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Description of document: Closing documents from ten National Credit Union Administration (NCUA) Inspector General (OIG) investigations, 2010-2011

Request date: 10-May-2012

Released date: 11-July-2012

Posted date: 21-September-2015

Source of document: Freedom of Information Act Request  
National Credit Union Administration  
Office of the Inspector General  
1775 Duke Street  
Alexandria, VA, 22314  
Fax: 703-518-6349  
Email: [FOIA@ncua.gov](mailto:FOIA@ncua.gov)

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**National Credit Union Administration  
Office of Inspector General**

SENT VIA EMAIL

July 11, 2012

Re: Freedom of Information Act Request

This is in response to your email dated May 10, 2012, requesting information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. We discussed your request by telephone in mid-May, and you agreed that a response from this office in July would be acceptable. Specifically, you requested a "copy of the Final Report, the Closing Memorandum and the Report of Investigation" for numerous "NCUA OIG closed investigations and other matters" and listed ten (10) reports identified by case number and two (2) documents identified by the title of the report/memorandum.

With regard to the ten (10) reports identified by case number, the OIG located and is providing herewith sixty-two (62) pages responsive to your request. Information redacted from these documents qualifies for protection under subsections (b)(6), (b)(7)(C), and (b)(8). Subsection (b)(6) permits agencies to withhold information the disclosure of which would constitute an unwarranted invasion of personal privacy. Subsection (b)(7)(C) protects information compiled for law enforcement purposes if its release could reasonably be expected to constitute an unwarranted invasion of personal privacy. Subsection (b)(8) protects matters that are contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

With regard to the two documents identified by title and comprising 44 pages, I am withholding these documents in full. All information contained in the document entitled "Wachovia HELOC Loan Participation Program" (12 pages) is exempt from disclosure under subsections (b)(4) and (b)(8) (see above). Subsection (b)(4) protects trade secrets and commercial or financial information obtained from a person and privileged or confidential. In addition, all information contained in the document entitled "Review of NCUA Conservatorship Share Withdrawal Freeze Policy" (32 pages) is exempt from disclosure under subsections (b)(5), (b)(6) (see above) and (b)(8) (see above). Subsection (b)(5) protects intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency. Included within exemption 5 and applicable here is information subject to the deliberative process privilege and attorney work-product privilege.

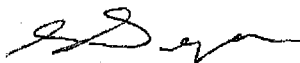
Should you consider any or all of the determinations set forth above a denial of your request, you have the right to appeal those determinations. An appeal may be in writing or sent electronically, and filed within 30 days from the receipt of this initial determination.

If you file a written appeal, please note "FOIA-APPEAL" in the letter and on the envelope and address your appeal to:

**National Credit Union Administration  
Office of General Counsel—FOIA APPEAL  
1775 Duke Street  
Alexandria, Virginia 22314-3428**

If you wish to submit your appeal by email, address the email to [FOIA@ncua.gov](mailto:FOIA@ncua.gov). If you submit an appeal by email, the subject line of the email should read "FOIA Appeal."

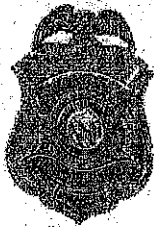
Sincerely,



Sharon Separ  
Counsel to the Inspector General

Enclosure

Cc: FOIA Officer



**NATIONAL CREDIT UNION ADMINISTRATION**  
**Office of Inspector General**  
**Investigations Division**

**REPORT OF INVESTIGATION**

**DATE OF REPORT:**  
**CASE NUMBER:**  
**CASE TITLE:**  
**SUBJECT:**

April 20, 2009  
09-I-R9-01

[REDACTED]  
[REDACTED]  
[REDACTED]

(b)(6)  
(b)(7)(C)

**VIOLATIONS:**

18 U.S.C. 1001 – False Statements

5 CFR 2635.704 - *Standards of Ethical Conduct for Employees of the Executive Branch- Use of Government Property*

5 CFR 2635.101(a), (b)(1), (b)(9), and (b)(14)- *Standards of Ethical Conduct for Employees of the Executive Branch – Basic Obligations of Public Service*

*NCUA Computer Security Rules of Behavior*

*NCUA Instruction No. 1200.8 (Rev. 2)-Telecommuting (August 4, 2003)*

*OCFO/DPFM Agreement for Telecommuting, dated June 22, 2008*

**DISTRIBUTION:**

[REDACTED]

Executive Director David Marquis

[REDACTED]

**CASE AGENT:**

[REDACTED]

Acting AIGI,  
Investigations

*[Signature]*  
(Signature)

**APPROVED:**

William A. DeSarno  
Inspector General

*[Signature]*  
(Signature)

(b)(6)  
(b)(7)(C)

NO PORTION OF THIS REPORT MAY BE REPRODUCED WITHOUT THE EXPRESS AUTHORIZATION OF THE INSPECTOR GENERAL OR DIRECTOR OF INVESTIGATIONS. THIS REPORT IS MADE AVAILABLE ONLY ON A NEED TO KNOW BASIS.

BACKGROUND

On February 2, 2009, the Office of Inspector General (OIG) received an allegation that [REDACTED] (b)(6) (b)(7)(c) may have fabricated official agency documents related to, as well as misrepresented, [REDACTED] employment (position) at the National Credit Union Administration (NCUA). Based on the information received, the OIG initiated an investigation.

The OIG's investigation into the initial allegations gave rise to questions about the circumstances surrounding (1) leave requests [REDACTED] submitted to [REDACTED] supervisor between April 2008 and January 2009; and (2) the telecommuting arrangement [REDACTED] negotiated with the agency, which began in July 2008. The OIG subsequently expanded its investigation to encompass these two issues. (b)(6) (b)(7)(c)

As part of the original complaint, the OIG received copies of electronic (email) messages between [REDACTED] and two individuals outside the agency. [REDACTED] used [REDACTED] personal Google mail (gmail) account [REDACTED] to send and receive these emails. (Exhibit 1) The emails contained statements [REDACTED] made claiming (1) NCUA had promoted [REDACTED] to the positions of NCUA Deputy Director and Director of Examination and Insurance; and (2) [REDACTED] was responsible for closing down credit unions. With regard to the promotion, [REDACTED] created two documents that purported to represent an official letter from NCUA offering [REDACTED] the promotion and establishing a salary, and an official Internal Memo announcing the promotion, respectively.<sup>1</sup> With regard to the credit union closures, [REDACTED] stated in the emails that, among other things, a credit union employee had committed suicide in front of [REDACTED] [REDACTED] had shot at a credit union employee, and [REDACTED] had been shot at. (b)(6) (b)(7)(c)

The OIG presented the allegations concerning the fabrication of official documents and misrepresentation of [REDACTED] official position for prosecutorial consideration to the United States Attorney's Office (USAO), Western District of Washington, on February 9, 2009. On February 10, 2009, Assistant United States Attorney [REDACTED] declined criminal prosecution after conducting a review of the case facts.

<sup>1</sup>The letter, dated December 23, 2008, to "[REDACTED]" (b)(6) (b)(7)(c) "1," was entitled "Promotion Official Offer letter with Salary and Position Status." The letter (hereinafter referred to as the "Offer Letter") purported to offer [REDACTED] the position of Deputy Director of NCUA and Director of the Office of Examination and Insurance, at a salary of \$356,480.00. The letter was signed "[REDACTED], Office of Human Resources." (Exhibit 2) The Internal Memo document was dated December 17, 2008, and entitled "E&I Director, Deputy Director, announced," and stated that [REDACTED] had accepted the promotion position (hereinafter, "the Internal Memo"). (Exhibit 3)

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The OIG interviewed Reilly on February 11, 12, and 26, 2009, regarding the document fabrications, the position misrepresentations, and potential misuse of [REDACTED] NCUA-issued computer to fabricate the false documents. [REDACTED] admitted to the OIG that [REDACTED] had used [REDACTED] NCUA-issued computer to fabricate agency documents misrepresenting [REDACTED] position at NCUA. Moreover, [REDACTED] acknowledged sending emails to non-NCUA employees wherein [REDACTED] lied about her job duties during the period of time when [REDACTED] was temporarily living in and telecommuting from [REDACTED]. Specifically, Reilly admitted to falsely representing to others that: (1) [REDACTED] was responsible for closing down credit unions; (2) [REDACTED] shot the owner of a fictitious credit union after he pulled a gun on [REDACTED]; (3) a credit union employee committed suicide in front of [REDACTED]; and (4) [REDACTED] was shot at in the course of a credit union closure. These actions constitute violations of 5 CFR Part 2635 – *Standards of Ethical Conduct for Employees of the Executive Branch*, in particular, violations of section 2635.101(a), (b)(1), (b)(9), and (b)(14)—Basic Obligations of Public Service, and section 2635.704—Misuse of Government Property.

At the February 12, 2009, interview, [REDACTED] described a situation that involved a non-NCUA employee having unauthorized access to [REDACTED] NCUA-issued computer. [REDACTED] acknowledged that [REDACTED] failed to report this incident to NCUA as a potential security breach. This action constitutes a violation of 5 CFR section 2635.704—Misuse of Government Property, the NCUA *Computer Security Rules of Behavior*, and NCUA Instruction No. 1200.8 (Rev. 2) – Telecommuting, paragraph 7- Safeguarding Information.

On February 11, 12, and 26, 2009, [REDACTED] provided, respectively, written statements concerning these actions that are included in the record. (Exhibit 4)

On April 7, 2009, the OIG presented the evidence it had developed concerning [REDACTED] false statements about leave requests and the telecommuting arrangement [REDACTED] negotiated with the agency, to the USAO, Eastern District of Virginia. United States Assistant Attorney [REDACTED] declined criminal prosecution and authorized the use of Kalkines warnings.

