



United States Department of State

Washington, D.C. 20520

February 14, 2014

Limited Waiver Pursuant to Section 3 of Executive Order 13490

Pursuant to the authority delegated under Section 3 of Executive Order 13490 “Ethics Commitments by Executive Branch Personnel” (January 21, 2009) and after consultation with the Office of the Counsel to the President, I hereby certify, for the reasons stated below, that it is in the public interest for Richard A. Stengel to receive a limited waiver of the restrictions in paragraph 2 of the Ethics Pledge with respect to the subsidiaries of Time Warner Inc., excluding Time Inc. and HBO. Prior to his service as Under Secretary for Public Diplomacy and Public Affairs at the U.S. Department of State, Mr. Stengel was the Managing Editor of Time Magazine, published by Time, Inc., a wholly-owned subsidiary of Time Warner, Inc. Mr. Stengel also recently contracted with HBO, which is also a wholly-owned subsidiary of Time Warner, Inc., to sell a concept for a video magazine. Mr. Stengel has not worked for any of Time Warner, Inc.’s other subsidiaries during his career.

Executive Order 13490, Section 1 (Ethics Pledge), requires all covered political appointees to abide by certain commitments. Paragraph 2 of the Ethics Pledge provides that a covered appointee may not for a period of two years from the date of his appointment participate in any particular matter involving specific parties that is directly and substantially related to his former employer. For purposes of applying this restriction, the term “particular matter” includes “any meeting or other communication relating to the performance of one’s duties with a former employer.” *Id.*, Sec. 2(h).

A waiver of the restriction contained in Paragraph 2 of the Ethics Pledge may be granted upon a certification either that the literal application of the restriction is inconsistent with the purposes of the restriction or that it is in the public interest to grant the waiver. *See* E.O. 13490, Sec. 3(a). The Director of the Office of Management and Budget has designated the Designated Agency Ethics Official of each executive branch agency to exercise the Section 3 waiver authority in consultation with the Counsel to the President. *See* DO-09-008, OGE Memorandum to Designated Agency Ethics Officials, February 23, 2009.

In his capacity as Under Secretary for Public Diplomacy and Public Affairs, Mr. Stengel serves as the principal adviser to the Secretary and Deputy Secretaries on matters of public diplomacy and public affairs and directs formulation of and/or coordinates Department policies and positions on public diplomacy and public affairs issues. It is in the public interest for Mr. Stengel to be able to lead the United States government’s public affairs and public diplomacy efforts engaging the full spectrum of news, entertainment and media outlets, including Time Warner, Inc. subsidiaries reaching hundreds of millions of domestic and foreign residents. The

purpose of the Ethics Pledge is to address concerns of special access, not to erect unnecessary barriers to interaction with the press. *See* DO-09-007, OGE Memorandum to Designated Agency Ethics Officials, February 11, 2009. With the limitations discussed below, this waiver will enable Mr. Stengel to lead a broad-based public engagement strategy while guarding against any appearance of special access for outlets with which he recently held direct employment or contractual relationships.

Without this waiver, Mr. Stengel would be limited in his ability to communicate directly on official matters with any of the more than 200 subsidiaries of Time Warner, Inc., or to participate in decisions regarding public affairs and public diplomacy initiatives involving those subsidiaries. Delegating these duties would inhibit Mr. Stengel from being able to participate in strategic discussions regarding the Department's outreach to the international community through public messaging, as well as its dissemination of information about the Department and foreign policy issues to the American public. Time Warner, Inc. subsidiaries reach a very large American and international audience. Journalists of some of these subsidiaries may travel with the Secretary when he takes official trips or may otherwise engage with the Secretary or other high level officials. Mr. Stengel may be asked to weigh in on high-level strategic decisions about which media outlets are best suited for certain access or interviews with Department officials, and on how best to frame news coverage of Department policies, operations, and activities. As Under Secretary, Mr. Stengel will also oversee the Bureaus of Public Affairs, International Information Programs, and Educational and Cultural Affairs, as well as the Center for Strategic Counterterrorism Communications. This responsibility may require him to participate in decisions about allocating funding for content acquisition or dissemination, partnerships, or media initiatives. Without this waiver, Mr. Stengel would not have the latitude to engage in these regular discussions and decisions, as Time Warner, Inc. subsidiaries are potential partners and content providers among others in the media industry.

Therefore, I certify that it is in the public interest that this waiver be granted so Mr. Stengel may supervise the Department's public affairs program, and lead a broad based public diplomacy strategy on behalf of the U.S. Department of State to support the achievement of U.S. foreign policy goals and objectives, advance national interests, and enhance national security by informing and influencing foreign publics and by expanding and strengthening the relationship between the people and the Government of the United States and citizens of the rest of the world.

