



Department of Veterans Affairs Office of Inspector General

Administrative Investigation Prohibited Personnel Practices, Gifts from Prohibited Sources, Lack of Candor, and Misuse of Time and Resources VHA Workforce Management and Consulting Office

Redacted



DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Chief Officer Workforce Management & Consulting Office

SUBJECT: Administrative Investigation – Prohibited Personnel Practices, Gifts from Prohibited Sources, Lack of Candor, and Misuse of Time and Resources, VHA Workforce Management and Consulting Office, VA Central Office (2009-3058-IQ-0121)

Summary

We substantiated that Dr. Rayshad Holmes, Director of Human Resource Development (HRD), Veterans Health Administration (VHA) Workforce Management & Consulting Office (WMCO), engaged in prohibited personnel practices when he twice gave preference in hiring to [REDACTED], VHA WMCO. We also found that [REDACTED], improperly accepted (b)(6) gifts from prohibited sources when [REDACTED] solicited and accepted [REDACTED] reward points and that [REDACTED] failed to testify honestly about receiving the points. Further, we found that [REDACTED] misused [REDACTED] official time, position, and VA-owned equipment to conduct personal business as well as business for [REDACTED] privately-owned company.

Introduction

The VA Office of Inspector General Administrative Investigations Division investigated allegations that Dr. Holmes engaged in preferential treatment when he hired [REDACTED] (b)(6) and that [REDACTED] abused [REDACTED] official time when [REDACTED] conducted personal business during her VA duty hours and while working from an alternate worksite without taking the appropriate leave. To assess these allegations, we interviewed Ms. Joleen Clark, Chief Officer WMCO; Mr. Brian McVeigh, Chief Consultant and Acting Deputy Chief of WMCO; Dr. Holmes; [REDACTED]; and other VA and non-VA employees. In addition, we reviewed emails, personnel records, contract files, and other relevant records, as well as Federal laws, regulations, and VA policy. We investigated and substantiated another allegation and did not substantiate others, which are addressed in separate memorandums.

Results

Issue 1: Whether Dr. Holmes Engaged in Prohibited Personnel Practices

Federal law states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a workforce from all segments of society, and that selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. 5 USC § 2301(b). The law further states that any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring the prospects of any particular person for employment. 5 USC § 2302(b). Standards of Ethical Conduct for Employees of the Executive Branch state that employees shall act impartially and not give preferential treatment to any individual. 5 CFR § 2635.101(b).

Background

██████████ told us that ██████████ first met Dr. Holmes ██████████ when they were ██████████. ██████████ said that by ██████████ they became “good friends,” and ██████████ considered Dr. Holmes not only a good friend but a confidant. Personnel records reflected that both Dr. Holmes ██████████ after they (b)(6) graduated from the University; however, Dr. Holmes left ██████████ in 2002, eventually obtaining employment at the U.S. Office of Personnel Management (OPM) in November 2004. ██████████ said that over the years ██████████ vacationed with Dr. Holmes a number of times and that he came to ██████████ to attend ██████████ family gatherings. Dr. Holmes said that he visited ██████████ up to 10 times during a recent summer. Personnel records reflected that ██████████ resigned ██████████ position at ██████████ in 2005 and that ██████████ began working for VA as a ██████████ Management and Program Analyst in ██████████

Preference in Hiring

Personnel records reflected that Dr. Holmes, the then Director of VA Office of Human Resource Management (OHRM), Human Capital Planning Development and Outreach Service, appointed ██████████ Management and Program Analyst position effective ██████████. ██████████ told us that ██████████ reached out to Dr. Holmes seeking (b)(6) guidance about career choices and that he told ██████████ should focus on positions in Government Human Resources (HR). ██████████ said that Dr. Holmes told ██████████ about a VA job opportunity, and Dr. Holmes also acknowledged that he told ██████████ about the position. Personnel records reflected that ██████████ applied for the position and that ██████████ was ranked at the top of the certificate of eligibles list. Dr. Holmes told us that he selected ██████████ for one of three positions. Dr. Holmes said that he alone interviewed