In a final interview on April 9, 2009, [REDACTED] admitted to the OIG facts regarding leave requests [REDACTED] submitted to [REDACTED] supervisor between April 2008 and June 2008, as well as the details of the telecommuting arrangement [REDACTED] negotiated with [REDACTED]. [REDACTED] admissions revealed that [REDACTED] had previously provided false information to [REDACTED] supervisor regarding both. The false statements [REDACTED] made to [REDACTED] supervisor as the basis for the leave requests and the telecommuting arrangement constitute violations of (1) 18 U.S.C. 1001—False Statements; and (2) the terms and conditions of the OCFO/DPFM *Agreement for Telecommuting* which she executed on June 22, 2008.

Based on admissions [REDACTED] made at the April 9, 2008, interview, the OIG determined that [REDACTED] also violated 18 U.S.C. 1001—False Statements, when [REDACTED] lied to an OIG

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investigator at the February 26, 2008, interview about (1) [REDACTED] reason for requesting approval from [REDACTED] supervisor to telecommute from [REDACTED] and (2) [REDACTED] mother's relocation to medical facilities in [REDACTED] and Alexandria, VA, respectively.

## DETAILS

In three different interviews, on February 11, 12, and 26, 2009, respectively [REDACTED] was placed under oath and questioned about the fabricated documents, the misrepresentations about [REDACTED] position, and the misuse of [REDACTED] NCUA-issued computer. In the OIG's final interview with [REDACTED] on April 9, 2009, with regard to the leave requests and the telecommuting arrangement, [REDACTED] was placed under oath and given Kalkines warnings prior to questioning.

### Fabricated Documents

At the February 11, interview, the OIG investigator showed [REDACTED] an email message dated December 17, 2008, attached to which was the fabricated Internal Memo. [REDACTED] denied any knowledge of the content of the document. [REDACTED] was then shown the Offer Letter. As described above, the letter, addressed to [REDACTED] from [REDACTED] Office of Human Resources, purported to offer [REDACTED] the position of *Deputy Director of NCUA and Director of the Office of Examination and Insurance*. Again, [REDACTED] denied any knowledge of it. Rather, [REDACTED] told investigators that the [REDACTED] began dating after [REDACTED] moved to [REDACTED], "hacked into [REDACTED] computer" and was responsible for writing both documents because [REDACTED] worked for Microsoft and "knew how to do that sort of thing."

However, after further questioning, [REDACTED] eventually admitted that [REDACTED] was the author of both the Internal Memo and the Offer Letter. [REDACTED] stated that [REDACTED] fabricated the documents in an attempt to get [REDACTED] to "leave [REDACTED] alone" because [REDACTED] had begun to repeatedly question [REDACTED] about her job at NCUA and [REDACTED] wanted to prove to [REDACTED] that [REDACTED] was financially stable. [REDACTED] also said [REDACTED] created the fictitious documents because [REDACTED] was afraid of [REDACTED] stated that [REDACTED] had threatened and physically abused [REDACTED] at times during their relationship.

[REDACTED] was asked if [REDACTED] sent the fabricated documents to anyone else within or outside the agency, or used them for any other purpose. [REDACTED] indicated that [REDACTED] had not. [REDACTED] stated that [REDACTED] prepared the Offer Letter using the Adobe software application on [REDACTED] NCUA-issued laptop computer and attached it to an e-mail [REDACTED] sent to [REDACTED] using [REDACTED] personal Gmail™ account. With respect to the text contained in the letter, [REDACTED] admitted that [REDACTED] created the information using the Microsoft® Outlook e-mail application on [REDACTED] NCUA-issued laptop computer and then "cut and pasted" the text into a Microsoft® Word document to produce a final draft.

(b)(6)  
(b)(7)(C)

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[REDACTED] was asked specifically about the signature that appeared on the Offer Letter and if [REDACTED] knew who [REDACTED] was. [REDACTED] stated that [REDACTED] believed [REDACTED] worked in the NCUA Office of Human Resources (OHR). [REDACTED] was asked if [REDACTED] ever received any correspondence from [REDACTED] and [REDACTED] replied "no." Again [REDACTED] was questioned about the signature that appeared in the signature block at the bottom of the letter, and whether or not [REDACTED] forged [REDACTED] signature on the document. [REDACTED] said [REDACTED] had no idea whose signature it was, but [REDACTED] knew it was not [REDACTED] because [REDACTED] "cut and pasted" the signature from an image [REDACTED] obtained from a Google™ Internet search.

### Misrepresentation of Official Position

During the course of the investigation, the OIG obtained copies of several e-mail exchanges between [REDACTED] and [REDACTED] and [REDACTED] and [REDACTED] mother, [REDACTED], who lived in Israel. These emails contained statements about [REDACTED] job responsibilities during the period of time [REDACTED] was telecommuting in [REDACTED]. Among other things, [REDACTED] represented falsely in these emails that (1) [REDACTED] was responsible for closing down credit unions; (2) a credit union employee committed suicide in front of [REDACTED] and (3) [REDACTED] was shot at in the course of a credit union closure. [REDACTED] was provided copies of the email messages containing these statements and asked to authenticate them.

[REDACTED] reviewed each email, confirmed that the information was false, and initialed and dated each message to verify that [REDACTED] was responsible for preparing and sending them. (Exhibit 5) [REDACTED] stated that [REDACTED] made up the information to make [REDACTED] feel frightened of [REDACTED] because [REDACTED] had threatened [REDACTED] and was physically violent with [REDACTED]. [REDACTED] said [REDACTED] hoped that by demonstrating to [REDACTED] that [REDACTED] job was better than [REDACTED] might induce [REDACTED] to fear [REDACTED] as much as [REDACTED] feared [REDACTED]. Consequently, [REDACTED] hoped, [REDACTED] attitude and treatment of [REDACTED] might improve and [REDACTED] would feel safer and more secure in the relationship.

### Breach of the NCUA Computer Security Rules of Behavior

[REDACTED] indicated [REDACTED] met [REDACTED] shortly after arriving in [REDACTED] and they were friends for a few months before beginning a romantic relationship in November/December 2008. [REDACTED] advised that [REDACTED] was very possessive and [REDACTED] suspected [REDACTED] of accessing [REDACTED] computer and personal bank account without [REDACTED] knowledge. [REDACTED] was asked if [REDACTED] ever accessed [REDACTED] NCUA-issued computer.

[REDACTED] indicated that while [REDACTED] was working from [REDACTED] home on December 28, 2008, [REDACTED] was logged onto the NCUA network on [REDACTED] work computer, where [REDACTED] had the Microsoft® Outlook window open. [REDACTED] said [REDACTED] left the computer unattended for only a few minutes while [REDACTED] went to the restroom, and when [REDACTED] returned, [REDACTED] observed [REDACTED] sitting in front of the computer.

(b) (6)  
(b) (7) (C)



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█████ said █████ did not believe █████ accessed or compromised any information stored on the computer while █████ was out of the room. █████ advised that █████ checked █████ recent documents folder and noted nothing appeared suspicious. However, █████ acknowledged that there may have been other times when █████ was working on █████ NCUA-issued computer at █████ home when █████ may have accessed information on the computer without █████ knowledge.

█████ was shown a copy of the NCUA Computer Security Rules of Behavior (CSROB) and asked if █████ recalled reviewing the information and was familiar with the requirements outlined in the document (Exhibit 6). █████ stated that █████ did not specifically recall seeing the CSROB, but █████ probably reviewed and signed them at some point. █████ was directed to the wording contained on page 4 of the CSROB which states, "...Any employee having knowledge of or a reasonable suspicion that any individual is attempting to circumvent these rules or illegally gain access to an NCUA system must report the information immediately to the NCUA Office of Inspector General or the OCIO Information Security Officer."

█████ was asked if █████ reported the incident involving █████ and █████ NCUA-issued computer to either the OIG or the Office of the Chief Information Officer (OCIO) Information Security Officer (ISO) as required. █████ replied "no." When asked why █████ did not report the incident, █████ stated "I didn't think-- I made a mistake and should have reported it." █████ added that █████ also did not think █████ was specifically looking for any NCUA information that may have been stored on the computer, so █████ did not feel it was necessary to report it.

The OIG contacted █████, NCUA ISO, and confirmed that █████ did not report the incident involving █████. In addition, █████ provided investigators with documentation indicating that █████ electronically acknowledged reviewing the NCUA CSROB as required on two occasions in 2008: July 9<sup>th</sup> (Employee ID# █████) and July 16<sup>th</sup> (Employee ID# █████). (Exhibit 7)

False Statements: Leave Requests and the Telecommuting Arrangement

During the February interviews, the OIG raised the issue of the █████ telecommuting arrangement. At the February 26, 2009, interview, █████ explained that █████ requested to temporarily relocate to █████ in July 2008 because █████ then fiancé, █████, was being relocated to █████ by his employer (█████).

Subsequent to the February interviews, the OIG obtained emails between █████ and her supervisor █████ from the period April 15, 2008, to February 4, 2009 (Exhibit 8). Of these emails, several exchanges between █████ and █████ in April and May 2008 documented █████ various requests for leave and work arrangement accommodations based on █████ claims that █████ had injured █████ back

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swinging a golf club, and then reinjured it as the result of a fall. In an email dated May 27, 2008, [REDACTED] references a telephone conversation [REDACTED] had had with [REDACTED] the previous week. [REDACTED] informed the OIG that in that telephone conversation, [REDACTED] asked whether [REDACTED] would approve [REDACTED] temporarily telecommuting from [REDACTED]. According to [REDACTED], [REDACTED] indicated that due to [REDACTED] back injuries, [REDACTED] needed assistance at home, and unless [REDACTED] relocated to [REDACTED] with [REDACTED], [REDACTED] would be living alone in Alexandria. [REDACTED] approved the request and began making arrangements to formalize the telecommuting request.

