



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**September 18, 2009**

## **Inspector General Finds Law Judge Altered Documents**

### SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General determined that, on numerous occasions, Senior Unemployment Insurance Appeal Board Administrative Law Judge Thomas Mammen inappropriately altered official documents and forged the signatures of two subordinate Appeal Board administrative law judges on such documents. The subject records are entitled "Summary of Appeal," and are contained in the files of unemployment insurance claims on appeal to the Unemployment Insurance Appeal Board.

In response to the Inspector General's findings, Mammen's conduct is being reviewed for possible disciplinary action. In addition, the Chairman of the Unemployment Insurance Appeal Board advised that the Board has taken action to review those cases known to be affected by Mammen's conduct and to reopen those cases as deemed necessary in the interest of justice.

### ALLEGATION

On February 26, 2008, Unemployment Insurance Appeal Board Chairman Leonard Polletta alleged that Senior Administrative Law Judge Thomas Mammen revised hearing summaries assigned to Administrative Law Judge Peter Sokaris and forged Sokaris's signature on the revised documents.

### SUMMARY OF INVESTIGATION

#### **Background**

The Unemployment Insurance Appeal Board, established pursuant to Labor Law § 534, consists of five members appointed by the Governor for six-year terms. The Board's offices are located in Brooklyn and Troy, New York. The Board is responsible for reviewing and rendering decisions on appeals of unemployment insurance claim determinations made by administrative law judges in hearings conducted by the New York State Department of Labor. Although the Board is independent, the Department of

Labor employs an executive director and a staff of administrative law judges to support the Board. Administrative law judges are organized into teams, each of which is supported by a senior administrative law judge, who in turn reports to a single chief administrative law judge.

The administrative law judges assist the Board by drafting summaries of appeal and proposed decisions for the Board's consideration. Each case is assigned to a single administrative law judge, whose summary of appeal and draft decision are then reviewed by a "clearer," another administrative law judge. Although the Board has no written policies addressing the clearing process, the Inspector General reviewed relevant memoranda and conducted interviews of staff, and established that staff all understood the following basic process: The summary of appeal and proposed decision are authored by the assigned administrative law judge, with the clearer offering comments and suggestions. The assigned administrative law judge considers the clearer's comments, and may choose to incorporate those comments into his or her final documents. The final version of the summary and proposed decision is signed by the assigned administrative law judge and represents his or her endorsement of the accompanying evaluation and recommendation to the Board. A memorandum dated June 1, 1995, from then-Chief Administrative Law Judge Robert Lorenzo advised that the clearer's comments and previous drafts should be available to the Board for its consideration along with the final version.

## **Investigation**

William Rold, the Board's Chief administrative law judge since September 2007, advised the Inspector General that, sometime in November 2007, an administrative law judge alleged to him that Senior Administrative Law Judge Thomas Mammen was forging signatures on summaries of appeal prepared by Administrative Law Judge Peter Sokaris, Mammen's subordinate, after Mammen edited the summaries during the clearing process. The complaining administrative law judge said he noticed that the Sokaris's signature appeared to have been photocopied onto some of the summaries. The administrative law judge further alleged that Mammen was observed photocopying Sokaris's signature onto a decision.

In response to the allegations, Rold reviewed a number of Sokaris's case summaries. Following this review, which appeared to corroborate the allegations, Rold questioned Mammen. In this interview and a subsequent e-mail to Rold, Mammen admitted that he had affixed Sokaris's signature to summaries of appeal but claimed to have made only "cosmetic" changes to Sokaris's original drafts. Rold later learned that Mammen also forged the signature of Administrative Law Judge Jane Scott, another subordinate of Mammen, on summaries she had submitted to Mammen for clearing. Based on the information obtained by Rold, the Board assigned Mammen to work from his home and denied further contact with case files. Board officials also reported the matter to the Inspector General.

The Inspector General showed Sokaris summaries ostensibly bearing his signature, and Sokaris identified eight instances where the signature appeared to be a photocopy. Sokaris indicated that he would have signed the documents in ink. The files which contained the photocopied signature were all cleared by Mammen. Sokaris had been unaware that Mammen was photocopying his signature, and stated that he never gave Mammen permission to sign his name or affix a photocopy of his signature to summaries he had submitted to Mammen for clearing.

The Inspector General also interviewed Administrative Law Judge Jane Scott. Scott stated that while searching for a file in October 2006 she discovered that Mammen had photocopied her signature onto summaries she had submitted to him for clearing. She said that when she approached Mammen about it, he explained that there was a backlog of cases and claimed that he had used the copy of her signature to speed up the process. Scott said she identified at least three instances where Mammen photocopied her signature onto a summary without her knowledge or consent.

The Inspector General obtained and reviewed the files of a number of Board cases assigned to Sokaris and Scott that were cleared by Mammen and compared the original summaries the two administrative law judges prepared with the summaries that Mammen revised. From this review, the Inspector General identified 11 instances where Mammen photocopied the signatures of either Scott or Sokaris onto the summaries. Mammen declined to be interviewed by the Inspector General.

Based on the review conducted by Chief Judge Rold, contrary to Mammen's claim, on several occasions Mammen's revisions to the summaries prepared by Sokaris were more than "cosmetic." Rold reported that Mammen's changes "sometimes changed the proposed outcome of the case in repeated instances. His corrections sometimes changed the disposition from a short form affirmance to a long form decision or remand – affecting whether the claimant received benefits; whether the hearing administrative law judge's decision was affirmed or reversed; or whether the parties were directed to provide further testimony (remand)."

Sokaris and Scott also advised the Inspector General that on numerous occasions, Mammen, rather than submitting suggestions or comments, simply rewrote the summaries and had Sokaris or Scott sign the revised version. This appears to be contrary to accepted practice whereby clearers only suggest changes that can be accepted or rejected by the administrative law judge who prepared the documents and who should have possessed greater knowledge of the underlying facts of the individual matter. The Board's Executive Director/Secretary Jason Myers informed the Inspector General that although it is understood that a clearer should not rewrite an administrative law judge's summary, the Board has not promulgated written policies or procedures to address this.

## FINDINGS AND RECOMMENDATIONS

The Inspector General found that Unemployment Insurance Appeal Board Senior Administrative Law Judge Thomas Mammen engaged in misconduct when he

photocopied the signatures of subordinate staff on Board documents on at least 11 occasions. The Inspector General referred this matter to DOL and other appropriate authorities for discipline of Mammen.

The Inspector General further recommended that the Board implement a written policy and procedure in order to ensure that staff are adequately advised on the conduct of the clearing practice, that the practice proceeds consistently throughout the office, and that all pertinent information is presented to the Board during its review of the matter.

### **Response of the Department of Labor and the Unemployment Insurance Appeal Board**

The Department of Labor advised the Inspector General that the findings related to Mammen's conduct are being reviewed for possible disciplinary action. The Chairman of the Unemployment Insurance Appeal Board, Leonard Polletta, advised the Inspector General that the Board has taken action to review those cases known to be affected by Mammen's conduct and to reopen those cases as deemed necessary in the interest of justice. Two Board cases pending before the Appellate Division in the Third Department were withdrawn on the Board's motion, and corrective action will continue if additional instances become known. All cases cited by the Inspector General will be thoroughly re-reviewed by a team of Principal Judges under the supervision of the Chief Judge.

In addition, Polletta advised that Chief Administrative Law Judge William Rold re-issued to all Board judges previous memoranda relating to the proper conduct of the clearing process and reminding the judges that this previous guidance "remains the policy and practice on processing of appeals to the Board."