



Carolyn Pokorny
MTA Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
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212-878-0000

July 30, 2021

Via Electronic Mail

Janno Lieber
Acting Chairman and CEO
Metropolitan Transportation Authority
2 Broadway, 20th Floor
New York, NY 10004

**Re: MTA BSC Finance Manager's
Unauthorized Dual
Employment and Misuse of
MTA Property
MTA/OIG #2021-18**

Dear Mr. Lieber:

The Office of the MTA Inspector General (OIG) has concluded its investigation and substantiated anonymous complaints to the [OIG's hotline](#) against an MTA Business Service Center (BSC) Finance Manager (Finance Manager) for unauthorized dual employment. The OIG found that the Finance Manager failed to obtain dual employment authorization for his financial services business, which primarily conducts tax preparation work, of which he is the Chief Executive Officer (CEO) and President. Notably, bank records show that the Finance Manager and his company earned more than \$500,000 from this business between 2018—2020. The Finance Manager took substantial amounts of time off during the tax season—a combination of vacation, sick leave, and leave without pay—to work on this unauthorized second career, despite clear agency policies requiring that any outside employment/activity not interfere with an employee's MTA duties.

The OIG also found that during his MTA work hours, he used his MTA-issued computer to conduct work for his business—sending over 600 emails between his personal email account and his MTA-issued email account and storing over 400 personal files on his MTA-issued computer. Additionally, he grossly underreported his income from his outside employment in his 2018 and 2019 Annual Financial Disclosure Statements (FDS) filed with the New York State Joint Commission on Public Ethics (JCOPE). This allowed him to side-step the requirement that he first obtain JCOPE and MTA approval for the outside employment. Finally, the Finance

Manager failed to fully and honestly answer the OIG’s questions regarding his income from the business, the reason for taking time off during tax season, and the misuse of his MTA-issued computer. The Finance Manager retired during our investigation, shortly after the OIG interviewed him in February 2021.

The OIG also found that the Finance Manager’s supervisor, the BSC Accounts Payable Director (the Director), failed to adequately supervise his subordinates. The Director’s duties included overseeing the BSC’s compliance with statutory requirements and company policies. Yet, the Director dismissed concerns that another supervisor, the BSC Accounts Payable Deputy Director (the Deputy Director), raised regarding the Finance Manager’s excessive use of leave to conduct his side business. From this and other circumstances, the Director knew the Finance Manager had a second career and assumed he was using large amounts of leave because of it but ignored his Deputy Director’s concerns that this was interfering with MTA business.

We found it troubling that the Director claimed during an interview with the OIG that he was not familiar with the Agency’s dual employment policies and the All Agency Code of Ethics (Code of Ethics), despite taking yearly web-based training on these topics. The Director’s claim of ignorance can only lead to one of two conclusions, both unacceptable: either he was dishonest in his interview with the OIG, or he lied on his annual certifications accompanying these trainings. Moreover, even if we were to accept his claim of ignorance at face value, the Agency must address that one of its Directors—who is responsible for ensuring compliance with policies and internal controls within his unit—purports to lack basic familiarity with the MTA’s Code of Ethics.

We recommend that the MTA place this letter in the Finance Manager’s personnel file in the event he seeks reemployment with the MTA or another state agency. The Finance Manager’s conduct also appears to violate the New York State Public Officers Law. Accordingly, we are forwarding this matter to JCOPE for any action as it may deem appropriate. The OIG also recommends that the agency discipline the Director as it deems appropriate.

I. BACKGROUND

MTA Metro-North Railroad (MNR) hired the Finance Manager in October of 1999. In 2010, he transferred to the Accounts Payable department in the BSC. The BSC processes all invoices for vendors doing business with the MTA and its operating agencies. The Finance Manager specifically covers transactions called “exceptions and disbursements.” After an invoice is scanned, if it is incorrect or there are errors, it falls into a “match exception” queue and the Finance Manager ensures that the invoice is corrected, and it gets paid. His shift was Monday to Friday, with regular days off on Saturday and Sunday. The Finance Manager was considered a policy maker and therefore required to submit an annual FDS to JCOPE. Records revealed that the Finance Manager took the MTA’s annual web-based training regarding Compliance for Computer and Social Media Usage in 2015, 2016, and 2017. He also completed the Outside Employment Activities training in 2016, 2017, and 2019 and confirmed the Policy Certification for the Code of Ethics every year between 2015 through 2019.