On June 2, 2008, [REDACTED] emailed [REDACTED] that [REDACTED] would not be in to work that day because [REDACTED] mother had suffered a stroke while vacationing in [REDACTED]. During the month of June 2008, [REDACTED] exchanged emails with [REDACTED] requesting different leave arrangements due to [REDACTED] need to be in [REDACTED] handling [REDACTED] mother's health situation, as well as making arrangements to transfer [REDACTED] mother from a medical facility in [REDACTED] to one in [REDACTED] where [REDACTED] would soon be telecommuting from. [REDACTED] accommodated all of [REDACTED] requests.

[REDACTED] relocated to [REDACTED] in mid-July pursuant to a Telecommuting Agreement she executed with the agency, effective June 22, 2008.<sup>2</sup> The Telecommuting Agreement provided that [REDACTED] approved alternative workplace would be: [REDACTED]

[REDACTED] The agreement stated further that "[u]nless otherwise instructed, employee agrees to perform official duties only at the . . . agency-approved alternative worksite." The agreement also provided that [REDACTED] agreed "to protect any government-owned equipment," and obligated [REDACTED] to follow all applicable NCUA security procedures for [REDACTED] NCUA-issued computer. Finally, the agreement provided that the agency had the right to cancel the telecommuting arrangement and instruct the employee to resume working at [REDACTED] traditional work-site (Central Office) if there was a change or shift in work priorities.

Beginning in early August, [REDACTED] began sending emails to [REDACTED] requesting that [REDACTED] return for a brief period of time to the Central Office for training and computer updates. Also by email, [REDACTED] responded, at various times, that [REDACTED] could not make the trip back to Virginia because: (1) [REDACTED] was involved in a care conference for [REDACTED] mother's impending relocation from [REDACTED] to Virginia; and (2) [REDACTED] could not get an airline ticket at a reasonable price. Subsequently, beginning in September 2008, [REDACTED] made repeated email requests that [REDACTED] return to the Central Office permanently and end the telecommuting arrangement. [REDACTED] responded variously that (1) [REDACTED] return was dependent on [REDACTED] mother's progress; (2) [REDACTED] had an ear infection and could work, but not fly; (3) [REDACTED] was having major health issues including vertigo; (4) [REDACTED] had Lyme's disease; and (5) [REDACTED] was having continued difficulty transferring [REDACTED] mother to a long

<sup>2</sup> [REDACTED] entered into a formal Telecommuting Agreement with NCUA effective June 22, 2008. [REDACTED] signed the agreement on June 4, 2008, and [REDACTED] signed it electronically on June 22, 2009. (Exhibit 9)

(b)(6)(b)(7)(c)

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term care center in either Virginia or [REDACTED] [REDACTED] did not return to work at the Central Office until February 4, 2009.

During the February 26, 2009 interview, investigators asked [REDACTED] to provide the name and telephone number of the medical facility in [REDACTED] where [REDACTED] mother purportedly resided. [REDACTED] said [REDACTED] could not recall the name or the telephone number of the facility, but would provide investigators with the information after the conclusion of the interview. When investigators asked [REDACTED] if [REDACTED] mother was still located in [REDACTED] [REDACTED] replied that she recently moved [REDACTED] to a facility located on King Street in Alexandria, VA called 'Sunset.' Investigators asked [REDACTED] for the address and telephone number of the facility. [REDACTED] stated that [REDACTED] did not know the exact address or telephone number, but would provide investigators with the information after the interview. [REDACTED] failed to provide any follow-up information.

On March 5, 2009, the OIG conducted a telephonic interview with [REDACTED] [REDACTED] a contradicted [REDACTED] account of events. According to [REDACTED] and [REDACTED] became engaged in 2007. However, they mutually agreed to end their relationship in April or May 2008. [REDACTED] said it was [REDACTED] understanding that [REDACTED] moved to [REDACTED] shortly afterwards and [REDACTED] assumed [REDACTED] was living somewhere in [REDACTED] until [REDACTED] contacted [REDACTED] in February 2009 advising [REDACTED] was returning to Virginia from [REDACTED] [REDACTED] stated that [REDACTED] neither relocated nor ever had any plans to relocate to [REDACTED] [REDACTED] stated that [REDACTED] was never [REDACTED] employer; rather [REDACTED] worked for a sub-contractor of [REDACTED] from December 2005 through July 2006 in the Washington, DC metropolitan area.

At about this time, the OIG learned from agents from the U.S. Postal Service (USPS) – Office of Inspector General—that local USPS officials in [REDACTED] were unable to provide any information to establish that [REDACTED] mother, [REDACTED] lived anywhere other than at [REDACTED] home address of [REDACTED] during the past year. Furthermore, a background check conducted on [REDACTED] revealed that [REDACTED] is currently employed as the [REDACTED] at the [REDACTED]

On April 8, 2009, the OIG contacted the CEO of the [REDACTED] [REDACTED]. The OIG investigator asked [REDACTED] whether [REDACTED] was currently employed at the [REDACTED] [REDACTED] indicated that [REDACTED] was. In response to the question whether [REDACTED] had been ill and/or absent from work for any period of time since June 2008, [REDACTED] responded "no." [REDACTED] stated that except for a recent bout of pink eye and an ear infection [REDACTED] had contracted from one of the children in the child care center, [REDACTED] had been consistently working, with no absences, since June 2008. [REDACTED] stated that, unless advised that it would obstruct a federal investigation, [REDACTED] would advise [REDACTED] of the OIG's inquiry. The OIG advised [REDACTED] that it would not interfere with the investigation.

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Approximately one hour later, the OIG investigator received a telephone call from [REDACTED]. [REDACTED] confirmed that (1) [REDACTED] was not ill and had not been ill during the previous year; (2) [REDACTED] did not have a stroke last June; (3) [REDACTED] had never been in a medical facility in [REDACTED], or Virginia; and (4) that [REDACTED] did not go to [REDACTED] in July 2008 with [REDACTED]. [REDACTED] stated that [REDACTED] was extremely worried about [REDACTED] daughter's emotional and mental stability. [REDACTED] explained that [REDACTED] was in extreme emotional distress last spring (April/May 2008 time frame) because [REDACTED], had suddenly ended [REDACTED] relationship with [REDACTED] and broken off the engagement—seemingly, for no reason. [REDACTED] described [REDACTED] as agitated, and indicated that [REDACTED] had come home to [REDACTED] for approximately two weeks, sometime in April 2008, where [REDACTED] appeared to telecommute intermittently. [REDACTED] stated that at no time during [REDACTED] stay at [REDACTED] home did [REDACTED] mention that [REDACTED] had sustained or was recovering from a back injury.

[REDACTED] stated that shortly after [REDACTED] returned to Virginia, [REDACTED] informed her that [REDACTED] had sought and received approval to temporarily work in [REDACTED]. [REDACTED] stated that [REDACTED] thought [REDACTED] would be able to cope better with personal problems if [REDACTED] was not in the same area as [REDACTED]. [REDACTED] indicated that [REDACTED] did not tell her that a back injury had anything to do with [REDACTED] request to relocate. [REDACTED] indicated that [REDACTED] had led her to believe that NCUA had an office in [REDACTED] from which [REDACTED] would be working. [REDACTED] stated that to the best of [REDACTED] knowledge, [REDACTED] did not know anyone in [REDACTED] before or at the time [REDACTED] initially relocated. [REDACTED] confirmed [REDACTED] address in [REDACTED] as [REDACTED]. She stated that [REDACTED] had never mentioned an alternate address in [REDACTED] or that [REDACTED] had a friend in either [REDACTED]. The OIG investigator asked [REDACTED] if [REDACTED] had ever mentioned to her someone named [REDACTED]. [REDACTED] replied "no." She stated that she was aware of [REDACTED] relationship with [REDACTED] which began shortly after [REDACTED] moved to [REDACTED] and said that initially [REDACTED] seemed very happy about this new relationship. [REDACTED] indicated that [REDACTED] told her [REDACTED] would not be coming home for Christmas, because [REDACTED] and [REDACTED] were going to Las Vegas instead. She believed that [REDACTED] went to Las Vegas in December with [REDACTED]. [REDACTED] stated that at no time had [REDACTED] ever mentioned that [REDACTED] abused or threatened [REDACTED]. [REDACTED] indicated that she never visited [REDACTED] in [REDACTED], due to the expense and her work commitments in [REDACTED].

On April 9, 2009, the OIG again interviewed [REDACTED]. At the outset of the interview, an OIG investigator provided [REDACTED] a document entitled "Kalkines/Non-Prosecution Assurance" (Kalkines warning). The investigator read the document aloud, and requested that [REDACTED] follow along. [REDACTED] then asked [REDACTED] if [REDACTED] understood the warning issued and [REDACTED] replied that [REDACTED] did. [REDACTED] signed and dated the Kalkines warning, and OIG officials signed as investigator and witness, respectively. (Exhibit 10)

[REDACTED] was advised that since [REDACTED] last interview with the OIG on February 26, 2009, the OIG had developed additional evidence that indicated that information [REDACTED] provided to [REDACTED] supervisors, as well as previous statements made under oath to the OIG

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**REPORT OF INVESTIGATION****CASE NUMBER: 09-I-R9-01**

Investigator, were untruthful. Specifically [REDACTED] was advised that the OIG discovered that (1) [REDACTED] had never resided at or telecommuted from the address [REDACTED] provided on the telecommuting agreement [REDACTED] signed on June 22, 2008; (2) [REDACTED] had lied to [REDACTED] supervisor about [REDACTED] need to relocate to [REDACTED] state to be with her [REDACTED]; (3) [REDACTED] had lied to [REDACTED] supervisor about [REDACTED] mother's medical condition as the basis for [REDACTED] requests for leave and extensions of the telecommuting arrangement; and (4) [REDACTED] had lied to an OIG investigator under oath about (i) the telecommuting arrangement; and (ii) the need to relocate [REDACTED] mother to and from medical facilities in [REDACTED] and Virginia.

