



INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA HORSE RACING COMMISSION (IHRC)
TITLE: IHRC EMPLOYEE ADDITIONAL COMPENSATION
CASE ID: 2020-10-0310
DATE: August 23, 2021

Indiana Office of Inspector General Staff Attorney Lyubov Gore, after an investigation by Inspector General Special Agent Mike Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code §4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics (Code) ¹ violations within state government. 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 state government. Ind. Code §4-2-7-3(2).

I. BACKGROUND

A. Complaint

On October 7, 2020, the OIG received a complaint alleging that Megan Arszman-Weisbrodt, the former Communications Director for the Indiana Horse Racing Commission (IHRC), violated the Code's additional compensation rule. According to the complaint, Arszman-

¹ The Code is found in Ind. Code 4-2-6 and 42 IAC 1.

Weisbrodt accepted payment from the United States Trotting Association (USTA), which is the organization that publishes Hoof Beats magazine (Hoof Beats), for an article that Arszman-Weisbrodt wrote for Hoof Beats as part of her assigned duties for IHRC. The complaint alleged that Arszman-Weisbrodt wrote the article during state working hours and using IHRC resources. The OIG opened an investigation into this complaint.

B. SPD Investigation

The Indiana State Personnel Department (SPD) conducted a human resources (HR) investigation into Arszman-Weisbrodt's performance issues, specifically related to her writing an article for Hoof Beats for compensation. The HR investigation revealed that, in June of 2020, Arszman-Weisbrodt's supervisor approved Arszman-Weisbrodt to write one article for Hoof Beats in her official capacity as a state employee because the article would benefit and promote the goals of IHRC. Arszman-Weisbrodt informed her supervisor that she would not receive outside compensation for this article; however, the documentation SPD obtained showed that Arszman-Weisbrodt received compensation of \$350.00 from USTA for writing this article in the performance of her official duties.

IHRC employees informed SPD that they advised Arszman-Weisbrodt to stop writing articles for payment due, in part, to confidentiality concerns. Through interviews with IHRC employees and emails, SPD learned that Arszman-Weisbrodt persisted in writing additional articles for payment and was deceptive with IHRC about it, causing IHRC leadership to lose trust in her credibility. SPD and IHRC confronted Arszman-Weisbrodt regarding writing additional articles for payment, but Arszman-Weisbrodt refused to admit to all of her conduct. At the conclusion of SPD's investigation, Arszman-Weisbrodt resigned from her IHRC position on October 9, 2020.

II. OIG INVESTIGATION

OIG Special Agent Mike Lepper investigated the complaint the OIG received. Special Agent Lepper reviewed Arszman-Weisbrodt's employment records, her emails, electronic copies of the articles she wrote, checks and records of payments from USTA to her for the articles she wrote and records from SPD's and IHRC's investigation. Special Agent Lepper learned that, between 2019 and 2020, Arszman-Weisbrodt wrote a total of six articles for Hoof Beats. Arszman-Weisbrodt used her IHRC title in the author's credit for each article. USTA paid Arszman-Weisbrodt \$1,950.00 in total for writing the articles.

OIG Special Agent Lepper reviewed several emails between Arszman-Weisbrodt and the editor of Hoof Beats, which appeared to have been written during state working hours. Special Agent Lepper did not find evidence that Arszman-Weisbrodt wrote any of the six articles on her state-issued equipment, except for the article Arszman-Weisbrodt's supervisor assigned to her in her official capacity as an IHRC employee. Arszman-Weisbrodt's use of state property to engage in writing these articles for Hoof Beats appeared to be *de minimis*.

Special Agent Lepper interviewed Arszman-Weisbrodt's supervisor (Supervisor), IHRC's CFO and IHRC's SPD representative. The Supervisor informed Special Agent Lepper that she had hired Arszman-Weisbrodt in 2017, and, at the time, Arszman-Weisbrodt was a free-lance writer. The Supervisor instructed Arszman-Weisbrodt that, while she could continue her free-lance writing, she could not write for any entity associated with IHRC or any horse racing publications. Although IHRC had no written policy in effect that forbade Arszman-Weisbrodt from doing so, Arszman-Weisbrodt verbally agreed to the condition. According to the Supervisor, the Supervisor had approved Arszman-Weisbrodt to write one article in her official capacity as a state employee in June of 2020 for Hoof Beats, and Arszman-Weisbrodt told the Supervisor that there would be

no compensation for this article.

The Supervisor subsequently discovered that Arszman-Weisbrodt was writing additional articles for Hoof Beat in August of 2020 and counseled Arszman-Weisbrodt against doing so because Arszman-Weisbrodt was using her official IHRC title in the articles. Arszman-Weisbrodt was dishonest with regard to writing additional articles for compensation until her Supervisor confronted her with evidence of four articles on October 9, 2020, and asked her to resign or be terminated.

