

May 24, 2010

Mr. James Ferrara  
Acting President  
MTA Bridges & Tunnels  
Robert Moses Building  
Randalls Island, NY 10035

Re: **Internal Security Department**  
**MTA/OIG # 2010-03**

Dear Mr. Ferrara:

On October 9, 2009, an anonymous complainant wrote to the MTA Office of the Inspector General (OIG) alleging that George Lake, Director, Special Investigations Division (SID), Internal Security Department (ISD) hired his girlfriend over more qualified applicants, and intimidated employees who criticized her. On November 24, 2009, a second anonymous letter was received by this office, alleging that Lake had assigned his girlfriend, identified as Leona Roots, to the Identification Unit (the ID Unit). The ID Unit is part of SID.

OIG investigated these allegations. We found that Lake and Roots had a long-standing friendship that became romantic, and eventually led to their cohabitation. We also found that Lake did not disclose this relationship with Roots to his superiors and that he did not recuse himself from participating in decisions regarding Roots' employment. Indeed, Lake questioned Roots' supervisor when she was critical of Roots. Further, Lake's claims that he had disclosed his friendship with Roots to his supervisor at the time of Roots' hiring, and that other employees had been offered and rejected an assignment to the ID Unit before Lake assigned Roots to that position, were contradicted by other witnesses. However, we could not substantiate that Lake's romantic relationship existed at the time of Roots' hiring, or that Lake was directly involved in the decision to hire Roots.

We conclude that by failing to notify his superiors of his relationship with Roots and to recuse himself from involvement in employment decisions regarding Roots, Lake has violated the MTA Code of Ethics provisions relating to Conflicts of Interest and Public Trust. We recommend appropriate discipline. Further, to the extent that Lake participated in any employment matter relating to Roots after their cohabitation, or does so in the future, he is in conflict with the MTA Code of Ethics provisions relating to Nepotism.

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### *Root's Hiring*

Roots was hired as a Tape/Data Analyst (T/DA) in June 2008. Hal Greenberg, Director, Human Resources (HR) explained that Kimler Leake-Sowell, Manager, Security System Operations, was the hiring manager for Roots' position. According to Greenberg, of the 114 applications B&T received for the position, 80 were disqualified and 34 were sent to Leake-Sowell for review.

According to Leake-Sowell, she chose to interview four of the 34 candidates and hired Roots, her second choice, because her first choice had accepted other employment.<sup>1</sup> Roots' hiring paperwork is signed by Lake as "manager." Roots' direct supervisor is Leake-Sowell, who in turn reports to Lake.

Leake-Sowell stated that her decision to hire Roots was not influenced by Lake or anyone else. She further informed us that she was not aware of Roots' acquaintanceship with Lake at the time she interviewed Roots nor at the time she hired Roots. Leake-Sowell said that she did not speak to Lake about Roots prior to hiring her.

Lake stated that his hiring decisions did not extend to persons applying for positions as T/DAs nor to line level employees of the ID Unit. He did hire Kimler Leake-Sowell and Anika George, who oversee the T/DAs and ID Unit employees, respectively, and thus are Roots direct supervisors. Lake confirmed that he signed Roots' new hire form. However, he stated that he played no role in Leake-Sowell's decision to hire Roots, that he signs these forms as a matter of routine for all new hires within SID, and that he saw no reason to recuse himself from signing her "new hire" form. Lake also said that at the time he did so, he informed his superior, Donald Look, that he had known Roots for twenty years.<sup>2</sup> It should be noted, though, that when Look was interviewed by OIG, he stated that he only learned in May 2010, almost two years after Roots' hiring, that Lake knew Roots prior to Roots' hiring.

During our investigation, we were informed that shortly after Roots was hired, an employee commented to Roots about Lake and Roots having lunch together. This employee stated that on the next day, Lake called a meeting of the T/DAs and told the group that his lunch with Roots was a personal matter. According to this employee, the manner in which Lake did this made her feel like he was "berating" her. Leake-Sowell was present at this meeting and confirmed that Lake addressed the group in response to rumors about his relationship with Roots. Leake-Sowell described the meeting as lasting only a few minutes and said that Lake's comments were not addressed to any particular person.

OIG asked Lake if there had been an occasion when he spoke to the T/DAs regarding the fact that he and Roots sometimes lunched together. Lake said that on one occasion one of Roots'

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<sup>1</sup> OIG confirmed this during a telephone conversation with the applicant.