██████████ and that he recommended ██████████ for selection to the Acting Chief of OHRM. Dr. Holmes said that he “kind of” favored ██████████ but that he did not assist ██████████ in applying for the job. However, ██████████ told us that ██████████ became interested in working for VA after consulting with Dr. Holmes. ██████████ also said that Dr. Holmes told ██████████ to go to the OPM website to look for the job announcement; that Dr. Holmes interviewed ██████████ for the position; and that after being selected, Dr. Holmes became ██████████. (b)(6)

The OPM website stated that appointments made by agencies through Delegated Examining Authority are subject to civil service laws and regulations to ensure fair and open competition, recruitment from all segments of society, and selection on the basis of the applicants’ competencies or knowledge, skills, and abilities. The Delegated Examining Unit (DEU) recruitment package associated with ██████████ appointment was incomplete, and a DEU Certified HR Specialist told us that although OHRM provided a Request for Referral showing that an internal VA reemployment priority list—a job placement program administered under rules prescribed by OPM; all Federal agencies must maintain one to provide priority reemployment consideration for certain separated employees; and a requirement before announcing the position to candidates outside of Federal service — was first cleared, she said that she found no evidence in the file that any hiring efforts were made from the VA reemployment priority list. VA Central Office (VACO) HR personnel also found no evidence of an effort to first meet those requirements for that position series.

For ██████████ second appointment within VA, personnel records reflected that ██████████ applied and was selected for ██████████ position in VHA HR Development (HRD) with an effective start date of ██████████. Dr. Holmes told us that HR support staff in Reno, Nevada, rated and ranked the applicants for that position and that he was not involved whatsoever in producing the list of eligible candidates. He also said that he and Mr. McVeigh interviewed the applicants and that he told Mr. McVeigh that he knew and worked with ██████████ in the past. He said that after the interviewing process, Mr. McVeigh rated ██████████ the highest, selecting ██████████ for the position. (b)(6)

Mr. McVeigh told us that his first contact with ██████████ was when he and Dr. Holmes conducted their telephone interviews of all the best qualified candidates, which included ██████████. Mr. McVeigh said that his limited knowledge about ██████████ and Dr. Holmes worked together in OHRM and previously at ██████████. He said that during the interview process, he did not sense that Dr. Holmes improperly advocated for ██████████. However, he said that when he later learned of their close personal relationship, Mr. McVeigh said that Dr. Holmes should have made a disclosure of their actual long-term close relationship so that he (Mr. McVeigh) could have made a more informed decision about how to handle the hiring process. Mr. McVeigh further said that their personal relationship now created a question in his mind about how objective Dr. Holmes truly was concerning ██████████ qualifications in relation to other qualified candidates. Furthermore, Mr. McVeigh said that Dr. Holmes developed (b)(6)

the interview questions, which gave him the opportunity to tailor them to a favored candidate; no technical HR questions were asked in the interview; and [REDACTED] was the only candidate without technical HR experience. He further said that Dr. Holmes should have recused himself from the hiring process in this instance. (b)(6)

An HR Specialist who was one of the rating and ranking panel members for this position told us that Dr. Holmes told her that [REDACTED] was someone he was interested in.” She said that Dr. Holmes tried to involve the panel members in a discussion about the scoring differences of the candidates but that she rebuffed his offer, reminding him that he was the selecting official. She also said that she did not believe Dr. Holmes should have had any discussion about how the panel rated and ranked the candidates, and it was her opinion that if he could not be objective, he should have recused himself. (b)(6)

Another rating and ranking panel member told us that she noted concerns with [REDACTED] application, discussed them in depth with the other panel member, and sent her concerns forward to the selecting officials. She said that she was concerned that [REDACTED] had only 6 months with VA, the only agency that handled title 38 employees; that [REDACTED] lack of experience placed [REDACTED] at a disadvantage; a gap in [REDACTED] employment history could be an indicator of past problems; and that it was a conflict of interest for [REDACTED] to list Dr. Holmes as a reference on [REDACTED] resume, since he was going to possibly be [REDACTED] in the position. She also recalled that another panel member said that it did not matter how they scored the applicants, as “Rayshad’s going to pick who he wants anyway—that’s what I heard.” The panel member told us that she did not believe that [REDACTED] was the most qualified for the position and that Dr. Holmes should have recused himself from the hiring process related to [REDACTED]. (b)(6)