The MTA hired the Director in August of 1991. He has held his current position in the BSC since 2009. As the Director, he was responsible for planning and directing the implementation of the system to consolidate the financial services for the MTA and all its operating agencies. He also administers the disbursement of cash for the agencies (i.e. ensuring invoices are paid), oversees compliance with statutory requirements and company policies, and internal controls. The Director completed JCOPE Ethics Training in 2013, 2016, and 2019 and the Outside Employment Activities Training in 2016, 2017, 2018, and 2019. The Director also certified receipt of the Code of Ethics every year between 2015 through 2019.

II. INVESTIGATION

A. Record Review

Various public sources, including Facebook, LinkedIn, and the New York State Department of State Division of Corporations Entity Information, revealed that the Finance Manager is the President and CEO of a company that provides financial services, including tax preparation and accounting. As detailed below, the Finance Manager did not deny this and admitted that he did not request dual employment authorization for any outside activity.

The Finance Manager's time and leave records for the years 2018 through 2020 showed a pattern whereby the Finance Manager took a majority (~70%) of his leave¹ between January and April, which is typically tax season. Specifically, the Finance Manager used 152 days of leave between 2018 and 2020 and 106 of those days were taken during tax season.

As detailed in the chart below, an analysis of the Finance Manager's personal and company bank accounts showed that the Finance Manager received a secondary income from outside employment. His personal bank account (the Personal Account) contained multiple deposited checks with tax or accounting work referenced in the memo section, i.e. "CPA Services," "Taxes (year)," and "Accounting Fees." Additionally, there were electronic deposits from mobile payment services Venmo and Zelle for tax related services, as indicated in the descriptions for the payments in his Personal Account. Furthermore, the Finance Manager and his wife were the sole signatories on the bank account which bears the name of the Finance Manager's company (the Company Account). The Finance Manager told the OIG that this account was the corporate account for the business.

Bank Analysis: Income from Outside Employment			
	2018	2019	2020 (thru April)
Personal Account	\$5,758	\$43,457	\$18,736
Company Account	\$219,157	\$134,762	\$127,404

Records also showed that the Finance Manager used the income deposited into the Company Account to pay his credit card bills in the amounts as follows: \$20,545 (2018); \$20,652 (2019); and \$26,351 (2020).

¹ He took a combination of vacation, sick leave, and leave without pay.

The Finance Manager's 2018 and 2019 JCOPE FDS filings stated that he is the President of a company and the nature of the work is audits, supervision, and tax resolution. He also stated that his wife is the Vice President of the same company. The Finance Manager falsely claimed that his yearly income was \$1,000 to under \$5,000. The above bank records analysis demonstrates that the Finance Manager grossly underreported his income to JCOPE.

Policymakers need approval from their agency as well as JCOPE before pursuing an outside activity that earns income greater than \$5,000. By underreporting his income, the Finance Manager avoided having to get prior approval from both JCOPE and the MTA.

B. Use of MTA Resources for His Private Business

The OIG analyzed the Finance Manager's MTA-issued email account and electronic workstation (Workstation). As shown below, this analysis showed the Finance Manager frequently conducted his tax business on his MTA computer during work hours.

1. Finance Manager's MTA-Issued Email Account

A review of the Finance Manager's MTA email showed he frequently used it to send and receive emails with his personal MSN email account, including attachments of documents for his tax business. Between 2012 and 2019, there were a total of 478 emails sent to the Finance Manager's personal MSN email account and a total of 180 emails received from the personal MSN email account.

2. Finance Manager's Workstation

The file folder structure of the Finance Manager's user profile on his Workstation revealed that the Finance Manager created his own personal folder named "[Finance Manager's] Personal." This folder contained over 400 documents, many of which were related to the Finance Manager's tax company. The documents have file names such as the following:

- Copy of Sales Tax
- 2019 Accountants Letter
- 2019 Client Retainer Letter
- Documents needed for Taxes
- Documents needed for Corp

As an example of the content of these materials, a document titled "2019 Client Retainer Letter" was a client solicitation for the Finance Manager's company (*See Exhibit A*). In another document, "2019 Accountants Letter," the Finance Manager states, "I am an Enrolled Agent admitted to practice before the IRS and NYS. My specialty is Tax Resolution. I have over twenty years of experience and a well-established practice on Long Island, New York." (*See Exhibit B*). This personal folder also contained Excel spreadsheets of monthly account reconciliations – typically used for tax preparation – for at least 14 businesses. The OIG also

examined LNK files² showing which folders or files users access on their computer. Analysis of these files showed that the Finance Manager accessed his personal folder on his Workstation.