With regard to the address [REDACTED] provided on the telecommuting agreement dated June 22, 2009 [REDACTED] stated that at the time [REDACTED] decided to relocate to [REDACTED] [REDACTED] had not yet established an address there. For purposes of the agreement, [REDACTED] stated, [REDACTED] provided the address of a friend of [REDACTED] who had recently relocated to [REDACTED]. After the investigator indicated that the OIG had developed evidence that [REDACTED] had never resided at the [REDACTED] address or worked from there [REDACTED] admitted that [REDACTED] had never stayed at the [REDACTED] address. Rather, [REDACTED] stated that after arriving in [REDACTED] sometime in mid- to late-July 2008, [REDACTED] stayed in a motel for a few nights, until [REDACTED] signed a lease for an apartment at [REDACTED]. [REDACTED] stated that [REDACTED] moved to [REDACTED] by [REDACTED], and except for [REDACTED] who lived in [REDACTED] did not know anyone else there. [REDACTED] admitted that, contrary to what [REDACTED] told [REDACTED] supervisor, [REDACTED] did not relocate to [REDACTED] with [REDACTED] then [REDACTED] stated that [REDACTED] had ended their engagement and their relationship in late April or May 2008, and [REDACTED] had not visited [REDACTED] during the period of time [REDACTED] lived there. [REDACTED] indicated that it was an oversight on [REDACTED] part that [REDACTED] neglected to inform her supervisor that [REDACTED] was not, in fact, telecommuting from the [REDACTED] address and to provide him with a correct address.

[REDACTED] explained that after [REDACTED] suddenly and inexplicably ended their relationship last April, [REDACTED] decided [REDACTED] needed to leave the area entirely to avoid having a nervous breakdown. [REDACTED] indicated that [REDACTED] moved to [REDACTED] alone and lived alone during the entire time [REDACTED] was there. [REDACTED] admitted that no one at NCUA knew at any time that [REDACTED] was not in fact working at the [REDACTED] address. [REDACTED] stated that [REDACTED] chose [REDACTED] because at some point during [REDACTED] relationship with [REDACTED] there was a possibility that [REDACTED] job might relocate there, and they had discussed moving there together. However, as noted above, [REDACTED] confirmed that [REDACTED] neither moved to [REDACTED] with [REDACTED] nor lived with [REDACTED] there.

After the OIG investigator informed [REDACTED] that [REDACTED] had spoken with [REDACTED] mother's employer as well as [REDACTED] mother, [REDACTED], on April 8, 2009, [REDACTED] admitted that (1) [REDACTED] mother had neither had a stroke nor been ill; (2) [REDACTED] was not in [REDACTED] in June

2008 caring for [REDACTED] mother; (3) [REDACTED] mother was never in a medical facility in [REDACTED]; and (4) [REDACTED] mother was never in a medical facility in Virginia. [REDACTED] stated that [REDACTED] had lied to [REDACTED] supervisor so that [REDACTED] would grant leave requests, go forward with the negotiated

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**REPORT OF INVESTIGATION**

CASE NUMBER: 09-I-R9-01

telecommuting arrangement, and allow [REDACTED] to remain in [REDACTED] in a telecommuting status. [REDACTED] also admitted that [REDACTED] statements to the OIG Investigator at the investigative interview on February 26, 2009, regarding [REDACTED] reason for requesting to telecommute in [REDACTED] and the arrangements to relocate [REDACTED] mother between medical facilities in [REDACTED] and Virginia, were false. [REDACTED] continued to insist that the back injury [REDACTED] claimed at that time was legitimate, even if [REDACTED] need to have [REDACTED] care for [REDACTED] was not. The OIG was unable to develop evidence to determine unequivocally whether the back injury was legitimate or not.

**FINDINGS**

The investigation revealed that [REDACTED] actions constituted violations of the following:

- 18 U.S.C. 1001—*False Statements*
- The *Standards of Ethical Conduct for Employees of the Executive Branch*, 5 CFR 2635.704 - *Use of Government Property*
- The *Standards of Ethical Conduct for Employees of the Executive Branch*, 5 CFR 2635.101(a) and (b)(1), (b)(9), and (b)(14)- *Basic Obligations of Public Service*
- *NCUA Computer Security Rules of Behavior*
- *NCUA Instruction 1200.8 (Rev. 2) - Telecommuting*
- *Agreement for Telecommuting* dated June 22, 2008, executed between Reilly and Michael Kole, Director – OCFO/DPFM.

In reviewing the circumstances surrounding [REDACTED] violations and determining whether disciplinary action is warranted, due consideration should be given to the "Douglas" factors.<sup>1</sup> The "Douglas" factors are the pertinent mitigating and aggravating factors that must be considered by the responsible agency official(s) before proposing or deciding on a particular disciplinary measure or penalty.

<sup>1</sup> See Douglas v. Veteran's Administration, 5 MSPR 280, 5 MSPB 313 (1981).

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## National Credit Union Administration

Office of Inspector General

May 13, 2009

Mr. Andrew O'Connell  
Assistant Director, GAO FraudNet Operations  
Forensic Audits & Special Investigations  
441 G Street, NW, Suite 4T21  
Washington, D.C. 20548

Re: GAO Referral Control No. 53154

Dear Mr. O'Connell:

This is in response to the above referenced complaint, dated March 3, 2009, which you forwarded to the National Credit Union Administration (NCUA) Office of Inspector General (OIG). The referral enclosed an anonymous internet submission alleging that NCUA staff made "false statements, certifications, etc.," when the agency recently revised NCUA Form 5310 - *Statistical and Financial Evaluation (SAFE) System* (Form 5310), for the January 31, 2009, reporting period, "without any OMB paperwork reduction act certification." The anonymous letter goes on to state that "NCUA habitually disregards the OMB paper reduction act requirements and frequently circumvents the requirements by requiring daily submission of lists of data without use of a form."

We found that NCUA has an active Paperwork Reduction Act (PRA), 44 U.S.C. 3501, et seq., submission on file for Form 5310 with the Office of Management and Budget (OMB). OMB approved NCUA's PRA submission for Form 5310 on September 13, 2007.<sup>1</sup> The approval expires on September 30, 2010.

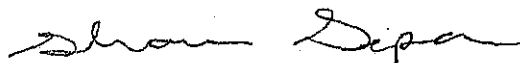
According to Sheila Albin, NCUA's Associate General Counsel (Operations), the agency made the changes to Form 5310 in January 2009, so that the information collection would conform to very recent *Generally Accepted Accounting Principles (GAAP)* requirements. Ms. Albin explained that the changes to the form were relatively minor, but indicated that the addition of a new section to the form, to track payments systems, should have been processed as a revision to the existing form under the PRA. Ms. Albin opined further that the new collection might have qualified for an emergency clearance, given the current economic situation and the ensuing demands on the corporate credit union system.

<sup>1</sup> OMB Control No. 3133-0067.

NCUA's Office of Corporate Credit Unions (OCCU) has indicated that it is in the process of assembling a submission to OMB to meet the PRA requirements for the additional collection of information on Form 5310. We anticipate that this submission will be sufficient to address your referral.

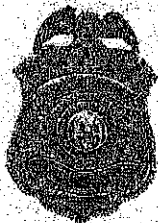
If further information is required, or if you have any specific questions related to this matter, please contact me at (703) 518-6352.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sharon Separ".

Sharon Separ  
Acting Assistant Inspector General for Investigations  
Counsel to the Inspector General





NATIONAL CREDIT UNION ADMINISTRATION  
Office of the Inspector General  
Investigations Division

09-129-08

INVESTIGATIVE MEMORANDUM

MEMORANDUM TO: File  
FROM: [REDACTED] (b)(6)  
[REDACTED] (b)(7)(C)  
SUBJECT: Misuse of Government Email  
DATE: June 26, 2009

BACKGROUND

On April 23, 2009, the Office of Inspector General (OIG) received a referral from Mr. Andrew O'Connell, Assistant Director, United States Government Accountability Office (GAO) FraudNet Operations, Washington, D.C. The referral was based on an Internet submission to GAO's FraudNet (Hotline) from an anonymous source alleging that "an employee from the National Credit (sic) Union Administration is using his/her government email address to run a business." The referral identified a test preparation ebusiness website [REDACTED] and included the provider's contact information as [REDACTED]

ACTIVITY

Upon reviewing the GAO FraudNet referral and the referenced website, Sharon Separ, Counsel to the Inspector General determined that the website included the email of an NCUA employee, [REDACTED]. On June 3, 2009, [REDACTED] advised [REDACTED] that the OIG had received the referral from GAO FraudNet and that the newly-hired OIG Director of Investigations, who was scheduled to begin work on June 8, 2009, would conduct an inquiry into the matter.

Separ submitted the case file to the Reporting Agent (RA) within a day or two of [REDACTED] hire date. The RA reviewed the website on June 10, 2009, and found that Peterson had by this time changed the email contact information to a personal account on all pages of the website except for one. The page still containing the NCUA email was "Why

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██████████?" The email address on this page was only visible if the reader scrolled down to the lower portion of the page.

