could approve the selection of an individual to fill that position. In these circumstances, the existence of his personal relationship

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<sup>28</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government* (Sept. 10, 2014) (GAO-14-704G) (online at <https://www.gao.gov/assets/670/665712.pdf>).

<sup>29</sup> *Ludlum v. Dept. of Justice*, 278 F.3d 1280, 1284 (Fed. Cir. 2002). See *Ludlum v. Department of Justice*, 87 M.S.P.R. 56, paragraph 13 (2000), *aff’d.*, 278 F.3d 1280 (Fed. Cir. 2002) (“lack of candor exists when an applicant breaches the duty ‘to be fully forthcoming as to all facts and information relevant to a matter before the FCC, whether or not such information is particularly elicited.’”). Additionally, FHFA employees are obliged to provide OIG “accurate and complete information when requested” under a Memorandum of Understanding between FHFA and OIG in effect at all times relevant to both of our administrative inquiries.

– whether a friendship, mentorship, or “whatever it is” – with the PMO Manager was material to an inquiry examining whether an executive position had been properly created and whether the PMO Manager had been afforded preferential treatment. The FHFA Director, however, failed to disclose during his February 2018 interview what he disclosed during his October 2018, sworn testimony: that he considered himself to be the PMO Manager’s friend and mentor, at least since 2016. We now know, from his recorded statements in November 2016 to the PMO Manager that he: was “guilty of having an attraction” to her; and it was “much to [his] disappointment” that he had to “draw[ ] the line” where she told him it needed to be drawn.

There can be no doubt that the information that the Director failed to disclose during his February 2018 interview was material to the first investigation. The focus of that inquiry was whether the executive position had been improperly created and whether the PMO Manager had been preselected for it. Therefore, it was highly relevant whether the Director had any sort of relationship with the PMO Manager. We find that the FHFA Director’s omission of material information regarding the nature and tenor of his relationship with the PMO Manager during his February 15, 2018, interview to constitute a lack of candor.

We also find that the Director was not candid with us when he failed to disclose that he had a plan, dating back to at least June 2016, under which the PMO Manager could advance into FHFA’s executive ranks, as the June 17, 2016, and November 11, 2016, recordings show. In the recorded conversations of June 17, 2016, the Director appears to have raised the opportunity for the PMO Manager to fill one of two potential executive positions in FHFA: Chief of Staff and Chief Operating Officer. In the recorded conversation of November 11, 2016, the Director explained, “our original plan was to – at least one of the options that we were looking at was to try to bring you into [the current Chief of Staff’s] office, and that would’ve put you in line right behind [the current Chief of Staff] to become chief of staff.” After recounting the reasons that this plan “wouldn’t have been a good idea anyway,” the Director described the scenario under which another executive position, COO, might become vacant, creating a vacancy for the PMO Manager. The Director’s “plan” for the PMO Manager to obtain an executive position was material, particularly when the Director retained sole authority to create executive positions and appoint individuals to them. We find the Director’s omission of material information during his February 15, 2018, interview regarding his “plan” for the PMO Manager to obtain an executive position to constitute a lack of candor.

## CONCLUSIONS .....

We provided a draft of this report to the FHFA Director; his November 26, 2018, written Response is attached as the Appendix. The Director's response is notable for what it does not contain. Nowhere does the FHFA Director deny that: (1) he invited a subordinate employee to meet with him alone, in his apartment; (2) during that meeting, he professed his physical attraction for that employee and held out opportunities for that employee to be promoted into specific executive positions; and (3) he knew this subordinate employee sought these executive positions over which he exercised total control.

Nor does the Director offer any evidence or assertions that contradict our findings. Rather, he claims that this report is incomplete because we lack the balance of the recordings made by the PMO Manager of her conversations with the Director. The Director states that the missing recordings would show that the PMO Manager, and not the Director, initiated most of the conversations. The Director, however, does not explain why that information would be exculpatory to a claim of misuse of government position for personal gain.