An analysis of his web history from June 2019 to January 2020 revealed that the Finance Manager visited (~100 times) various tax-related websites, which he had no reason to access for his MTA duties. Some of the websites were the following:

- Pitbulltax.com
- Taxlead.com
- Paycheckcity.com (Self-service payroll)
- Astps.org (American Society of Tax Problem Solvers)
- Naea.org (National Association of Enrolled Agents)
- Cpatrendlines.com
- www.nsacct.org (National Society of Accountants)
- www.sbtpg.com (Santa Barbara Tax Products Group)
- Ptindirectory.com (Preparer Tax Identification Number)

Additionally, the Finance Manager performed Google searches for tax-related terms and websites on his Workstation. Again, these searches did not relate to his MTA duties. Some examples include:

- Enrolled Agent
- Naea
- Michael Rozbruch audit letter samples
- Astps reviews
- List of Ptin holders

C. OIG Interviews

1. *The Director*

The OIG interviewed the Director of the Accounts Payable department regarding his supervision of the Finance Manager. The Director stated that he has held this position since 2009. The Director confirmed that current job responsibilities consist of managing the entire accounts payable process; ensuring invoices are paid on behalf of all the constituent agencies. He said that there are vendor and non-vendor payments (an example of non-vendor invoices include worker's compensation payments). The Director estimated that \$14 billion in invoices are paid out annually. On a yearly basis, he said that approximately 700,000 vouchers are created.

² An LNK file is a shortcut or "link" used by Windows as a reference to an original file, folder, or application. It contains the shortcut target type, location, and filename as well as the program that opens the target file and an optional shortcut key.

The Director stated that there is a total of 45 people in the unit. He said that he supervises all of them, either directly or indirectly. Within his unit there are 4 Managers who report to him and also report to the Deputy Director. The Director reports to the Senior Director of Finance. The Director stated that the Deputy Director approves the Finance Manager's time and manages the leave requests.

The Director stated that he was aware that the Finance Manager did other people's taxes during the tax season. The Director did not remember how he learned about the Finance Manager's business, but said he believed that he had known about it since the Finance Manager started working in the unit in 2010. The Director said he noticed that the Finance Manager took leave during tax season.

Prior to the interview, the OIG emailed the Director the MTA All Agency Outside Activity Approval Request form. The Director stated that he had never seen that form before the OIG showed it to him. The Director did not recall being asked about dual employment during his hiring process and noted that "it was thirty years ago." The Director was asked if he was aware of the Code of Ethics, and he replied that he knew that there is one. However, he asserted he did not recall anything about the Code of Ethics, aside from it being mailed to employees. The Director stated that he was not aware of a section regarding dual employment in the Code of Ethics. The Director acknowledged that he must take yearly mandatory online training but did not specifically recall training regarding dual employment. The Director stated that he believed anything related to dual employment is a Human Resources (HR) function and it is up to the individual employee to go to HR.

2. BSC Deputy Director

The OIG interviewed the Deputy Director. The Deputy Director said she has held this position since February 2015 and reports to the Director. She joined the BSC in October 2010. The Deputy Director stated that she only has 1 employee reporting directly to her, an Operations Analyst, and that the 4 Finance Managers report to the Director. The Deputy Director stated that because the Director is very busy, she often gets involved with the approval of the Finance Managers' time and leave.

The Deputy Director stated that in 2015, other employees in the unit were complaining about the Finance Manager not being at work, which prompted her to speak to him in July 2015 about his use of leave. In response, he told her that his business was growing too fast and his children would be taking over the business, but it would take 7 months to train them. The Deputy Director said that she also spoke with the Director in 2015 about her concerns regarding the Finance Manager's use of leave, but he told her that the Finance Manager has been doing this for the past 5 years and claimed that there has been enough staff coverage during his absences. Specifically, the Director told her that if the employee has the necessary leave balance and she refused the request, then the employee could make a complaint. The Deputy Director stated that as recently as last year (2020) she was still hearing complaints from other workers about the Finance Manager's leave. The Deputy Director was asked if she ever tried to deny the Finance Manager's time and leave request and she claimed that is why she talked to the Director.

