



Carolyn Pokorny
MTA Inspector General

Office of the Inspector General
Metropolitan Transportation Authority
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March 2, 2020

Lamond Kears
Chief Compliance Officer
Metropolitan Transportation Authority
2 Broadway, 16th Floor
New York, NY 10004

**Re: MTA Headquarters Computer
Analyst's Misappropriation of
Property and Ethics Violations
MTA/OIG #2020-05**

Dear Mr. Kears:

The Office of the MTA Inspector General (OIG) substantiated allegations that an MTA Headquarters (MTA HQ) Computer Support Analyst 2 (Computer Analyst) turned in a damaged iPhone falsely purporting it to be an MTA-issued phone in exchange for a new MTA-issued phone. In fact, the Computer Analyst took his MTA-issued phone with him on vacation to a foreign country, where he gave the MTA-issued phone to his girlfriend for her use, a circumstance which the Computer Analyst lied about repeatedly, both to MTA officials and OIG investigators. The OIG also found that the Computer Analyst entered false time and attendance records for that vacation, totaling 5 days in December 2019. Shortly into the OIG's investigation, the OIG notified the MTA of its preliminary findings because the Computer Analyst had access to the MTA's computer systems, including those of executive level employees. In response, the MTA deactivated the Computer Analyst's access to the MTA's systems, and confiscated his MTA HQ identification card, New York City Transit (NYC Transit) pass, and his MTA-issued iPhone.

The OIG recommends that the MTA discipline the Computer Analyst as it deems appropriate, up to and including termination. We further recommend that the MTA recoup the 5 days he did not work and conduct an expanded review of the employee's time and attendance records to determine if he falsified any other time and attendance records. The Computer Analyst's conduct also appears to violate the New York State Public Officers Law. Accordingly, we are forwarding this matter to the New York State Joint Commission on Public Ethics (JCOPE) for action as it may deem appropriate.

I. BACKGROUND

The MTA hired the Computer Analyst in 2015 in his current title, Computer Support Analyst 2. He is assigned to the MTA Information Technology (IT) Infrastructure/Desktop Support located at 2 Broadway, New York, New York (2 Broadway) and his assigned hours are from 7 a.m. to 4 p.m., Monday through Friday. His responsibilities include providing IT support for hardware and software systems at 2 Broadway, including for executive level employees. He had access to the MTA systems¹ and the ability to remotely access into the MTA systems. His responsibilities did not include IT support of mobile devices.

II. INVESTIGATION

A. Misappropriation and Misuse of MTA Property

On July 26, 2019, the Computer Analyst was issued an MTA iPhone 8 Plus (Original MTA iPhone).² On January 8, 2020, he turned in an iPhone 8 Plus with a cracked screen (Damaged iPhone) to Telecom Support.³ Telecom Support issued him a replacement iPhone 8 Plus (Replacement iPhone) after verifying that the SIM card in the Damaged iPhone matched the SIM card that was issued in his Original MTA iPhone and the last 2 digits of the International Mobile Equipment Identity (IMEI) number, that is unique to each mobile phone, matched the Original MTA iPhone.

On January 14, 2020, Mobile Device Management informed Telecom Support that the Original MTA iPhone was active and being used in Africa. As a result, Mobile Device Management shut down the phone so it could no longer be accessed. Telecom Support then retrieved the Damaged iPhone and after further examination, determined that it was not the Original MTA iPhone. Although the SIM card matched, the full IMEI number did not. Verizon confirmed that the Damaged iPhone was not the Original MTA iPhone and that it was activated using an MTA SIM card on December 29, 2019.

The Computer Analyst told Telecom Support staff that he must have mixed up phones when he was in Africa for the holidays when Telecom Support informed him that the Damaged iPhone was not MTA-issued.⁴ When directed to return the Original MTA iPhone, the Computer

¹ MTA Systems includes MTA computer hardware, software, and technology services within an integrated network environment.

² The Computer Analyst was also issued an iPad Air and a T-Mobile hotspot Alcatel Linkzone, which he turned in on February 3, 2020.

