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General

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Metropolitan Transportation Authority

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New York, NY 10119

212-878-0000

May 22, 2023

Via Electronic Mail

Richard Davey
President
New York City Transit
2 Broadway
New York, NY 10004

**Re: Unauthorized Dual Employment by
NYC Transit Dual Rate
Trackworker/Chauffeur
MTA/OIG #2023-11**

Dear Mr. Davey:

The Office of the MTA Inspector General (OIG) substantiated an allegation that an MTA New York City Transit (“NYC Transit”) Dual Rate Trackworker/Chauffeur (“the Trackworker/Chauffeur”) engaged in unauthorized dual employment and violated NYC Transit’s hours of rest restrictions. Specifically, OIG found that the Trackworker/Chauffeur worked for two different freight companies – Freight Company 1 and Freight Company 2 – while employed with NYC Transit and failed to obtain dual employment authorization for either job. In addition, in doing so, he violated NYC Transit’s hours of service rest rules for his safety-sensitive position 156 times; he worked overlapping hours for NYC Transit and Freight Company 1 on seven occasions; and finally, he took sick leave from his NYC Transit job and then went to work at Freight Company 1 on 30 occasions. OIG recommends that NYC Transit impose discipline for the Trackworker/Chauffeur as it deems appropriate, up to and including termination.

I. BACKGROUND

NYC Transit hired the Trackworker/Chauffeur in 2011 and he has maintained the same position since. The Trackworker/Chauffeur is assigned to the 38th Street Yard in Brooklyn; his duties primarily include driving a truck to deliver materials and tools to various job sites, sitting and waiting in the vehicle for jobs to be completed, and responding to any emergencies. The Trackworker/Chauffeur's shift is overnight, from 10:00 pm to 6:00 am, with Fridays and Saturdays as his regular days off. The Trackworker/Chauffeur holds a position designated as safety-sensitive by the FTA, and as such is required to have eight consecutive non-working hours in the 16-hour period before reporting to work to ensure adequate rest for his own safety as well as the safety of his coworkers and the public.

II. INVESTIGATION

A. Records Reviewed

1. *Time, Attendance, and Pay Records: Freight Company 1 and NYC Transit*

In April 2022, OIG received a complaint from a representative of Freight Company 1 regarding the Trackworker/Chauffeur. The complainant advised that the Trackworker/Chauffeur had been hired as a City Driver by Freight Company 1 on September 10, 2019, making freight deliveries and pick-ups throughout New York City, Monday to Friday, from around 8:00 am until 4:00 or 8:00 pm, depending on his workday. The complainant also informed OIG that at the time he made his complaint, the Trackworker/Chauffeur had been working for Freight Company 1 for approximately two years and seven months, when the complainant learned of the Trackworker/Chauffeur's concurrent job with NYC Transit. The complainant also provided OIG with records from Freight Company 1, including the Trackworker/Chauffeur's time and attendance records for the time period of September 10, 2019 through April 14, 2022, as well as a termination letter indicating that the Trackworker/Chauffeur's last date of employment with Freight Company 1 was April 8, 2022.

OIG reviewed the Freight Company 1 records along with NYC Transit Kronos clock in/out data, sign in/out sheets, and pay records relating to the Trackworker/Chauffeur for the time period of September 1, 2019 through March 11, 2022. An analysis of the two sets of records indicated the following. First, there were 156 instances where the Trackworker/Chauffeur did not have a consecutive eight hours of rest in the 16 hour period before reporting to his NYC Transit job.¹ Of the 156 occurrences where the Trackworker/Chauffeur did not get the requisite

¹ A complete chart is attached as Exhibit A.

rest, on seven of those occurrences, the Trackworker/Chauffeur's NYC Transit and Freight Company 1 shift times overlapped.² Finally, there were 30 occasions whereby the Trackworker/Chauffeur called out sick for his overnight shift with NYC Transit and then worked at Freight Company 1 right after his shift with NYC Transit would have ended.³

As noted above, the Trackworker/Chauffeur has a safety-sensitive position and is required to have eight consecutive non-working hours in the 16-hour period prior to a shift with NYC Transit. The Trackworker/Chauffeur, however, did not get the requisite rest while working simultaneously for NYC Transit and Freight Company 1 and was in flagrant violation of the hours of service rest rules for many weeks at a time.

The records revealed that the Trackworker/Chauffeur worked consecutive weeks without much rest at all, for many consecutive weeks at a time.

- In the three-week period of August 10, 2020 through August 27, 2020, the Trackworker/Chauffeur violated the hours of service rest rules 13 times. In fact, the Trackworker/Chauffeur had only approximately 51 hours of rest during the three work weeks. (See Exh. A, Hours of Service Rest Rules Violations 31-43.)
- In the three-week period of March 10, 2021 through March 31, 2021, the Trackworker/Chauffeur violated the hours of service rest rules 11 times. In fact, the Trackworker/Chauffeur had only approximately 44 hours of rest during the three work weeks. (See Exh. A, Hours of Service Rest Rules Violations 76-86.)
- In the two-week period of February 7, 2022 through February 18, 2022, the Trackworker/Chauffeur violated the hours of service rest rules eight times. In fact, the Trackworker/Chauffeur had only approximately 36 hours of rest during the two work weeks. (See Exh. A, Hours of Service Rest Rules Violations 143-150.)

