



**Carolyn Pokorny**  
**MTA Inspector General**

**Office of the Inspector General**  
**Metropolitan Transportation Authority**  
One Penn Plaza, 11th Floor, Suite 1110  
New York, NY 10119  
212-878-0000

July 1, 2020

Via Electronic Mail

Sarah E. Feinberg  
Interim President  
New York City Transit  
2 Broadway, 30<sup>th</sup> Floor  
New York, NY 10004

**Re: Unauthorized Dual Employment**  
**NYCT General Superintendent**  
**MTA/OIG #2020-18**

Dear Ms. Feinberg:

The Office of the MTA Inspector General (OIG) substantiated allegations that a New York City Transit (NYC Transit) General Superintendent performed 3 plumbing jobs between June and November of 2018, and failed to obtain dual employment authorization from NYC Transit. In addition, the General Superintendent failed to disclose his outside employment and his wife's employment and income in his annual Financial Disclosure Statement filed with the New York State Joint Commission on Public Ethics (JCOPE).

We recommend that the General Superintendent be disciplined as NYC Transit deems appropriate. The General Superintendent's conduct also appears to violate the New York State Public Officers Law. Therefore, we are also forwarding this matter JCOPE for action as it may deem appropriate.

## **I. BACKGROUND**

NYC Transit hired the General Superintendent in October of 1999 as a Structure Maintainer. By 2018, he had been promoted to the title of General Superintendent and his work location was the 125<sup>th</sup> Street Shop. Given the supervisory nature of his position and the salary associated with it, NYC Transit required the General Superintendent to submit an annual Financial Disclosure Statement (FDS) to JCOPE. The General Superintendent has never submitted a request for dual employment authorization to NYC Transit. OIG notes that the NYC

Transit demoted the General Superintendent to a Structure Maintainer E in late 2019 due to conduct on an unrelated matter.<sup>1</sup>

## II. INVESTIGATION

### A. Record Review

The General Superintendent completed regularly scheduled MTA training on topics including the MTA Code of Ethics and the Agency's rules regarding outside employment. He certified that he had read and understood the MTA All-Agency Code of Ethics and that he had no outside employment. He filed his 2018 FDS with JCOPE in July of 2019, and in that filing again stated that neither he nor his wife had outside employment or income.

The OIG analyzed the General Superintendent's financial records for the period of May 2018 to June 2019. Between June 2018 and November 2018, the General Superintendent deposited 7 checks from 3 different payers totaling \$8,393.06 into his savings account. The memo section of 2 of the 7 checks indicated the payments were for "plumbing work" and "boiler repair." In addition to the aforementioned checks, the General Superintendent also deposited in excess of \$35,000 in cash into his savings and affiliated checking account.

### B. General Superintendent Interview

The OIG questioned the General Superintendent about whether he engaged in outside employment and the source of the cash deposits into his bank accounts. The General Superintendent admitted that he performed plumbing related jobs, specifically sprinkler system repair, leaking pipe repair, and installation of a hot water boiler between June and November 2018 during non-work hours for 3 personal acquaintances. He acknowledged that the 3 people paid him for his work. As to the source of the cash deposits, the General Superintendent stated that his wife and adult son gave him the money. The General Superintendent claimed that the wife operated a cake baking business from their home and gave him the proceeds of the business.

The General Superintendent stated he had never submitted a request to NYC Transit for dual employment authorization. He did acknowledge that in 2018, he completed his required annual training on the MTA Code of Ethics and the rules for outside employment.

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<sup>1</sup> The report refers to the subject as "General Superintendent" because that was his NYC Transit title at the time of the events discussed in the report.

### III. POLICIES AND ANALYSIS

#### A. MTA All-Agency Code of Ethics: § 4.07: Other Employment and Outside Activities

The MTA All-Agency Code of Ethics, Section 4.07, states, in pertinent part, that employees may engage in outside employment/activity provided that (1) such employment/activity does not violate the specific guidelines for other employment set by their MTA Agency; and (2) they obtain the required approvals as set forth in the specific procedures for approval of other employment set by their MTA Agency.

Here, the General Superintendent failed to obtain the required approval for outside employment in violation of NYC Transit policies.

#### B. NYC Transit Rules and Regulations and Policy/Instruction

##### 1. *Rule 4(g): General Duties and Obligation of Employees*

The NYC Transit Rules and Regulations, Rule 4(g), states, in pertinent part, that all employees must obtain NYC Transit approval before engaging in any occupation, business or professions, including self-employment, outside the Authority.

##### 2. *Policy/Instruction Number 4.23.2: Dual Employment*

The NYC Transit Policy/Instruction Number 4.23.2 for Dual Employment, Section IV, states, in pertinent part, that a current employee may not begin a secondary job until he or she receives approval for dual employment and Section VI, further provides, in pertinent part, that all current employees must file a dual employment request prior to commencing employment, including self-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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Here, the General Superintendent did not file a request for dual employment with NYCT.

#### C. New York State Public Officers Law § 73-a

Public Officer's Law § 73-a provides, in pertinent part, that specifically designated state employees must file an annual statement of financial disclosure. Question 5a of the FDS specifically requires the filer to list the name, address and description of any occupation, employment, trade, business or profession in which they engaged during the reporting period. Question 13 requires the employee to declare any income, other than his/her state salary, in excess of \$ 1,000 that either he/she or his/her spouse earned.

Here, the General Superintendent violated Public Officers Law § 73-a when he failed to disclose to JCOPE his outside employment and income and his wife's employment and income in his 2018 FDS.

#### **IV. FINDINGS**

The General Superintendent failed to submit a request for approval for his outside employment and engaged in unauthorized dual employment in violation of the MTA All-Agency Code of Ethics § 4.07, and NYC Transit Policy/Instruction Number 4.23.2, § IV(A)(3) and § VI(B)(1). Moreover, he did not report his outside employment and income and his wife's employment and income to JCOPE as required by New York State Public Officers Law § 73-a.

#### **V. RECOMMENDATION**

We recommend that NYC Transit impose discipline on the General Superintendent as it deems appropriate. A copy of this report will be provided to JCOPE for its review and any action it deems appropriate.

As always, we appreciate your continued courtesy and cooperation. Please advise our office within forty five (45) days<sup>2</sup> of any actions you take pursuant to this letter. 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: David Farber, General Counsel and Ethics Officer, NYC Transit  
Monica Murray, Chief Administrative Officer, NYC Transit  
Kim Moore-Ward, Vice President, Office of Labor Relations, NYC Transit  
Monica Stamm, General Counsel, JCOPE

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<sup>2</sup> Typically we seek a response within 30 days, and recognize that additional time likely will be needed due to the ongoing COVID-19 pandemic.



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**Agency Response**  
**to**  
**MTA/OIG #2020-18**

**Unauthorized Dual Employment by a General Superintendent**

In July 2020, in response to the Office of the MTA Inspector General's investigation and report, New York City Transit (NYC Transit) brought disciplinary charges against the General Superintendent for unauthorized dual employment. On July 14, 2020, NYC Transit conducted Step 1 disciplinary hearings, sustained the charges against the General Superintendent, and recommended dismissal. The General Superintendent appealed the decision. The Step 2 disciplinary proceeding has yet to be scheduled.