³ MTA Telecom Support is responsible for supporting all MTA telecommunication activities, including planning, and monitoring cost and data usage. MTA Mobile Device Management is responsible for the software in the mobile devices, including security features.

⁴ MTA Policy Directive No. 11-048, Section V(F)(1) requires employees to obtain authorization prior to taking MTA issued mobile devices outside the United States. According to Telecomm Support personnel, the Computer Analyst did not have authorization to take his MTA issued

Analyst first stated it would be too expensive for him to have it shipped from Africa. He later stated that his friend agreed to bring it with her when she returns from her trip to Africa. On January 29, 2020, the Computer Analyst returned the Original MTA iPhone to Telecom Support.

The OIG took possession of the Computer Analyst's 3 phones for analysis (the Original MTA iPhone; Damaged iPhone; and Replacement iPhone) and reviewed Telecom Support records related to the 3 phones and the employee's emails.

1. *OIG's Forensic Examination of the Phones*

The forensic analysis of the phones revealed the following:

Original iPhone 8 Plus (MTA issued)

- There were 2 phone numbers registered with the Original MTA iPhone, which indicates that the phone's SIM card was changed. One phone number was assigned to the Computer Analyst and the other to the Computer Analyst's girlfriend, who resides in Liberia, Africa (the Girlfriend).
- On December 5, 2019, a new email address was entered as Apple ID on the phone. An Apple ID is an authentication method used by Apple for Apple devices. Apple IDs contain user's personal information and settings and when an Apple ID is used to log into an Apple device, the device will automatically use the settings associated with the ID. The Computer Analyst denied any knowledge of the new email address.
- On December 11, 2019, a profile in the name of the Girlfriend was created in the application named "Health" on the phone.
- Account names for other applications, including, Facebook, Facebook Messenger, WhatsApp, and Instagram were created on the phone in the name of the Girlfriend.
- There were photographs of the Girlfriend, which were taken on the phone on December 31, 2019, after the Computer Analyst returned to the United States. This indicates that a person other than the Computer Analyst was able to bypass the password protection on the phone and access it.

Damaged iPhone 8 Plus (non-MTA issued)

- "Remanufactured by Asurion" is marked on the back of the phone. MTA issued phones do not have this writing.

iPhone or iPad to Africa. However, although not stated in the policy, prior authorization is generally required only if the employee plans to use international phone service.

- The phone was activated using MTA’s Verizon Account on December 29, 2019, which indicates that the SIM card from the Original MTA iPhone was placed in this device on that date.
- By the time the OIG took possession of the phone, Telecom Support had, pursuant to protocol, put it on factory reset which wiped the phone of its contents when the phone was exchanged for a replacement phone.

Replacement iPhone 8 Plus (MTA issued)

- The phone has not been communicating with Air Watch since February 6, 2020 at 4:28 a.m. This is something that may occur when the phone is turned off.
- When the OIG took possession of the phone, the phone was locked and could not be accessed.

2. Mobile Device Receipts the Computer Analyst Signed

MTA employees who are issued mobile devices as part of their employment are required to sign the “MTA IT Telecommunications Receipt of Mobile Devices/Accessories/etc” form. On the bottom of the form, it states “By signing this form, I agree to comply with the MTA All Agency Mobile Device Issuance and Usage Policy #11-048. I am responsible for the equipment or property issued to me.” The Computer Analyst signed the form on July 26, 2019, when he was issued the Original MTA iPhone and on January 8, 2020, when he was issued the Replacement iPhone.

B. Time Abuse

According to his supervisor, the Computer Analyst and another colleague are the 2 employees responsible for providing IT support for the executive level employees at 2 Broadway, which requires 1 of them to be in the office from 7 a.m. to 7 p.m. For this reason, although the Computer Analyst’s assigned work hours are from 7 a.m. to 4 p.m., he is authorized to work overtime as needed. He is also allowed to be flexible in his arrival and departure times as long as he works the required 8 hours and either he or his colleague is able to cover the 12 hour in-office requirement. Although the supervisor’s approval is needed for overtime, overtime often occurs because the work takes longer than planned. As a result, the Computer Analyst cannot notify his supervisor until after the overtime work has been completed.