In total, from December 29, 2019 through March 9, 2022, the Trackworker/Chauffeur violated the 8-hour rest requirement on 156 occasions. On seven of those occurrences, between January 20, 2020 and November 10, 2021, the Trackworker/Chauffeur's time with NYC Transit and Freight Company 1 overlapped, with the records indicating that the Trackworker/Chauffeur had clocked in at Freight Company 1 before he finished his NYC Transit shift.⁴ For example, on January 19, 2020, the Trackworker/Chauffeur worked for NYC Transit from 10:00 pm until 10:00 am the next morning, yet clocked in that same morning with Freight Company 1 at 7:52

² A complete chart is attached as Exhibit B.

³ A complete chart is attached as Exhibit C.

⁴ On the seven dates, there is no Kronos clock out data for the NYC Transit shifts; yet the sign in/out sheets and pay records reflect that the Trackworker/Chauffeur was paid for working his entire shifts.

am; thus there was an overlap of 2 hours and 8 minutes. See Exhibit B (p. 16) for data regarding all seven occurrences of overlap.

On 30 occasions between February 2, 2020 and February 23, 2022, NYC Transit pay records indicate that the Trackworker/Chauffeur took “sick leave” or “sick without pay” for his overnight 10:00 pm to 6:00 am shift with NYC Transit, and then proceeded to work a daytime shift at Freight Company 1 starting at approximately 8:00 am that morning. There were seven instances when this occurred for multiple days in a row. For example, in February 2021, the Trackworker/Chauffeur called out sick for his overnight NYC Transit shift three days in a row but worked full daytime shifts at Freight Company 1 for those same three days.

Violation of Sick Leave Policy	Date	Clock In	Clock Out
10	Tue 02/09/2021	Sick Usage	
	Tue 02/09/2021	8:10 AM	7:00 PM
11	Wed 02/10/2021	Sick Usage	
	Wed 02/10/2021	7:58 AM	7:36 PM
12	Thu 02/11/2021	Sick Usage	
	Thu 02/11/2021	8:00 AM	7:48 PM

See Exhibit C (p. 17) for data regarding all 30 violations of the sick leave policy.

2. Financial Records and Freight Company 2 Records

OIG reviewed financial records for the period of April 1, 2022 through August 31, 2022, in the name of the Trackworker/Chauffeur’s wife. The financial records reflected deposits of NYC Transit income earmarked for the Trackworker/Chauffeur, as well as weekly deposits totaling \$2,761.38 from Freight Company 2.⁵

Upon noting the deposits from Freight Company 2, OIG obtained and reviewed time and attendance records from Freight Company 2 relating to the Trackworker/Chauffeur. These records indicated that the Trackworker/Chauffeur was employed as a driver at Freight Company 2 from May 31, 2022 through September 20, 2022.⁶

⁵ The financial records did not include the entire span of the Trackworker/Chauffeur’s employment with Freight Company 2, as OIG only obtained records through up and until the date requested on August 1, 2022.

⁶ Freight Company 2 was unable to provide any sign in or out data or records indicating the Trackworker/Chauffeur’s shift or scheduled work hours per day. Freight Company 2 was also not willing to provide a representative to speak with OIG about the Trackworker/Chauffeur’s employment with Freight Company 2.

Interviews Conducted

1. *The Trackworker/Chauffeur*

The Trackworker/Chauffeur admitted to OIG that he worked as a truck driver for two trucking companies, Freight Company 1 and Freight Company 2, while employed with NYC Transit. He told OIG that he worked at Freight Company 1 for approximately two years, from about October 2020 until on or around March 11, 2022, 8:00 am to about 4:00 pm, Monday through Friday. The Trackworker/Chauffeur stated that after leaving Freight Company 1, he worked at Freight Company 2 for approximately three months, from around May 2022 until around August 2022, from about 8:00 am to about 2:00 pm. The Trackworker/Chauffeur said that prior to working at Freight Company 1, he did not have any other second jobs. He said he took the second job at Freight Company 1 because he had to pay approximately \$2,000 every pay period for child support. OIG asked the Trackworker/Chauffeur if he had ever left his NYC Transit job early to go to his job at Freight Company 1, and he said no. The Trackworker/Chauffeur admitted that following his recent resignation from Freight Company 2, he was doing local jobs as a plumber's helper/handyman, for which he works about one or two days a week, a couple hours in the morning.

Regarding authorization for his dual employment, the Trackworker/Chauffeur claimed that he did not know he needed authorization for second employment and confirmed that he never submitted any authorization request forms for either job with Freight Company 1 or Freight Company 2. He also acknowledged that his NYC Transit position is safety-sensitive and that he needs eight hours of consecutive rest. When asked if and how he was getting enough rest while working for both NYC Transit and the two Freight Companies, the Trackworker/Chauffeur told OIG, "it's a military thing", implying that he does not need a lot of rest.

