



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA DEPARTMENT OF VETERANS AFFAIRS (IDVA)
TITLE: MISUSE OF STATE PROPERTY; GHOST EMPLOYMENT
CASE ID: 2019-12-0310
DATE: July 24, 2020

Inspector General Staff Attorney Kelly Elliott, after an investigation by Special Agent Michael Lepper, reports as follows:

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch of state government. Ind. Code §4-2-7-2(b). The OIG investigates criminal activity and ethics violations by state workers. Ind. Code §4-2-7-3. The OIG is also authorized to assist other law enforcement efforts and coordinate investigations. Ind. Code §4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in the state government. Ind. Code §4-2-7-3(2).

I. Complaint

In December of 2019, the OIG received an anonymous complaint alleging that a state employee (Employee) with the Indiana Department of Veterans Affairs (IDVA) spent much of her workday using her state-issued computer to watch videos and take online surveys in exchange for money.

The OIG referred the complaint to IDVA for an initial investigation. The Indiana State Personnel Department (SPD) conducted an internal investigation into the allegations in coordination with IDVA. SPD provided the OIG its investigative report of the matter. The OIG

reviewed SPD's report and opened an investigation to determine if the Employee violated the Code of Ethics (Code).

In SPD's investigative report, SPD determined that the Employee maintained a personal membership with a company (Company) that provides its members points for shopping online, streaming videos, searching the internet or answering surveys. Members can redeem the points they earn for gift cards. SPD found that the Employee used her state-issued computer during the workday to visit the Company's website and associated websites that allowed her to earn points for completing surveys and streaming videos.

Based on these findings, SPD recommended that IDVA suspend the Employee "for the significant and voluminous misuse of State equipment in violation of the [Indiana Office of Technology's Information Resources Use Agreement (IRUA)] and for personal gain while on work time." SPD also recommended that the Employee retake trainings regarding the IRUA and the Code. IDVA adopted SPD's recommendations and suspended the Employee without pay. IDVA also required the Employee to complete trainings on the IRUA and the Code upon her return to work.

II. Investigation

OIG Special Agent Lepper investigated the matter. He interviewed the Employee and other IDVA employees. He also reviewed personnel files, reports, attendance records and other documentation.

Special Agent Lepper learned that the Employee's IDVA work schedule is Monday through Friday, from 8:00 a.m. to 4:30 p.m. IDVA issued the Employee a state computer to conduct official state business.

A. Interview with the Employee

Special Agent Lepper interviewed the Employee. The Employee admitted to visiting the Company's website on her state-issued computer during the workday to stream videos and complete surveys. She estimated that she had been visiting the website while at work since approximately July 2019. The Employee stated she did not realize what she was doing was wrong. She stated she ceased accessing the Company's website using her state-issued computer after IDVA and SPD interviewed her in February 2020 and informed her that such activity was not permitted.

The Employee explained that she would stream the videos in the background on her state-issued computer behind other programs. She noted that she would mute the audio to the videos while they were playing. She stated the videos would stream for approximately thirty minutes and then she would need to go back on the Company's website to start another video or playlist of videos. The Employee stated she would complete a survey question while other programs were loading on her state-issued computer. She estimated that she answered a survey question every thirty minutes as well.

B. The Employee's Internet History Report

Special Agent Lepper reviewed a report of The Employee's internet history provided by the Indiana Office of Technology (IOT). The report provided a list of each website the Employee visited while on the State's network and using her state-issued computer for a sixty-day period.¹ The Employee's internet history report indicated that the Employee used her state-issued computer to frequently visit the Company's website and associated websites that allowed her to stream

¹ The Employee's internet history report provided a list of 98,112 website entries.

videos and complete surveys.² The internet history report showed that the Employee was accessing all of these websites throughout the entire day and not primarily during a time in which she may have taken a lunch break.

Special Agent Lepper inquired with IOT on whether they could determine if the Employee's activity on a particular website was active or passive use. IOT stated that they could not determine this information. They also stated that multiple entries in a row for the same website on an IOT internet history report do not necessarily mean "multiple clicks" by the user. IOT explained that the user may leave an internet website open and the website will make multiple calls out due to poor design quality.

