



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

September 27, 2016

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

**Re: Unauthorized Dual Employment
MTA/OIG #2016-15**

Dear Ms. Hakim:

The Metropolitan Transportation Authority (MTA) Office of the Inspector General (OIG) has completed its investigation of an allegation that New York City Transit (NYC Transit) Station Cleaner John Antley engaged in unauthorized dual employment. We substantiated the allegation and recommend that NYC Transit impose discipline as it deems appropriate, up to and including termination.

INVESTIGATION

OIG began its investigation of Antley following a request from the United States Postal Service Office of Inspector General (USPS OIG) for information about Antley's NYC Transit employment. USPS OIG informed this office that Antley has been employed as a postal clerk since August 1988 and that he has always worked a daytime shift.

Antley began his NYC Transit employment in June 2006 in the safety-sensitive position of track worker. He was demoted in early 2012 to his current position of station cleaner. Throughout his employment with NYC Transit Antley has worked the overnight shift.

OIG staff obtained Antley's personnel records including his Pre-employment Application and dual employment requests. Antley's April 12, 2006 Pre-Employment Application Background Verification Questionnaire, at page 2, Question 5 asked the following:

"In addition to assuming a position for which this application is being completed, are you continuing employment with another City agency or other governmental agency or jurisdiction?"

Antley responded "no" to this question and in a comments section wrote, "Because I'm currently working with the Post Office, I am inquiring if I would have an opportunity of hand picking an available tour should I be hired." In addition, on April 28, 2006, as part of his New Employee

Information Package, Antley signed an acknowledgement that he had received the package containing, among other documents, the NYC Transit Policy/Instruction, Dual Employment.

OIG first reviewed both a March 6, 2012 and an August 30, 2012 dual employment authorization request that Antley submitted after his demotion to station cleaner which, were denied via an October 15, 2012 letter citing a "Conflict of Work Schedules (P.I. 4.23.2, Section V, A)." The denial included the instruction "Antley to send proof of resignation from the second employer within two days" however no proof of resignation is contained in the file.

OIG staff also analyzed Antley's attendance records for both NYC Transit and USPS. During the time period from January 2, 2015 through March 30, 2016, Antley worked full-time as a NYC Transit Cleaner and also worked full-time as a clerk with USPS. Antley's regular USPS tour was 8:30 a.m. to 5:30 p.m. His NYC Transit tour was an eight hour overnight shift beginning at varied times between 10:00 p.m. and midnight. On 122 days during this time period Antley worked both jobs. On 90 days during this time period Antley worked his USPS daytime tour, but took 89 days sick leave without pay and 1 day paid sick leave from NYC Transit. Further review of Antley's NYC Transit sick leave use and applications for leave of absence due to illness documented additional instances in which Antley used sick leave from NYC Transit but worked at the USPS between June 2012 and December 2014.

OIG staff interviewed Antley about his dual employment. Antley admitted that he has been continually employed by the USPS since 1988 and has worked both the USPS job and his NYC Transit job since he was hired by NYC Transit in 2006. He acknowledged that as part of his NYC Transit training he was aware of the dual employment policy and also of the eight consecutive non-working hours rule that applied to his safety-sensitive position as a track worker.

Antley was shown a NYC Transit Dual Employment/Outside Activity Form dated January 3, 2007, that he submitted while a track worker requesting authorization to work his USPS job and its hours, days, location and start date. Handwritten notes at the top of this form indicate that his request was "Disapproved." Antley acknowledged his signature on the form, but claimed he had no recollection of completing it, and that he was never told that his dual employment request was denied. Antley also admitted that during the time he was employed as a track worker, from June 2006 through early 2012, he violated the "eight hour rule" on numerous occasions when he worked both of his jobs on the same day.

According to Antley, when he began working as a cleaner in 2012, he completed a second Dual Employment/Outside Activity Form requesting approval to work at his USPS job. He was shown a copy of the March 6, 2012 form and verified his signature. Antley stated that when he was demoted he was informed that he was required to request approval for dual employment. He was shown several more documents related to the March 6, 2012 request and a subsequent August 30, 2012 request. Antley acknowledged signing the March and August 2012 forms. Antley was also shown the October 15, 2012 letter denying his request. Antley initially claimed

that he never received this letter, first stating that he may have moved to a new address at that time, but later claimed that it could be that his fiancée signed for the letter but neglected to give it to him.