2. *The Trackworker/Chauffeur's NYC Transit Supervisor*

The Trackworker/Chauffeur's supervisor, a Maintenance Supervisor I, at the 38th Street Yard ("the MSI"), told OIG that he has supervised the Trackworker/Chauffeur since September 2018 and confirmed that the Trackworker/Chauffeur works the overnight shift, 10:00 pm to 6:00 am, as a chauffeur, delivering tools to job sites throughout the Transit system. The MSI confirmed that the Trackworker/Chauffeur holds a safety-sensitive position and as such eight consecutive hours of rest are required. When asked about the Trackworker/Chauffeur's second employment as a freight truck driver, the MSI said he did not know anything about it. The MSI confirmed that if the Trackworker/Chauffeur had a second job, the Trackworker/Chauffeur would have had to submit a dual employment form which would need to be approved by the General Superintendent or Superintendent, and as far as the MSI knew, the

Trackworker/Chauffeur did not submit any such forms. The MSI also advised that if an employee calls out sick for his or her overnight shift, the registered sick leave day for NYC Transit payroll purposes is the morning date at the end of the overnight shift.

III. POLICIES AND ANALYSIS

A. MTA All-Agency Code of Ethics

1. *§ 4.02: Public Trust*

Section 4.02 states, in pertinent part, that employees shall not engage in a course of conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. Further, employees shall avoid even the appearance that they can be improperly influenced in the performance of their official duties or induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

Here, the Trackworker/Chauffeur failed to obtain approval for his outside activities and failed to report his outside activities. His conduct raises suspicion among the public that he is engaged in acts that are a violation of the public trust. In further violation of the public trust, on many occasions, the Trackworker/Chauffeur was signed in for work at two places at once, and, in numerous instances, he violated the safety-sensitive position requirements.

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

Section 4.07, states, in pertinent part, that employees may engage in outside employment/activity provided that such employment/ activity does not interfere with their ability to devote appropriate time and attention to their employment with their MTA Agency; they do not use any MTA Agency resources in connection with such employment, and they obtain the required approvals set forth in the specific procedures for approval of outside employment set by their MTA Agency. The policy also notes that outside employment/activities may pose ethical issues if there is a conflict between the Employee's duties and the requirements of the outside employment/activity.

Here, the Trackworker/Chauffeur failed to obtain the required approvals for his outside activities with Freight Company 1 and Freight Company 2. OIG learned that upon hire, the Trackworker/Chauffeur received a copy of the MTA Code of Ethics which contains the outside activity requirements for all MTA employees. He also filled out the NYC Transit "Dual Employment/Outside Activity Form", indicating that he had no other employment outside of NYC Transit, and signed and dated it on August 26, 2011. OIG also learned that the

Trackworker/Chauffeur again acknowledged receipt of the MTA Code of Ethics as part of his annual training in 2019.

B. NYC Transit Rules and Regulations and Policy/Instruction

1. Rule 2(b) Knowledge of and Compliance with Rules

Rule 2(b) states, in pertinent part, that employees who violate any of these rules may be disciplined in accordance with the Civil Service Law or their collective bargaining agreement or Authority policy, as applicable.

2. Rule 4(g)

Rule 4(g), states, in pertinent part, that all employees must obtain NYC Transit approval before engaging in any occupation, business or professions, including self-employment, outside the Authority.

3. Rule 5(a): Reporting to Duty, and Rule 8(a): Reports by Employees

Rule 5(a) states, in pertinent part, that absence from duty without proper authority is regarded by the Authority as willful neglect of duty and as a serious breach of discipline. “All leaves of absence for personal business must be approved in advance... Sick leave, whether with or without pay, will be granted only upon proper evidence that the employee was actually ill and unable to perform his/her duties during the period of the absence.” Rule 8(a) states, in pertinent part, that written reports must be complete and accurate. Employees who knowingly submit or make reports containing false statements shall be charged with misconduct and incompetence.

4. Rule 12(a)(10): Code of Ethics, Course of Conduct

Rule 12(a)(10), states, in pertinent part, that employees shall not pursue a course of conduct which will raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.

5. Rule 10(a): Conduct of Employees

Rule 10(a), states, in pertinent part, that employees are required to avoid behavior which would tend to create adverse criticism of the Authority or of the System. Their conduct, whether on or off duty on System property, is required to be such as to merit the confidence and respect of the public and their superiors.

6. *Policy/Instruction Number 4.23.2: Dual Employment*

The NYC Transit Policy/Instruction Number 4.23.2 for Dual Employment, Section IV, states, in pertinent part, that a current employee may not begin a secondary job until he or she receives approval for dual employment in writing, and Section VI, further provides, in pertinent part, that all current employees must file a dual employment request prior to commencing employment, including self-employment, with the Authority. Violation of these procedures may subject an employee to discipline, up to and including termination of employment, and/or may expose an employee to civil or criminal penalties.

The Policy also states that “while on sick leave from the Authority, employees must not work for another employer without express written authorization from the Authority.”

For those employees who hold safety-sensitive titles, the Policy further states that “[t]he proposed outside employment may not result in total, combined work time that prevents the employee from having eight consecutive non-working hours in the 16-hour period before reporting to work for the Authority.” The Policy notes one example of a dual employment request that may be denied—Inadequate Rest Time: “the job duties of an employee in a safety-sensitive position require that he/she be alert and capable of safely operating a vehicle or equipment. The employee may not work in other employment that does not result in having a block of eight continuous non-working hours in the 16-hour period before reporting to work for the Authority.”