Conclusion

We concluded that Dr. Holmes first engaged in a prohibited personnel practice when, as a long-term close personal friend, conducted a solo interview of [REDACTED] and then selected [REDACTED] for a position in which he would supervise [REDACTED]. He again engaged in a prohibited personnel practice when he contacted panel members responsible for rating and ranking [REDACTED] application for a second VA position as a subordinate to him, expressing to them his interest in [REDACTED] and wanting to discuss with panel members their scoring of the candidates. He also failed to make full disclosure to Mr. McVeigh, who was involved in interviewing applicants, of his close relationship with [REDACTED]. In addition, Dr. Holmes developed the interview questions for the HR Specialist position; he did not include any technical HR questions as [REDACTED] did not have sufficient technical HR experience; and he was instrumental in [REDACTED] selection. Mr. McVeigh and the HR Specialists involved in [REDACTED] appointment all told us that Dr. Holmes should have recused himself from this process, due to his close personal relationship with [REDACTED]. (b)(6)

Recommendation 1. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against Dr. Rayshad Holmes for engaging in prohibited personnel practices.

Recommendation 2. We recommend that the Chief Officer Workforce Management and Consulting Office confer with the Office of Human Resources to determine the appropriate corrective action concerning [REDACTED] VA appointments. (b)(6)

Issue 2: Whether [REDACTED] Accepted Gifts from Prohibited Sources

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not, directly or indirectly, solicit or accept a gift from a prohibited source. 5 CFR § 2635.202. Federal travel regulations state that promotional benefits or materials received from a [REDACTED] in connection with [REDACTED] are considered property of the Government and that the [REDACTED] is prohibited from retaining for personal use any promotional benefits or materials as a result of [REDACTED] VA policy states that the Standards of Conduct apply to purchase card holders and that employees may not solicit or accept any gratuity, gift, favor, entertainment, loan, or anything of monetary value from any party doing business with or seeking to obtain business with VA. VA Handbook 4080, Paragraph 2(d) (December 29, 2008). (b)(6)

Ms. Clark and Mr. McVeigh told us that Dr. Holmes assigned [REDACTED] as the [REDACTED] [REDACTED] received Contracting Officers Technical Representative (COTR) training. Personnel records reflected that on [REDACTED] was appointed as a Contracting Officer (CO) with a \$25,000 limitation, and [REDACTED] told us that [REDACTED] also completed purchase card training. [REDACTED] said that while acting in [REDACTED] official capacity, [REDACTED] was never offered membership reward “points” for [REDACTED]. [REDACTED] said that although [REDACTED] accepted points from meetings planned by the Cleveland Business Center CO, [REDACTED] said that [REDACTED] never accepted points for the events [REDACTED]. Federal regulations state that employees will furnish information and testify freely and honestly in cases respecting employment and that concealment of material facts or willfully inaccurate testimony in connection with an investigation may be ground for disciplinary action. 38 CFR § 0.735-12. (b)(6)

In a June 10, 2009, email chain between [REDACTED] and a representative of the [REDACTED], they discussed [REDACTED], and the representative acknowledged [REDACTED] status, telling [REDACTED] that [REDACTED] could apply points to [REDACTED] account. In another email, dated July 1, 2009, the representative confirmed the addition of 32,400 reward points into [REDACTED] account for [REDACTED] of the “Department of Veterans Affairs [REDACTED]”. The Cleveland Business Center CO told us that he did not negotiate or accept points in the letter of intent that he signed with the [REDACTED] and that acceptance of any points was done without his knowledge. He also said that he knew that it was improper to (b)(6)

accept points in such instances and that [REDACTED] was not truthful when [REDACTED] asserted that [REDACTED] only accepted points as a result of his negotiating with [REDACTED].

