



Barry L. Kluger  
Inspector General

**Office of the Inspector General**  
Metropolitan Transportation Authority  
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New York, New York 10121  
212-878-0000

April 23, 2018

Mr. Andrew Byford  
President  
MTA New York City Transit  
2 Broadway, 30<sup>th</sup> Floor  
New York, New York 10004

**Re: Unauthorized Dual Employment  
in NYC Transit Department of  
Subways  
MTA/OIG #2018-17**

Dear Mr. Byford:

The Office of the MTA Inspector General (OIG) has completed an investigation into an allegation of unauthorized dual employment by New York City Transit (NYC Transit) Maintenance Supervisor I (MSI) Bo Jun Fan (Fan). We substantiated the allegation and recommend that NYC Transit impose discipline on Fan as it deems appropriate.

### INVESTIGATION

Fan was hired by NYC Transit as a Bus Operator on July 17, 2000. He subsequently transferred to the Department of Subways, Division of Elevators & Escalators, and was promoted to his current position as MSI on June 25, 2017. His current work location is the Jay Street Subway Station, A and F lines. Fan's scheduled tour is from 11 p.m. to 7 a.m., Thursdays through Mondays, with Tuesdays and Wednesdays as his regular days off.

According to NYS Department of State (DOS) records, Fan was a licensed Associate Real Estate Broker since before 2012.<sup>1</sup> From April 2012 through July 2017, Fan worked as an Associate Broker<sup>2</sup> for two real estate brokerage firms located in Brooklyn. From April 3, 2012, to December 4, 2014, he worked under Weichert Realtors the Franzese Group (Weichert Realtors), and from December 8, 2014, to July 11, 2017, he worked under Exit Realty Professional Services (Exit Realty).

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<sup>1</sup> According to a DOS representative, Fan's licensing records prior to 2012 were destroyed in accordance with DOS's record retention policy.

<sup>2</sup> According to DOS's website, an Associate Broker is a licensed broker who has the option to work under the name and supervision of any broker licensed to do business as an individual, partnership, corporation, limited liability company, limited liability partnership or trade name.

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Weichert Realtors and Exit Realty's records established that between 2012 and 2016, Fan earned commissions in the approximate amounts set forth below:

- 2011 - approximately \$ 966 from Weichert Realtors
- 2012 - approximately \$ 14,471 from Weichert Realtors
- 2014 - approximately \$ 8,326 from Weichert Realtors
- 2016 - Approximately \$ 510 from Exit Realty.

In 2017, Fan also obtained a Real Estate Corporate Broker license that allowed him to conduct business under the name of The Privitelli Agency, Inc. D/B/A World Realty (World Realty). The license was effective July 5, 2017 through July 4, 2019, but which Fan voluntarily surrendered on November 7, 2017. According to the DOS website, a Corporate Broker's license may be issued upon the application of an officer of a corporation "for a real estate broker license to conduct business as a real estate brokerage under the corporate or assumed name. Applicants must be an officer prior to licensing." In his application, Fan filed as a "principal/member/officer" of World Realty.

OIG investigators visited the World Realty office where an employee provided the investigators with Fan's business card. Fan was not present during the visit. The card included the name "World Realty Brokerage," Fan's photograph, name, title of Licensed Broker, and World Realty's street and website addresses. World Realty shared the same address as World Insurance Brokerage Ltd. owned by Joseph Privitelli (Privitelli). According to Privitelli, he and his son Vincent entered into a business agreement with Fan to set up World Realty. They agreed to operate it as a real estate company, separate from the insurance brokerage company, using Fan's Corporate Broker License and to have Vincent work as a real estate agent under Fan. Privitelli stated Fan had a desk at World Realty office, but rarely came to the office. Privitelli further stated Fan ended the business relationship before making any sales and therefore did not earn any commissions from his work with World Realty.

OIG staff interviewed Fan who admitted he had been working in real estate as an independent contractor for more than ten years. Although he was unable to give specific dates of his realty work, he confirmed his association with Weichert Realtors, Exit Realty and World Realty. Fan stated he did not keep a desk at the World Realty office, but was "on-call" to meet clients when asked. Fan further admitted he never filed for dual employment approval with NYC Transit and claimed he did not think he needed to file. He stated he considered his real estate work a hobby, and claimed that he did not make any money from it. Fan stated he would surrender his real estate broker's license because it was becoming more trouble than it was worth. According to DOS records, he surrendered his license on November 7, 2017.

## POLICIES

### *MTA All-Agency Code of Ethics*

The MTA All-Agency Code of Ethics Section 4.07, Other Employment and Outside Activities, 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. ... 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.

### *NYC Transit Policy Instruction*

#### NYC Transit Policy Instruction for Dual Employment Number 4.23.2

Section IV, Guidelines (A) (3) states: "A current employee may not commence a secondary job until his/her dual employment request has been approved in writing."

Section VI, Administration and Responsibilities (B) Employee, subsections (1), (2), (4), and (6), state in pertinent parts that:

All current employees must obtain the Authority's approval in writing ... before engaging in any occupation, business or profession ... outside the Authority. All newly appointed employees who wish to continue other employment must file a dual employment request prior to commencing employment with the Authority... 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.

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### FINDINGS

1. Fan failed to obtain approval prior to engaging in outside employment as a real estate broker, in violation of MTA Code of Ethics Section 4.07 and NYC Transit Policy/Instruction Number 4.23.2.
2. Fan engaged in unauthorized dual employment as a real estate broker, in violation of MTA Code of Ethics Section 4.07 and NYC Transit Policy/Instruction Number 4.23.2.

### RECOMMENDATION

We recommend that NYC Transit impose discipline on Fan as it deems appropriate.

As always, we appreciate your continued courtesy and cooperation. Should you have any questions, or need additional information, please contact me at (212) 878-0007 or Assistant Deputy Inspector General, Legal and Investigations, Monica J. Hickey-Martin at (212) 878-0081.

Very truly yours,

  
Barry L. Kluger

Cc: Timothy Mulligan