Here, the Trackworker/Chauffeur violated these policies when he did not submit requests for approval for his employment with either Freight Company 1 or Freight Company 2 and failed to obtain the requisite dual employment authorization for either job prior to or during their commencement. Additionally, his safety-sensitive position required him to have eight consecutive non-working hours in a 16-hour period prior to reporting to NYC Transit, yet on 156 occurrences he did not and violated the policy. And finally, the Trackworker/Chauffeur violated Transit policy on 30 occasions when he called out sick for his overnight NYC Transit shift and then went to work at Freight Company 1 the next morning for a regular daytime shift.

C. New York State Public Officers Law § 74(3)(h)

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 stated above, the Trackworker/Chauffeur engaged in acts that violated his trust.

IV. FINDINGS

1. The Trackworker/Chauffeur failed to submit requests for approval for his outside employment at both Freight Company 1 and Freight Company 2 and engaged in unauthorized dual employment in violation of the MTA All Agency Code of Ethics § 4.07, NYC Transit Policy/Instruction Number 4.23.2, and NYC Transit Rules and Regulations, Rule 4(g).
2. The Trackworker/Chauffeur violated NYC Transit’s rest policy for his safety-sensitive position on 156 occasions, in violation of NYC Transit Policy Instruction Number 4.23.2, Section IV, Guidelines (B) (1).
3. The Trackworker/Chauffeur, on seven occasions, left his employment during NYC Transit hours to go to work for Freight Company 1, in violation of MTA All-Agency Code of Ethics §§ 4.02 and 4.07, NYC Transit Rules 5(a), 8(a), and 10(a), and NYC Transit Policy Instruction Number 4.23.2, Section IV(A)(9).
4. The Trackworker/Chauffeur used NYC Transit sick leave to work for Freight Company 1, in violation of NYC Transit Rules 5(a), 8(a), and 10(a) and NYC Transit Policy Instruction Number 4.23.2, Section IV(A)(9).

V. RECOMMENDATION

We recommend that NYC Transit impose discipline on the Trackworker/Chauffeur as it deems appropriate, up to and including termination.

As always, we appreciate your continued courtesy and cooperation. Please advise our office within thirty (30) days of any action you take pursuant to this letter. Please be further 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 William McGrogan, Executive Deputy Inspector General, Investigations, at (212) 878-0143.

Very truly yours,

/S/

Elizabeth Keating

cc: David Farber, General Counsel, NYC Transit
Monica Murray, Chief Administrative Officer, NYC Transit

Exhibit A

Violation of Rest Requirement	Date	16hr period prior to NYCT Clock In				
		NYCT Clock Out (prior shift)	REST (h:mm)	Freight Company 1 Shift	REST (h:mm)	NYCT Clock In
1	Mon 12/30/2019	6:01AM	2:02	8:03AM-6:38PM	3:17	9:55PM
2	Tue 01/14/2020	6:02AM	1:52	7:54AM-6:07PM	0:56	7:03PM
3	Wed 01/15/2020	6:09AM	2:39	8:48AM-6:19PM	0:51	7:10PM
4	Mon 01/20/2020	10:00AM*	0:00	7:52AM-6:00PM	3:31	9:31PM
5	Tue 01/28/2020	did not work	-	7:53AM-6:56PM	3:12	10:08PM
6	Wed 01/29/2020	6:00AM	1:52	7:52AM-5:18PM	4:49	10:07PM
7	Mon 02/03/2020	Sick	-	7:52AM-6:54PM	2:14	9:08PM
8	Tue 02/04/2020	5:59AM	1:55	7:54AM-6:29PM	3:39	10:08PM
9	Wed 02/05/2020	6:00AM	1:52	7:52AM-5:44PM	0:51	6:35PM
10	Thu 02/06/2020	6:00AM*	1:53	7:53AM-6:36PM	2:58	9:34PM
11	Mon 03/02/2020	did not work	-	8:03AM-5:52PM	3:57	9:49PM
12	Tue 03/03/2020	6:02AM	1:57	7:59AM-6:09PM	4:04	10:13PM
13	Wed 03/04/2020	6:23AM	1:34	7:57AM-6:53PM	3:01	9:54PM
14	Thu 03/12/2020	did not work	-	8:00AM-6:58PM	3:01	9:59PM
15	Fri 03/13/2020	6:04AM	1:56	8:00AM-6:39PM	3:16	9:55PM
16	Mon 05/11/2020	6:08AM	1:45	7:53AM-6:10PM	3:39	9:49PM
17	Wed 05/27/2020	6:00AM*	1:57	7:57AM-5:41PM	4:14	9:55PM
18	Mon 06/15/2020	5:59AM	1:57	7:56AM-4:51PM	5:12	10:03PM
19	Tue 06/16/2020	5:57AM	1:59	7:56AM-4:40PM	5:20	10:00PM*
20	Mon 06/22/2020	6:01AM	1:55	7:56AM-4:36PM	5:54	10:30PM*
21	Tue 06/23/2020	6:00AM*	1:55	7:55AM-6:07PM	3:50	9:57PM
22	Wed 06/24/2020	6:05AM	1:50	7:55AM-6:36PM	3:29	10:05PM
23	Mon 07/20/2020	did not work	-	7:57AM-6:32PM	3:34	10:06PM
24	Tue 07/21/2020	5:53AM	2:00	7:53AM-5:47PM	2:46	8:33PM
25	Thu 07/23/2020	6:08AM	1:47	7:55AM-6:48PM	3:19	10:07PM
26	Fri 07/24/2020	6:22AM	1:35	7:57AM-6:58PM	3:05	10:03PM
27	Tue 07/28/2020	6:27AM	1:29	7:56AM-6:47PM	3:19	10:06PM
28	Wed 07/29/2020	6:14AM	1:42	7:56AM-7:43PM	2:29	10:12PM
29	Thu 07/30/2020	6:22AM	2:35	7:57AM-5:44PM	4:24	10:08PM
30	Fri 07/31/2020	6:18AM	1:43	8:01AM-6:12PM	3:47	9:59PM
31	Mon 08/10/2020	Sick	-	7:57AM-5:34PM	4:32	10:06PM
32	Tue 08/11/2020	5:57AM	1:55	7:52AM-6:13PM	0:55	7:08PM
33	Wed 08/12/2020	6:14AM	1:46	8:00AM-5:15PM	1:10	6:25PM
34	Thu 08/13/2020	6:42AM	1:11	7:53AM-6:17PM	0:50	7:07PM
35	Fri 08/14/2020	5:57AM	2:14	8:11AM-4:26PM	5:31	9:57PM