Additionally, the [REDACTED] told us that his records reflected that they gave [REDACTED] 7,650 reward points for the [REDACTED] held there from June 22-26, 2009, and 4,104 reward points for [REDACTED] held at their [REDACTED] from July 6-10, 2009, for a total of 11,754 for June and July 2009. (b)(6)

Other email messages, dated in April 2009, reflected [REDACTED] efforts to obtain [REDACTED] points for a VA [REDACTED]. [REDACTED], who worked with [REDACTED], told us that [REDACTED] deposited 2,300 reward points into [REDACTED] personal account for [REDACTED] work as a [REDACTED] on the event. She said that it was that specific [REDACTED] common practice to award points to [REDACTED] in recognition of their work.

In another email, [REDACTED] told a representative of the [REDACTED] that [REDACTED] held a VA [REDACTED] at that hotel and [REDACTED] wanted assurances that the associated Starwood reward points were credited to [REDACTED] account. [REDACTED] also commented to the representative that there was a promotion ongoing at that time, which [REDACTED] said should increase the number of reward points. In a series of email updates that [REDACTED] received in June and July 2009, a [REDACTED] representative told [REDACTED] that they credited 16,460 Starwood Preferred Planner reward points to [REDACTED] account. A [REDACTED] representative told us that most Government agencies prohibit [REDACTED] from receiving points, since they are considered a gift; however, she said that if the “client requested points, [REDACTED] had no choice but to give the points to the requesting [Government] employee.” A [REDACTED] told us that 10,000 Starwood reward points would buy a 1-night hotel stay, and the [REDACTED] internet website reflected that [REDACTED] rooms varied in price from \$189 in Baltimore to \$509 in New Orleans. (b)(6)

In yet another email chain, dated from May 15 to June 10, 2009, [REDACTED] solicited reward points from a [REDACTED]. A representative of the hotel asked the Cleveland Business Center CO to determine if he or [REDACTED] would get the reward points, and the Cleveland CO responded that it was inappropriate for him to accept the points but that he could not speak for [REDACTED]. Within the chain of emails, [REDACTED] provided [REDACTED] Starwood account number; asked how many reward points [REDACTED] would receive; and requested an explanation of how they calculated the points. [REDACTED] records reflected that they awarded 1,020 points to [REDACTED] account on July 11, 2009. (b)(6)

Conclusion

We concluded that [REDACTED] improperly accepted gifts from prohibited sources when [REDACTED] solicited and accepted reward points for [REDACTED] role in [REDACTED] not only attended Contracting Officer related training but [REDACTED] (b)(6)

was a Contracting Officer with purchasing authority up to \$25,000, and [REDACTED] further received purchase card training. Although [REDACTED] told us that [REDACTED] did not accept reward points for [REDACTED], we found numerous emails between [REDACTED] and various [REDACTED] in which [REDACTED] discussed and solicited reward points for [REDACTED] involvement in [REDACTED]. We found that 10,000 (b)(6) reward points could purchase a 1-night stay, with a value up to and over \$500. A [REDACTED] representative told us that most Government agencies prohibit [REDACTED] from receiving points, since they are considered a gift, but that if they requested the points, the [REDACTED] had no choice but to give them the points. Email records reflected that [REDACTED] violated Federal travel regulations and VA policy when she actively solicited and freely accepted thousands of reward points for [REDACTED].

Recommendation 3. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] for soliciting and accepting gifts from prohibited sources.

Recommendation 4. We recommend that the Chief Officer Workforce Management and Consulting Office make a reasonable effort to ensure that [REDACTED] (b)(6) relinquishes the reward points improperly credited to [REDACTED] personal accounts and returns them to the issuing entities.

Recommendation 5. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] for [REDACTED] lack of candor when [REDACTED] failed to testify honestly concerning [REDACTED] soliciting and accepting gifts, in the form of reward points, from prohibited sources.

Issue 3: Whether [REDACTED] Misused Official Time and Resources (b)(6)

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not use his public office for his own private gain, for the endorsement of any product; that an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes; and the Standards require an employee to use their official time in an honest effort to perform official duties. Standards further state that employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, such as Federal, State, or local taxes that are imposed by law. 5 CFR §§ 2635.702, 704, 705, and 809.

