



Barry L. Kluger
Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
Two Penn Plaza, 5th Floor
New York, New York 10121
212-878-0000

June 27, 2016

Ms. Veronique Hakim
President
Metropolitan Transportation Authority
New York City Transit
2 Broadway, 30th Floor
New York, NY 10004

**Re: Hiring Manager's Improper
Intervention to Hire Unqualified Job
Shopper
MTA/OIG # 2016-09**

Dear Ms. Hakim:

The Metropolitan Transportation Authority (MTA) Office of the Inspector General (OIG) has completed an investigation into an allegation that Bhadresh Shah, Project Engineer, Stations, Capital Program Management (CPM), New York City Transit (NYC Transit), improperly contacted a staffing firm and asked it to send the resume of Parin Shah an unqualified applicant for a job shopper position. We substantiated the allegation. We also found that the same applicant was submitted by the same staffing firm to NYC Transit in response to a subsequent work order request involving the same hiring manager and was hired. We recommend that Bhadresh Shah be disciplined, up to and including termination.

INVESTIGATION

NYC Transit currently has indefinite quantities contracts with five technical staffing firms, largely administered by Consultant Services, CPM, which allows it to hire temporary employees, or "job shoppers." When an employee is needed, work requests are sent to each of the five firms with a description of the requisite experience and a description of the job tasks.

In May 2015, during a similar OIG investigation of the selection of a different job shopper who was a NYC Transit program manager's nephew,¹ Stephen Rogers, Director, Consultant Services, CPM, NYC Transit, stated to OIG staff that staffing firms had all been told that if an applicant requests consideration for a specific work order number, they should not submit that applicant's resume to NYC Transit. By way of example, Rogers told OIG staff about a prior incident in July

¹ The results of that investigation will be reported separately.

2014 in which Rotator Staffing Services, Inc. (Rotator) had informed him that Badresh Shah had requested that a specific applicant's resume be submitted for a job posting.

OIG staff interviewed Monte Block, Rotator's Chief Executive Officer, about the incident. We learned that the applicant, Parin Shah (P. Shah), contacted Rotator recruiter Bruce Rosen and asked that his resume be submitted for Work Order #202, for an Associate Project Manager II position, which required 5-10 years of experience. P. Shah did not meet the experience requirements and his resume was not submitted. Bhadresh Shah (B. Shah), the hiring manager for Work Order #202, contacted Rosen, asked Rosen to submit P. Shah's resume and asked Rosen not to tell Consultant Services about his request. Block contacted Steve Rogers to report the call from B. Shah. Block expressed concern about possible retaliation for not submitting P. Shah's resume. Rogers responded, "If that occurs we can speak to the Inspector General together." Rogers told OIG staff that he called and spoke to B. Shah about that contact. Rogers stated that Shah seemed annoyed and irritated by the call, told Rogers that he saw no reason why he should not be able to call the staffing firms and rushed to get off the phone.

Approximately one month after Work Order #202 closed without being filled, Consultant Services sent out Work Order # 227 for an Assistant Project Manager I, which required "0-5 years' experience." B. Shah's supervisor, Olasupo Adewolu, Construction Administrator, Stations, CPM, NYC Transit, stated to OIG staff that B. Shah drafted the scope of work and experience requirements for both work orders. Shah drafted #227 to require "0-5 years' experience" but should have used the experience required for the equivalent NYC Transit position, Associate Project Manager I, which requires a candidate have at least 1 year of full-time experience in project management work. B. Shah was also the hiring manager on Work Order #227. P. Shah submitted his resume to Rotator for Work Order #227. Because P. Shah met Work Order #227's minimum experience requirement of "0-5 years," because he in fact had no experience as a Project Manager, Rotator submitted his resume, he was interviewed and hired.

P. Shah admitted to OIG staff that B. Shah was a friend of his uncle and told him to apply for a job shopper position through Rotator. P. Shah stated he submitted his resume to Rotator for the Associate Project Manager II position, which was Work Order #202, and when he followed up with B. Shah, was told that it had not been sent. P. Shah stated that B. Shah gave him the Work Order number for the Associate Project Manager I position, and told him to apply because it required less experience. P. Shah then contacted Rosen at Rotator and asked that his resume be submitted for Work Order # 227.² Rotator submitted P. Shah's resume to NYC Transit and he was selected for an interview and hired.

B. Shah admitted to OIG staff that he provided P. Shah's uncle with information about job shopper positions and specifically encouraged him to have P. Shah submit his resume for Work

² We do not recommend that P. Shah be disciplined because this conduct occurred before he was employed by Rotator or NYC Transit.

Order # 227. B. Shah stated he frequently shares such information with engineers who might be interested in employment, both at his temple and in the cafeteria at 2 Broadway. B. Shah claimed he did not recall whether he spoke to P. Shah prior to interviewing him. B. Shah also claimed he did not recall speaking to anyone at Rotator before P. Shah was interviewed and claimed that he called Rotator after P. Shah was selected to ask about his background check. He admitted that he knew it was improper to contact Rotator directly.