Violation of Rest Requirement	Date	16hr period prior to NYCT Clock In				
		NYCT Clock Out (prior shift)	REST (h:mm)	Freight Company 1 Shift	REST (h:mm)	NYCT Clock In
36	Tue 08/18/2020	6:01AM	1:52	7:53AM-6:23PM	0:49	7:12PM
37	Wed 08/19/2020	6:46AM	1:11	7:57AM-4:56PM	2:08	7:04PM
38	Thu 08/20/2020	6:05AM	1:49	7:54AM-6:34PM	1:15	7:49PM
39	Fri 08/21/2020	6:19AM	1:40	7:59AM-2:57PM	7:04	10:01PM
40	Mon 08/24/2020	6:16AM	1:41	7:57AM-5:48PM	0:53	6:41PM
41	Tue 08/25/2020	6:33AM	1:26	7:59AM-5:18PM	1:36	6:54PM
42	Wed 08/26/2020	6:05AM	1:50	7:55AM-4:52PM	2:11	7:03PM
43	Thu 08/27/2020	6:11AM	1:41	7:52AM-5:26PM	1:40	7:06PM
44	Mon 09/28/2020	6:00AM*	2:38	8:38AM-7:04PM	2:57	10:01PM
45	Tue 09/29/2020	6:10AM	1:47	7:57AM-6:31PM	3:28	9:59PM
46	Tue 10/13/2020	6:01AM	2:04	8:05AM-4:40PM	1:17	5:57PM
47	Wed 10/14/2020	7:08AM	0:53	8:01AM-4:39PM	2:09	6:48PM
48	Tue 10/20/2020	did not work	-	7:53AM-6:15PM	3:45	10:00PM*
49	Wed 10/21/2020	6:00AM*	2:00	8:00AM-6:31PM	3:35	10:06PM
50	Thu 10/22/2020	6:00AM	2:05	8:05AM-6:30PM	3:28	9:58PM
51	Tue 10/27/2020	5:59AM	1:56	7:55AM-6:02PM	3:58	10:00PM
52	Wed 10/28/2020	6:01AM	1:55	7:56AM-6:47PM	2:49	9:36PM
53	Wed 11/04/2020	6:02AM	1:57	7:59AM-5:00PM	1:40	6:40PM
54	Tue 11/17/2020	6:15AM	1:39	7:54AM-6:15PM	0:55	7:10PM
55	Wed 11/18/2020	6:06AM	1:50	7:56AM-4:38PM	2:22	7:00PM
56	Thu 11/19/2020	6:00AM*	1:57	7:57AM-6:43PM	0:47	7:30PM
57	Fri 11/20/2020	6:04AM	1:50	7:54AM-4:30PM	4:41	9:11PM
58	Mon 12/07/2020	Sick	-	8:01AM-7:16PM	2:41	9:57PM
59	Tue 12/08/2020	7:10AM	0:48	7:58AM-4:56PM	5:12	10:08PM
60	Wed 12/09/2020	6:08AM	1:45	7:53AM-6:39PM	3:29	10:08PM
61	Tue 12/15/2020	6:12AM	1:49	8:01AM-6:34PM	3:23	9:57PM
62	Wed 12/16/2020	9:00AM*	0:00	8:53AM-6:15PM	2:01	8:16PM
63	Mon 12/21/2020	Sick	-	8:02AM-7:01PM	2:53	9:54PM
64	Tue 12/22/2020	5:57AM	2:03	8:00AM-6:57PM	2:58	9:55PM
65	Mon 12/28/2020	did not work	-	7:57AM-6:45PM	3:06	9:51PM
66	Tue 12/29/2020	6:08AM	1:50	7:58AM-7:09PM	1:49	8:58PM
67	Wed 12/30/2020	5:58AM	1:59	7:57AM-7:00PM	3:00	10:00PM
68	Wed 01/06/2021	did not work	-	7:58AM-6:39PM	2:01	8:40PM
69	Thu 01/07/2021	7:16AM	0:41	7:57AM-7:00PM	1:54	8:54PM
70	Tue 01/19/2021	6:01AM	2:11	8:12AM-4:57PM	2:51	7:48PM