On June 17, 2009, the RA spoke with ██████████ about this matter. After informing ██████████ that ██████████ personal email was still on one of the website pages, ██████████ told the RA that ██████████ thought he had already deleted that entire area of ██████████ webpage, prior even to ██████████ discussion with Separ, as ██████████ no longer offers the services advertised in that section. The RA showed ██████████ NCUA Instruction, No. 1235.00 (REV), dated October 8, 1997, entitled "Use of Government Property." ██████████ stated that while ██████████ did not specifically remember reading this Instruction, ██████████ could see that the Standards of Conduct language in the Instruction would apply to ██████████ use of his government email address on the ██████████ website. The relevant language is as follows:

The NCUA hereby authorizes limited personal use of NCUA government property by NCUA employees as long as such use does not adversely affect an employee's performance of official duties; there is negligible cost to NCUA; and the use is not for the benefit of an employee's outside business interests.

(Emphasis added.)

██████████ acknowledged that this prohibition would apply to ██████████ using his government email on the ██████████ website. ██████████ acknowledged that as soon as Separ raised the issue with ██████████ realized it was a bad decision to reference ██████████ government email on the website and that; consequently, ██████████ changed all of the references to it that evening. ██████████ indicated that the one remaining reference to ██████████ NCUA email address, on what ██████████ identified as an obsolete page, was an oversight. ██████████ asserted that ██████████ would remove the last reference to his NCUA email that evening.

The RA reviewed the ██████████ website the following day, June 18, 2009, and found no remaining references to ██████████ NCUA email address.

On July 6, 2009, the RA sent a written response to O'Connell advising him of the disposition of this matter.

#### STATUS

This preliminary inquiry is closed with no further action.

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## National Credit Union Administration

Office of Inspector General

July 6, 2009

Mr. Andrew O'Connell  
Assistant Director, GAO FraudNet Operations  
Forensic Audits & Special Investigations  
441 G Street, NW, Suite 4T21  
Washington, D.C. 20548

Re: GAO Referral - Control No. 53454

Dear Mr. O'Connell:

This is in response to the above referenced complaint forwarded to the National Credit Union Administration (NCUA) Office of Inspector General (OIG) dated April 23, 2009. The complaint alleged that an NCUA employee was wasting government resources by using his NCUA email address on a person, business website.

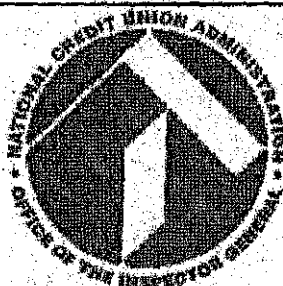
We found that the website in question, [REDACTED] did contain several links to a NCUS email account. The employee was counseled on the relevant NCUA Instruction regarding Use of Government Property and promptly removed all references to [REDACTED] NCUA email address from [REDACTED] website.

If further information is required, or if you have any specific questions related to this matter, please contact me at (703) 518-6358.

Sincerely,

[REDACTED]

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## MANAGEMENT IMPLICATION REPORT

### Subject:

Accretion of Duties Promotion Action

### Type of Report:

<input type="checkbox"/>	Preliminary
<input checked="" type="checkbox"/>	Final
<input type="checkbox"/>	Supplemental

### CHARACTER OF REVIEW

Based on a referral to the National Credit Union Administration (NCUA) Office of Inspector General (OIG) from NCUA Deputy Executive Director Larry Fazio, this office initiated an investigation into allegations that the NCUA OHR did not adhere to U.S. Office of Personnel Management (OPM) regulations and agency policy in processing an accretion of duties promotion action for an OHR Human Resources Specialist from the CU-12 to the CU-13 level.

### SUMMARY OF REVIEW

On July 14, 2009, the reporting agent (RA) met with Fazio in his office. Fazio had met recently with OHR employees and heard from more than one person that, in October 2007, an OHR Human Resources Specialist received a promotion to the CU-13 level through an accretion of duties promotion that was not handled in the standard manner. Fazio referred the matter to the OIG for a determination of whether OHR followed appropriate OPM regulations and agency policy for effecting the accretion of duties promotion action.<sup>1</sup>

The OIG's review of the matter found that, in accordance with OPM regulations and guidance, OHR should have maintained a better record of the promotion action sufficient to reconstruct it. We also found that while OHR adhered to existing agency procedures for documenting accretion

<sup>1</sup> None of the OHR employees Fazio spoke with questioned that the position warranted the promotion to the CU-13 level. Rather, the issue raised was whether the OHR officials who handled the processing of the promotion followed appropriate OPM regulations and agency policy. The OIG found no reason to challenge the evaluation of and justification for the promotion itself. Consequently, the OIG restricted its review to OHR's adherence to OPM regulations and the adequacy of NCUA policy and procedures applicable to this type of action.

Distribution	Case Number:	Date of Report:
OIG MIR File	09-MIR-R9-09	December 16, 2009
David M. Marquis Executive Director	Special Agent A [REDACTED]	(b)(6) (b)(7)(C)
Larry Fazio Deputy Executive Director Acting Director OHR	Inspector General William Desarno [Signature]	

## MANAGEMENT IMPLICATION REPORT

of duties promotion actions, those procedures did not allow for sufficient reconstruction of the action. We recommend, therefore, that OHR revise Chapter 3 of the NCUA Personnel Manual to delineate more specifically what documentation should be maintained for accretion of duties promotion actions. This will allow for a more thorough reconstruction of these actions, as required by OPM, in the future.

Moreover, we found that in this case, the same individual—the employee's supervisor—requested and evaluated the position. While the OIG found that the overall integrity of the evaluation was not ultimately compromised, the failure to separate those functions raised the appearance of a conflict of interest. Consequently, we also recommend that, in the future, when OHR is in the position of requesting and evaluating an accretion of duties promotion action for an OHR employee, it should maintain a separation between the respective roles of the supervisor requesting the action and the OHR specialist evaluating the position.

### FINDINGS

#### OPM Regulations

The OPM regulations at 5 CFR §335.103(a) provide that agencies may make promotions when "[t]he agency has adopted and is administering a program designed to insure a systematic means of selection for promotion according to merit." With regard to promotion actions generally, OPM requires agencies to "establish procedures for promoting employees that are based on merit" and to "maintain a temporary record of each promotion sufficient to allow reconstruction of the promotion action." 5 CFR § 335.103(b)(1) and (5), respectively.

OPM distinguishes between competitive and non-competitive promotion actions. With regard to the latter, OPM permits agencies to:

[a]t their discretion except the following action[s] from competitive procedures of this section:

...

A promotion resulting from an employee's position being classified at a higher grade because of additional duties and responsibilities.

5 CFR §335.103(c)(2)(ii). This is referred to as an "accretion of duties" promotion and is the category which applies to the promotion action that is the subject of this review.

Elsewhere in the regulations and in OPM guidance generally, OPM delineates the types of documentation that should be routinely maintained for non-competitive promotion actions. They include but are not limited to the following:

- Drafts of the new position description;
- A copy of the old position description;
- Completed certification and evaluation documentation (evaluation statement, desk audit material including interviews with the supervisor and employee, etc.); and
- SF 52 (Request for Personnel Action).

## MANAGEMENT IMPLICATION RE: JRT

### NCUA Personnel Manual

Chapter 3 of the NCUA Personnel Manual, titled "Merit Promotion Plan," describes the policies and procedures NCUA observes in selecting employees for advancement to higher-graded positions in the competitive service by competitive examinations. The plan also describes exceptions to competitive promotion procedures. Specifically, ¶ 7 of Chapter 3 discusses personnel actions that may be excepted from the competitive examination requirement. These are referred to as "discretionary actions." Paragraph 7.e. provides the following:

**e. Promotion resulting from reclassification.** NCUA may noncompetitively promote employees whose positions have been classified at a higher grade because of additional duties and responsibilities. Changes in the job must be due to the employee's impact on the job or evolution of the work performed on the job over time, and not the result of a planned management action.

Paragraph 9 of Chapter 7, titled "Conducting Merit Promotion Examinations," describes OHR's and Management's responsibilities, respectively. Paragraph 9.a.6 sets forth OHR's responsibility to document the merit promotion process, including the requirement to "maintain records needed to reconstruct actions." Finally, the final paragraph (¶ 13) of Chapter 7, provides that in the case of exceptions to the merit promotion plan, the Director, OHR, may approve such exceptions and that "[a]pproval or disapproval of the justifications for these decisions will be made part of the official merit promotion case file."

### Evaluation of the Position

In interviews with various OHR supervisors and specialists, we learned that the unusual circumstances of this particular action resulted in the same individual—the employee's supervisor—requesting the promotion<sup>2</sup> and doing the evaluation work to support it. Normally, the supervisor and other OHR specialists informed us, the supervisor requesting the accretion of duties promotion and the OHR specialist conducting the evaluation are two distinct individuals, even when the action originates in OHR and involves an OHR employee. The supervisor explained to the RA that throughout 2007, because of the heavy work load, OHR was diverting almost all NCUA classification/reclassification work (including accretion of duties promotions) to an outside contractor for processing. In this case, the supervisor explained, the then-OHR Director<sup>3</sup> authorized her [the supervisor]—based on her [the supervisor's] more than a quarter century of experience doing federal classification work—to handle the evaluation and desk audit for the subject promotion action. The rationale for this arrangement, we learned, was that it would be more expedient for the supervisor requesting the action to do the evaluation because she knew firsthand the duties and the evolution of the position at issue, as well as had a wealth of classification experience to draw from. As mentioned above, while we found no basis for challenging the integrity of the supervisor's evaluation of and ultimate justification for the promotion, we believe that the double encumbrance of roles in one individual raised the appearance of a conflict of interest and provoked undue consternation within OHR ranks.