VA policy states that employees are expected to be on duty during the full period of their tours of duty unless absent on approved leave. VA Directive 5011/2, Paragraph 2 (June 16, 2004). Further, VA policy prohibits misuse or other inappropriate use of Government office equipment including any personal use that could cause congestion, delay or disruption of service, such as large attachments, and prohibits using it for commercial purposes or in support of “for profit” activities or in support of other outside employment or business activity. VA Directive 6001 (July 28, 2000).

Background

The Maryland State Department of Assessments and Taxation (DAT) website reflected that [REDACTED] applied to incorporate [REDACTED], on [REDACTED], citing that the purpose of the Limited Liability Company was “to obtain and rehabilitate properties to resale or rent for profit.” [REDACTED] told us that [REDACTED] currently managed only one rental property under [REDACTED]. The Maryland DAT website also reflected that [REDACTED] applied to incorporate [REDACTED], on [REDACTED], citing the purpose of the Limited Liability Company was “to serve and sell baked goods to consumers.” In both instances, [REDACTED] listed [REDACTED] as the Resident Agent and [REDACTED] home as the business address. The Maryland DAT website further reflected that these two businesses were “Not in Good Standing” and that they were “FORFEITED” for failure to file property returns. The website defined “forfeited” as “the ‘legal existence’ of the entity has been relinquished and it is usually for failing to make required Annual Report/Personal Property Return filings for prior years.” The website reflected that no personal property filings were received for either business for tax years 2005 through 2009, and in a subpoena request for [REDACTED] records, no Federal or State tax records were produced for either entity. (b)(6)

Misuse of Position, Time, and Resources for Personal Gain - [REDACTED]

[REDACTED] internet website described the company as “a family business based in the Washington, DC, area” with the motto “from our kitchen to yours.” [REDACTED] told us that [REDACTED] began operating [REDACTED] several years ago to prepare and sell baked goods; however, [REDACTED] said that [REDACTED] had no employees and generated negative revenue. To the contrary, Dun & Bradstreet, Inc. (D&B), records listed [REDACTED] as the Registered Agent for [REDACTED] Maryland residence as the business address; described the business as being a retail bakery with 1-2 employees; and it stated that the annual sales volume was \$54,000. (The D&B website stated that it identifies and consolidates data from multiple sources, to include business self-reporting, into one business file to maintain its data quality.) (b)(6)

[REDACTED] told us that [REDACTED] baked the cakes in [REDACTED] home and at the home of [REDACTED], a co-owner of the business. [REDACTED] said that [REDACTED] occasionally used [REDACTED] VA-assigned email account and [REDACTED] VA-issued BlackBerry to confirm orders. We found numerous emails generated from [REDACTED] VA email account in which [REDACTED] communicated with customers about the sale of baked goods; automatic order notifications from the [REDACTED] website; and discussions with customers about cake design, pickup arrangements, and product pricing. In a January 6, 2009, email message to [REDACTED] website designer, [REDACTED] told the designer that [REDACTED] business was a “home-based bakery” named [REDACTED]. In that same email, [REDACTED] identified [REDACTED] as a Federal employee and provided [REDACTED] VA email address for the web designer to reach [REDACTED] at work. In a February 18, 2009, email [REDACTED] sent from [REDACTED] VA email account, [REDACTED] told the designer that [REDACTED] (b)(6)

received [REDACTED] first internet cake orders and directed the designer to refine the webpage to (b)(6) enhance [REDACTED] s customer service.

