



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL

Final Report
December 28, 2007

2 OGS Officials Disciplined for Alcohol Use at Work

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Office of the State Inspector General's investigation found that Office of General Services (OGS) Supervisor for Fleet Services and Surplus Equipment Ronald Ottman and Acting Deputy Commissioner for Support Services Brian Moody consumed alcoholic beverages during working hours and subsequently operated state vehicles. The Inspector General recommended that OGS seek disciplinary or other appropriate action against Moody and Ottman. OGS filed disciplinary charges against Moody and Ottman, resulting in both officials being fined 10 days pay and forfeiting 10 days of leave.

ALLEGATIONS

On August 3, 2007, the Inspector General's Office received an anonymous complaint that for the past year Ottman took extended lunch breaks every Friday, during which he consumed alcoholic beverages. It was alleged that, after the lunches, Ottman operated a state-owned vehicle. The complainant further alleged that Moody, who is Ottman's supervisor, was aware of this conduct because he frequently accompanied Ottman to the Friday afternoon lunches.

SUMMARY OF INVESTIGATION

The Office of the State Inspector General's investigation primarily consisted of surveillance of Ottman and/or Moody on Friday mornings and afternoons in September and October 2007. All surveillance activity commenced outside of Ottman's OGS office, located at Building 18 in the State Office Campus in Albany. Additionally, the Inspector General's Office conducted interviews and analyzed relevant records.

On September 7, 2007, at approximately 11:40 a.m., investigators with the Inspector General's Office observed Ottman drive his personal vehicle from his office several miles to the Across the Street Pub. Inside the pub, Ottman was observed by

investigators consuming two mixed alcoholic drinks. At approximately 12:25 p.m., Ottman was joined in the pub by Moody. Thereafter, Ottman consumed two additional mixed drinks. During this time, Moody ate soup and drank two mixed drinks. At approximately 1:26 p.m., Ottman and Moody left the pub, and Ottman drove his personal vehicle back to OSG's Building 18. Moody drove a state-owned vehicle to the Empire State Plaza, where, at approximately 1:53 p.m., he parked the vehicle in a state parking garage.

Although Ottman and Moody both operated vehicles after consuming four and two mixed drinks, respectively, neither Ottman nor Moody was observed by investigators from the Inspector General's Office operating a vehicle in a manner providing probable cause to stop either man for driving while intoxicated. Further, based on Ottman's and Moody's approximate weights and the time passed since they began drinking, there was no basis to conclude they were driving while intoxicated in violation of the criminal law.

On September 28, at approximately 11:45 a.m., investigators observed a different state-owned vehicle parked near the Across the Street Pub. Upon entering the pub, investigators observed Ottman eating lunch with several other individuals and consuming two mixed drinks. At approximately 1:06 p.m., Ottman exited the location and returned to Building 18, operating the aforesaid state-owned vehicle.

OGS policy addresses employee alcohol use in at least two of its provisions. The agency Vehicle Use Policy prohibits employees from operating state vehicles "under the influence of alcohol." The agency Code of Conduct states: "Employees of OGS may be subject to criminal, civil, and disciplinary penalties for the use, distribution, sale, attempt to sell, possession or purchase of a controlled substance or alcohol at the workplace or in the performance of work-related duties." Similarly, the Governor's Office of Employee Relations policy provides "that employees are prohibited from on-the-job use of, or impairment from, alcohol or controlled substances."

The Inspector General's Office interviewed Ottman, who, as a supervisor of agency fleet operations, indicated that he is familiar with OGS Vehicle Use Policy and the OGS Code of Conduct, though he never read the latter. Ottman readily informed investigators that he does on occasion consume alcohol at lunch and has operated a state vehicle after drinking alcohol. However, he emphasized that he does not believe that he was intoxicated at the time. Ottman described these lunches as work meetings, which they conduct quite often, designed to discuss the previous week's activities. Ottman stated that he knows that agency policy prohibits drivers from operating state vehicles "under the influence of alcohol." In fact, he said he had drafted much of OGS's vehicle policy. Ottman conceded that he is not exempt from following the policy, but at the same time felt that it was unrealistic for employees to be held to the exact policy. To illustrate, Ottman mentioned a scenario in which an employee in travel status has an alcoholic beverage with dinner and then drives the state vehicle to his hotel. Ottman added, "I'm not saying it's not a big deal... Is it against policy? Yes. Does everybody follow policy, I don't think so."

When interviewed by the Inspector General's Office, Moody stated that as Acting Deputy Commissioner for Support Services he is responsible for supervising Parking Management; Interagency Mail and Courier Service; the Central Printing Unit; the Clean Fill Vehicle Program; Fleet Administration Program; Food Distribution and Warehousing Program; and the State and Federal Surplus Property program. He said he is responsible for supervising approximately 200 OGS employees, including Ottman.

Moody stated that he goes to Ottman's office in Building 18 on a weekly basis and that he often holds meetings at restaurants during lunch, with Ottman and other employees. At first Moody stated that he was not aware of Ottman drinking alcohol on duty or at lunch. However, when investigators confronted Moody with their observations during the aforementioned surveillance, Moody admitted that Ottman had drunk alcohol "on a couple of occasions" during lunches during the past year but said that Ottman would have taken time off during those lunches.

Ultimately, Moody acknowledged that this activity could be perceived as a problem. He said he was not aware of any OGS policy regarding the consumption of alcohol while on duty, but he knew that the operation of a state vehicle while under the influence of alcohol is prohibited.

FINDINGS AND RECOMMENDATIONS

When asked about the extended lunches by investigators, both individuals stated that the lunches were work-related. If the lunches were, in fact, work-related, then both Moody and Ottman violated OGS policy prohibiting the use of alcohol in the performance of work-related duties. After the lunch on September 7, 2007, when Ottman was observed consuming four mixed drinks, he likely was still affected by his alcohol consumption upon his return to the office, also a violation of the policy against use of alcohol at the workplace.

Ottman and Moody each were observed on one occasion operating a state-owned vehicle after consuming at least two mixed drinks, despite being aware of the OGS prohibition against operating a state-owned vehicle while "under the influence" of alcohol. While neither man appeared to be legally impaired pursuant to the Vehicle and Traffic Law, OGS policy appears to reflect a lower standard of intoxication. Regardless of the exact effects of the consumed alcohol, the behavior of both men raises concerns regarding safety and safe-guarding of state property.

The Inspector General recommended that the OGS seek appropriate disciplinary or other appropriate action against Moody and Ottman.

In response to the Inspector General's findings and recommendation, OGS initiated disciplinary action against Moody and Ottman on December 18, 2007. A Settlement Agreement concluded on that date included the following terms:

Moody was fined 10 days pay (\$3,893) to be deducted from 10 consecutive paychecks in the amount of \$389.30. Moody also forfeited 10 days of leave accruals and was prohibited from using the title Acting Deputy Commissioner.

Ottman was fined 10 days pay (\$2,864) to be deducted from 10 consecutive paychecks in the amount of \$286.40. Ottman also forfeited 10 days of leave accruals.

Both Moody and Ottman agreed to refrain from this conduct in the future.