



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
August 12, 2008

Supervisor Ran Consulting Business on State Time

SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General determined that Larry Ritter, an employee of the New York State Office of Temporary and Disability Assistance (OTDA), worked as a paid, private consultant on state time on numerous occasions over a four-year period. In addition, Ritter submitted fraudulent timesheets for these occasions falsely claiming he was performing his state duties when in fact he was conducting his private business. Ritter also violated agency policy by engaging in outside employment without agency approval and using agency staff and resources for his private business activities.

The Inspector General will forward the results of this investigation to the Albany County District Attorney's Office. The Inspector General also recommends that the Office of Temporary and Disability Assistance take appropriate disciplinary action against Ritter.

ALLEGATIONS

On September 18, 2007, David Hansell, Commissioner of the Office of Temporary and Disability Assistance, referred to the Inspector General information indicating that Ritter was conducting private business on state time without agency approval and without properly charging his leave accruals.

SUMMARY OF INVESTIGATION

Background

The New York State Office of Temporary and Disability Assistance is responsible for supervising programs that provide temporary financial assistance, shelter, and other support to eligible families and individuals. OTDA employs approximately 2,300 staff. Its main office is located at 40 North Pearl Street in Albany.

Ritter began his employment at OTDA in 1992. Since 1998 he has served as the agency's Equal Employment Opportunity Officer and Affirmative Action Officer. He has always been based in Albany. In these titles, Ritter is responsible for training OTDA employees on sexual harassment, diversity, and related matters. These responsibilities include travel outside the OTDA office. Ritter supervises three employees in the Albany office and one employee in OTDA's New York City office. Ritter's current annual salary is \$87,383.

Ritter Failed to Obtain Agency Approval for Outside Employment

While serving in his current state position, Ritter worked for two outside businesses. He became an independent contractor in June 2003 for the National Coalition Building Institute (NCBI), a private, non-profit organization that provides training on diversity, sexual harassment, and related topics to local government, schools, and private organizations. In February 2006, Ritter launched his own business, called Diversity Solutions. Like NCBI, Ritter's company provides training on diversity and other topics to various public and private entities.

OTDA policy requires employees to obtain prior approval from agency management for outside employment. The policy also prohibits outside activities that conflict with employees' OTDA duties. Ritter violated this policy when he became an NCBI contractor in 2003 without receiving, or even requesting, agency approval. Nearly two years later, in April 2005, as he continued to work as an NCBI contractor, Ritter submitted a request for approval of this outside employment. Approval was not granted. OTDA Deputy Counsel Linda Hunt advised in a June 6, 2005 memorandum to OTDA Executive Deputy Commissioner Sandra Pettinato, and copied to Ritter, that "if he already has undertaken such outside employment, Mr. Ritter should refrain from engaging in any further compensated outside employment pertaining to . . . diversity training." In his testimony to the Inspector General, Ritter admitted that he received Hunt's memorandum and that he was never granted permission to engage in outside employment. Witnesses recounted to the Inspector General that Ritter was extremely angry when his request for outside employment was not approved because he said he needed the additional income.

In February 2006, Ritter, as noted above, established his own business, Diversity Solutions, to provide training for a fee. He again violated OTDA policy by failing to obtain, or even request, approval for this outside employment.

Ritter Improperly Conducted Outside Employment on State Time

The Inspector General's Office determined that from June 2003 to December 2007, Ritter spent hundreds of hours on his unauthorized outside employment, both as an NCBI contractor and as proprietor of Diversity Solutions. In both jobs, Ritter, sometimes assisted by other trainers, presented training programs on diversity and related topics to school districts, local governments, and private organizations, most of them in upstate New York. The training programs, which ran from a half-day to several days duration, depending on the topic and audience, were conducted at the schools or other entities

receiving the training. NCBI and Diversity Solutions charged fees of up to \$2,500 per program. While acting as an NCBI contractor, Ritter, a sales person, and other trainers shared 90 percent of the fee (with 10 percent retained by NCBI). For programs presented by Diversity Solutions, Ritter kept the entire fee, except for those occasions when he paid trainers to assist him.

During the period June 2003 to December 2007, Ritter conducted approximately 105 training programs as part of his unauthorized outside employment. Ritter earned nearly \$60,000 as an NCBI contractor and his own company had more than \$25,000 in gross receipts.

The Inspector General determined that on at least 48 occasions between June 19, 2003 and December 13, 2007, Ritter conducted training for either NCBI or Diversity Solutions during the state work day without properly charging his leave accruals. Ritter submitted 41 timesheets in which he falsely reported that he was performing OTDA work when in fact he was conducting his outside business. On seven occasions when he was doing outside work, Ritter falsely reported on his timesheets that he was out sick. As a result of his false timesheets, Ritter received salary totaling more than \$18,800 that he did not earn.