In an analysis of emails generated from [REDACTED] VA-assigned and personal email accounts, we found that between November 2008 and August 2009, [REDACTED] used email to transact some form of business for [REDACTED] during [REDACTED] duty hours from 1 to 9 days each month, to include while [REDACTED] was working in the office, at [REDACTED] home (telework site), and while on official VA travel. As an example, on 7 days in February 2009, [REDACTED] sent nine business-related emails from [REDACTED] personal email account and [REDACTED] from [REDACTED] r VA email account during [REDACTED] duty hours. In another month, on 9 different days in March 2009, [REDACTED] sent 16 business-related emails from [REDACTED] personal (b)(6) account and one from [REDACTED] VA email account. (We were unable to determine the full extent of [REDACTED] workday personal email use, as the subpoenaed records reflected that many of the messages were deleted.) We also found one email, dated March 6, 2009, a workday that [REDACTED] was scheduled to telework from [REDACTED] home, a customer told [REDACTED] [REDACTED] would “be by at 9:30 am to pick up the cake.” In addition, we found numerous email messages sent from [REDACTED] VA email account conducting [REDACTED] business that also contained [REDACTED] VA electronic signature reflecting [REDACTED] official title and office information.

[REDACTED] told us that [REDACTED] “usually” had emails generating orders for [REDACTED] business forwarded to [REDACTED] VA email account so that [REDACTED] got them on [REDACTED] VA-issued BlackBerry immediately. [REDACTED] said that [REDACTED] used [REDACTED] official time and VA-assigned email and (b)(6) equipment to look at emails or make phone calls for [REDACTED] business but that [REDACTED] considered the business “essentially a hobby.” [REDACTED] said that [REDACTED] supervisor, Dr. Holmes, was aware of [REDACTED] business and that in the past, he purchased [REDACTED] products. Dr. Holmes told us that [REDACTED] mentioned [REDACTED] baked-goods business in discussions, describing it as a “hobby,” but he denied ever purchasing any baked goods from [REDACTED], stating that it would be a conflict of interest to purchase “goods and services” from an employee of his. He further said that he was not aware that [REDACTED] misused [REDACTED] official time and Government resources in support of [REDACTED] personal business.

A representative of the Maryland Department of Health and Mental Hygiene Division of Food Processing told us that it was not legal to produce consumable food products for commercial sale from a residential home and that no license could be issued for a home-based bakery. He also said that there was no record of [REDACTED] seeking approval from (b)(6) the Maryland Department of Health for this business. Furthermore, he said that from the standpoint of licensing and health inspection, an individual would not be allowed to open a home-based baking business without access to commercial grade facilities unless limited specific baked items were grandfathered in. Since [REDACTED] was a residential-based business that prepared and sold baked goods, we referred this matter to the Maryland Department of Health and Mental Hygiene Division of Food Processing for any action they deemed necessary.

Misuse of Official Time and Resources – ██████████

An email chain, dated May 22, 2009, between 7:54 a.m. and 3:11 p.m., reflected that ██████████ and another VA employee discussed the preparation and printing of pre-addressed baby shower labels that reflected ██████████ personal residence and culminated in the transmission of a 14-page attachment containing the labels. In the email ██████████ sent at 7:54 a.m., ██████████ asked the VA employee to “take care of this today” and that ██████████ was “really behind schedule.” At 8:18 a.m., the employee wrote that he printed the invitations. In another email chain, dated June 19, 2009, ██████████ spent the morning, (b)(6) between 9:19 a.m. and 12:24 p.m., emailing back and forth with the same VA employee about preparing a menu for the baby shower, and in the email sent at 9:19 a.m., ██████████ told the employee that ██████████ would “bring down some paper” and asked him to print the menus in the same template as the invitations. By 11:19 a.m., the employee asked ██████████ to review the menus, prior to his printing them for her. ██████████ told us that these communications were concerning a baby shower ██████████ planned “for a friend.” ██████████ said that although ██████████ exchanged emails with the other employee “for 4 hours,” ██████████ said that it was not all that ██████████ did during that time period.