Special Agent Lepper also spoke with the editor of Hoof Beats and the Director of Marketing and Communication for USTA. Special Agent Lepper confirmed that Arszman-Weisbrodt wrote six articles for Hoof Beats. Special Agent Lepper confirmed that USTA paid Arszman-Weisbrodt \$1,950.00 in total for writing the articles. Special Agent Lepper learned that Arszman-Weisbrodt communicated with the editor of Hoof Beats about the OIG's investigation. Special Agent Lepper attempted to interview Arszman-Weisbrodt regarding the Hoof Beat articles on several occasions. Arszman-Weisbrodt declined to provide a statement to Special Agent Lepper each time.

III. ADDITIONAL COMPENSATION RULE

The OIG investigation revealed evidence that Arszman-Weisbrodt violated 42 IAC 1-5-8, the additional compensation rule. 42 IAC 1-5-8 prohibits a state employee from soliciting or accepting "compensation for the performance of official duties other than provided for by law."

The investigation found that Arszman-Weisbrodt accepted compensation from USTA for an article that Arszman-Weisbrodt wrote for Hoof Beats as part of her assigned duties for IHRC. The Supervisor approved Arszman-Weisbrodt to write this article for Hoof Beats in her official capacity as a state employee in June of 2020. Arszman-Weisbrodt told the Supervisor that she

would not receive compensation from USTA for this article, and the Supervisor had not permitted Arszman-Weisbrodt to accept additional compensation for this official state duty. Arszman-Weisbrodt accepted \$350.00 for writing this article in the performance of her official duties.

III. MOONLIGHTING RULE

The OIG investigation revealed evidence that Arszman-Weisbrodt violated 42 IAC 1-5-5, the moonlighting rule. 42 IAC 1-5-5 prohibits a state employee from using or attempting to use “the individual's official position to secure unwarranted privileges or exemptions that are: of substantial value; and not properly available to similarly situated individuals outside of state government.”

The investigation found that Arszman-Weisbrodt wrote five articles for Hoof Beats and used her official IHRC title in the author’s credit for all of the articles. Arszman-Weisbrodt received compensation of substantial value for writing these articles, specifically \$1,600.00 from USTA. Thus, Arszman-Weisbrodt used her position with IHRC to secure unwarranted privileges for herself that were not properly available to similarly situated individuals outside of state government.

IV. CONCLUSION AND RECOMMENDATIONS

The OIG presented the case to the State Ethics Commission (SEC) in an executive session on June 10, 2021, and sought probable cause to file an ethics complaint alleging that Arszman-Weisbrodt violated 42 IAC 1-5-8, the additional compensation rule, and 42 IAC 1-5-5(a)(3), the moonlighting rule. The SEC found probable cause, and the Inspector General filed the ethics complaint with the SEC on June 14, 2021.

The Inspector General and Arszman-Weisbrodt signed an Agreed Settlement in which Arszman-Weisbrodt admitted to the violations of the Code as alleged in the ethics complaint. The

agreed settlement fines Arszman-Weisbrodt \$1,950.00. The OIG filed the Agreed Settlement with the SEC, and the SEC approved it on August 12, 2021. Accordingly, this investigation is closed.

Although the OIG is closing this case after the SEC's approval of the Agreed Settlement, the OIG makes the following recommendations:

First, IHRC and other state executive branch agencies should provide clear written guidance to employees engaging in free-lance writing or other outside employment while maintaining state employment. The OIG investigation revealed that IHRC verbally advised Arszman-Weisbrodt against writing articles for entities associated with IHRC or any horse racing publications, but IHRC did not advise Arszman-Weisbrodt of this prohibition in writing. Written guidance can serve as a reminder to employees that use of an official title in writing articles or other outside employment is not permissible.

Second, state executive branch employees should seek an informal advisory opinion from the OIG or a formal advisory opinion from the SEC when they are engaging in outside employment or outside professional activity, especially if the outside activity is related to their state employment. Pursuant to 42 IAC 1-8-1, informal advisory opinions are confidential and, if relied upon, show the SEC that the individual who requested an informal advisory opinion acted in good faith. The SEC issues formal advisory opinions in public, and these opinions, if relied upon, are binding on the SEC in any subsequent allegations unless the person requesting the formal advisory opinion omitted or misstated material facts. 40 IAC 2-2-1.

Dated: August 23, 2021

APPROVED BY:

A handwritten signature in cursive script that reads "David Cook".

David Cook, Inspector General