Lacking any exculpatory facts, the Director criticizes the inquiry that brought his misconduct to light. In particular, the Director alleges that: the report represents a "rush to judgment" so we could vindicate our independence and integrity; we improperly investigated a matter under Title VII and compromised FHFA's EEO process; our administrative inquiry was flawed; and we misled a federal court in our subpoena application. For the reasons set forth in this report, we flatly reject each of the process issues raised by the FHFA Director.

We follow the facts wherever they lead and we report the good and the bad. When our fact-finding identifies deficiencies in FHFA's programs and operations, shortcomings in FHFA's implementation of policies and guidance, inadequate internal controls, or wrongdoing by FHFA employees or senior executives of the conserved entities, we report the evidence that demonstrates the deficiencies, shortcomings, or wrongdoing, in accordance with professional standards. This inquiry and report were conducted in conformance with CIGIE *Quality Standards for Investigations* and the CIGIE *Quality Standards for Federal Offices of Inspector General*. We stand by the integrity of our administrative inquiry and by our two findings.

We are issuing this report to the President of the United States for such action as he deems appropriate, and to the OGE and to our congressional oversight committees. We are referring to the OSC the allegations about (b)(6);(b)(7)(C) for its review and determination.

## APPENDIX: FHFA DIRECTOR'S RESPONSE .....

### MEMORANDUM

DATE: November 26, 2018

TO: Leonard J. DePasquale and Laura Werthheimer, Office of the Inspector General, Federal Housing Finance Agency

FROM: Melvin L. Watt, Director, Federal Housing Finance Agency

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

### **RESPONSE TO DRAFT OIG REPORT OF INVESTIGATION OF ALLEGATIONS OF MISCONDUCT AGAINST FHFA DIRECTOR MELVIN L. WATT**

I strongly disagree with this Draft OIG Report of Investigation (Draft OIG Report or Draft Report) and its "Findings." The Draft OIG Report reflects that the real interests of the FHFA OIG in this matter have turned out to be deflecting attention away from the OIG's own involvement in causing Ms. Simone Grimes to file legal claims against FHFA, getting a quick result, and protecting the OIG from political criticism, instead of making an effort to obtain and fairly report the facts. Additionally, both Finding 1 and Finding 2 are not supported by the facts in this case. Anyone reading this Draft Report (or the final OIG report, which I apparently will not be provided an opportunity to review and respond to) should be concerned that other interests have taken priority over the facts and should take special note of the following Response in evaluating whether the final OIG report or any of its conclusions should be considered.

In support of this Response, attached hereto are the following documents to which I make reference in this Response to ensure that the reader has a more complete understanding of all facts and circumstances related to this matter:

1. Exhibit 1: Copy of letter from Leonard J. DePasquale dated November 15, 2018 and the Draft OIG Report to which this Response is being made.
2. Exhibit 2: Copies of emails from me and/or my attorney to Leonard J. DePasquale, General Counsel of the FHFA OIG dated November 16, 17, and 19, 2018 requesting an extension of time to prepare and respond to the Draft OIG Report and requesting a copy of Appendix A referenced in the Draft Report, and emails from Mr. DePasquale denying both requests;

This document contains data or personally identifiable information that is protected under the Privacy Act of 1974 (Pub.L. 93-579, 88 Stat. 1896, enacted December 31, 1974, 5 U.S.C. § 552a). It is for official use only. Unauthorized disclosures of this information can result in civil, criminal, or administrative penalties.

3. Exhibit 3: Memorandum in Support of Petition of the United States to Enforce Subpoena Issued by the Inspector General of the Federal Housing Finance Agency;
4. Exhibit 4: Copy of my deposition provided under oath at the request of the FHFA OIG on October 11, 2018;
5. Exhibit 5: Transcript of recorded conversation between me and Ms. Grimes on May 10, 2018;
6. Exhibit 6: Fresh Facts publication on mentoring I prepared for Women's Equality Day.