<sup>2</sup> In fact, both Roots and Lake stated they met in 1986 while Roots was a temporary Bridge & Tunnels Officer and Lake was a computer training instructor teaching a new toll collection system.

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co-workers remarked to Roots: "See you're going to lunch with the boss." Lake said he spoke to the T/DAs to instruct them to "conduct the business at hand," and not to discuss other people's business. He added that he only addressed the particular co-worker who passed the remark after she asked why the T/DAs were not entitled to know their colleagues personal business.

#### *Root's Assignment to the Identification Unit*

The ID Unit inputs HR data and prints identification cards for employees and contractors. The unit is managed by Anika George. According to George, in September 2008, Lake expressed to George that he thought it would be beneficial for the ID Unit to have back-up support in case either George or the unit's other full-time employee was on leave. At the end of October 2008, Lake told George that Roots would be assigned to her unit on a part-time basis. George reported to the OIG that she did not have input into the decision to select Roots and that she is not aware of how that selection was made. George added that she did feel that the support person should come from the T/DA group where Roots worked, she had no problem with any of the T/DAs, with whom she got along well, and that she had no other candidate in mind at that time. Roots currently works four hours per week in the ID Unit under George's supervision.

Regarding Roots' assignment to the ID Unit, Lake stated that other than George, there is only one other ID Unit employee. Lake said he had concerns about that employee's "poor attendance record" and felt a back-up employee was needed in the unit. Since the ID Unit worker is a Principal Administrative Associate (PAA) position, Lake stated that he could easily assign an employee already in a PAA position, such as a T/DA.

In contradiction to George's statements that she liked and had no problems with T/DAs, Lake told us that George was reluctant to have any of the T/DAs assigned as she "disliked" that group, having worked in the T/DA Unit in the past. Lake supposed that because Roots was "new," and unknown to George, George would more readily accept working with her. In apparent self-contradiction, Lake added that he told Leake-Sowell to offer the position at the ID Unit to all the T/DAs and that only Roots accepted the opportunity.

Lake named Ingrid Waugh and Lilnette (Ann) Przejczowski as two T/DAs who turned down the offer. OIG interviewed Waugh and Przejczowski. Both denied that they had been offered an opportunity to train with the ID Unit, and both said that they would have accepted the opportunity had it been offered. Przejczowski further stated that in 2001/2002 she worked in the ID Unit for 6 months and enjoyed it. Further Leake-Sowell denied Lake's claim, stating that Lake assigned Roots for cross-training with the ID Unit, not that Roots accepted the training pursuant to an announcement that Leake-Sowell made.

George informed the OIG that while training Roots for her duties, George found that Roots had difficulty retaining information. George said that she expressed her concerns about Roots to

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Lake. In response, George told us, Lake suggested that George was either instructing Roots improperly or omitting steps in the teaching process.

OIG asked Lake about the above-described conversation with Anika George regarding her difficulty in training Roots, and his questioning of George's training technique. Lake said George told him that Roots was "not catching on." Lake said he had regularly asked George about Roots' progress. He also said he was aware of George's schedule and Roots' training schedule, which was on Tuesdays and Thursdays. Lake told OIG of an incident when Roots was unable to make an identification card due to problems with the printer. When the issue came up that the card was not produced, Lake stated he told George that her training schedule had to be more consistent and cover all aspects required for making identification cards. Lake said he recommended more consistent training because he was aware that George scheduled other matters at times which conflicted with the scheduled training sessions.

In November 2009, George asked Roots to work in the ID Unit on a full-time basis while the other employee was on sick leave. According to George, Roots said she did not feel comfortable with this assignment.<sup>3</sup> George found this odd as Roots had been with the ID Unit for over a year and had been specifically brought into the unit for just such an eventuality.

The OIG also found that this assignment to the ID Unit was not the first time Lake sought employment for Roots within B&T. In March 2008, Lake recommended Roots to Greenberg when Greenberg was hiring for a PAA position similar to that of a T/DA.<sup>4</sup> However, because there was a qualified in-house candidate, Greenberg did not conduct interviews for the position. Greenberg said that Lake asked about the job opening a few times, but Greenberg told him there would be no interviews.

Lake was asked about his conversations with Hal Greenberg in 2008, recommending Roots for a job. Lake stated that he only asked Greenberg whether he had received Roots' resume, and whether Roots met the qualifications for the position Greenberg needed to fill.