The Deputy Director said she knew that the Finance Manager had outside employment and added that the Finance Manager did not deny it. The Deputy Director stated that she did not know if the Finance Manager requested authorization for his dual employment. The Deputy Director stated that the Finance Manager never told her exactly what his dual employment was, but she had heard from others that he filed taxes for his clients. She claimed she had heard this before she was promoted to Deputy Director.

3. *Finance Manager*

On February 3, 2021, the OIG interviewed the Finance Manager. The Finance Manager confirmed that he was first employed by the MTA in October or November 1999 at MNR. He stated that he began working at the BSC in October or November of 2010. He said his functional title is Finance Manager. The Finance Manager told the OIG that he oversees part of the process for paying MTA's vendors. After an invoice is scanned, if it is incorrect, it falls into a "match exception" queue and he ensures that it is corrected so that the invoice gets paid. Nineteen people report to him. The Finance Manager said he reports to the Deputy Director³ and to the Director. The Finance Manager explained that HR issues and outgoing payments are handled by the Deputy Director, and he goes to the Director to deal with matters relating to incorrect invoices.

The Finance Manager confirmed that he is required to file a FDS with JCOPE. He also stated that he completes the MTA's mandated web-based trainings provided by the agency for its employees every year. The Finance Manager confirmed that he has a tax practice but claimed that his family runs it. He said his wife, son and 2 daughters run the practice, but that he is the only family member with a CPA license.⁴ He said he started his company in 2006 and that he oversees it. The Finance Manager acknowledged that he did not request permission for his dual employment from the MTA, nor did he fill out the outside activity form. He then said he thought that he only needed permission if he made more than \$5,000 per year. The Finance Manager then said that he only received a consulting fee from this business.

The Finance Manager said that he never affirmatively disclosed his outside employment to his Director or the Deputy Director. He said that he did, however, speak with the Deputy Director about it when she remarked to him that he was taking a lot of time off around February. At that time, he told her that he had a business and was training his children to perform the work, and therefore would be taking less time off in the future. The Finance Manager believed this conversation took place about 2 years ago.

Regarding leave, the Finance Manager said that if he is requesting annual leave, he emails the Deputy Director and copies the Director. The Finance Manager stated that he usually

³ The Finance Manager stated that at the time of the OIG interview, he reported to a new Deputy Director, who had just started 2 to 3 months earlier.

⁴ After further questioning, the Finance Manager said that he had passed all 4 parts of the CPA exam, but admitted that he had not completed the CPA licensing work experience requirements, and therefore admitted that he is not a licensed CPA.

accrues his annual leave for use in winter months, especially February and March. He claimed that he takes off in winter months because of his age, colds, and the flu, but then also stated that he only uses sick leave for emergencies.

When questioned about taking time off during tax season, the Finance Manager said the Director did comment that he only takes time off in February and March but said it was not a problem. The Finance Manager stated that he just oversees the business when he gets home around 5:30 p.m. or 6:00 p.m. and that his family will leave him a list of questions to answer. He said that he works on the business until 10:30 p.m. or 11:00 p.m. during the week and on the weekends. However, the Finance Manager acknowledged that the business license is under his name. The Finance Manager stated that he owns 60% of his company; he is the President as he holds the licenses, including EFIN.⁵ The Finance Manager said that he signs all of the tax returns for his business but claimed that he has merely been “overseeing” the tax business for the last 2 years. The Finance Manager also admitted that he has a real estate business and a mortgage business. He further said that he does not do much with those businesses and offers these services to help his tax clients. He then added that his son handles the real estate and mortgage businesses.

The Finance Manager claimed he only receives about \$4,800 per year as a consulting fee and that most of the income from the tax business goes to his wife. The Finance Manager stated that the company has a separate bank account different from his wife’s or his own Personal Account. The Finance Manager asserted that he does not receive direct payments for doing taxes and that the money goes to his company or to his son’s separate company.