**The FHFA OIG should have recused itself from this matter because of real conflicts of interest as well as the appearance of a conflict of interest.** The OIG has two real conflicts of interest and the appearance of a third conflict of interest which should have caused the OIG to recuse itself from this investigation.

1. The FHFA OIG was intimately involved in delaying Ms. Grimes' being able to compete for a position of advancement within FHFA and in the delays that ultimately led her to file an EEO complaint against FHFA. As confirmed on pages 4 – 5 of the Draft OIG Report, after sitting on two hotline complaints it received in the summer of 2017 and not starting an investigation of these complaints until January 2018, the FHFA OIG "requested that FHFA place a 'legal hold' on the position" for which Ms. Grimes was ultimately selected. That "legal hold" was not lifted until May 2018 because FHFA OIG took that long to complete its initial investigation. Essentially, the OIG made it impossible for FHFA to advance Ms. Grimes within FHFA from the summer of 2017 until May of 2018 because it dragged its feet on an investigation that could and should have been completed long before it was.
2. The FHFA OIG breached Ms. Grimes' confidentiality when the IG revealed to me that Ms. Grimes had filed an EEO complaint against FHFA and by communicating to me that Ms. Grimes had been recommended unanimously by the interview team from among the candidates for the executive position at issue in the hotline complaints that started in the



summer of 2017. I had no knowledge of either of those facts until the Inspector General communicated them to me.

3. Allegations have been made that the Inspector General has been “too cozy” in her relationship with me and, as a result, that the FHFA OIG has not been as aggressive as it should have been in evaluating me and the work of FHFA. These allegations have been reported in the press and have been under investigation by the unit that oversees U.S government offices of Inspectors General. While I do not agree with the allegations that have been made against the FHFA OIG, the fact that they have been made and are under investigation creates the appearance of a conflict of interest that could undermine fairness and the perception of fairness in this matter.

**The Draft OIG Report acknowledges that the OIG has prioritized getting to a quick result over obtaining the facts.**

Ms. Grimes stated under oath in her signed declaration to the U.S. Postal Service investigator as follows: “I have recorded all conversations with Watt from 2016 to present.” (See page 19 of Declaration A in the Postal Service Report). Ms. Grimes selectively produced parts of audio tapes of these conversations to the Postal Service Investigator and the FHFA OIG has relied on the Postal Service Report in preparing the Draft OIG Report. (See pages 9 – 11 of Exhibit 1). When FHFA-OIG subpoenaed all the tapes, Ms. Grimes did not produce them. The government sued to enforce the subpoena. On August 10, 2018, the government lawyers on behalf of FHFA-OIG represented to the U.S. District Court that the audio recordings in the exclusive possession of Ms. Grimes “are essential to FHFA-OIG’s ability to conduct its investigation.” (See Exhibit 3, page 1). On October 5, 2018 the District Court issued an Order requiring production of these recordings based on that written representation. The FHFA OIG’s acknowledgement on page 11 of its Draft Report that “we [the FHFA OIG] determined that the exigencies of time required us to complete our administrative inquiry based on the information we had obtained and report our findings, without the materials in the PMO Manager’s [Ms. Grimes’] possession” is not only directly contrary to representations made to a United States District Court in the OIG’s behalf, it is a

stunning admission by the OIG that it has placed getting a quick result over getting the facts in this case.<sup>1</sup>

The FHFA OIG has provided no explanation of what “the exigencies of time” are. In the absence of such an explanation, the timing of this Report can only further politicize this matter for which claims have already been filed and litigation is already pending in the established and appropriate legal forums at the EEOC and in court.