██████████ *Failure to Work ██████████ Full Tours of Duty*

██████████ time and attendance records, dated October 1, 2008, to August 20, 2009, reflected that ██████████ duty hours were 8:00 a.m. to 4:30 p.m.; however, ██████████ Telework Proposal, signed by Dr. Holmes on September 30, 2008, reflected that ██████████ duty hours were 7:30 a.m. to 4:00 p.m., working from ██████████ home (telework site) on Tuesday and Thursday of the first week and Monday and Friday of the second week of each pay period. ██████████ told us that in September 2009, ██████████ changed ██████████ official duty hours to 7:00 a.m. to 3:00 p.m. to accommodate ██████████ children returning from school. ██████████ said (b)(6) that although ██████████ took a 30 minute lunch break each day, ██████████ did not extend ██████████ workday by 30 minutes. ██████████ further said that ██████████ asked if it was necessary to work an additional half hour to cover ██████████ lunch period and ██████████ said that Mr. McVeigh and the then acting WMCO Deputy Chief told ██████████ that it was not. ██████████ further said that this was also conveyed in an email message; however, the email that she provided, dated October 20, 2009, only stated “the official lunch period for WMC employees is thirty minutes. If you require some flexibility for a special occasion, you should work with your supervisor.”

Mr. McVeigh told us that he never told ██████████ that ██████████ did not need to extend ██████████ workday and that “every Federal employee knows that the 30-minute lunch period is (b)(6) tacked onto the tour of duty.” Ms. Clark told us that it would be “totally inappropriate” to not extend the workday by the length of a lunch period. VA policy permits a specific period of time during an 8-hour work day to eat a meal, which is a non-work period, and states that this time may not be considered compensable. It further states that when the meal period is set aside, the work day will be extended by the length of the non-work period. VA Handbook 5011/13, Part II, Chapter 2, Para. 4 (February 13, 2007).

Conclusion

We concluded that ██████ misused ██████ official time and resources to conduct personal business during ██████ VA duty hours. Although ██████ said that ██████ baked-goods company ██████, based from ██████ home, was more of a hobby and generated negative income, a Dun & Bradstreet, Inc., report stated that ██████ had an annual sales volume of \$54,000. Furthermore, we found extensive email messages reflecting that ██████ was actively involved in sales for this business; that ██████ advertised through an impressive internet website; that a customer coordinated picking up baked goods on a day that ██████ teleworked from ██████ home; and that ██████ had orders entered on the website forwarded to ██████ VA-issued BlackBerry so that ██████ received them immediately. We further found that ██████ included ██████ official title, office, and contact information on emails ██████ sent from ██████ VA email account, which could give the individuals receiving the emails the impression that ██████ business was VA sanctioned. (b)(6)

Additionally, we found that ██████ violated Standards of Ethical Conduct when ██████ failed to satisfy ██████ obligations as a citizen, to include all just financial obligations. A representative of the Maryland Department of Health and Mental Hygiene Division of Food Processing told us that it was not legal to produce consumable food products for commercial sale from a residential home in the State of Maryland. Further, Maryland Department of Assessments and Taxation records reflected that ██████, as well as ██████, were not in good standing; they were forfeited; and no personal property filings were received for tax years 2005 through 2009, yet ██████ told us that ██████ still operated both businesses. (b)(6)

We further found that ██████ spent a significant amount of official time and resources during one workday, with the assistance of another VA employee, creating labels, invitations, and menus for a baby shower to be held at ██████ personal residence. In one email, ██████ instructed the other VA employee to work on ██████ baby shower items during that workday, because ██████ was “behind schedule.” Although ██████ told us that ██████ did other things during the time period that ██████ exchanged emails with the employee, we doubt much else was done, since ██████ and the employee were reviewing (b)(6) templates, transporting copy paper, and printing the paper items.

We also found that beginning in September 2009, ██████ failed to extend ██████ workday to compensate for ██████ daily 30-minute lunch period. ██████ told us that ██████ supervisors told ██████ that there was no requirement to extend ██████ workday. However, Mr. McVeigh said that he did not convey that information, and an email that ██████ said supported ██████ claim of not extending ██████ workday only clarified that the official lunch period was 30 minutes. Furthermore, VA policy states that when an employee (b)(6) takes a lunch period, they are required to extend their workday by that length of time.

Recommendation 6. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] for misusing [REDACTED] official time, title, and Government resources for [REDACTED] private gain.

Recommendation 7. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] for (b)(6) violating Standards of Ethical Conduct when [REDACTED] failed to comply with the requirements of the Maryland Departments of Assessments and Taxation and of Health.