The Finance Manager also stated that he used to get commission payments from insurance companies and brokerage firms and that he is a licensed Property and Casualty Insurance broker. He explained that he receives commissions from purchasing and writing his own homeowner’s policy. The Finance Manager said maybe he has sold 1 or 2 other policies recently, but was unsure. He further stated that he has been licensed for 15 years, and these payments may flow from older policy renewals, but again he could not say definitively. He said he recalled seeing a few checks. Regarding policies he has sold within the last 2 years, the Finance Manager said that he has only referred people to someone else and has not received any commissions.

OIG questioned the Finance Manager regarding numerous payments from sites such as Venmo and Zelle, and other deposits indicating they are payments for tax work into a Citibank account bearing his name. The Finance Manager claimed that money related to the tax business should not be going into that account, but also stated that his son uses that account and claimed those payments are for the son. However, he acknowledged that account is in his name while asserting that his wife and children have access to the account. He explained there are only 2 debit cards for the account: 1 in his name and 1 in his wife’s name, but the family used the cards. However, only he and his wife are signatories.

⁵ An EFIN is a number issued by the IRS to individuals or firms that have been approved as authorized IRS e-File providers.

The Finance Manager refused to give a direct answer when asked how much his company made per year, and instead replied that the “IRS knows.” He then said the main functioning account is the joint account with his wife which is maintained at Citibank and claimed that he “screwed up” using the same account with his son. The Finance Manager stated that the corporate account for the business is at Bank of America (the above reference Company Account).

The Finance Manager was asked by OIG staff who set up the Venmo and Zelle accounts. He gave contradictory answers; he first stated that he did, then said his son and daughters did. When asked what email account is used for the tax business, initially he replied it was his son’s MSN.com account. He then said, maybe his own Personal Account is used for the tax business, which is also an MSN.com account.

The Finance Manager stated that he had never used his MTA Workstation for any of his side businesses. However, he did acknowledge sending business emails to his personal computer and that he had a personal folder on his Workstation. The Finance Manager said he used to have a personal file on his Workstation, but claimed it was not related to his business. He denied having Excel spreadsheets related to his business on his Workstation. He then said that he deleted files back in 2019 after the MTA sent an email to employees which said, “everything is [MTA] property.”

In summary, not only did the Finance Manager engage in unauthorized dual employment, but he did so using MTA time and computer resources; underreported his income on his FDS submitted to JCOPE to evade State and agency approval requirements; and lied to the OIG when questioned about it.

The Director admitted that he knew the Finance Manager had a tax business, and that his Deputy Director raised concerns that it was interfering with MTA business, yet he did nothing to protect the agency and ensure compliance with State and agency outside activity policies. Despite being employed by the MTA for 30 years, 12 of which were in a supervisory capacity, he denied ever seeing the MTA All Agency Outside Activity Approval Request form, did not remember that the Code of Ethics addressed dual employment—or anything about the Code of Ethics at all, aside from it being mailed to employees—nor recalled whether any of his yearly mandatory training addressed dual employment.

III. POLICIES AND ANALYSIS

A. MTA All-Agency Code of Ethics

1. *§ 1.07: Cooperation with Audits and Investigations*

The MTA All-Agency Code of Ethics Section 1.07 states, in pertinent part, that employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector General, or other governmental agencies.” Failure to cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

Here, the Finance Manager failed to fully and honestly answer the OIG questions regarding his income from the business, the reason for taking time off during tax season, and the misuse of his MTA Workstation. Bank records clearly show that the Finance Manager is making more than just a \$4,800 consulting fee from his tax business each year. Specifically, according to his Personal Account, the Finance Manager received \$5,758 in 2018, \$43,457 in 2019, and \$18,736 in 2020 from his business. Additionally, the company’s income in the amounts of \$20,545 (2018), \$20,652 (2019), and \$26,351 (2020) was used to pay for credit cards in the name of the Finance Manager. Furthermore, there were no direct payments from the Company Account to the Finance Manager’s Personal Account which reflected a consulting fee.

Regarding his time and leave during tax season (February and March), the Finance Manager first claimed he usually takes off during that period because of his age, colds, and the flu, but also stated that he only uses sick leave for emergencies. However, he acknowledged that the Deputy Director questioned him about his time off around February of 2019 or 2020 (he was unsure of the date) and admitted that he was training his children to work in the business.