If “the exigencies of time” relate to the fact that my term as Director of FHFA ends on January 6, 2019, in these partisan political times Democrats will no doubt question whether the urgency of filing this Report was motivated by a desire to have the President consider removing a democratic appointee as Director of FHFA within the last 35 days of his term in the position. Republicans, on the other hand, will no doubt question whether the urgency was motivated by a desire to place the President in an embarrassing or uncomfortable political dilemma in light of the history of harassment allegations against him.

The real answer, of course, is that there are no “exigencies of time” and no reason for the OIG to elevate getting a quick result over getting the facts. The discussion on pages 9 – 14 of the Draft OIG Report as well as statements I made throughout my deposition (Exhibit 4) confirm, as I have asserted throughout this process, that no fair assessment of the facts in this case can be made without all of the audio recordings. The Draft Report also confirms the real prospect that the purported transcripts, and the recordings themselves, may have been tampered with (See especially footnote 16 on page 11 of the Draft Report) and that the represented dates of the recordings certainly are inconsistent with the dates on which meetings took place (See pages 137 – 141 of Exhibit 4 and footnote 12 on page 9 of the Draft OIG Report).<sup>2</sup> As I stated on pages 152-153 of Exhibit 4:

But I think if what she’s saying is I’ve recorded every phone – every conversation we’ve had since 2016, then the best evidence of that would

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<sup>1</sup> I am also disappointed that the OIG’s rush to judgment also led the OIG to deny me the common courtesy of the short extension of time I requested to respond to the Draft OIG Report under the circumstances reflected in Exhibit 2.

<sup>2</sup> Footnote 12 on page 9 of the Draft OIG Report suggests that the OIG cares little about credibility or the facts even when evidence is available. Even in the face of documentary evidence that Ms. Grimes has provided dates that are incorrect, the OIG has distressingly chosen to use factually incorrect information.

be the recordings, which is exactly what I've been saying all along. I mean – that's why I've been anxious to get all of the recordings because I think if you looked at this in its totality, it won't be me pursuing Ms. Grimes, it won't necessarily be her pursuing me either, but it will be her initiating conversations with me, a lot more than me initiating conversations with her. And there won't be many of either of those things, I think, in 2017, 2018.

While it is strange that an employee would be recording conversations between the employee and supervisors or other employees since 2016, if such recordings exist they certainly are critical evidence for anyone interested in getting the facts about what actually happened and would certainly be important in assessing the credibility of the people recorded. This is especially true where the employee who has such critical evidence has refused to cooperate with the OIG's investigation, where it is clear that the recordings "stop and start" (Draft Report, page 9) and do not contain the full conversations, where there is some indication that the recordings may have been tampered with, and where it is clear that the parts made available to the public and the investigator have been carefully selected and leaked in an effort to color the public's perception of the employee and to enhance the employee's legal position. Where one witness has been fully cooperative and provided sworn statements under oath to the OIG, it is fair to ask why the OIG is questioning the credibility of the one who has been cooperative while refusing to pursue the best evidence available on the facts and on credibility simply because it would take too long to do so. Without justification, the FHFA OIG simply abandoned the lawsuit to get the recordings to get to a quick conclusion of its investigation and to avoid criticism.

**The Draft OIG Report's first contention that I misused my official position to attempt to obtain a personal benefit is simply unfounded.**

Having been publicly chastised in the political arena for violating its obligation to protect Ms. Grimes from having her identity revealed publicly, the FHFA OIG in this Draft OIG Report now positions itself as investigator, prosecutor, judge and jury by ignoring the allegations made in the second round of hot line complaints and, instead, manufacturing allegations no one has ever made, bending facts and



taking them out of context, and treating my reputation as collateral damage in its rush to prove that the IG has not been too cozy in her relationship with me.

1. While I have acknowledged having a number of conversations with Ms. Grimes about her interest in advancing at FHFA, almost all of which were initiated by Ms. Grimes (apparently with recorder in hand), there is simply no evidence that any of those conversations or anything else I did was intended to obtain any personal benefit for me.

