

litigation to which his client was a party. The Commission determined that the "theoretical" availability of information through public sources cannot justify the use of BPI obtained through the APO. Finally, the attorney argued that counsel for the person who previously owned the company from which the information had been received did not object to disclosures of "historical information" about the firm. Nevertheless, the Commission noted that the company had not waived confidential treatment for the questionnaires it submitted to the Commission which contained the information in question.

There were several aggravating factors in the investigation. The breach was discovered by the Commission, the attorney did not act promptly to cure the breach, and the brief had been distributed to a non-signatory who retained the document for almost three weeks. Nonetheless, the Commission issued a warning letter to the attorney. In deciding not to issue sanctions, the Commission considered the fact that this was the attorney's first breach and that he failed to redact the BPI in good faith after relying on the incomplete bracketing in the confidential staff report.

Case 15: The Commission investigated whether two attorneys breached the APO in an investigation by serving on other counsel a document that indicated on its face it did not contain CBI but did in fact contain CBI. The Commission determined that the attorneys breached the APO and issued a warning letter to them. The Commission considered the mitigating factors that the release was inadvertent, that there was no actual dissemination of CBI to non-signatories to the APO, and that immediate steps were taken to remedy the situation once counsel became aware of the breach. In addition, the attorneys implemented new procedures regarding preparation of non-proprietary submissions in order to prevent future breaches.

IV. Investigations in Which No Breach Was Found

During 2002, four additional APO breach investigations were initiated. In one investigation the Commission determined that no breach had occurred. In the other three, the investigations were closed administratively. The reasons that the investigations were closed or that there was a "no breach" determination included that: (1) The breach concerned a judicial protective order, not a Commission APO; (2) the information at issue that ordinarily would be entitled

to treatment as BPI was not consistently treated as such in the public record including by persons entitled to claim it was BPI; (3) testimony at a hearing did not reveal BPI because the information in question had been previously revealed on the public record; and (4) while information that was revealed in an attachment to a document filed with the Commission might have been proprietary under the terms of an agreement connected with outside litigation, the information was not obtained under the APO and, therefore, its disclosure could not constitute a breach of the APO.

By order of the Commission.

Issued: May 19, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

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DEPARTMENT OF JUSTICE

Task Force for Faith-Based and Community Initiatives; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-day emergency notice of information collection under review: New collection, survey on ensuring equal opportunity for applicants.

The Department of Justice, Task Force for Faith-Based and Community Initiatives has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by May 26, 2003. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer (202) 395-6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to U.S. Department of Justice, Task Force for Faith-Based and Community Initiatives, ATTN: Patrick D. Purtill, Director, 950

Pennsylvania Ave., NW., Room 4409, Washington, DC 20530.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Survey on Ensuring Equal Opportunity for Applicants.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: none. Task Force for Faith-Based and Community Initiatives, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: not-for-profit institutions. Abstract: To ensure equal opportunity for all applicants including small, community-based, faith-based and religious groups, it is essential to collect information that enables the Federal agencies to determine the level of participation of such organizations in Federal grant programs while ensuring that such information is not used in grant-making decisions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are approximately 15,361 respondents who will each require an average of five minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual public burden hours for this information