While it is in the public interest to waive the requirements of Paragraph 2 of the Ethics Pledge regarding most of the subsidiaries of Time Warner, Inc., it is not equally in the public interest to waive such requirements with respect to Time Warner, Inc. itself, Time, Inc., or HBO. Mr. Stengel was employed directly by Time Inc. for seven years prior to his appointment and he recently entered into a contract with HBO before joining the Department. By virtue of his employment with Time, Inc., Mr. Stengel also received employment-related benefits, including a 401(k), supplemental savings plan, defined benefit pension plan, and excess defined benefit pension plan from Time Warner, Inc. Thus, because of his relationships with Time, Inc., HBO, and Time Warner, Inc., these entities are not included within this Limited Waiver Pursuant to Section 3 of Executive Order 13490.

Mr. Stengel's connection to Time Warner, Inc.'s over 200 remaining subsidiaries is attenuated. In fact, the subsidiaries of Time Warner, Inc. are separate and distinct entities and operated autonomously from Mr. Stengel's former employer, Time, Inc. The subsidiaries do not share the same boards with Time, Inc., and the executives of the subsidiaries did not have any connection with or authority over his employment with or benefit packages provided by Time, Inc. Thus, this attenuated connection between Mr. Stengel and the other subsidiaries of Time Warner, Inc. is unlikely to give rise to any perceived conflict of interest or cause a reasonable person with knowledge of the relevant facts to question his impartiality.

In accordance with 5 C.F.R. § 2635.502(d), I have also determined that with respect to particular matters in which Mr. Stengel would participate personally and substantially that might involve Time Warner, Inc.'s subsidiaries, other than Time, Inc. and HBO, the interests of the Government in his participation outweigh the concern that a reasonable person may question his impartiality or the integrity of the Department's programs and operations.

Reasons include:

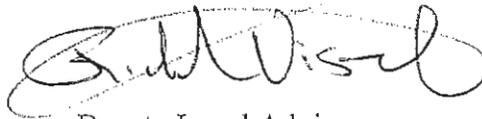
- Mr. Stengel's continued relationship with Time Warner, Inc. will be minimal during his employment. Although he will continue to participate in a 401(k), supplemental savings plan, defined benefit pension plan, and excess defined benefit pension plan, the benefits provided are pursuant to a contractual obligation and were set long before Mr. Stengel's employment with the Department and accordingly cannot be affected by his official participation. Mr. Stengel will be divesting all of his stock and equity interests in Time Warner, Inc. within 90 days of confirmation;
- Many decisions about media access, interviews, and public messages of the Department are made by or in conjunction with other high-level Department officials, including the Assistant Secretary for Public Affairs, the Department Spokesperson, and others – so, the likelihood that the Under Secretary's sole discretion would be the determining factor is reduced;
- Decisions about public access to information and Department communications are sensitive and often require senior engagement. If the Under Secretary was not able to participate in these discussions and policy determinations, it would have a negative impact on the Department;
- Mr. Stengel's ability to work on matters involving Time Warner, Inc.'s subsidiaries is of particular importance to the Department's public affairs and public diplomacy missions, given the broad variety of media outlets owned by Time Warner, Inc. Many of these subsidiaries are regularly engaged in covering the Department's activities and require the Under Secretary to be able to weigh in on decisions that might impact individual outlets' news coverage; and
- Due to his expertise in journalism and the media industry, including new and social media, Mr. Stengel brings an important perspective and experience to the Department's

public diplomacy and public affairs missions; it would be a detriment to the Department to lose Mr. Stengel's expertise on these issues.

This waiver and authorization is limited in scope. It does not cover Mr. Stengel's participation in any particular matter involving specific parties in which Time Warner, Inc., Time, Inc., or HBO are parties or represent parties. It covers only his participation in particular matters in which Time Warner, Inc.'s other subsidiaries are parties or represent parties. It does not cover those matters that would have a direct and predictable effect on Time Warner, Inc.'s ability and willingness to fulfill their contractual obligations to Mr. Stengel in the form of his 401K, pension plan, and supplemental savings plan.

Thus, I grant this waiver with the understanding that Mr. Stengel will comply with the remaining provisions of the Ethics Pledge and with all preexisting government ethics rules, and will abide by the limitations herein described. Pursuant to the above determination, this waiver also serves as an authorization pursuant to 5 C.F.R. § 2635.502(d) to participate in particular matters in which Time Warner, Inc.'s subsidiaries are parties or represent parties - excluding Time Warner, Inc. itself, Time, Inc., and HBO.

Richard C. Visek

A handwritten signature in black ink, appearing to read "Richard C. Visek", written over a dotted line.

Deputy Legal Adviser
Designated Agency Ethics Official
U.S. Department of State