Violation of Rest Requirement	Date	16hr period prior to NYCT Clock In				
		NYCT Clock Out (prior shift)	REST (h:mm)	Freight Company 1 Shift	REST (h:mm)	NYCT Clock In
71	Mon 02/15/2021	6:38AM	1:20	7:58AM-6:24PM	3:30	9:54PM
72	Tue 02/16/2021	6:13AM	1:45	7:58AM-4:49PM	3:42	8:31PM
73	Wed 02/17/2021	6:18AM	1:56	8:14AM-7:05PM	0:47	7:52PM
74	Tue 02/23/2021	5:55AM	2:05	8:00AM-7:21PM	2:23	9:44PM
75	Wed 02/24/2021	5:58AM	1:59	7:57AM-7:22PM	2:05	9:27PM
76	Wed 03/10/2021	6:11AM	1:49	8:00AM-6:00PM	2:10	8:10PM
77	Thu 03/11/2021	6:11AM	1:49	8:00AM-6:54PM	1:00	7:54PM
78	Tue 03/16/2021	6:01AM	1:58	7:59AM-6:35PM	1:18	7:53PM
79	Wed 03/17/2021	6:00AM*	2:01	8:01AM-5:16PM	2:44	8:00PM
80	Mon 03/22/2021	Sick	-	8:06AM-7:53PM	2:05	9:58PM
81	Tue 03/23/2021	6:00AM	1:55	7:55AM-2:30PM	5:36	8:06PM
82	Wed 03/24/2021	6:47AM	1:13	8:00AM-6:00PM	1:39	7:39PM
83	Thu 03/25/2021	10:00AM*	0:00	9:53AM-5:57PM	1:55	7:52PM
84	Mon 03/29/2021	Sick	-	7:57AM-7:32PM	2:16	9:48PM
85	Tue 03/30/2021	5:58AM	2:02	8:00AM-5:17PM	4:41	9:58PM
86	Wed 03/31/2021	6:00AM*	1:58	7:58AM-6:40PM	3:10	9:50PM
87	Mon 04/19/2021	10:00AM*	0:00	9:38AM-5:30PM	2:17	7:47PM
88	Tue 04/20/2021	6:00AM*	1:57	7:57AM-5:16PM	2:42	7:58PM
89	Wed 04/21/2021	5:57AM	1:57	7:54AM-5:18PM	2:31	7:49PM
90	Thu 04/22/2021	11:00AM*	0:16	11:16AM-6:13PM	1:03	7:16PM
91	Mon 04/26/2021	5:59AM	1:58	7:57AM-5:08PM	2:54	8:02PM
92	Tue 04/27/2021	5:58AM	2:03	8:01AM-7:08PM	0:39	7:47PM
93	Wed 04/28/2021	5:56AM	2:01	7:57AM-6:45PM	1:00	7:45PM
94	Thu 04/29/2021	7:08AM	0:50	7:58AM-6:55PM	0:59	7:54PM
95	Tue 05/11/2021	5:57AM	2:00	7:57AM-6:35PM	3:35	10:10PM
96	Wed 05/12/2021	5:55AM	2:03	7:58AM-6:52PM	3:07	9:59PM
97	Mon 05/17/2021	6:00AM	5:05	11:05AM-5:09PM	3:01	8:10PM
98	Tue 05/18/2021	5:56AM	2:03	7:59AM-6:29PM	1:30	7:59PM
99	Mon 05/24/2021	10:02AM	0:51	10:53AM-6:07PM	4:04	10:11PM
100	Wed 06/09/2021	5:59AM	2:03	8:02AM-7:11PM	0:55	8:06PM
101	Thu 06/10/2021	6:03AM	2:06	8:09AM-6:53PM	1:47	8:40PM
102	Tue 06/22/2021	6:10AM	1:49	7:59AM-7:10PM	2:48	9:58PM
103	Wed 06/23/2021	6:35AM	1:23	7:58AM-8:09PM	1:51	10:00PM*
104	Tue 06/29/2021	6:17AM	1:45	8:02AM-8:03PM	2:05	10:08PM
105	Mon 08/09/2021	did not work	-	8:20AM-6:16PM	3:33	9:49PM