The Computer Analyst enters his own work hours into a timesheet on the PeopleSoft program, which the supervisor later approves. Since late August 2019, the Computer Analyst has also been required to use the biometric Kronos Clock. He is required to swipe in 4 times a day: when he arrives, when he goes to lunch, when he returns from lunch, and when he leaves for the day. Although the Computer Analyst has the capability to work remotely, prior supervisor’s approval is required and very rarely approved.

On October 30, 2019, the Computer Analyst submitted his vacation request to his supervisor via email. The email stated that the employee would be going on vacation to Africa on “12/3 and returning 12/23.”

Based on his time records, the Computer Analyst entered in the PeopleSoft timesheet program that he worked his regular shift on December 2, 23, 24, 26 and 27 of 2019. However, the following evidence shows that he was not at work on those days.

1. *OIG’s Review of Emails*

The Computer Analyst’s work emails from January 1, 2019 to February 13, 2020 revealed the following:

- On July 31, 2019, the Computer Analyst forwarded an email from his personal e-mail account to his MTA e-mail account containing his flight itinerary to Liberia. The itinerary indicated a departure date of November 29, 2019 and a return date of December 29, 2019.
- Yet, on October 30, 2019, the Computer Analyst sent an email to his supervisor stating “I will be going on the Vacation to Africa on 12/3 and returning 12/23.”

2. *U.S. Customs and Border Protection records*

The United States Customs and Border Protection travel records showed that the Computer Analyst flew out of Newark Airport on November 29, 2019 to Lome, Togo, located in West Africa, and returned on December 29, 2019.

3. *Kronos and Building Swipes*

OIG staff reviewed the Computer Analyst’s Kronos records and building entrance swipes for 2 Broadway for the month of December 2019. There were no Kronos or building entrance swipes by the employee on December 2, 23, 24, 26 and 27 of 2019.

4. *Review of Employee’s Original MTA iPhone*

The Original MTA iPhone revealed several photos of the Computer Analyst taken on December 24, 28, and 29 of 2019, dates he claimed he was at work. For example, 1 photo taken on December 29, 2019 shows the Computer Analyst at an airport, the date of his departure from Africa.

C. The Computer Analyst’s False Statements to the OIG

The Computer Analyst brought a typed written statement to the interview and essentially stated the same during his interview.

According to the Computer Analyst, he went to visit his family in Africa in December 2019. For the trip, he took his MTA issued iPhone and iPad along with approximately 5 to 6 phones to give to his family. He returned to the United States with what he believed was his MTA issued iPhone. He had been using the phone for several days when he accidentally dropped it while at work and cracked the screen. He turned it in for a replacement phone without realizing he had brought back the wrong phone. When he was informed of his mistake by MTA Telecom Support staff, he immediately tried to get the phone back but his mother told him she gave the phone to his girlfriend who resides in Liberia. He was eventually able to have a friend bring the phone to the United States and he turned it in to the MTA.

The Computer Analyst was confronted with several inconsistencies and falsehoods in his statement. First, he was asked about the SIM card from his Original MTA iPhone being in the Damaged iPhone that he turned in on January 8, 2020. He responded, implausibly, that he did not know how it happened and denied switching the SIM cards.

Second, he was informed that the phone records showed that he called his girlfriend in Liberia multiple times after he was directed to return his Original MTA iPhone. He replied he simply called the number the Telecom Support told him was the number on his original MTA iPhone to get it back. He claimed he did not know the number belonged to his girlfriend because “people in his country” use multiple phones and often switch numbers. Later in the interview, he acknowledged the number belonged to his girlfriend in Liberia.

Third, he was informed that the Apple ID on his Original MTA iPhone was changed to a new email address on December 5, 2019, when he was still in Africa. He asserted he did not know anything about his Apple ID being changed.

Fourth, he initially stated he did not believe that his MTA issued iPhone was used in Africa because it was set to open using fingerprint access. When informed that the OIG had evidence that the phone was used in Africa, he replied, incredibly, that people are able to access iPhones by clicking on it several times even when it is set to open using fingerprint access.