<sup>2</sup> Per the SF 52.

<sup>3</sup> Former OHR Director Kathy Sachen-Gute retired in 2009 prior to the time this matter was referred to the OIG.

## MANAGEMENT IMPLICATION REPORT

### Recordkeeping

OHR specialists explained to us that, in cases of non-competitive promotions, OHR does not maintain a "merit promotion file" as it does for competitive actions. Rather, specialists informed us, the evaluation statement and other documents pertaining to the desk audit of the position, as well as the SF 52, are attached to the new position description (PD) for the position, and filed in "PD Books" maintained in OHR.

In this case, as discussed above, the requesting supervisor also evaluated the position. As a result, there was no supervisor/employee interview to document. While we understand that this would seem a redundant exercise (because the supervisor was the evaluator and also knew firsthand the employee's increased responsibilities), normal OHR procedure would have required both interviews and the documentation memorializing them, respectively.

The RA also requested any and all documents maintained for the subject promotion in order to "reconstruct" the action, as required by OPM regulations and NCUA policy. The supervisor and other personnel specialists informed us that there was no "single" file containing this information. Rather, we were able to obtain, in a piecemeal fashion only, the following documentation:

- An unsigned draft of a memorandum, dated July 2007, from Sachen-Gute, then OHR Director, to the then-NCUA Executive Director requesting authorization to pursue several personnel actions in OHR, including the promotion action at issue herein, with a brief justification;
- Various emails referring to the promotion for Dunn between OHR and the Office of the Executive Director;
- The new PD for the position;
- An SF 52 for the position; and
- A brief evaluation statement.

The RA's review of the PD book revealed only the cover sheet for the new PD and the PD itself. At the time of her review, the evaluation statement for the position had not been appended to the PD. Finally, a thorough search of the OHR Director's office and files for additional information, including a final version of the July 2007 memo, uncovered no documentation pertaining to the subject action.

Overall, we found that OHR's recordkeeping practices for this action were disorganized and incomplete, such that it was not possible to sufficiently reconstruct the action. Moreover, the RA's cursory review of the PD Book revealed that other PD's filed in the book consisted of extremely varied supporting documentation—some included only the most basic facts about the classification to no records at all for existing positions.

### DESCRIPTION OF SYSTEMIC DEFICIENCY

As discussed above, Chapter 3 of the NCUA Personnel Manual addresses non-competitive, discretionary promotion actions and requires OHR to "maintain records needed to reconstruct actions." NCUA Personnel Manual, Ch. 3, ¶ 9.a.6. The Personnel Manual does not, however,

NCUA Inspector General - Investigations

## MANAGEMENT IMPLICATION REPORT

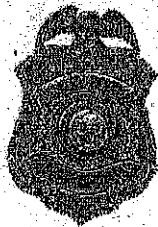
delineate what types of documents should be produced and maintained to reconstruct accretion of duties promotion actions. In the course of our review, we looked at other agencies' recordkeeping requirements for these types of non-competitive promotions, and found that the majority stated specifically what documents should be produced and maintained in accretion of duties promotion case files. Moreover, in the course of our interviews with OHR personnel and our review of OHR files, we learned that in this case and in general, OHR's recordkeeping practices for accretion of duties promotions were inconsistent and incomplete.

We also found that OHR lacked a "separation of duties" policy for effecting accretion of duties promotion actions within OHR, especially where there were overlapping interests and working relationships. This situation risks replication because the OHR staff currently consists of 28 employees overall, 4 of which are directors/ supervisors, and no more than 5 of which do classification work. The lack of an articulated separation of duties policy resulted in, we believe, unnecessary dissension and disruption among OHR staff.

### CORRECTIVE RECOMMENDATION

We recommend that the NCUA OHR create more detailed policies and procedures for accretion of duties promotion actions. In particular, the procedures should specify: (1) what documentation needs to be created and maintained for each action to adequately reconstruct the process; and (2) where and in what format the documents will be maintained. The procedures should be drafted in such a way to ensure the greatest recordkeeping consistency for this type of action. Finally, we recommend that in the case of accretion of duties promotion actions for OHR employees, OHR design a policy to ensure that there is a clear separation of duties between the supervisor requesting the action and the OHR specialist handling the reclassification.





NATIONAL CREDIT UNION ADMINISTRATION  
Office of Inspector General  
Investigations Division

09-P1-R9-14

INVESTIGATIVE MEMORANDUM

MEMORANDUM TO: File

FROM: [REDACTED]

SUBJECT: [REDACTED]

DATE: January 20, 2010

BACKGROUND

On November 2, 2010, the Office of Inspector General (OIG) received a complaint from [REDACTED]

[REDACTED]. The complaint was based on a letter received by [REDACTED] from [REDACTED]

The letter, dated September 16, 2009 alleged retaliation against [REDACTED] by NCUA examiners and [REDACTED]. Specifically, the complaint alleged [REDACTED] directed [REDACTED] to deliver a message that "NCUA would not support [REDACTED] in any manner if I continued to talk with the media." [REDACTED] "inferred this as a threat of retaliation if I did not begin marching to the NCUA drumbeat."<sup>1</sup>

ACTIVITY

On November 2, 2009, the Reporting Agent (RA) initiated a preliminary inquiry into the matter. This inquiry encompassed interviews with NCUA staff and a review of relevant files and documentation.

<sup>1</sup> September 16, 2009, Letter to [REDACTED] from [REDACTED]

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On November 13, 2009, the RA interviewed [REDACTED]. According to [REDACTED] had discussed [REDACTED] media comments with [REDACTED], because [REDACTED] wanted [REDACTED] to make [REDACTED] aware that because of the current climate, everything related to Corporate Credit Unions is monitored by NCUA, including the Board. In order to adequately respond to inquiries raised by the comments, NCUA has to be prepared. Most Corporate Credit Unions are conscious of the fact that when they go to the press, NCUA is often contacted by the media for a response. Therefore, most will give NCUA a "heads up". As an example of the communication suspected to be from [REDACTED] that NCUA was unaware of prior to seeing it in the media; [REDACTED] referenced a law suit filed by [REDACTED] against officials from the former [REDACTED]. Details of the suit were reported in the press prior to suit even being served. This left NCUA without the ability to respond with specificity to the allegation in the suit.

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On November 16, 2009, the RA interview [REDACTED] addressed [REDACTED] accusation that [REDACTED] comments were being monitored by the agency "even at the NCUA Board level" and that [REDACTED] actions were "not being well received" by the federal government since [REDACTED] was being critical of the practices of some of those in the "corporate network". [REDACTED] agreed with the substance of [REDACTED] statement. [REDACTED] stated that [REDACTED] had tried to make [REDACTED] understand that when [REDACTED] commented in the press, NCUA must monitor because they are often asked for a reaction. In addition, [REDACTED] tried to stress that [REDACTED] actions, [REDACTED]

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Glenn Trent  
January 7, 2009

[REDACTED] denied "delivering the message purportedly from [REDACTED]" that "NCUA would not support [REDACTED] in any manner if I continued to talk with the media."<sup>3</sup> In fact, [REDACTED] pointed out that NCUA continued to support [REDACTED] with senior level [REDACTED] and regular supervision contacts to make progress on the DOR items. [REDACTED] opined that [REDACTED] could have been referring to the possibility that NCUA would drop [REDACTED] from share guarantee program. The possibility had been discussed within NCUA, if [REDACTED] continued to market the higher dividend rate. However, no steps had been taken to remove them from the program.

The RA reviewed Letter of Understanding and Agreement between The National Credit Union Administration Board and [REDACTED] pertaining to the Temporary Corporate Credit Union Share Guarantee Program (TCCUSGP), dated May 29, 2009. The RA found that NCUA "Board may terminate CORPORATE's participation in the TCCUSGP at any time and at BOARD's discretion. Termination will be by written notice issued to the corporate credit union and published on NCUA's website, and the termination will be effective seven days after publication."<sup>4</sup> As noted above, no action had been taken to terminate [REDACTED] participation in the TCCUSGP.

#### FINDINGS

Based on the results of the preliminary inquiry, we found insufficient evidence to substantiate the allegation of retaliation against [REDACTED]

#### STATUS

This preliminary inquiry is closed with no further action.

<sup>3</sup> September 16, 2009, Letter to [REDACTED] from [REDACTED].

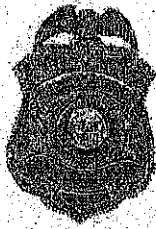
<sup>4</sup> [REDACTED]  
[REDACTED]  
[REDACTED] on.

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(b)(8)



NATIONAL CREDIT UNION ADMINISTRATION  
Office of Inspector General  
Investigations Division

INVESTIGATIVE MEMORANDUM

MEMORANDUM TO: File

FROM: [REDACTED]

SUBJECTS: [REDACTED]

CASE NUMBER: 09-PI-R9-16

DATE: February 22, 2010

BACKGROUND

On August 11, 2009, the OIG mailbox received the following complaint from [REDACTED]

*I would like to file a complaint of misconduct/unethical behavior against the following:*

[REDACTED]  
[REDACTED]

Attached to the email complaint was an "Order of Recusal," dated January 5, 2009, [REDACTED]

The Order was signed by Administrative Law Judge [REDACTED] and stated as follows:

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(Emphasis added.)

█████ stated █████ view that under this Rule, █████ had every right to file a motion for summary disposition when he did. █████ also referred to NCUA's May 30, 2008, "Notice of Charges," which referenced §747.29(b)(1) and the right of either party to "move at any time for summary disposition in its favor of all or part of this proceeding." That Notice provided further that if either party moved for summary judgment, the hearing "shall be held no earlier than sixty (60) days following the ALJ's ruling on that motion."