Violation of Rest Requirement	Date	16hr period prior to NYCT Clock In				
		NYCT Clock Out (prior shift)	REST (h:mm)	Freight Company 1 Shift	REST (h:mm)	NYCT Clock In
106	Tue 08/10/2021	6:05AM	0:59	7:04AM-6:29PM	3:20	9:49PM
107	Thu 08/12/2021	6:20AM	1:45	8:05AM-5:34PM	4:18	9:52PM
108	Tue 08/17/2021	Sick	-	7:00AM-6:05PM	3:55	10:00PM
109	Wed 08/18/2021	6:00AM*	1:57	7:57AM-5:15PM	4:50	10:05PM
110	Mon 09/13/2021	6:37AM	1:35	8:12AM-5:23PM	4:36	9:59PM
111	Tue 09/14/2021	6:00AM	0:58	6:58AM-6:07PM	4:01	10:08PM
112	Wed 09/15/2021	6:24AM	0:42	7:06AM-5:55PM	4:06	10:01PM
113	Mon 09/27/2021	Sick	-	8:03AM-6:35PM	3:16	9:51PM
114	Tue 09/28/2021	6:02AM	1:59	8:01AM-5:48PM	4:10	9:58PM
115	Mon 10/04/2021	9:03AM	1:02	10:05AM-6:04PM	0:52	6:56PM
116	Tue 10/05/2021	6:11AM	1:48	7:59AM-3:23PM	0:56	4:19PM
117	Wed 10/06/2021	6:16AM	1:43	7:59AM-6:06PM	0:58	7:04PM
118	Thu 10/07/2021	5:56AM	2:12	8:08AM-6:00PM	2:05	8:05PM
119	Tue 10/19/2021	6:00AM	1:55	7:55AM-7:00PM	1:00	8:00PM
120	Wed 10/20/2021	6:00AM	2:00	8:00AM-7:24PM	0:45	8:09PM
121	Thu 10/21/2021	7:00AM	1:30	8:30AM-7:02PM	0:55	7:57PM
122	Mon 10/25/2021	6:00AM*	2:00	8:00AM-7:25PM	0:43	8:08PM
123	Wed 10/27/2021	6:35AM	1:23	7:58AM-7:14PM	0:51	8:05PM
124	Mon 11/01/2021	10:00AM*	0:00	8:40AM-6:17PM	3:52	10:09PM
125	Tue 11/02/2021	5:58AM	2:03	8:01AM-7:00PM	0:54	7:54PM
126	Mon 11/08/2021	6:05AM	1:54	7:59AM-6:40PM	3:24	10:04PM
127	Tue 11/09/2021	10:00AM*	0:00	7:58AM-3:02PM	6:56	9:58PM
128	Wed 11/10/2021	11:00AM*	0:00	7:48AM-5:12PM	4:36	9:48PM
129	Tue 11/16/2021	did not work	-	8:00AM-8:05PM	0:44	8:49PM
130	Wed 11/17/2021	6:07AM	1:50	7:57AM-7:00PM	2:52	9:52PM
131	Tue 11/23/2021	5:53AM	2:06	7:59AM-8:04PM	1:46	9:50PM
132	Wed 11/24/2021	6:00AM*	2:00	8:00AM-7:00PM	1:00	8:00PM*
133	Mon 11/29/2021	6:00AM	1:59	7:59AM-7:07PM	1:45	8:52PM
134	Tue 11/30/2021	6:10AM	1:52	8:02AM-6:18PM	1:10	7:28PM
135	Wed 12/01/2021	6:00AM	2:01	8:01AM-6:29PM	3:32	10:01PM
136	Mon 12/06/2021	6:00AM*	2:00	8:00AM-8:23AM	1:39	10:02PM
137	Mon 01/03/2022	6:19AM	1:40	7:59AM-6:01PM	2:03	8:04PM
138	Wed 01/05/2022	6:01AM	1:57	7:58AM-7:20PM	2:40	10:00PM*
139	Mon 01/10/2022	6:27AM	1:25	7:52AM-6:31PM	0:54	7:25PM
140	Tue 01/11/2022	5:57AM	1:03	7:00AM-6:20PM	1:45	8:05PM

Violation of Rest Requirement	Date	16hr period prior to NYCT Clock In				
		NYCT Clock Out (prior shift)	REST (h:mm)	Freight Company 1 Shift	REST (h:mm)	NYCT Clock In
141	Wed 01/12/2022	6:00AM*	1:09	7:09AM-6:38PM	1:20	7:58PM
142	Thu 01/13/2022	5:57AM	1:07	7:04AM-6:54PM	1:03	7:57PM
143	Mon 02/07/2022	did not work	-	7:54AM-6:27PM	1:37	8:04PM
144	Tue 02/08/2022	6:00AM*	2:00	8:00AM-5:19PM	2:47	8:06PM
145	Wed 02/09/2022	6:09AM	1:49	7:58AM-4:36PM	3:32	8:08PM
146	Thu 02/10/2022	6:09AM	1:49	7:58AM-6:47PM	1:21	8:08PM
147	Tue 02/15/2022	did not work	-	8:00AM-3:29PM	4:28	7:57PM
148	Wed 02/16/2022	6:14AM	1:44	7:58AM-5:53PM	2:19	8:12PM
149	Thu 02/17/2022	6:00AM*	2:05	8:05AM-4:53PM	3:14	8:07PM
150	Fri 02/18/2022	6:05AM	1:54	7:59AM-4:47PM	5:17	10:04PM
151	Mon 02/28/2022	did not work	-	8:02AM-6:04PM	0:50	6:54PM
152	Tue 03/01/2022	6:19AM	1:40	7:59AM-6:42PM	1:00	7:42PM
153	Wed 03/02/2022	6:18AM	1:41	7:59AM-3:02PM	4:44	7:46PM
154	Thu 03/03/2022	6:12AM	1:48	8:00AM-6:02PM	2:27	8:29PM
155	Tue 03/08/2022	6:12AM	1:56	8:08AM-5:33PM	2:44	8:17PM
156	Wed 03/09/2022	worked; no time data recorded	-	7:57AM-6:37PM	3:23	10:00PM

Total: 156

**No clock in/out time recorded; time recorded via handwritten time sheet*

Exhibit B

Overlapping Hours: NYCT and Freight Company 1

Instances of Overlap	NYCT Shift Date	NYCT Shift Start Time-End Time	Freight Company 1 Date Shift Start Time	Approximate Overlap Time (HH:MM)
1	Sun 1/19/2020 – Mon 1/20/2020	10:00PM - 10:00AM	Mon 1/20/2020 7:52AM	2:08
2	Tues 12/15/2020 – Wed 12/16/2020	10:00PM - 9:00AM	Wed 12/16/2020 8:53AM	0:07
3	Wed 3/24/2021 – Thu 3/25/2021	8:00PM - 10:00AM	Thu 03/25/2021 9:53AM	0:07
4	Sun 4/18/2021 – Mon 4/19/2021	10:00PM - 10:00AM	Mon 04/19/2021 9:38AM	0:22
5	Sun 10/31/2021 – Mon 11/1/2021	10:00PM - 10:00AM	Mon 11/01/2021 8:40AM	1:20
6	Mon 11/08/2021 – Tues 11/09/2021	10:00PM - 10:00AM	Tue 11/09/2021 7:58AM	2:02
7	Tues 11/09/2021 – Wed 11/10/2021	10:00PM - 11:00AM	Wed 11/10/2021 7:48AM	3:12

Exhibit C

NYC Transit Records			
Freight Company 1 Records			
Violation of Sick Leave Policy	Date	Clock In	Clock Out
1	Mon 02/03/2020	Sick W/O Pay	
	Mon 02/03/2020	7:52 AM	6:54 PM
2	Wed 02/12/2020	Sick W/O Pay	
	Wed 02/12/2020	7:55 AM	7:33 PM
3	Mon 03/09/2020	Sick Usage	
	Mon 03/09/2020	8:07 AM	5:45 PM
4	Wed 07/01/2020	Sick W/O Pay	
	Wed 07/01/2020	7:56 AM	6:04 PM
5	Mon 08/10/2020	Sick W/O Pay	
	Mon 08/10/2020	7:57 AM	5:34 PM
6	Mon 12/07/2020	Sick W/O Pay	
	Mon 12/07/2020	8:01 AM	7:16 PM
7	Mon 12/21/2020	Sick Usage	
	Mon 12/21/2020	8:02 AM	7:01 PM
8	Wed 02/03/2021	Sick Usage	
	Wed 02/03/2021	8:22 AM	8:00 PM
9	Thu 02/04/2021	Sick Usage	
	Thu 02/04/2021	9:06 AM	6:11 PM
10	Tue 02/09/2021	Sick Usage	
	Tue 02/09/2021	8:10 AM	7:00 PM
11	Wed 02/10/2021	Sick Usage	
	Wed 02/10/2021	7:58 AM	7:36 PM
12	Thu 02/11/2021	Sick Usage	
	Thu 02/11/2021	8:00 AM	7:48 PM
13	Mon 03/22/2021	Sick W/O Pay	
	Mon 03/22/2021	8:06 AM	7:53 PM
14	Mon 03/29/2021	Sick Usage	
	Mon 03/29/2021	7:57 AM	7:32 PM
15	Tue 05/04/2021	Sick W/O Pay	
	Tue 05/04/2021	8:03 AM	6:25 PM

Violation of Sick Leave Policy	Date	Clock In	Clock Out
16	Thu 05/06/2021	Sick Usage	
	Thu 05/06/2021	8:02 AM	5:31 PM
17	Wed 05/26/2021	Sick W/O Pay	
	Wed 05/26/2021	8:18 AM	5:22 PM
18	Thu 05/27/2021	Sick Usage	
	Thu 05/27/2021	8:15 AM	5:11 PM
19	Wed 06/02/2021	Sick Usage	
	Wed 06/02/2021	8:06 AM	6:34 PM
20	Thu 06/03/2021	Sick Usage	
	Thu 06/03/2021	8:01 AM	6:27 PM
21	Wed 07/07/2021	Sick W/O Pay	
	Wed 07/07/2021	8:04 AM	7:30 PM
22	Mon 07/19/2021	Sick W/O Pay	
	Mon 07/19/2021	8:09 AM	5:18 PM
23	Tue 07/20/2021	Sick Usage	
	Tue 07/20/2021	8:02 AM	6:52 PM
24	Mon 08/16/2021	Sick W/O Pay	
	Mon 08/16/2021	2:00 PM	7:30 PM
25	Tue 08/17/2021	Sick W/O Pay	
	Tue 08/17/2021	7:00 AM	6:05 PM
26	Tue 08/24/2021	Sick W/O Pay	
	Tue 08/24/2021	8:15 AM	5:48 PM
27	Thu 08/26/2021	Sick Usage	
	Thu 08/26/2021	8:00 AM	5:30 PM
28	Mon 09/27/2021	Sick W/O Pay	
	Mon 09/27/2021	8:03 AM	6:35 PM
29	Tue 02/22/2022	Sick W/O Pay	
	Tue 02/22/2022	8:08 AM	6:44 PM
30	Wed 02/23/2022	Sick Usage	
	Wed 02/23/2022	7:56 AM	7:01 PM

Total: 30



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Addendum
to
MTA/OIG #2023-11

**Unauthorized Dual Employment by NYC Transit Dual Rate
Trackworker/Chauffeur**

In response to the Office of the MTA Inspector General's investigation report, in May 2023, New York City Transit (NYC Transit) brought disciplinary charges against the Trackworker/Chauffeur seeking dismissal and pre-disciplinarily suspended him pending final disposition.

The Trackworker/Chauffeur failed to appear for disciplinary hearings for the two Disciplinary Notifications, and as a result, NYC Transit implemented disciplinary charges and recommended dismissal. The Trackworker/Chauffeur was dismissed effective June 28, 2023.