The following instances are representative of Ritter's conduct:

- On June 21, 2007, Ritter presented through Diversity Solutions a full-day training program at the Center for Community Justice in Albany. Ritter received a check payable to Diversity Solutions for \$1,250. On the timesheet he submitted for this day, Ritter claimed that he worked at OTDA from 8 a.m. to 4 p.m.

- On January 20 and 26, 2006, Ritter conducted sexual harassment prevention training through Diversity Solutions for the Village of Port Chester. Ritter was paid \$1,500 for each day. Ritter's timesheet indicated that he was present at OTDA from 8 a.m. to 4 p.m. both days.

- On September 5, 6, and 10, 2007, Ritter, through Diversity Solutions, presented a training program at Christian Brothers Academy, a private high school in Colonie that Ritter's son attends. Ritter charged \$4,500 for the program, which entailed his and another trainer's presence at the school for the three days during school hours. As payment, Ritter received a check for \$1,500 payable to Diversity Solutions and a \$3,000 credit toward his son's tuition bill. On his timesheet, Ritter falsely reported that he conducted OTDA work from 8 a.m. to 4 p.m. at OTDA on September 5 and 6, and from 11 a.m. to 4 p.m. on September 10.

The Inspector General questioned Ritter under oath about his outside employment conducted on state time. During the questioning, Ritter also was specifically asked about his activities on October 7, 9, and 25, 2007. Although Ritter claimed on his timesheets for these dates to have been working full days at OTDA, Inspector General's investigators observed him on two of the days at Shenendehowa High School in Clifton

Park, where he presented training as an NCBI contractor, and on one day at the Schenectady YMCA, where he attended a board meeting unrelated to his OTDA duties.

In sworn testimony, Ritter admitted that he submitted timesheets that falsely reported he was at work at OTDA when he was in fact working for NCBI and Diversity Solutions. He further admitted that he submitted timesheets falsely reporting that he was sick on occasions he was conducting his private consulting business.

OTDA Concerned About Accuracy of Ritter's Timesheets

Prior to 2007, Ritter reported to then OTDA Commissioner Robert Doar, although his timesheets were reviewed and approved by the Special Assistant to the Commissioner. Doar testified to the Inspector General that he was aware that Ritter's OTDA duties sometimes necessitated travel outside the office, but that he did not know that Ritter was engaged in outside employment.

The Special Assistant testified that in a number of instances she noticed timesheet entries when Ritter claimed to be working at OTDA but she knew he was not in the office. According to the Special Assistant, when she brought these discrepancies to Ritter's attention, he claimed to have made a mistake and corrected his timesheets by properly charging leave accruals. However, the Special Assistant testified that she did not always know Ritter's work schedule because, despite being required to report his schedule to her, he did not always do so. The Special Assistant testified that Ritter became very upset when she inquired into his whereabouts during the workday. She testified that Ritter told her on one occasion, "I don't need you watching my time," and on another occasion he said, "I'm warning you, don't watch my time."

Following the change in administrations in 2007, Ritter continued to report to the OTDA Commissioner, now David Hansell. The Special Assistant to the Commissioner, who continued to review Ritter's timesheets, testified that she experienced further problems with Ritter reporting his whereabouts. These concerns were brought to Commissioner Hansell's attention, and, as noted, in September 2007 the matter was referred to the Inspector General.

Ritter's Use of Agency Staff and Resources for Personal Business

The Inspector General obtained evidence that Ritter asked or directed subordinate employees to perform tasks on state time related to NCBI or Diversity Solutions. The evidence shows that Ritter directed one employee to set aside OTDA work and assemble 200 folders for a Diversity Solutions presentation, a task that required two hours. Further, the Inspector General obtained information indicating that Ritter asked or directed a subordinate employee to help him delete materials from his state computer after he became aware of the Inspector General's investigation. Ritter also assigned a subordinate employee to load a PowerPoint presentation for Ritter's outside business onto Ritter's state-assigned laptop computer.

An OTDA employee told the Inspector General that Ritter directed subordinate employees to do work in the office related to his outside businesses. The employee said that when this matter was brought to Ritter's attention, he said he would cease such activity. The employee further stated that Ritter frequently conducted NCBI and Diversity Solutions business on his OTDA office telephone during the work day and that Ritter kept documents related to both businesses in his OTDA office.

The Inspector General found dozens of documents related to NCBI and Diversity Solutions on Ritter's state computer. The documents included promotional material, brochures, PowerPoint presentations, contracts, and invoices. Numerous private business emails were also found to have been sent and received on Ritter's state email account.

In his testimony to the Inspector General's Office, Ritter admitted he used state equipment and resources for his private businesses. However, contrary to the evidence obtained by the Inspector General, Ritter minimized his use of state resources and staff, claiming he did so only infrequently and for minor tasks.