Finally, the Finance Manager also gave conflicting statements regarding the misuse of his MTA computer. First, he claimed that he had never used his MTA computer for his company work, but then acknowledged sending business emails to his personal computer and that he had a personal folder on his Workstation. Additionally, his assertion that his personal file on his Workstation did not contain files related to his business is refuted by the forensic analysis performed by the OIG, which found over 400 personal files that were not related to his work with the MTA.

2. *§ 4.07: Other Employment and Outside Activities*

The MTA All-Agency Code of Ethics, Section 4.07, states, in pertinent part, that employees are prohibited from outside employment that interferes or is in conflict with the proper and effective discharge of the individual’s official duties. Each MTA Agency requires that Employees devote appropriate time and attention to their employment with that agency and full-time employment with an agency is deemed to be the employee’s primary employment. Such outside employment should not interfere with the employee’s ability to devote appropriate time and attention to their employment with their MTA agency. Furthermore, employees may engage in outside employment/activity provided that (1) such employment/ activity does not violate the specific guidelines for other employment set by their MTA Agency; (2) they do not use any MTA agency resources (e.g. time, equipment, telephone, etc.); and (2) they obtain the

required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency.

Furthermore, on July 6, 2020, the MTA issued a memorandum to all MTA employees regarding “Code of Ethics-Outside Activity Reminder.” The purpose of the memorandum was to remind the employees of their obligation to obtain prior approval for certain types of outside activities. The memorandum states that prior approval is required from the agency for any outside activity in which the employee expects to receive compensation over \$1,000.

Here, the Finance Manager admitted that he has a tax practice and did not request authorization from the agency, despite acknowledging taking the regularly scheduled MTA training on topics including outside employment. He claimed that his family operates the practice, but also stated that he is the President, owns 60% of the company, oversees the work, and is the authorized IRS e-File provider.

As detailed above, his claim that he did not believe it was necessary because he allegedly made less than \$5,000 is belied by his banking records, which reflect that the Finance Manager and his company earned more than \$500,000 from this business between 2018—2020.

Additionally, the Finance Manager used an MTA agency resource i.e. his Workstation during work hours to work on his unauthorized business.

3. *§ 8.04: Prohibition Against the Use of MTA Property*

The MTA All-Agency Code of Ethics, Section 8.04 Prohibition Against the Use of MTA Property states, in pertinent part, that the MTA’s supplies, equipment, and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind.

Here, the Finance Manager used his MTA-issued email account and computer for personal purposes. Specifically, he sent over 600 emails between his personal email account and his MTA-issued email account and stored over 400 personal files on his MTA-issued computer. A web history analysis also revealed that the Finance Manager visited (~100 times) various tax-related websites, which he had no reason to access for his MTA duties.

4. *All Agency Code of Ethics relating to the Director*

The Code of Ethics is intended to provide guidance to all MTA employees (Employees) with respect to applicable laws governing ethical conduct and the MTA’s ethical standards. **“All Employees are expected to become familiar with this Code, and the various applicable statutes, regulations, professional codes of ethics, and disciplinary rules. Additionally, managers and supervisors must foster an atmosphere that encourages Employees to seek assistance if faced with ethical dilemmas.** Every Employee must be alert to potential ethical issues and be ready to respond appropriately” (emphasis added).

Here, the Director violated these provisions of the Code of Ethics by not becoming familiar with the Code of Ethics and outside employment policies, despite repeated training. The Director failed to foster an atmosphere that encouraged employees to seek assistance when faced with an ethical dilemma, was not alert to the potential ethical dilemma of his subordinate's outside employment and did not respond appropriately when he was alerted to it. He allowed the Finance Manager to take 7 weeks of leave during a short period of time despite concerns from his subordinate and ignored the impact it would have on other employees and MTA business.