In his December 17, 2008 "Order on Notice, the judge stated that neither the mandate for summary judgment nor for a continuance were "countenanced by the Uniform Rules of Practice and Procedure jointly adopted by the federal banking agencies or the NCUA's Rules of Practice." Judge █████ stated further that █████'s "attempted rule change is inconsistent with NCUA's customary practice" and "constitutes an attempt to invalidly amend the NCUA's Rules of Practice and therefore shall not be binding in this proceeding."

█████ related to the RA █████ belief that, based on this Order, the judge would not grant the continuance motion that █████ planned to file. Consequently, █████ supervisor, NCUA General Counsel Robert Fenner, composed the December 17, 2008 BAM. As stated above, the Board voted unanimously to approve the BAM and it was certified by █████ on December 18, 2008. Accordingly, on December 19, 2008, █████ filed a motion to continue the hearing originally scheduled for January 6, 2009. By Order dated December 31, 2008, Judge █████ denied that motion.

On January 2, 2009, after learning that █████ motion for a continuance had been denied, █████ forwarded to █████ a previous email message, dated December 18, from █████ That email stated:

*Here is █████'s message informing us that Board unanimously approved by notation vote the Order Continuing the Hearing Date. █████<sup>2</sup>*

Subsequently, █████ signed an "Order Continuing Hearing Date" dated January 2, 2009, in █████ capacity as █████ of the Board. The order provided:

<sup>2</sup> December 18, 2008, email from █████, Subject: Notation Vote - █████  
█████ forwarded this email to █████ on January 2, 2009.

(b)(7)(C)

January 29, 2010

NOW, THEREFORE, it is hereby ORDERED that the evidentiary hearing in this matter is continued until at least 60 days following the ALJ's ruling on the pending motion for summary disposition.

██████████ stated that shortly after this order was issued, the ALJ issued ██████████ Order of Recusal on January 5, 2009. In that Order, Judge ██████████ stated that on January 2, 2009, ██████████ "while out of the office on vacation," called ██████████ [the ALJ's] office to ascertain whether the hearing was still scheduled for January 6. Upon learning that it was, the ALJ stated further, ██████████ then contacted the NCUA ██████████ seeking a continuance order. In his recusal order, Judge ██████████ characterized ██████████ contacting ██████████ as a "verbal ex parte discussion" that resulted in the issuance of the January 2, 2009, Order. Judge ██████████ went on to state:

*In one fell swoop, based on an ex parte telephone call from ██████████ who was on vacation, the ██████████ the NCUA Board overturned three uncontested Orders of the undersigned ALJ. The action of the ██████████ completely and totally disregards the separation of an Agency's prosecutorial, adjudicatory, and appeal functions as recognized and required by the APA. It conveys the unmistakable message to the Respondent that the NCUA Board believes the ALJ is a mere tool of the agency and is subservient to ██████████ in directing and controlling the course of this adjudication.*

██████████ objected to this language, stating that it made it seem as if ██████████ were on a tropical island somewhere and picked up the phone to subvert the judge's authority. In fact, ██████████ explained, while ██████████ was on approved leave, ██████████ was in town and not on a vacation that would have necessitated the change in the hearing date, as the judge implied. ██████████ explained further that the BAM preceded ██████████ communication with ██████████ and there was no way for the ALJ to be aware of the BAM, because it is not a public document. Without that background information the ALJ, ██████████ opined, believed that ██████████ had acted in ██████████ own self interest to "prevail upon the NCUA Board to intervene in the matter" and order a continuance so that ██████████ would not have to return from vacation for the hearing. ██████████ emphasized again that ██████████ was in town and would have been available to appear at the hearing.

██████████ confirmed ██████████ account of the issuance of the Order. ██████████ indicated that ██████████ role in issuing the order was purely administrative. ██████████ merely signed the Order as approved by the Board vote of December 18, 2009, as required in ██████████ capacity as the ██████████ of the Board.

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09-I-R9-16  
January 29, 2010

██████████ stated ██████████ belief that the type of NCUA internal communications ██████████ and ██████████ engaged in did not constitute a prohibited *ex parte* communication. *Ex parte* communications are defined in 12 C.F.R §749.9(a) as:

*[a]ny material oral or written communication relevant to the merits of an adjudicatory proceeding that was neither on the record nor on reasonable prior notice to all parties that takes place between –*

- (i) *An interested person outside the NCUA (including such person's counsel); and*
- (ii) *The administrative law judge handling that proceeding, the NCUA Board, or a decisional employee.*

(Emphasis added.)

We adduced no evidence to support the conclusion that ██████████ and ██████████ communications constituted prohibited *ex parte* communications. The communications neither went to the merits of the matter, nor involved an interested person outside the agency. Moreover, it is noteworthy that the ALJ had at ██████████ disposal, the ability to administer sanctions if ██████████ believed a prohibited *ex parte* communication had occurred, and ██████████ did not.

#### FINDINGS

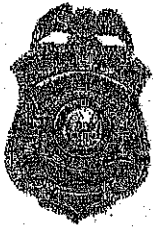
The OIG's inquiry into this matter did not find any evidence of misconduct or unethical behavior by ██████████

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Form OI-16D  
07/2008

Office of the Inspector General – Investigations  
National Credit Union Administration

(b) (6)  
(b) (7) (C)



NATIONAL CREDIT UNION ADMINISTRATION  
Office of Inspector General  
Investigations Division

REPORT OF INVESTIGATION

DATE OF REPORT: August 18, 2010

CASE NUMBER: 09-I-R9-11

CASE TITLE:

[REDACTED]

(b)(7)(C)  
(b)(6)

VIOLATIONS:

The *Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture*, 5 CFR Part 2634, Subpart I - *Confidential Financial Disclosure Reports*

*Standards of Ethical Conduct for Employees of the Executive Branch - Basic Obligations of Public Service*, 5 CFR §§ 2635.101(a) and (b)(1), (12), (14)

DISTRIBUTION:

Chief Information Officer Douglas Verner

Executive Director David Marquis

OHR Director Lorraine Phillips

CASE AGENT:

[REDACTED]

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(Signature)

APPROVED:

William A. DeSarno  
Inspector General

(Signature)

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BACKGROUNDSuspicious Activity Report

On July 31, 2009, the Office of Inspector General (OIG) received notification from [REDACTED] Special Agent, Federal Reserve Board, acting in [REDACTED] capacity as a member of a Federal Bureau of Investigation (FBI) white collar crime task force, that the [REDACTED] Federal Credit Union [REDACTED] had filed a Suspicious Activity Report (SAR) dated July 9, 2009, naming [REDACTED]

[REDACTED] as a suspect. The same SAR also identified two additional individuals as suspects: [REDACTED] and [REDACTED]. The SAR indicated that the date range of the suspicious activity was from August 28, 2007, to July 9, 2009. The SAR form characterized the suspicious activity on the part of [REDACTED] as (1) Bank Secrecy Act/Structuring/Money Laundering and (2) Consumer Loan Fraud. All three [REDACTED] were members of the credit union.

The [REDACTED] initially investigated potential criminal violations on the part of [REDACTED] beginning in 2006, when [REDACTED] defaulted on the repayment of loans from [REDACTED]. On the FCU loan applications, [REDACTED] identified [REDACTED] employer as [REDACTED] [REDACTED]. Official state records indicated that [REDACTED] was located at [REDACTED] and that [REDACTED] and [REDACTED] as well as a third person named [REDACTED], were the owners and principal officers of [REDACTED]. [REDACTED] was in the business of selling cars. For the purposes of this investigation, we did not focus on the [REDACTED] allegations against [REDACTED] except as they implicated [REDACTED].

[REDACTED] alleged in the SAR that it believed that [REDACTED] had never been employed by [REDACTED] and, therefore, "loan fraud had been committed on the [REDACTED] loan account by the submission of false employment history and a falsified [REDACTED] paystub, and that [REDACTED] and/or [REDACTED] may have assisted in the commission of this crime." SAR (Exhibit 1) at 3.

[REDACTED] also alleged on the SAR that in late 2007, [REDACTED], as co-borrowers, applied for a line of credit (LOC) and a credit card. The credit union informed the RA that these were personal loans, not member business loans. [REDACTED] indicated that it approved the LOC application for \$30,000 and the credit card for \$20,000 based on [REDACTED]'s stated monthly gross incomes, respectively. The SAR reported further that [REDACTED] proceeded almost immediately to withdraw funds from the LOC and to make cash advances on the credit card.<sup>1</sup> The SAR stated that

<sup>1</sup> The SAR stated that:

[a]ccount records show that [REDACTED] utilized the LOC by transferring \$22, 003.82 to [REDACTED] checking account, then with an immediate cash withdrawal of \$15,000 from [REDACTED]

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CASE NUMBER: 09-I-R9-11

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February 24, 2010. (Exhibit 3). In seeking the status of [REDACTED] most recent background and security clearance, the RA learned that [REDACTED] was overdue in completing an SF 85P to begin the process to update [REDACTED] clearance. Consequently, [REDACTED] Human Resources Specialist, NCUA Office of Human Resources (OHR) contacted [REDACTED] and had [REDACTED] complete an up to date SF 85P. [REDACTED] did so and certified the accuracy and completeness of the SF 85P on May 7, 2010. (Exhibit 4). At the RA's request, OHR also arranged for the Federal Investigative Services, Office of Personnel Management (OPM) to provide a current Credit Report for [REDACTED]. OPM produced a Credit Report dated May 25, 2010. (Exhibit 5). The credit check report showed that when the report was run on May 25, 2010, [REDACTED] owed more than \$1,000,000 in accounts that have gone to collection or foreclosure. All of the debts detailed on the credit report were owed to financial institutions.