Lastly, he was asked how he failed to realize he was using a non-MTA issued iPhone as a Computer Analyst presumably familiar with mobile devices and software contained therein. He stated he simply started using the phone and did not pay attention to it or the features on the phone—a statement we find implausible. He acknowledged he is responsible for all MTA property issued to him, but maintained he left his MTA iPhone in Africa by mistake. Since he did not plan to do any work while he was in Africa, he also acknowledged he probably should not have taken any MTA devices with him.

The Computer Analyst was also asked about his vacation days. He stated he believed he was on vacation from December 9 through December 29, 2019. When informed that his time records indicated that he was at work from December 23 through December 27, 2019, he stated he may have made a mistake when he entered his hours; he may have emailed the wrong vacation days to his supervisor and entered his vacation days based on the email.

III. POLICIES AND ANALYSIS

A. MTA All-Agency Code of Ethics and Policy Directives

1. *§ 1.07: Cooperation with Audits and Investigations*

The MTA All-Agency Code of Ethics, Section 1.07, states, in pertinent part, that employees must cooperate fully and honestly with audits and investigations conducted by the MTA Inspector General, among others. Failure to so cooperate will subject an Employee to appropriate disciplinary penalty, up to and including dismissal.

Here, the Computer Analyst failed to cooperate fully and honestly with an OIG investigation. In fact, he lied repeatedly during his interview with OIG investigators. There is sufficient evidence to conclude that he intentionally passed off the Damaged iPhone as the Original iPhone to the MTA, gave the Original iPhone to his girlfriend for permanent use in a foreign country, then lied repeatedly about it during his OIG interview—both orally and in writing. His claimed confusion and lack of familiarity with iPhones is especially implausible given his position as a Computer Analyst. He also maintained that he submitted the wrong vacation days to his supervisor and entered the wrong information on his timesheet by mistake. The statement that he mistakenly believed he worked during Christmas week that he spent with his family in Africa is not credible.

2. *§ 4.02: Public Trust*

The MTA All-Agency Code of Ethics Section 4.02 states, in pertinent part, that employees shall not engage in a course of 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. Further, employees shall avoid even the appearance that they can be improperly influenced in the performance of their official duties or induced to violate the public trust or impair their independence of judgment in the exercise of their official duties.

Here, the Computer Analyst engaged in a course of conduct that raised suspicion among the public that he is likely to be engaged in acts that are in violation of the public trust when he attempted to misappropriate MTA property and entered false timesheets. In addition, he was not truthful to the OIG and the MTA staff when asked about them.

3. *§ 8.04: Prohibition Against the Use of MTA Property*

The MTA All-Agency Code of Ethics, Section 8.04, states, in pertinent part, that MTA's "names, logos, supplies, equipment, computer resources, personnel, and other resources may not be utilized for non-governmental purposes, including for personal purposes or for outside activities of any kind...."

4. *No. 11-033 Computer and Social Media Usage*

The MTA All Agency Policy Directive No. 11-033, Section IV, Responsibilities: Subsection A, General Guidelines, subsection (1) states, in pertinent part, that “Computer Users are required to protect Computer Resources⁵ – both Information Assets and Physical Assets, and are responsible for the following: (a) Preserving and protecting Computer Resources by following all password, protection and disposal requirements; and (b) Using Computer Resources solely for their intended purposes. Examples of misuse include, but are not limited to, ... allowing unauthorized persons to use Computer Resources.” And Subsection B, General Details, (2) Prohibited Uses, states, in pertinent part, that “Computer Users are not permitted to use Computer Resources to: m) Configure, enable, disable or tamper with any Computer Resource.”

5. *No. 11-048 Mobile Device Issuance*

The MTA All Agency Policy Directive No. 11-048, Section IV, Policy, states, in pertinent part, “Mobile Devices are issued by the MTA to conduct MTA business and personal use should be occasional and incidental. Users are responsible for the protection of Mobile Devices and to ensure that they are used appropriately.”

Here, the Computer Analyst used an MTA iPhone for non-governmental purposes and failed to preserve and protect MTA’s Computer Resources by allowing his girlfriend, an unauthorized person, to use the phone. He also tampered with MTA property when he changed his Apple ID linked email address on his Original iPhone and created multiple non-work related applications using his girlfriend’s account.

