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March 15, 2013

Barbara J. Fiala  
Commissioner  
New York State Department of Motor Vehicles  
6 Empire State Plaza  
Albany, New York 12228

Re: NYS IG 255-014-2011

Dear Commissioner Fiala:

On April 10, 2011, the New York State Inspector General received an anonymous complaint alleging that New York State Department of Motor Vehicles (DMV) Senior Administrative Analyst [REDACTED] was utilizing state resources in furtherance of her outside employment as a travel agent. While investigating this allegation, we found evidence indicating that [REDACTED], who is [REDACTED]'s husband and also employed as a DMV Senior Administrative Analyst, engaged in similar misconduct. I am writing to advise you of the results of our investigation of these matters.

DMV policy regarding outside employment is contained in the DMV Employee Handbook which is provided to all staff upon hiring and also is accessible on-line. The relevant part of the handbook (Section 3.8 Additional Employment) states:

Any outside employment, paid or unpaid, must not interfere with the performance of your duties with this Department. To insure that any additional employment does not represent a conflict of interest with your official duties, a written request for approval must be submitted through your supervisor/office manager to the Office of Integrity Assurance . . . The Office of Integrity Assurance may grant approval for outside employment when there is clearly no conflict of interest. As a general matter, it is expected that outside employment will be restricted to off-duty hours.

██████████ and ██████████, who are both assigned to DMV's Albany administrative offices, separately provided testimony to the Inspector General during this investigation. Both acknowledged their awareness of agency policy on outside employment.

██████████ testified to engaging in outside employment as the owner of ██████████, a home-based travel agency, since January 2012, and as an agent of that corporation and another travel business in prior years. The New York Department of State Division of Corporations currently lists ██████████ as the president of ██████████. ██████████ testified that for the last two years he has engaged in outside employment as a travel agent for ██████████. Both ██████████ and ██████████ testified that they are paid on a commission basis for the bookings they arrange for ██████████. DMV records show that ██████████ requested and received approval to engage in outside employment as a travel agent in 2004. At that time, ██████████ listed her hours of outside employment as "2-4 hours per week depending on volume. Work is conducted after 4pm on weekdays or on weekends." According to DMV, ██████████ has never requested or received permission for outside employment.

The Inspector General's investigation revealed a few instances in 2010 and 2011 when ██████████ used the DMV e-mail system and Internet access during the workday for her outside employment. Specifically, a number of e-mails were found that referred to the ██████████ agency and which reflected the booking of travel arrangements for clients. The Inspector General determined that ██████████, in a few instances, also used the DMV e-mail system and Internet access during work hours for purposes related to the travel business.

The DMV Employee Handbook prohibits the use for non-official purposes of agency equipment and services (Section 3.14) and agency computers, Internet access, and e-mail (Section 314c). Although she was aware of these restrictions, ██████████ admitted to spending approximately an hour or two each week on the Internet while at DMV for her outside employment, and using the DMV e-mail system to conduct travel agency business. Of this use, ██████████ stated, "I got sloppy and I started doing stuff here." ██████████ also admitted use of DMV resources in furtherance of his outside employment.

The Inspector General recommends that DMV review the conduct of ██████████ and ██████████, and take appropriate action.

The Inspector General has developed and recently disseminated to all agencies under our jurisdiction uniform guidelines relating to outside activity by state employees. The guidelines include the following provisions:

Every agency must have a policy on outside activity, which is defined as an activity, secondary employment, volunteer work, etc., outside of regular employment.

The policy must be distributed annually and require acknowledgement by employees.



Employees must annually file a request to engage in outside activity.

Management approval/denial of the request is to be documented.

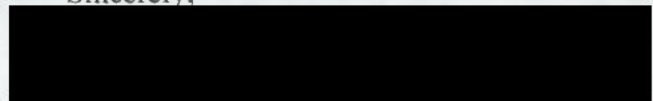
Supervisors are to be trained on the policy.

Supervisors should monitor/check outside activity to ensure there is no interference with state employment.

DMV should review its policy on outside employment/activity and implement revisions necessary to ensure conformity with the guidelines described above. The Inspector General further recommends that on an annual basis all DMV staff be provided with copies of DMV policies on computer, Internet, and e-mail use, and that DMV staff annually file with DMV administration signed acknowledgments of their receipt, review and understanding of these policies.

Within 45 days of the date of this letter, please provide information concerning DMV's review and actions, including copies of any revised policies. If you have any questions regarding implementation of the Inspector General's recommendations or DMV's response to this letter, you can contact me at (518) 474-1010.

Sincerely,

A large black rectangular redaction box covering the signature of Catherine Leahy Scott.

Catherine Leahy Scott  
Acting Inspector General