B. Shah and Adewolu interviewed P. Shah. B. Shah reports to Adewolu, and the Associate Project Manager I position would report directly to B. Shah. Adewolu stated to OIG staff that B. Shah told him about his friendship with P. Shah's uncle, but claimed he did not recall whether he told him prior to P. Shah's interview. Adewolu stated he did not see any reason why B. Shah's friendship with P. Shah's uncle should preclude him from participating in P. Shah's interview. Adewolu stated he makes the final decision about all hires and B. Shah had no input in the hiring decision. Adewolu claimed for that reason, he saw no potential conflict of interest in having B. Shah participate in the interview of his friend's nephew.

In early 2015, P. Shah applied directly through the MTA Business Service Center for a permanent position as a NYC Transit Civil Engineer Intern. He was hired on May 11, 2015, and assigned to the Stations Program. Adewolu provided P. Shah with a reference when he was hired.

New York State Public Officers Law §74(3) and the MTA All Agency Code of Ethics

Both the New York State Public Officers Law (POL) § 74(3)(h) and the MTA All Agency Code of Ethics (Code of Ethics) § 4.02 (a) prohibit employees from engaging in conduct that will raise suspicion among the public that they are likely to be engaged in acts that are in violation of the public trust. The NYS POL § 74 (f) and the Code of Ethics § 4.02(c) further state that an employee should "not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties." And, POL § 74 (3)(d) and the Code of Ethics § 4.02(b) prohibit employees from using or attempting "to use their official position to secure unwarranted privileges or exemptions for themselves or others." B. Shah contacted Rotator and asked the recruiter to send P. Shah's resume. Further, by asking the recruiter to conceal this improper communication from Consultant Services he revealed that he understood his call was improper. This attempt to manipulate the hiring process on P. Shah's behalf clearly violated the provisions of POL § 74(3), (d), (f) & (h) and Code of Ethics § 4.02 (a), (b) & (c).

Thereafter, B. Shah posted a second position and provided P. Shah with confidential information namely, Work Order #227, a position for which P. Shah met the minimum requirement of no work experience. As a result, Rotator sent P. Shah's resume to NYC Transit and he was selected for the position. B. Shah's improper conduct undoubtedly signaled to Rotator this candidate would be selected based on who he knew at NYC Transit rather than merit. Such misconduct

encourages staffing firms to submit resumes of otherwise unqualified candidates because they appear to have the inside track on job openings.

POL § 74(3)(c) states that no state employee should disclose confidential information “acquired [by him] in the course of [his official duties] nor use such information to further [his] personal interests.” Code of Ethics § 4.03 prohibits disclosure of confidential information for any purpose without the permission of the General Counsel of the MTA Agency at which an individual is employed. Confidential information is information, whether or not set forth in writing, that is available to an employee only because of such employee’s position within an MTA Agency and which is treated by such MTA Agency as being confidential or which the employee has reason to believe is confidential. By providing P. Shah with the work order number, B. Shah improperly disclosed NYC Transit’s confidential information. P. Shah’s subsequent contact with Rotator using that information could, and in fact did, signal that someone at NYC Transit was specifically looking to hire P. Shah.

FINDINGS

1. Bhadresh Shah improperly disclosed confidential NYC Transit information, namely, a work order, to an applicant to allow that applicant to specifically request that his resume be submitted for the position, in violation of both the POL § 74(3)(c) and the Code of Ethics § 4.03.
2. Bhadresh Shah improperly contacted Rotator to request that P. Shah’s resume be submitted for a specific position and asked Rotator to conceal his misconduct from Consultant Services, clearly raising suspicion that he was acting in violation of the public trust, in contravention of POL § 74(3), (d) & (h) and Code of Ethics § 4.02 (a) & (b).

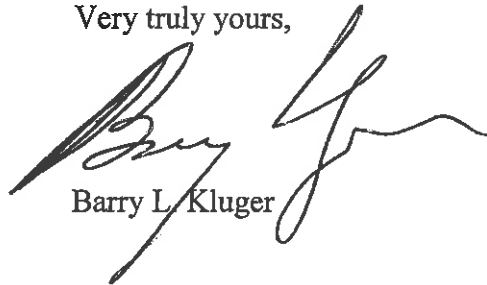
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RECOMMENDATIONS

1. NYC Transit should discipline B.Shah, up to and including termination, for disclosing confidential information to an applicant.
2. NYC Transit should discipline B. Shah, up to and including termination, for contacting a staffing firm and requesting the resume of an applicant when he was aware that such contact was improper.

As always, we appreciate your continued courtesy and cooperation. Should you have any questions, please contact me at (212) 878-0007 or Deputy Inspector General for Legal and Investigations Demetri Jones at (212) 878-0279.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barry L. Kluger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Barry L. Kluger