C. The Employee's Membership with the Company

Special Agent Lepper served a subpoena upon and received records from the Company regarding the Employee's membership and activity. The Company provided the number of points the Employee has earned and the dates and times in which she earned the points. Between July 1, 2019 and February 29, 2020, the Employee earned 48,278 points. The Company provided that the Employee earned \$482.78 in redeemable gift cards for her 48,278 points; however, she had redeemed only 44,200 points for \$450.00 in gift cards. The majority of points the Employee earned were for completing surveys (43,783 points) and watching videos (1,445 points). On average, The Employee earned 10.04 points for completing a survey and 1.86 points for watching a video or playlist of videos.

Special Agent Lepper compared the dates and times in which the Employee earned the points to her IDVA attendance records. He determined that the Employee earned approximately

² The Employee's internet history report indicates that IOT blocked the Employee's access to many "internet radio/TV" websites. IOT explained that these blocked websites were likely advertisements loading and not active use by the Employee.

29,631 points during her IDVA working hours, which is approximately 61% of her total points earned. Accordingly, the Employee earned approximately \$294.50 ($\$482.78 \times 61\%$) from the Company for streaming videos and completing surveys during her state working hours.

D. Interviews with other IDVA Employees

Special Agent Lepper interviewed the Employee's supervisor (Supervisor). The Supervisor stated she had known about the Employee's use of the Company's website for approximately one year but was unaware of how frequently the Employee was visiting the website. Agent Lepper learned that prior to the IDVA/SPD investigation into the Employee, the Supervisor told her Division Director (Director) about the Employee's use of the Company's website.³

Special Agent Lepper interviewed the Director. The Director confirmed that the Supervisor mentioned the Employee's use of the Company's website to him shortly before the IDVA/SPD investigation, but he did not register what it meant. He noted that he did not know what the Company was at that time.⁴

Special Agent Lepper interviewed other employees that worked with the Employee. The other employees indicated that the Employee is a hard worker and an asset to IDVA. Some of the other employees stated that the Employee had mentioned the Company to them as well.

E. IDVA Policies

IDVA has a Policy on Limited Personal Use of State Property/Resources, which the State Ethics Commission (Commission) approved on June 11, 2015. It allows for limited, personal use

³ SPD's investigative report recommended IDVA issue the Supervisor a suspension "for failing to address [the Employee's] inappropriate actions and adequately supervise her." IDVA issued the suspension to the Supervisor in accordance with SPD's recommendation.

⁴ SPD's investigative report recommended IDVA issue the Director a written letter of reprimand "for failing to recognize and address [the Employee's] conduct despite evidence it was common knowledge within the working group." IDVA issued the Director a written letter of reprimand in accordance with SPD's recommendation.

of state property/resources; however, such use must be infrequent, of short duration, and unless not reasonably practical, made on the state employee's personal time. The use must also not be for the purpose of conducting business related to an outside commercial activity and must be in accordance with the current version of the IRUA.

IDVA reported that the agency does not have an employee policy manual distributed to IDVA employees that addresses or permits any other use of state property or that would allow its employees to engage in work other than official state business during work hours. IDVA reported that employees are required to comply with the policies provided by SPD. SPD's Employee Handbook reads, "Employees may not use state time for other than state duties." Additionally, SPD provides that when a state employee is determining the number of hours he/she worked, de minimis time, such as checking email for one's own convenience or for a trivial amount of time (such as ten minutes daily), is not compensable.

III. Conclusion

Special Agent Lepper's investigation found evidence to support the allegation that the Employee violated the Code's rule on use of state property.⁵ The Employee's use of her state-issued computer to access the Company's website and associated websites to stream videos and complete surveys was not for purposes of conducting official state business and not permitted by an IDVA general written policy or regulation that the Commission has approved.

Special Agent Lepper's investigation also found evidence to support the allegation that the Employee violated the Code's rule on ghost employment.⁶ The Employee's activities on the Company's website and other associated websites that allowed her to stream videos and complete

⁵ Ind. Code §4-2-6-17

⁶ 42 IAC 1-5-13

surveys during IDVA working hours was not for purposes of engaging in the performance of official duties and not permitted by an IDVA general written policy or regulation.

The OIG filed a Probable Cause Affidavit for an Ethics Complaint with the Commission alleging that the Employee violated the Code's use of state property and ghost employment rules. Pursuant to Ind. Code § 4-2-6-4(b)(2)(A)(ii), the Commission found, by a majority vote, that IDVA had dealt with the complaint appropriately by suspending the Employee, and thus the Commission rejected the complaint without further proceedings. Accordingly, the OIG is closing this matter.

Dated: July 24, 2020

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive style with a long horizontal stroke at the end.

Lori Torres, Inspector General