B. MTAHQ Policy and Procedure, Attendance and Leave

Section V, subsection (H) states, in pertinent part, “All regular and part-time employees must report their time worked and any absences to be charged against leave balances....”

The Computer Analyst falsely reported his time worked by failing to report his absences and charge them against his leave balances.

⁵ Computer Resources are defined by the Policy Directive No. 11-033 as “items purchased or leased with MTA Agency funds, or under the custody or control of the MTA, including but not limited to, devices such as PCs, printing devices, telecommunication devices, mobile devices, including but not limited to laptops, tablets and notebooks, handhelds and PDAs, smart phones, servers, Communication Networks, and software owned by, contracted for, or under the custody or control of any MTA Agency at any location. In addition, Computer Resources include all data and information and data storage devices, and the MTA Agency-wide network, including e-mail and the Internet and network infrastructure – Information and Physical.”

C. New York State Public Officers Law

1. § 74(3)(d)

New York State Public Officers Law § 74(3)(d) states, in pertinent part, that “no officer or employee of a state agency... should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated nongovernmental purposes.”

Here, the Computer Analyst used his official position to secure unwarranted privileges for himself and his girlfriend when he misappropriated MTA phone.

2. § 74(3)(h)

New York State Public Officers Law § 74(3)(h) states, in pertinent part, that “an officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.”

Here, for the same reasons as stated above in MTA All-Agency Code of Ethics Section 4.02, the Computer Analyst engaged in acts that violated his trust.

IV. FINDINGS

1. The Computer Analyst failed to cooperate fully and honestly in his interview with the OIG in violation of MTA Code of Ethics § 1.07.
2. The Computer Analyst used MTA resources, specifically, an MTA issued iPhone for non-governmental purposes and for his own benefit in violation of MTA All-Agency Code of Ethics § 8.04, MTA All Agency Policy Directive No. 11-033, Section IV(A)(1) and Policy Directive No. 11-048, Section IV, and NYS Public Officers Law §§ 74(3)(d) and 74(3)(h).
3. The Computer Analyst failed to preserve and protect MTA Computer Resource and tampered with MTA Computer Resource in violation of MTA All Agency Policy Directive No. 11-033, Section IV(A)(1) and (B)(2), and Policy Directive No. 11-048, Section IV.
4. The Computer Analyst submitted false work hours and failed to charge his absences against his leave in violation of MTAHQ Policy and Procedure, Attendance and Leave, Section V(H). As a result, he was paid for five days he did not work.

V. RECOMMENDATIONS

1. The MTA should impose discipline on the Computer Analyst as it deems appropriate, up to and including termination.
2. The MTA should recoup the 5 days he did not work and conduct an expanded review of the Computer Analyst's past time and attendance submissions to determine if he falsified other payroll records.

As always, we appreciate your continued courtesy and cooperation. Please advise us within 30 days of any action you intend to take and the result of any action taken. Should you have any questions, or need additional information, please contact Executive Deputy Inspector General for Legal Pei Pei Cheng-de Castro at (212) 878-0072.

Very truly yours,

/S/

Carolyn Pokorny

cc: Thomas Quigley, General Counsel, MTA Headquarters
Charles Glasgow, Senior Director of Employee and Labor Relations
Monica Stamm, General Counsel, NYS Joint Commission on Public Ethics



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Agency Response
to
MTA/OIG #2020-05

Misappropriation of Property and Ethics Violations
By Jerry Manneh, MTA Headquarters Computer Analyst

On February 12, 2020, Jerry Manneh, the Computer Analyst (“Manneh”), was suspended without pay. On April 6, 2020, in response to the Office of the MTA Inspector General’s investigation and report, the MTA Headquarters brought disciplinary charges against Manneh and recommended termination. After several adjournments due to the COVID-19 pandemic, a disciplinary hearing was held on July 7, 2020. After the close of the hearing, Manneh submitted his resignation, effective immediately. The MTA Headquarters is in the process of recouping 5 days’ pay from Manneh’s final payout from his separation service.