If the presumed personal benefit imagined by the OIG was that I was seeking a sexual encounter with Ms. Grimes, surely I would have attempted some physical contact with her over such a protracted period. At no time during the 4+ years I have known Ms. Grimes have I ever attempted to have any physical contact with her, and Ms. Grimes has affirmed that under oath. The Postal Inspector's Report states as follows on page 47 of the investigative summary:

Ms. Grimes acknowledged that Director Watt never groped her nor touched her. Ms. Grimes testified, "We have never been intimate in any fashion; specifically, we have never held hands, kissed, or engaged in any sexual activity."

The FHFA OIG had a full copy of the Postal Inspector's Report available in the preparation of its Draft Report and a full copy has previously been made available to all recipients of this Draft OIG Report.

My testimony on lines 13 – 22 on page 136 and lines 1 – 19 on page 137 of my deposition (Exhibit 4 to this Response) also confirms that I avoided any physical contact between me and Ms. Grimes.

2. Just as the FHFA OIG demonstrated an apparent willingness to have the Justice Department deceive the United States District Court as described earlier in this Response, in multiple ways in its dealings with me and my attorney and in the Draft Report the OIG has been deceptive or dishonest, has reported discussions out of context, misrepresented or distorted them, or attempted to interpret them in ways that are simply inconsistent with reality.

In the days leading up to my October 11, 2018 deposition (Exhibit 4), my attorney made several efforts to determine the nature and scope of the OIG's investigation because the Inspector General had testified before the House Financial Services Committee that the OIG had no role to play with respect to EEO complaints and because we had not (and still have not) been provided a copy of any of the hotline complaints. The OIG investigator (Mr. Rich Parker) was ambiguous, at best, about what and who was being investigated. During the course of my deposition, however, the following exchange took place (see lines 1 – 11 on page 106 of Exhibit 4):

[Watt]: So let me just explain the sequence of events so that you're clear. I would say between – well, it might be better for me just to read it to you because I have been preparing my responses to interrogatories on the EEO matter. I don't know ---

Mr. Parker: We're only looking into the hotline complaints, sir.

The Witness [Watt]: I didn't understand the distinction that Laura was making when she testified, and I still don't understand it.

Mr. Parker's statement in the above exchange confirmed that the OIG was "only looking into the hotline complaints." Multiple statements from the Draft OIG Report also confirm Mr. Parker's statement that the OIG's investigation should have been confined to the hotline complaints, and should not have been about the EEO matters which are being pursued in separate legal proceedings and about which the Inspector General has testified that the OIG has no role and no authority to investigate. The OIG states on page 1 of the Report at the very outset of the Report:

This inquiry was conducted by the Federal Housing Finance Agency (FHFA or Agency) Office of Inspector General (OIG) into allegations raised in anonymous hotline complaints that an executive position had been created inappropriately and unnecessarily in the Office of the Chief Operating Officer (OCCO) of FHFA and that the Manager of the Project Management Office (PMO Manager) had been pre-selected for this position.

This is the second administrative inquiry involving the creation of this executive position and pre-selection of an employee to fill this position.

On page 2, the OIG Report states:

In the wake of the PMO Manager's email messages, we received three additional hotline complaints which alleged, in summary, that the FHFA Director misused his government position for personal gain by creating an unnecessary executive position for the PMO Manager,

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

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

We

opened a new administrative inquiry into these complaints, and added the five prior anonymous hotline complaints which also alleged the executive position had been created improperly (and for which we had previously completed our work). The inquiry focused solely on possible misconduct by the FHFA Director.<sup>3</sup>

On page 8, the Draft OIG Report states:

In the wake of the emails sent by the PMO Manager, we received three anonymous whistleblower complaints. They alleged that the FHFA Director abused his government position for personal gain by creating an unnecessary position for the PMO Manager, (b)(6);(b)(7)(C)

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

We opened a new administrative inquiry into these complaints and added the five prior anonymous hotline complaints which also alleged the executive position had been created (and for which we had previously completed our work). This inquiry focused solely on possible misconduct by the FHFA Director.