Recommendation 8. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] for failing to work [REDACTED] full tours of duty.

Comments

The Chief Officer Workforce Management and Consulting Office concurred with the recommendations and said that appropriate administrative and corrective actions will be taken. The Chief Officer's response is in Appendix A. We will follow up to ensure all actions are fully implemented.

(original signed by:)

JAMES J. O'NEILL
Assistant Inspector General for
Investigations

Chief Officer Comments

**Department of
Veterans Affairs**

Memorandum

Date: May 26, 2010

From: Chief Officer Workforce Management & Consulting Office

Subject: **Administrative Investigation – Prohibited Personnel Practices, Gifts from Prohibited Sources, Lack of Candor, and Misuse of Time and Resources, VHA Workforce Management & Consulting Office**

To: Assistant Inspector General for Investigations

1. I have reviewed and concur with the findings and recommendations contained in the above captioned Administrative Investigation Report.
2. Appropriate action is being initiated and will be completed as detailed in the attached report.


Joleen Clark

Chief Officer's Comments to Office of Inspector General's Report

The following Chief Officer's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against Dr. Rayshad Holmes for engaging in prohibited personnel practices.

Concur **Target Completion Date:** July 30, 2010

I concur with the recommendation and will take an appropriate administrative action for engaging in prohibited personnel practices.

Recommendation 2. We recommend that the Chief Officer Workforce Management and Consulting Office confer with the Office of Human Resources to determine the appropriate corrective action concerning [REDACTED] VA appointments. (b)(6)

Concur **Target Completion Date:** July 30, 2010

I concur with the recommendation to determine the appropriate corrective action concerning [REDACTED] VA appointments. (b)(6)

Recommendation 3. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] (b)(6) [REDACTED] for soliciting and accepting gifts from prohibited sources.

Concur **Target Completion Date:** July 30, 2010

I concur with the recommendation and will take appropriate administrative action against [REDACTED].

Recommendation 4. We recommend that the Chief Officer Workforce Management and Consulting Office make a reasonable effort to ensure that [REDACTED] (b)(6) [REDACTED] relinquishes the reward points improperly credited to personal accounts and returns them to the issuing entities.

Concur **Target Completion Date:** July 30, 2010

We will communicate with the appropriate reward point accounts to have them withdraw the points given to [REDACTED]. We will also require [REDACTED] to furnish evidence that [REDACTED] has also requested that the points be withdrawn from [REDACTED] personal accounts.

Recommendation 5. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] (b)(6) [REDACTED] for [REDACTED] lack of candor when [REDACTED] failed to testify honestly concerning [REDACTED] soliciting and accepting gifts, in the form of reward points, from prohibited sources.

Concur **Target Completion Date:** July 30, 2010

I concur and will ensure that appropriate administrative action will be taken against [REDACTED] for [REDACTED] lack of candor.

Recommendation 6. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] (b)(6) [REDACTED] for misusing [REDACTED] official time, title, and Government resources for [REDACTED] private gain.

Concur **Target Completion Date:** July 30, 2010

I concur and will ensure that appropriate administrative action is taken against [REDACTED] for misusing [REDACTED] official time, title, and Government resources for [REDACTED] private gain.

Recommendation 7. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] (b)(6) [REDACTED] for violating Standards of Ethical Conduct when [REDACTED] failed to comply with the requirements of the Maryland Departments of Assessments and Taxation and of Health.

Concur **Target Completion Date:** July 30, 2010

I concur and will ensure that appropriate administrative action is taken against [REDACTED] for violating Standards of Ethical Conduct.

Recommendation 8. We recommend that the Chief Officer Workforce Management and Consulting Office take appropriate administrative action against [REDACTED] (b)(6) [REDACTED] for failing to work [REDACTED] full tours of duty.

Concur **Target Completion Date:** July 30, 2010

I concur and will ensure that appropriate action is taken against [REDACTED] for failing to work [REDACTED] full tours of duty.

OIG Contact and Staff Acknowledgments

OIG Contact	Linda Fournier (202) 461-4500
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Acknowledgments	William A. Tully
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