Finally, Antley was confronted with records showing he used sick leave for several months with NYC Transit yet continued to work his USPS job. He admitted working at the USPS while on extended sick leave from NYC Transit. Antley claimed he was on “light duty” at the USPS which enabled him to continue working there even though he was unable to work at NYC Transit due to two different injuries during those months.

NYC Transit Policy Instructions

NYC Transit Policy Instruction For Dual Employment Number 4.23.2, Section IV, Guidelines (A) (4) states, in pertinent part, “A new hire who wishes to continue other employment must file a dual employment request prior to his/his appointment date.”

NYC Transit Policy Instruction for Dual Employment Number 4.23.2, Section IV, Guidelines (A) (9) states, “While on sick leave from the Authority, employees may not work for another employer without express written authorization from the Authority.”

NYC Transit Policy Instruction For Dual Employment Number 4.23.2, Section IV, Guidelines (B) (1) regarding employees in safety-sensitive titles, states, “The proposed outside employment may not result in total, combined work time that prevents the employee from having eight consecutive non-working hours in the 16-hour period before reporting to work for the Authority.”

NYC Transit Policy Instruction for Dual Employment Number 4.23.2, Section VI, Administration and Responsibilities (B) Employees, states in pertinent part that,

All current employees must obtain the Authority’s approval in writing ... before engaging in any occupation ... outside the Authority.... (emphasis original)

All newly appointed employees who wish to continue other employment must file a dual employment request prior to commencing employment with the Authority. ... (emphasis original)

Violation of these procedures may subject an employee to discipline, up to and including termination of employment, and/or may expose an employee to civil or criminal penalties.

MTA All-Agency Code of Ethics

MTA All-Agency Code of Ethics Section 4.07, Other Employment and Outside Activities, governs dual/outside employment. Section 4.07 states, in pertinent part, "Employees are prohibited from outside employment ... that interferes or is in conflict with the proper and effective discharge of the individual's official duties or responsibilities." Section 4.07 further states in pertinent part,

Employees may engage in outside employment /activity provided that ... such employment /activity does not interfere with their ability to devote appropriate time and attention to their employment with their MTA Agency; ... such employment /activity does not violate the specific guidelines for other employment set by their MTA Agency; ... and ... they obtain the required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency.

FINDINGS

1. Antley continuously engaged in unauthorized dual employment in violation of NYC Transit policy and the MTA All-Agency Code of Ethics.
2. Antley violated NYC Transit Policy/Instruction Number 4.23.2 and MTA Code of Ethics Section 4.07 in that he:
 - failed to obtain NYC Transit approval to continue USPS employment prior to commencing his employment at NYC Transit.
 - failed to obtain written approval to engage in dual employment while working in a safety-sensitive track worker position from the period June 2006 through March 2012.
 - failed to abide by the October 15, 2012 letter denying his dual employment request and instructing him to submit proof of resignation from his second employment.
 - failed to comply with Policy Instruction Number 4.23.2's requirement of eight consecutive non-working hours before reporting to his safety-sensitive position of track worker due to his USPS work schedule during the period June 2006 through March 2012.
 - failed to obtain express written authority to work at the USPS while on sick leave from NYC Transit.

Veronique Hakim
Re: MTA/OIG #2016-15
September 27, 2016
Page 5

RECOMMENDATION

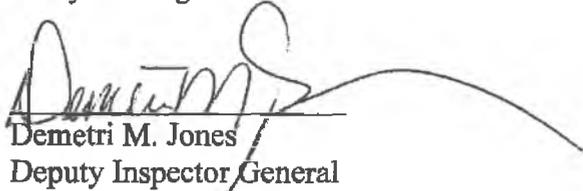
Based on our findings, we recommend that NYC Transit impose discipline as it deems appropriate, up to and including termination.

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 Demetri M. Jones at (212) 878-0279.

Very truly yours,

Barry L. Kluger

By:


Demetri M. Jones
Deputy Inspector General