As we did before, we are referring to the OSC [Office of Special Counsel] the allegations regarding improper creation of a new executive position, and pre-selection of the PMO Manager. We are also providing to OSC the evidentiary record we compiled in this

<sup>3</sup> Note that this Draft OIG Report was the first time I became aware that this inquiry was focused solely on me.

second inquiry, given that the OSC has the statutory authority to determine whether FHFA senior executives engaged in any (b)(6);(b)(7)(C) We set forth, in Appendix A, a summary of the facts we found during this second inquiry concerning the creation of the new executive position within OCOO.

As confirmed in Exhibit 2, the FHFA OIG has refused to provide me or my attorney a copy of the Appendix A referenced above and apparently does not plan to provide a copy of Appendix A to any recipients of the OIG Report other than the OSC. However, it should be noted that Appendix A (which I have never seen and apparently will not have the right to review and respond to) contains the OIG's report on the very allegations contained in both sets of hotline complaints, whether an executive position was created improperly in the OCOO. Appendix A is also the report that the OIG has repeatedly and erroneously represented that the Draft OIG Report is about.

This Draft OIG Report, however, is not about the matters alleged in the hotline complaints. Having concluded that the OSC has the exclusive authority to "determine whether FHFA senior executives engaged in any (b)(6);(b)(7)(C) by creating an executive level position in OCOO and having no evidence that I engaged in any such prohibited personnel practice based on my testimony at pages 6 – 71 of Exhibit 4 and the absence of any other evidence to support that contention, the OIG should have concluded its investigation. Instead, the FHFA OIG turned its investigation and this Draft OIG Report to the very things that are the contested issues in the EEO matter about which the Inspector General testified before the House Financial Services Committee the OIG has no authority to investigate.

The Draft OIG Report relates to matters that occurred long before the PMO even became a part of OCOO and before the executive level position was even thought about or created, not to any matters alleged in any of the hotline complaints. In the investigation of these unrelated matters the FHFA OIG has positioned itself as investigator, standard setter, prosecutor, judge and jury in an apparent effort to demonstrate the IG's distance from

me. In that process, the OIG demonstrates an even greater willingness to misstate and misconstrue facts and the OIG has set its own inappropriate standards and drawn conclusions (“Findings”) that are inconsistent with reality and lack any evidentiary support.

The OIG’s conclusions on pages 3 and 19 of the Draft Report, for example, that I “induced” Ms. Grimes to meet with me at my apartment is simply inconsistent with the documentary evidence. The following texts between me and Ms. Grimes prior to the meeting at my condo, which the OIG has apparently chosen to ignore, appear on pages 202 - 203 of the Attachments to Declaration A of the Postal Inspector’s Report:

Grimes: I have a few hours tomorrow between 1 and 3.

Watt: Do you have more, less or no time on Sat or Sun instead? How do you calculate that the time between 1 & 3 is a “few” hours?

Grimes: LOL. It’s a lot of time for me.

Watt: Sat or Sun or is my option only the “few” hours between 1 and 3 tom?

Grimes: Yes Friday.

Watt: OK. I assume you’ll tell me more tomorrow or at some point.

Grimes: Can we meet at 1 tomorrow?

Watt: You can let me know where.

In light of this exchange, particularly the last text, it is just disingenuous for the OIG to reach the conclusion it has reached.

Likewise, the Draft Report states on page 18 that the “The Director acknowledged that no female mentees had visited his D.C. apartment” and on page 19 the Draft Report repeats that “He acknowledges that he never met another female mentee at his apartment.” Both of these statements are directly contrary to my testimony at lines 18 – 22 on page 102 and lines 1 – 8 on page 103 of Exhibit 4 at which the following exchange took place:

Q. Just so I’m clear, that means you socialize with other mentees?



A. Yes.

Q. And you meet with them one-on-one as well?

A. Yes.

Q. For dinners, concerts?

A. I have, yes. I have, yes.

Q. And have other mentees met you at your home alone?

A. Yes.

Q. Have they met with you when other individuals are present?

A. Yes.

Perhaps the OIG thought that no one would take the time to go behind the misstatements in its Draft Report to review or pay attention to the real record on which its unfounded conclusions were drawn.

It is also clear from the OIG's questions and from its Findings in the Draft Report that the OIG is applying a standard that is both sexist and inconsistent with current standards of gender equality. It is also inconsistent with the standard of equality I have been fighting for throughout my professional career. Throughout the questioning and the Report, the OIG has been consumed with how my friendship and mentorship with Ms. Grimes compares to my friendship and mentorship with other female employees, ignoring all the while how they compare with my friendships and mentorships of male employees. The OIG's Draft Report finally concludes on page 19:

Instead, by his own admission, he [Watt] treated the PMO Manager differently from other female employees. A reasonable conclusion is that he did so because he was seeking an inappropriate relationship with her.

While the OIG may consider that a "reasonable conclusion," it is also a sexist conclusion and one that men and women alike should find objectionable because it assumes that a man can't be a friend of or mentor a woman without "seeking an inappropriate relationship with her." This

conclusion is inconsistent with everything I have supported and fought for throughout my professional career. I tried to explain this to the OIG from my own personal perspective on pages 112 – 115 of Exhibit 4 as follows:<sup>4</sup>

And, equally, you know, you really – you kind of have to know where I come from.

I practiced law in a civil rights law firm that did extensive employment discrimination work. And in our firm we really never distinguished between men and women in the way – I mean, the whole objective here is to get to a point where you don't have to be suspicious if you invite a female to do something that you would be – not be suspicious about if you invited a male to do it. That's equality from my perspective.

And so I've always tried to approach male and female friends and mentees in much the same way. And I carry – for 22 years we fought for this in the courts, landmark decisions to do away with employment discrimination. When I went to Congress, I took the same concept. It's in my DNA. When I came here, it's a bigger agency, and I've tried to follow the same concept. I haven't had – well, I've had as many friendships, but not as many mentoring relationships as I have had, although I've had a number in the period I've been here, not only with employees, but with the children of employees.

So you know, that's who I am. And now I'm not sure that that's, you know – I'm the first to tell you, this is in a sense a wake up call, it's a depressing wake up call when I know there are men in this agency who have visited my house in Charlotte, who have visited my condo, who I have much, much closer relationships with than the relationship I have with Ms. Grimes. And somehow the public is now saying that kind of equality is unacceptable. And, in my view, it's time for me to ride off into the sunset because the standards have

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<sup>4</sup> See also pages 93 – 100 of Exhibit 4.

become so confused that it's difficult to operate in them. (pages 112 – 113)

But I think we're setting ourselves up for a very unequal situation here. And I'm kind of glad I don't have to deal with it beyond January 6 of 2019, because that's just not the way I have lived the last 22, plus 21, plus almost 5 years of my life now. (pages 114 -115)

**The Draft OIG Report's second Finding that I was not candid is also unfounded.**

The Draft OIG Report concludes on page 21:

We find the Director's omission of material information during his January 15, 2018, interview regarding his 'plan' for the PMO Manager to obtain an executive level position to constitute a lack of candor.

Apparently, the OIG's theory is that I had some grand "plan" dating back to June or November 2016 to create an executive level position for Ms. Grimes and that the "plan" resulted in the approval of the executive position in OCOO. The theory, however, is simply inconsistent with the facts. No such plan ever existed and the notion that I had an obligation to reveal a plan that never existed and that had nothing to do with the original hotline complaints is nothing short of bizarre. Further, it would have required a giant conspiracy with multiple other parties, none of whom have supported the OIG's contention.