B. New York State Public Officers Law

The Finance Manager's conduct also appears to violate the following New York State Public Officers Laws:

1. New York State Public Officer's Law § 73-a provides, in pertinent part, that specifically designated state employees must file an annual statement of financial disclosure. Question 5a of the FDS specifically requires the filer to list the name, address and description of any occupation, employment, trade, business, or profession in which they engaged during the reporting period. Question 13 requires the employee to declare any income, other than their state salary, in excess of \$1,000 that either they or their spouse earned.
2. New York State Public Officers Law § 74(3)(d) states, in pertinent part, that no officer or employee of a state agency should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated nongovernmental purposes.
3. New York State Public Officers Law § 74(3)(h) states, in pertinent part, that an officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

Here, for the same reasons as detailed above, the Finance Manager grossly underreported the income from his unauthorized business and used his official position to secure unwarranted privileges for himself when he misused MTA resources for his own financial gain to work on his outside employment during his work hours, thereby engaged in acts that violated the public trust.

IV. FINDINGS

1. The Finance Manager violated § 1.07 of the MTA All-Agency Code of Ethics when he failed to answer the OIG questions fully and honestly.
2. The Finance Manager engaged in unauthorized dual employment in violation of the MTA All-Agency Code of Ethics Section 4.07 and New York State Public Officers Law § 74(3)(h).
3. The Finance Manager misused MTA property and conducted his outside employment during work hours in violation of the MTA All-Agency Code of Ethics § 8.04 and New York State Public Officers Law § 74(3)(d).
4. The Finance Manager did not report his full income to JCOPE as required by New York State Public Officers Law § 73-a.
5. The Director abdicated his responsibility to exercise judgment to his subordinate. He denied knowledge of the agency's dual employment/outside activity rules and Code of Ethics despite taking annual training, disregarded his subordinate's concerns and the impact on other colleagues and MTA by allowing the Finance Manager to take almost 7 weeks of leave in a short time period to accommodate his outside employment.

V. RECOMMENDATIONS

1. Since the Finance Manager has retired, the MTA should place a copy of this letter in his personnel file in the event he seeks reemployment with the MTA or another State agency.
2. The OIG also recommends that agency discipline the Director as it deems appropriate.

A copy of this report will be provided to JCOPE for its review and any action it deems appropriate.

As always, we appreciate your continued courtesy and cooperation. Please advise our office within 30 days of any actions you intend to take, and the result of any action taken pursuant to this letter. In addition, please indicate your acceptance or rejection of each recommendation and the proposed quarter in the calendar year that the recommendation will be

implemented. Please be advised that the Office of the MTA Inspector General may publicly disclose this report consistent with its statute and other state law, which may include name(s) of individuals and entities. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Legal Pei Pei Cheng-de Castro at (212) 878-0072.

Very truly yours,

/S/

Carolyn Pokorny

cc: Paul Fama, Chief People Officer, MTA
Thomas Quigley, General Counsel, MTA Headquarters
Monica Stamm, General Counsel, JCOPE

EXHIBIT A: 2019 Client Retainer Letter



Have You Ever Been Audited?

We sure hope not! As we all know, an audit by the IRS or New York State can be a stressful and time-consuming affair. Some taxpayers have had tax agents in their homes or offices for days or even weeks at a time!

Presently with our huge national budget and recent changes in tax laws, the IRS has again been tasked with raising even more money. IRS auditors and collection officers have to get as much as possible to meet their new mandates. A quick source of revenue is from the audits they conduct year in and year out. That means that **EVERY** taxpayer must protect themselves from the stressful and intrusive process. Just because you've done everything right in your tax return does not mean you will be exempt from examination. You can protect yourself NOW!

“The Early Retainer” Program Can Save You TONS of Money and Give You Peace of Mind!

Our “Early Retainer” audit representation program eliminates the high fees taxpayers incur when the IRS or NYS select them for audit.

Clients who wish to participate in our “Clients-Only, Fixed-Fee” service will pay a retainer of 20% of their tax preparation fee at the time of the 2019 tax returns are prepared. If the 2019 return is **EVER** selected for audit (during the 3 years it is open for audit), My company will provide representation for a flat rate of one hundred dollars (\$100). That's it, no extra fees, no hidden charges, nothing!

Audit representation fees frequently exceed \$1,500. That means you could save over \$1,400 by taking advantage of this special “Clients-only” offer. That's 23.33 times the average cost!

Special Bonus for 2019

If you **EVER** receive a notice from the IRS or NYS about the 2019 tax return, we will respond to them on your behalf. You simply fax or call and let me know that you have a notice and I will respond and represent you as described above. Fees for this

service alone can easily run 25 times the cost of the early retainer program. And, you never face the IRS or NYS alone.

HERE'S THE PEACE OF MIND PART

You will enjoy the comfort of knowing you have an experienced professional representing you ready to deal with the IRS or NYS on your behalf. **The “Early Retainer” program covers the Federal and NYS tax returns for all 3 years that the IRS has the right to audit the return.**

HERE'S HOW IT WORKS

This service is only available for tax returns that were covered by the “Early Retainer” program at the time they were prepared and must have been prepared by my company. Returns prepared by others are NOT covered. Audit examinations must be scheduled and transferred to the LI-NY office. [REDACTED] reserves the right to refuse unilaterally to provide the “Early Retainer” audit representation program on any return.

If you wish to take advantage of the “Early Retainer” audit representation program, sign below and return this form with your 2019 Tax documents. The tax deductible 20% charge will be added to your tax preparation fee. Your tax return bill is your record of participation in the program and we will make an appropriate entry in your tax return file.

Register today to protect yourself from the stress and expense of a tax audit!

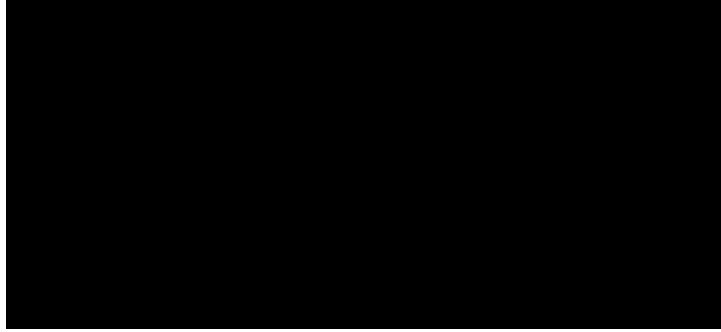
**Remember, NEVER go to an audit without
Representation! That's exactly what they want you to do!**

Yes, I want to participate in the “Early Retainer” audit representation program for tax year 2019. I understand that this program is not effective until the fee for the 2019 returns are paid.

****(ENCLOSE THIS SIGNED FORM WITH YOUR 2019 TAX DOCUMENTS
AND YOU ARE REGISTERED.)****

_____/_____/2020
Client Signature Date
Approved by: _____

EXHIBIT B: 2019 Accountants Letter



Dear Tax Professional,

My name is [REDACTED]. I am an Enrolled Agent admitted to practice before the IRS and NYS. My specialty is Tax Resolution. I have over twenty years of experience and a well-established practice on Long Island, New York.

Tax Resolution includes: Offer in Compromise, Collateral Agreements, Trust Fund Recovery Penalties, Liens, Levy, . Etc. If this is NOT your area. Please, I will be happy to take the problem, solve it and never make you look bad, and when I am finish I will send the client back to you. I will give you credibility and keep you in the loop throughout the process. I am committed to fixing the problem in the shortest possible time and with the best results possible. Your client or yourself can contact me at [REDACTED] to discuss. I offer a FREE consultation to discuss the case, go over their options and resolve the problem. There is NO pressure to retain my company. There is no risk, they have absolutely nothing to lose. They will leave my office with a clear understanding of their available options.

Sincerely,

[REDACTED]

PS- There are critical deadline that must be met to maximize the chance of a successful negotiation with the IRS.

PPS: Due to the care and attention needed for each case we can only accept a very small number of new clients each month. Don't delay. Call today.

Members of American Institute of Certified Public Accountants (AICPA) and American Society of Tax Problem Solvers (ASTPS)



Carolyn Pokorny
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Agency Response
to
MTA/OIG #2021-18

MTA BSC Finance Manager's Unauthorized Dual Employment and Misuse of MTA Property

In August 2021, in response to the OIG's investigation and report, the MTA terminated the Director, effective August 27, 2021. The MTA stated that the decision to terminate was based on the OIG's investigation, which found that the Director abdicated his responsibility to exercise judgment over his subordinates and failed to oversee the BSC's compliance with statutory requirements and company policies.

Additionally, the MTA placed a copy of the OIG's July 2021 letter in the personnel file of Shivanand Kalipersadsingh, the Finance Manager, in the event he seeks reemployment with the MTA or another State agency.