



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

June 15, 2011

Mr. William E. Reukauf
Associate Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Re: OSC File No. D1-11-1155

Dear Mr. Reukauf:

This is in response to your letter regarding a whistleblower disclosure that an employee of the Hines VA Hospital (Hines VAH) violated the terms of the Department of Veterans Affairs' (VA) Transit Benefit Program. Based on your letter, the Hines VAH Director convened an Administrative Investigation Board to conduct a thorough investigation into the facts and circumstances related to the whistleblower disclosure.

The investigation was conducted in accordance with VA Directive 0700 and VA Handbook 0700 (Administrative Investigations). The investigation substantiated the allegations that the employee has violated conditions of the VA Transit Benefit Program. The employee's conduct will be reviewed to determine appropriate corrective action.

The Hines VAH has always taken steps to ensure that those that receive vouchers from the Transit Benefit Program are aware of the rules. As a result of this investigation, a memorandum will be distributed by the Hines VAH to remind transit benefit recipients of the requirements of the program.

Thank you for the opportunity to respond to these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric K. Shinseki".

Eric K. Shinseki

Enclosure

**OSC File No. D1-11-1155
REPORT SUMMARY**

I. SUMMARY OF INFORMATION

In response to the Memorandum from the U.S. Office of Special Counsel (OSC), dated March 2, 2011, the Hines VA Hospital (VAH) Director convened an Administrative Investigation Board (AIB). OSC received allegations from an anonymous Hines VAH employee (herein after "whistleblower") that s/he has personally witnessed another Hines VAH Food Service employee, Ms. Judith Mack (herein after "the employee"), receive transit vouchers on approximately seven or eight separate occasions over the past 3 years. These vouchers are intended to subsidize the employee's daily commute via public transportation and are distributed quarterly. The whistleblower estimates that the value of the voucher received by the employee is at least \$86.00 per month. According to the whistleblower, the value could be higher if the employee's commute to and from work involves more than a public bus. The whistleblower reported that despite the employee receiving these vouchers, the whistleblower personally observed the employee commuting to and from work on an almost daily basis in the employee's personal vehicle.

II. CONDUCT OF THE INVESTIGATION

An AIB was convened and was charged to conduct a thorough investigation of the issues and allegations set forth by OSC and submit its findings regarding a whistleblower disclosure that a Hines VAH Food Service worker violated the terms of the Department of Veterans Affairs' (VA) Transit Benefit Program. AIB interviewed seven employees, including Ms. Mack, under oath. The following is a summary of AIB's findings.

III. SUMMARY OF EVIDENCE

VA Directive 0633, Transit Benefit Program, establishes VA's policy for the Transit Benefit Program. Ms. Judith Mack testified that she received transit benefits on a continuous basis during the time period of September 22, 2008, through the present (second quarter, FY 2011) as evidenced by Fiscal Service documentation. During the documented time period of September 22, 2008, through January 15, 2011, the total value of transit benefits received by Ms. Mack was \$2,481. Ms. Mack has used repeatedly her personal vehicle for transportation to and from work. A witness testified to Ms. Mack's use of her personal vehicle for at least a year, basically every day. Another witness testified to seeing Ms. Mack parking her car or driving around looking for a parking space on multiple occasions. A separate witness testified to seeing Ms. Mack in her car on Hines VA property numerous times. In Ms. Mack's testimony, she denied driving to work. She admitted to getting rides from her boyfriend who is driving the vehicle she owns. Ms. Mack has not registered a vehicle

for a Hines VAH parking permit. Ms. Mack has not requested an exemption to use the facility parking on a limited basis per VA Directive 0633, section 2p.

IV. SUSTAINED OR UNSUSTAINED VIOLATIONS

Ms. Mack has violated the terms of VA's Transit Benefit Program by driving her personal vehicle to work on a regular basis and receiving rides to and from work on a regular basis. The whistleblower's allegation that Ms. Mack violated the terms of the VA's Transit Benefit Program has been sustained. The value of the transit benefits received by Ms. Mack during the period of September 22, 2008, through January 15, 2011, was \$2,481.

V. ACTION TAKEN

As a result of the investigation, the Chief, Nutrition and Food Services, has proposed disciplinary action against Ms. Mack. Additionally, a memorandum will be distributed by the Hines VAH to remind transit benefit recipients of the requirements of the program.