The OIG's theory appears to relate to discussions, which the Draft OIG Report disingenuously takes out of context, dating back to 2014 about where the Project Management Office (PMO) should be placed within FHFA. As I testified (page 10, line 19 to page 11, line 15 of Exhibit 4):

I can tell you that the decision to move the PMO office out of DOC [the Division of Conservatorship] to the chief operating officer's jurisdiction had been basically a two-year process, and there's substantial documentation of that. When I got here in 2014, we thought there were actually two offices that were probably misplaced in the agency, one of them – after some period of time,

and just kind of feeling our way around. One of them was the project management office, the other one was the compensation office.

And the reason we thought they were misplaced is that they were in – they were in one particular branch of the organization, and they served the entirety of the organization. And so the thought process about changing the PMO out of the DOC to put it somewhere that was more universally accessible to all parts of the agency started as – probably as early as 2015.

The OIG’s theory also ignores my testimony on lines 17 – 22 of page 128 of Exhibit 4:

We decided – we looked at the possibility of putting the PMO office under the chief of staff before we – that was one of the options, we didn’t – it didn’t seem to make a lot of sense to me, but that was an option that was discussed at one point.

The OIG’s theory also ignores other important facts:

1. I had no indication that the hotline complaints that led to the OIG’s first investigation involved any allegations of impropriety on my part because they did not. The following from page 1 of the Draft OIG Report is instructive on this point:

We first received anonymous hotline complaints in the summer of 2017 alleging that: 1) (b)(6);(b)(7)(C) inappropriately created an executive position in the Office of the Chief Operating Officer (OCOO) for an FHFA employee, the PMO Manager; 2) (b)(6);(b)(7)(C) advised two senior FHFA employees “not to bother applying for the job”; and 3) the creation of a new executive position was inconsistent with FHFA’s prior buy-out.

2. I did not then, nor do I now, believe that the approval of a buy-out or the approval of the creation of an executive position in OCOO represented anything other than approvals of sound business recommendations made by FHFA executives whose judgments I trusted.

3. I did not then, nor do I now, believe that either of these decisions related in any way to discussions with employees, including Ms. Grimes, about employment or advancement opportunities at FHFA or elsewhere, discussions I regularly engage in with employees in the regular course of business.
4. I did not know who would apply for the executive position in OCOO, did not participate in any way in the interview or selection process, and did not know Ms. Grimes had applied and become the unanimously recommended applicant until that was revealed to me by the Inspector General at the end of the OIG's investigative process, long after I had been interviewed by the OIG in connection with the first round of hotline complaints on February 15, 2018.
5. When I became aware that Ms. Grimes had been recommended for selection to the executive position in OCOO I recused myself from the process and have not been involved in any decisions regarding the position since then.
6. I did not become aware that Ms. Grimes was making any sexual harassment allegations against me or that she believed she had any basis for making any such allegations until she told me on May 10, 2018 in a phone conversation. As I said on lines 9 and 10 on page 114 of my deposition "There was nobody more shocked than I was, May 10, in that recording." (See lines 9 – 22 on page 114 and lines 1 – 4 on page 115 of Exhibit 4). I vigorously dispute Ms. Grimes' allegations and the May 10, 2018 conversation reflected in Exhibit 5 confirms my surprise and strongly suggests that these allegations were added as part of Ms. Grimes attorneys' strategy to enhance her legal claims against FHFA.

### **Conclusion.**

Contrary to the conclusions reached by the OIG and reported in its Draft Report, no decision I have made during my tenure as Director of FHFA, either policy, personnel or otherwise, has been for personal gain or based on personal relationship or any other improper motivation. Neither have I failed to be candid or sought to deceive anyone. Despite that, it is clear that the allegations in this matter and the context from which they arose have resulted in severe distress to my family, to FHFA and to many others. For that, I express sincere regret.