#### *Other Findings*

Lake confirmed to the OIG that he and Roots have a romantic relationship. Lake said that he and Roots have lived together since August 2009. OIG has found that since August 2009, at which time Roots was already employed as a T/DA, Lake and Roots have twice listed the same address as their residences. Lake filed a B&T change of address in August 2009 and Roots filed a change of address to the same location in September 2009. Roots filed a second change of address effective December 1, 2009, while Lake's change of address notice to the same location took effect on December 17, 2009.

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<sup>3</sup> The employee cancelled his leave.

<sup>4</sup> Tape/ Data Analyst is a Principal Administrative Associate I position.

OIG also interviewed Leona Roots. Roots stated that, at the time she applied for her position as a T/DA, she knew, but was not romantically involved with, George Lake. She and Lake now share a residence. Roots stated that, at the time of her hiring, she did not tell anyone at B&T about her friendship with Lake. As to her duties with the ID Unit, Roots said that she was not sure whether it was Kimler Leake-Sowell or Anika George who asked that she take that assignment.

### **FINDINGS**

1. Lake and Roots have a personal relationship and have been living together since August 2009, as described above.
2. Roots is currently employed in Lake's direct reporting line.
3. Despite this relationship, Lake neither informed his supervisors about it, nor recused himself from decision-making regarding Roots' work at B&T.

### **CONCLUSIONS**

As outlined above, Lake's actions related to Roots' employment have given the impression that Roots unduly enjoys his professional favor. Specifically, Lake addressed Roots' co-workers when one of them remarked on Roots' and Lake's having lunch together, placed Roots within the ID Unit without input from the unit manager, and challenged the competence of the person training Roots when Roots' own aptitude was questioned.

Lake's actions are in violation of MTA Code of Ethics Sections 4.01 and 4.02(c), which read:

#### **4.01 Section 4.01 Conflicts of Interest**

Employees shall not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is or may be in conflict with the proper discharge of his or her duties. Employees must notify their Ethics Committee regarding any possible conflict of interest.

#### **Reminders:**

- (a) If an Employee is uncertain as to whether a given situation creates a real or potential conflict of interest, such Employee should promptly disclose that situation to, and seek guidance from, his or her supervisor, Department Head, the applicable Agency Ethics Committee, or MTA Chief Compliance Officer;

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(b) With respect to all work an Employee performs, such Employee must be vigilant about the existence of any circumstances, interests, or relationships which might create or might be reasonably perceived by others as constituting a conflict of interest. If an Employee is uncertain as to whether a given situation creates a real or potential conflict of interest, such Employee must promptly disclose that situation to, and seek guidance from, such Employee's supervisor, Department Head, applicable Agency Ethics Committee, or MTA Chief Compliance Officer. In order to avoid a conflict of interest or the appearance of one, it may be necessary for Employees to recuse themselves from involvement with a matter before an MTA Agency. Employees must adhere strictly to the conflict of interest guidance they receive from their supervisor, Department Head, applicable Agency Ethics Committee, or applicable Agency law department.

#### 4.02 Public Trust

(c) Employees shall not by their conduct give reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position, or influence of any party or person.

Further, while the OIG was not able to document any employment decision regarding Roots which was made by Lake after he and Roots began "living in the same household," it is clear that from that point on, their relationship has been governed by the nepotism provision of the MTA Code of Ethics:

#### 8.01 Nepotism

Employees are prohibited from participating in any hiring or employment decision relating to a family member.<sup>5</sup> If a hiring or employment matter arises relating to a family member, then the employee must advise his or her supervisor of the relationship, and be recused from any and all discussions or decisions relating to the matter. There will be no preferential treatment for family members of current Employees and/or union officials.

In sum, Lake must recuse himself from any role in supervising Roots. This recusal should have occurred when the conflict of interest first arose, and certainly when Lake and Roots began living in the same household.

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<sup>5</sup> As defined in the MTA Code of Ethics section 1.01 at all times relevant here, the term "Family Member" includes "any person living in the same household as an MTA Employee. . ." regardless of any blood or other relationship.

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### **RECOMMENDATIONS**

Based upon the findings discussed above, the OIG recommends that B&T:

1. Reassign Roots to a unit where she will not be in Lake's reporting line.
2. Take appropriate disciplinary action for Lake's violations of the MTA Code of Ethics.

Please advise me within 30 days of any actions you take pursuant to this letter. If you need additional information, feel free to contact Chris Prather, Deputy Inspector General, Investigations, at (212) 878-0279.

Very truly yours,

Michael L. Boxer  
Special Counsel