Diana Jones Ritter

Ritter is married to Diana Jones Ritter, Commissioner of the New York State Office of Mental Retardation and Developmental Disabilities. The Inspector General's Office sought to determine whether Commissioner Ritter was aware of her husband's misconduct.

Commissioner Ritter, when questioned under oath, testified that although she knew her husband did "consulting" for NCBI, she did not know specifically when he was conducting NCBI business, as he frequently traveled as part of his OTDA duties. Commissioner Ritter further testified that she did not know that her husband failed to obtain agency approval for his businesses or that he failed to charge leave accruals when he conducted his outside business on state time.

Commissioner Ritter testified that her husband never told her that Diversity Solutions existed. She said the couple had "very, very poor communication." She said she first learned of that business in January 2008, after Larry Ritter was subpoenaed by the Inspector General:

He came and told me that he had been subpoenaed for two businesses. And I said, "What two businesses" I was very disappointed. Because I should have known that. Especially since I'm accountable for reporting that kind of information on my disclosure form.

Public Officers Law § 73-a provides that state employees holding policymaking positions, such as Commissioner Ritter, must submit to the New York State Commission on Public Integrity an annual statement of financial disclosure that includes information about a spouse's business interests. Upon being informed by her husband about Diversity Solutions, Commissioner Ritter promptly amended her required filing with the Commission to reflect his income from Diversity Solutions. In her previous filings, Commissioner Ritter had informed the Commission of her husband's income from NCBI.

Larry Ritter's sworn testimony was consistent with Commissioner Ritter's account that he withheld from his wife the extent of his private business and his failure to obtain agency permission or properly take leave.

In an effort to assess the accuracy of Commissioner Ritter's information, the Inspector General reviewed her and her husband's joint tax returns since 2003 and interviewed their accountant under oath. The accountant testified that Commissioner Ritter and Larry Ritter separately provided their income information to him. The accountant further testified that he discussed Larry Ritter's business only with him and never in the presence of Commissioner Ritter, and that he had never heard of Diversity Solutions. The Ritters' tax returns contain no mention of Diversity Solutions, but report Larry Ritter's income from unspecified "consulting."

The Inspector General found no evidence that Commissioner Ritter had knowledge of the extent of her husband's consulting activities or his failure to charge leave accruals for the outside business activities he conducted on state time.

Unauthorized Outside Employment by Roxanne Wright

On a number of occasions when he presented training programs through NCBI and Diversity Solutions, Ritter was assisted by Roxanne Wright, at the time an employee of the Governor's Office of Employee Relations. Wright testified to the Inspector General that she began working for Diversity Solutions in 2006 at the request of Ritter, who she described as a long-time friend and colleague. Wright said Ritter paid her in cash for the work she performed for Diversity Solutions.

In her testimony, Wright stated that she appropriately charged her leave accruals whenever she did outside consulting during the workday. A review by the Inspector General of Wright's timesheets for the relevant dates confirmed that she properly charged her leave accruals. Wright admitted, however, that she did not request or obtain agency approval for her outside employment. In explaining the lack of approval, Wright stated both that she was unaware that agency policy required such approval and that she did not seek approval because she knew it would not be granted. Wright resigned from state service on June 5, 2008.

FINDINGS AND RECOMMENDATIONS

The Inspector General determined that Larry Ritter engaged in a pattern of fraud and misconduct from June 2003 to December 2007. During this period Ritter submitted timesheets in which he made intentionally false and fraudulent claims pertaining to at least 48 workdays. Ritter submitted 41 timesheets in which he falsely reported that he was performing OTDA work when in fact he was conducting his outside business. On seven occasions when he was doing outside work, Ritter falsely reported on his timesheets that he was out sick. As a result of his false timesheets, Ritter received New York State salary totaling at least \$18,813 for work he did not perform.

Ritter's knowing submission of false and fraudulent timesheets and misuse of state staff and resources appears to constitute criminal activity, including defrauding the government, offering a false instrument for filing, grand larceny, and official misconduct. Accordingly, the Inspector General will provide the results of this investigation to the Albany County District Attorney's Office.

Ritter violated OTDA policy when he engaged in outside employment from 2003 to 2007 without agency approval. Ritter grossed approximately \$85,000 from his unauthorized outside employment. Ritter further violated OTDA policy when he used staff and resources for his outside business activities. The Inspector General recommends that OTDA take appropriate disciplinary action against Ritter.

The Inspector General appreciates the difficulties faced by subordinate employees directed by a supervisor to perform tasks they believe to be unauthorized or apparently unlawful. Nonetheless, employees are reminded of their obligation under the Executive Law to report to the Inspector General any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse.