



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
March 20, 2009

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector found that while absent from his position with the New York State Department of Environmental Conservation (DEC), employee David S. Plume used his assigned state travel credit card to make personal purchases totaling nearly \$4,500. Plume resigned from his position at DEC, pleaded guilty to Grand Larceny and Driving While Intoxicated, and paid restitution.

The Inspector General also found that while absent from his DEC job for more than three months, Plume's supervisors approved his use of vacation, personal time, or sick leave accruals without obtaining any documentation that he was ill. Plume was paid his state salary without interruption during this period, including for 31 missed workdays he was in jail.

ALLEGATION

On March 18, 2008, the DEC Office of Internal Audit and Investigation notified the Inspector General that DEC Division of Information Services Data Analyst David S. Plume appeared to have made numerous unauthorized purchases with his assigned state travel credit card. These charges were made between late December 2007 and early March 2008, a period when Plume was absent from his DEC job.

SUMMARY OF INVESTIGATION

Plume's Misuse of State Credit Card

David Plume was a long-term New York State employee who in October 2005 began working in the DEC Division of Information Services at DEC's headquarters in Albany. In March 2006, he was issued a state travel credit card to pay for expenses associated with out-of-state training he attended. At the time, Plume signed an acknowledgement form specifying that the card could not be used for personal purposes.

On March 3, 2008, DEC's Division of Management and Budget Services noticed unusual credit card activity in the Albany area on Plume's state credit card for fuel,

automobile rental, dining, and lodging. This information was relayed to Plume's supervisors, the DEC Office of Internal Audit and Investigation, and the DEC Office of Employee Relations. The Office of Internal Audit and Investigation determined that Plume incurred \$4,465.98 in personal charges between December 27, 2007 and March 5, 2008. Following notification from DEC of Plume's suspected misconduct, the Inspector General initiated an investigation on March 18, 2008.

The Inspector General found that Plume's unauthorized and improper use of his state-issued credit card began on December 27, 2007 when he rented a 2008 Volvo for personal use. That same date, Plume drove to Connecticut and stayed overnight, using the state credit card for gasoline, food, and a \$132 lodging expense. Bethlehem, New York police arrested Plume the next day, December 28, 2007, for driving while intoxicated and criminal possession of a controlled substance. After his arrest, Plume was in the custody of the Albany County Sheriff's Department from December 29, 2007 until February 11, 2008. Upon his arrest, police impounded Plume's rental car, resulting in additional charges to Plume's state credit card of nearly \$1,100 for the towing, storage and continuing rental fees on the car.

Following his release on bail from jail, Plume began using the card again for unauthorized and improper purposes. Between February 23 and March 3, 2008, when the card was deactivated by DEC, Plume's charges included \$1,167 for overnight stays at Cresthill Suites and a Holiday Inn in Albany; \$215 at a Rite-Aid drugstore in Albany; \$133 at Chez Sophie Bistro in Saratoga Springs; \$96 at P.F. Chang's China Bistro in Colonie; and numerous gasoline, beer, cigarette, and other food purchases. Plume also rented a small pull-trailer from U-Haul in Albany. In all, the Inspector General determined that Plume used his state credit card for unauthorized and improper purchases in at least 55 instances, totaling \$4,465.98. The Inspector General obtained video surveillance and eyewitness statements confirming that Plume was the party who made the unauthorized credit card transactions.

On April 15, 2008 the Inspector General, State Police, and Bethlehem Police arrested Plume. He was charged in Albany City Court with Grand Larceny, Defrauding the Government, and Official Misconduct. Plume had the deactivated New York State travel credit card in his possession at the time of his arrest. Plume resigned his DEC position the following day. On July 1, 2008, Plume pleaded guilty in Albany County Court to Grand Larceny and Driving While Intoxicated, and on December 9, 2008 he made restitution to DEC in the amount of \$4,465.98.

Plume's Undocumented Absence from Work

The Inspector General determined that at 10:45 a.m. on December 19, 2007, Plume left his desk at DEC without notice. From then until his separation from state service on April 16, 2008, Plume did not appear again for work. In his absence, Plume's supervisors recorded on his timesheets that he used vacation, personal time, or sick leave accruals without obtaining any documentation that he was ill. Plume was paid his state salary without interruption, including for 31 missed workdays he was in jail, until his sick

leave accruals were exhausted on April 1, 2008. From that date until his resignation 15 days later, he was not paid.

Between December 19, 2007 and January 2, 2008, Plume made intermittent telephone contact with his immediate supervisor, Database Administrator Unit Chief Marilyn Phillips, to report he was dealing with personal business matters and would not be at work. Phillips, who had only recently assumed her supervisory position, notified her supervisor, Director of Database Services Mark Hyland, when Plume failed to return to work the first work day after the Christmas holiday. Hyland also briefed his supervisor, Division of Information Services Director Leslie Brennan, about Plume's absence.

On January 7, 2008, Plume's wife, Barbara Plume, an employee of the New York State Office of Temporary and Disability Assistance, informed Hyland by telephone that Plume was under medical care. In fact, Plume was in jail on this date and had been for the previous 10 days. Hyland and Phillips, expecting that Plume would be out of work for an extended period, suspended his computer network and building access; neither, however, thought to cancel Plume's state travel card. Barbara Plume refused to be interviewed by the Inspector General.

Both Phillips and Hyland told the Inspector General that they wanted to retain Plume, who was considered a skilled and valued employee, and to ensure that he received whatever help he needed for his medical or personal problems. With this outcome in mind, Phillips and Hyland sought guidance from John Burrows, a DEC Senior Personnel Administrator, rather than referring the matter to the DEC Office of Employee Relations, which, Hyland believed, would immediately seek to discipline Plume.

Burrows, Phillips, and Hyland met for approximately an hour on January 9, 2008. In their testimony to the Inspector General, Phillips and Hyland stated that they and Burrows discussed various options available to Plume. These included disability retirement and use of the Family and Medical Leave Act, neither of which was pursued. As Phillips and Hyland wanted to retain Plume as an employee, Burrows advised that they assign a "timekeeper" to record Plume's absences that would be charged to his leave accruals. Burrows recommended that Plume's vacation, personal, and holiday accruals be used prior to charging his sick leave, and that copies of Plume's timesheets should be mailed to him for signature. It should be noted that there is no provision in the DEC Time and Attendance Manual for a "timekeeper". Nevertheless, officials with the New York State Division of the Budget confirmed that "timekeepers" can be assigned under special circumstances, including instances when disabled employees cannot complete their own timesheets. According to Phillips and Hyland, Burrows stated that Plume would be required to submit documentary evidence from a medical doctor before he would be allowed to return to work, and he asked that they give Plume his fax number so the required documents could be sent directly to him.

Believing that Plume was in fact ill but would return to work at some point, Phillips proceeded to implement Plume's use of leave accruals in the manner Burrows

had recommended. DEC policy states that “[an] employee’s supervisor may require satisfactory proof to justify the use of sick leave credits. Such evidence may include a doctor’s certificate, proof of hospitalization, etc.” In this instance, Phillips did not require documentary proof from Plume that he was sick, relying instead on information verbally reported by Plume’s wife. Throughout January and February 2008, Plume’s wife continued to call Phillips or Hyland fairly regularly, stating that Plume was still sick, and the timekeeper assigned by Phillips proceeded to complete Plume’s timesheets, charging the absences to his leave accruals. As Burrows had advised, after Plume’s personal, vacation, and holiday accruals were exhausted, his sick leave accruals were used. Although unknown to supervisors at the time, three of the days Plume was in jail were charged to his sick leave accruals. Phillips approved all of Plume’s timesheets and Plume was paid his normal salary. This process continued despite the fact that Plume failed to sign and return the timesheets mailed to his home.

By e-mail and direct communication following the January 9 meeting, Hyland updated Burrows on his efforts to get Plume to submit the documentation Burrows had indicated he would need prior to Plume returning to work. Despite being advised to do so by Hyland, Plume failed to provide Burrows with this documentation, and Burrows advised Hyland of this fact.

As noted, on March 3, 2008, DEC’s Division of Management and Budget Services detected Plume’s credit card misuse, and the matter was brought to the attention of the agency’s Office of Internal Audit and Investigation, Office of Employee Relations, and Plume’s supervisors. Plume’s state credit card was canceled on this date. Staff of the Division of Management and Budget Services advised the Inspector General that when that unit receives credit card expenses for review and payment, usually 30 days after the expenses are incurred, it may send an e-mail to the employee who was issued the card to confirm his or her use of the card. However, neither the bills nor an e-mail are provided to the employee’s supervisor. In this case, if Plume’s credit card charges had been reviewed by Phillips, the legitimacy of Plume’s absence almost certainly would have been questioned by late January 2008, as bills for the purchases he made in late December 2007 would have been received by that time.

Also on March 3, 2008, Joseph Lattanzio, DEC’s Director of Employee Relations, asked Burrows if he knew anything about Plume’s absence. Burrows denied any knowledge of Plume. When interviewed under oath by the Inspector General during this investigation, Burrows denied meeting with Phillips and Hyland, providing any specific advice to Phillips and Hyland, or even knowing anything about Plume. Burrows’ testimony on these matters is directly contradicted by testimony by Phillips and Hyland and documentary evidence, including contemporaneous e-mails and meetings notes.

Even after March 3, 2008, when Plume’s credit card abuse was known to all the relevant units and individuals at DEC, Plume remained on sick leave and drawing his salary. This situation continued for four weeks until Plume’s sick leave accruals were exhausted on April 1, 2008. Plume was not paid for any absences between April 2 and April 16, 2008, when he resigned.

FINDINGS AND RECOMMENDATIONS

The Inspector General found that DEC employee David Plume committed fraud and larceny by making at least 55 unauthorized and improper purchases that amounted to \$4,465.98 with a state credit card issued to him. Plume was arrested and charged with Grand Larceny, Defrauding the Government, and Official Misconduct. He resigned his position, pleaded guilty in Albany County Court to Grand Larceny and Driving While Intoxicated, and made restitution to DEC.

The Inspector General also found that DEC did not terminate Plume's use of sick leave on March 3, 2008 when it learned of Plume's credit card abuse. This information, in conjunction with his undocumented absence, should have raised serious questions about the legitimacy of his sick leave. The Inspector General recommended that DEC should consider seeking reimbursement of sick leave payments to Plume that might have been unjustified.

The Inspector General finds particularly disturbing the actions and testimony of DEC Senior Personnel Administrator John Burrows, who provided inaccurate testimony in this investigation. It was recommended that DEC review Burrows' conduct and take appropriate action.

The Inspector General also recommended that DEC review its sick leave policy and the discretion currently afforded supervisors in approving use of sick leave by subordinates, particularly in instances of extended absence and lack of documentation of a medical problem. The Inspector General further recommended that DEC consider the practicality of requiring supervisory review of an employee's credit card charges as soon as possible after the bills are received by the agency. The Inspector General provided a copy of this report to Barbara Plume's employer, the Office of Temporary and Disability Assistance, for its review.

Response of the Department of Environmental Conservation

As recommended by the Inspector General, DEC advised that it is reviewing its time and attendance policy and will make amendments as needed. DEC also stated it will examine means of monitoring lengthy absences to identify anomalies and determine appropriate responses. Further, DEC indicated it will assess the practicality of implementing supervisory review of subordinates' credit card charges.

DEC advised that Plume's supervisors were instructed that they should notify the DEC Office of Employee Relations in a timely manner if similar events occur in the future. As recommended, DEC advised that it considered seeking reimbursement of sick leave payments from Plume but concluded it did not have a sufficient basis to do so. DEC also advised that following a review of Burrows's conduct, it decided no further action was necessary.