

<https://www.wsj.com/articles/ethics-official-owned-meta-stock-while-recommending-ftc-chair-recuse-herself-from-meta-case-8582a83b>

TECH

Ethics Official Owned Meta Stock While Recommending FTC Chair Recuse Herself From Meta Case

Federal Trade Commission's designated ethics official says she acted properly, but faces questions from watchdog group

By *Brody Mullins* [Follow](#) and *Rebecca Ballhaus* [Follow](#)

June 30, 2023 8:00 am ET



The FTC last year reviewed Meta's planned acquisition of a virtual reality app developer. PHOTO: JOSH EDELSON/AGENCE FRANCE-PRESSE/GETTY IMAGES

WASHINGTON—An ethics official owned Meta Platforms [META J'33%](#) ▲ stock when she recommended that Federal Trade Commission Chair Lina Khan recuse herself from a case involving the company, spurring a demand for an inquiry.

Lorielle Pankey, the FTC's designated agency ethics official, in an August 2022 memo said Khan's past statements opposing acquisitions by Meta raised questions about her ability to be impartial as the FTC reviewed the company's planned acquisition of a virtual reality app developer.

At the time of her recommendation, Pankey owned between \$15,001 and \$50,000 in Meta stock in a joint account, and still owns it, according to FTC officials and her public financial

disclosures.

A progressive group, called the Revolving Door Project, on Thursday asked the FTC's Office of Inspector General to look into the matter to determine whether Pankey violated the agency's ethics rules, noting that Pankey's recommendation sided with Meta, which had petitioned the agency for Khan to recuse herself.

“Was Pankey's subjective judgment influenced by the fact that the company in which she owns stock has put significant resources into calling for Chair Khan's recusal?” the group asked in its letter this week. “The public can and should rightfully question her impartiality on this matter considering her direct financial stake in Meta.”

The Wall Street Journal's 2022 Capital Assets series found that more than 2,600 officials—more than one in five—invested in companies overseen by their agencies over a six-year period. The series highlighted the porous nature of the federal rules for stock ownership among senior government employees.

Pankey said that before becoming an ethics official years ago, she had sought guidance from the Office of Government Ethics, which oversees federal ethics rules, on whether her investments prevented her from advising other employees on their conflicts.

She said she was told that such advice didn't amount to personal and substantial participation in an issue and therefore wouldn't violate the criminal conflict-of-interest statute, which directs officials not to participate personally and substantially in matters in which they have a financial interest.

“In the course of my FTC duties, I take all reasonable steps to ensure full compliance, never coming close to the line of a violation,” Pankey said in an email. “Any suggestion otherwise is categorically false.”



FTC Chair Lina Khan rejected Meta's request for her recusal from the agency's review of the deal. PHOTO: TOM WILLIAMS/CQ ROLL CALL/ZUMA PRESS

FTC spokesman Douglas Farrar said Pankey had issued guidance in the Meta matter “consistent with the Office of Government Ethics interpretation of their rules governing ethics officials throughout the federal government.”

The ethics office said it doesn't comment on specific individuals' holdings.

Khan ultimately decided not to recuse herself. In a memo, she wrote that her previous comments didn't address the transaction in question.

Pankey's 2022 memo was reported by Bloomberg News on June 16. In the memo, she recommended Khan recuse herself but said her participation wouldn't “constitute a *per se* federal ethics violation.”

Ethics experts said that while Pankey's investment didn't violate the criminal conflict-of-interest law, it was at odds with federal regulations that direct officials to avoid even the appearance of a conflict of interest.

“She should not have participated because I believe a reasonable person with knowledge of her ownership of Meta stock would question her impartiality in this matter,” said Kathleen Clark, a law professor and former ethics lawyer for the Washington, D.C., government.

Pankey didn't respond to a question about whether her investment was at odds with the impartiality regulation.

Pankey in her financial disclosure reported that she owned the Meta stock in a joint account with a parent in which she has 50% interest.

Pankey told the Journal last year that she doesn't have any control or influence over the investments in the account and that her father had bought it for her when she was younger.

In July 2022, Meta filed a petition seeking Khan's recusal from the FTC's review of its proposed merger because of her comments before joining the agency. She had called for the FTC to block future acquisitions by the company.

Pankey penned the Meta memo at the request of Christine Wilson, then a Republican commissioner at the agency.

Khan's statements, Pankey wrote, "would raise a question in the mind of a reasonable person about Chair Khan's impartiality as an adjudicator." She added that Khan "may exercise her discretion to conclude there is no reasonable basis to question her impartiality in this matter."

Separately, Khan solicited the verbal guidance of Pankey. Khan later testified before Congress that she acted consistently with that guidance.

In November, Khan rejected Meta's request for her recusal. The FTC voted 2-1 along partisan lines to allow her to participate. Wilson, the Republican commissioner, dissented and subsequently resigned, accusing Khan in an op-ed of an "abuse of power."

Officials at the Revolving Door Project say that by recommending that Khan recuse herself from a matter involving Meta, Pankey was in effect influencing a policy matter involving the company.

"Disqualifying Lina Khan from matters involving Meta would be enormously valuable to Meta," said Jeff Hauser, the founder and director of the organization. "It's not hyperbole to suggest that tens of billions of dollars of Meta market capitalization are at stake if Khan were to be successfully disqualified from FTC matters involving Meta."

Pankey is one of scores of ethics officials across the executive branch whose job is to help agency employees comply with the federal conflict-of-interest law. Pankey reviews and signs financial disclosure forms for agency employees attesting that they are in compliance with the law.

As part of her job, Pankey helped create and circulate a reminder for FTC employees to review their stock portfolios to ensure they didn't own investments that could cause a conflict with their jobs for the government.

“Cheese gets better with age—financial data doesn’t,” the reminder stated. “Stay current on your financial investments to avoid conflicts of interest at work.”

Dear FTC employee,

Cheese gets better with age -
financial data doesn't. Stay current
on your personal investments to avoid
conflicts of interest at work.



Thanks,
Ethics

**SERVE WITH
INTEGRITY**

When in doubt,
give Ethics a shout!

Visit the Ethics
Homepage on the Intranet.

The reminder for FTC staff to review their portfolios that Lorielle Pankey helped to create and circulate. PHOTO: FTC

Write to Brody Mullins at Brody.Mullins@wsj.com and Rebecca Ballhaus at rebecca.ballhaus@wsj.com

Appeared in the July 1, 2023, print edition as 'FTC Ethics Official's Advice Prompts Call for Inquiry'.