#### Taxation Records and Legal Judgments

In conducting the investigation, the RA obtained the following additional documentation:

1. Maryland Department of Assessments and Taxation records for two limited liability companies (LLC) established by [REDACTED] and others: (1) [REDACTED]; and (2) [REDACTED].<sup>4</sup> (Exhibit 6)
2. Two judgments against [REDACTED] issued by the Circuit Court of [REDACTED] as follows:
  - a. on April 2, 2010, the court entered a judgment against [REDACTED] as Defendant, in favor of [REDACTED], in the amount of \$224,651.43; and
  - b. on February 12, 2010, the court entered a judgment against [REDACTED] as Defendant in favor of Suntrust Bank in the amount of \$58,007.12. (Exhibit 7)
3. [REDACTED] tax records for two properties—[REDACTED] for fiscal years 2004 – 2011<sup>5</sup> and [REDACTED] for fiscal years 2007 – 2011—where [REDACTED] interchangeably identified each as [REDACTED] primary address (Exhibit 8). Specifically, prior to July 2008, [REDACTED] reported the address at [REDACTED] as [REDACTED] principal residence. After July 2008, [REDACTED] reported the [REDACTED] address as [REDACTED] principal residence.

<sup>4</sup> The Articles of Organization for [REDACTED] indicate that it was formed on July 14, 2005, for "operation as a for-profit Company associated with [REDACTED]". The Articles of Organization for [REDACTED] indicate that it was formed on July 13, 2004, for "operation as a for-profit Company associated with [REDACTED]".

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4. A pending foreclosure action on the [REDACTED] property which named both [REDACTED] and [REDACTED] as the owners and residents. The Notice of Intent to Foreclose is dated May 26, 2009. The foreclosure action stated the outstanding debt on the property as \$574,356.56. This file contains a Refinance Deed of Trust, executed by [REDACTED] and [REDACTED] on October 25, 2007<sup>6</sup>. (Exhibit 9)

In examining the information contained in records listed just above, the RA found that they did not comport with information [REDACTED] provided on his OGE Forms 450 and SF 85P. For example, if [REDACTED] owned two properties during any given reporting period, there was a presumption that one of them was a real estate investment, which [REDACTED] should have reported as an asset on the OGE Form 450. Likewise, the SF 85P asked the filer to report all residences for the preceding seven years. [REDACTED] reported only the [REDACTED] address as his residence during the designated time periods.

Moreover, Part III of the OGE 450—Outside Positions—requires filers to report compensated and uncompensated outside positions. The instructions for completing the form define outside positions as including "officer, director, employee, trustee, general partner, proprietor, representative, executor or consultant of any . . . corporation, partnership . . . or other business entity." Although the [REDACTED] records as well as corporate filings with the state of [REDACTED] indicated that [REDACTED] was an organizing member and partner in both [REDACTED] and [REDACTED], [REDACTED] reported neither on [REDACTED] OGE Forms 450.

Finally, Section 22 of the SF 85P, Your Financial Record, Question (a) asks: "In the last 7 years, have you, or a company over which you exercised some control, filed for bankruptcy, been declared bankrupt, been subject to a tax lien, or had legal judgment rendered against you for a debt?" [REDACTED] answered "no" to this question.

[REDACTED] suspected false statements and concealment of financial interests on the OGE Forms 450 and the SF 85P are potential violations of 18 U.S.C. §1001, False Statements. The declaration on mortgage application documents that the property on [REDACTED] was [REDACTED] principal residence could also constitute a violation of 18 U.S.C. §1344, Bank Fraud.

#### Assistant United States Attorney Contacts

The RA contacted [REDACTED], Assistant United States Attorney (AUSA) (Criminal), [REDACTED] on four occasions to discuss the potential criminal charges against [REDACTED].

<sup>6</sup> The loan amount being refinanced totaled \$406,070.22.

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April 27, 2010

On April 27, 2010 the RA telephonically briefed AUSA [REDACTED] on the following issues: (1) the loan applications co-signed by [REDACTED] as co-borrower at [REDACTED]; and (2) the suspicion that [REDACTED] may have falsified or intentionally omitted information on OGE Forms 450. AUSA [REDACTED] declined prosecution on the loan application fraud based on [REDACTED] belief that the investigation could not likely develop sufficient evidence to prosecute.

With regard to the OGE Forms 450, the RA and AUSA [REDACTED] discussed [REDACTED] failure to report the following on the OGE Forms 450: (1) the [REDACTED]; and (2) the two business entities for which [REDACTED] was an organizing member and general partner. The RA and AUSA [REDACTED] also discussed [REDACTED] outstanding debts and whether [REDACTED] was obliged to report them. AUSA [REDACTED] expressed doubt that [REDACTED] was required to report the debts on the OGE Form 450 because one of the reporting exceptions included "a loan from a financial institution or business entity granted on terms made available to the general public." Moreover, the AUSA opined that the OGE Form 450 instructions were equivocal enough to likely preclude successful prosecution for a false statement violation or [REDACTED] failure to report the second property ownership as well as the outside business interests. Consequently, AUSA [REDACTED] also declined prosecution on the issues related to [REDACTED] OGE 450 filings, advised the RA to pursue the matters administratively, and authorized the use of Kalkines warnings on these issues.

April 30, 2010

During this telephonic conversation, the RA discussed with AUSA [REDACTED] original membership application on file at [REDACTED]. On November 9, 2007, [REDACTED] applied for membership at [REDACTED] based on [REDACTED] relationship with [REDACTED] who was already a member. The RA learned that [REDACTED] had joined the CU in 2003. In the box on the application asking for [REDACTED] relationship with [REDACTED] (who was sponsoring [REDACTED] membership), the written response appears to have been "whited out." The RA sought the original, unredacted application from [REDACTED] at [REDACTED], but learned that the credit union no longer maintained that information. The RA was unable to find evidence that [REDACTED] and [REDACTED] were either immediate family members or household members, as the credit union required for membership eligibility. AUSA [REDACTED] declined prosecution on this issue and authorized the use of Kalkines warnings.

May 15, 2010

The RA again spoke telephonically with AUSA [REDACTED] on May 15, 2010. The RA informed AUSA [REDACTED] that [REDACTED] on SF 85P, only listed two of [REDACTED] debts along with the additional comment "THERE (sic) are quite a lot due to business investments. See credit report." The RA further informed [REDACTED] that [REDACTED] had answered "No" to the question: "In the last 7 years, have you, or a company over which you exercised some control, filed for bankruptcy, been declared bankrupt, been subject to a tax lien, or had legal judgment

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rendered against you for a debt?" The RA described the two judgments entered against [REDACTED] in favor of [REDACTED] and [REDACTED], respectively. Finally, the RA informed the AUSA that [REDACTED] had listed only one address as [REDACTED] primary residence on the SF 85P, even though there are multiple sources showing that he claimed a second residence during the seven year time frame covered by the Questionnaire. ASUA [REDACTED] stated that [REDACTED] would not rule out prosecution of [REDACTED] under 18 USC §1001 for the discrepancies on the SF 85P pending further development of the case.

July 13, 2010

The RA consulted telephonically with AUSA [REDACTED] again on July 13, 2010 regarding information [REDACTED] provided on his SF 85P. In addition to refreshing the AUSA's memory on evidence previously developed, the RA advised [REDACTED] of the results of the credit check run by OPM. The RA also informed AUSA [REDACTED] during this conversation that [REDACTED] had obtained the Refinance Deed of Trust for the [REDACTED] property, which [REDACTED] executed as co-borrower with [REDACTED]. Because this also conflicted with what [REDACTED] listed as [REDACTED] primary address on the SF 85P, the RA inquired whether he would be interested in prosecuting this discrepancy as a loan fraud charge.

Finally, the RA informed AUSA [REDACTED] that [REDACTED] had announced to the head of the agency [REDACTED] intention to retire in August 2010.

AUSA [REDACTED] and the RA discussed the potential for prosecution and agreed that it was in the best interest of the government for the case to proceed as an administrative investigation. AUSA [REDACTED] therefore declined prosecution on the potential false statements case (18 USC §1001) related to [REDACTED] SF 85P as well as the loan fraud charge related to the Refinance Deed. AUSA [REDACTED] authorized Kalkines warnings to be issued at the time [REDACTED] was interviewed.

In conclusion, ASUA [REDACTED] declined to pursue prosecution of [REDACTED] on any of the Federal charges considered and authorized the issuance of Kalkines warnings for the RA's interview of [REDACTED].

#### DETAILS

The RA interviewed [REDACTED] on July 21, 2010, and followed-up with additional questions on July 28, 2010. The RA read aloud the Kalkines warning as [REDACTED] followed on [REDACTED] own copy. [REDACTED] confirmed that [REDACTED] understood the warning and then signed it. (Exhibit 10) The RA placed [REDACTED] under oath.

[REDACTED] stated that [REDACTED] has worked for NCUA for more than 30 years and that he previously worked for the United States Postal Service and, prior to that, the Veterans Administration.

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[REDACTED]

[REDACTED] stated that [REDACTED] has lived in [REDACTED] for the past 10 years at the [REDACTED] address. The RA asked [REDACTED] to explain the property located at [REDACTED]. [REDACTED] explained that [REDACTED] and [REDACTED] intended the house they contracted to be built on [REDACTED] to serve as an investment property, but during construction [REDACTED] was having marital problems and [REDACTED] decided to move onto the property as soon as enough of the construction was completed. [REDACTED] reported that although [REDACTED] did not move into the house until early 2008, [REDACTED] declared it as [REDACTED] permanent residence on the Refinance Loan documents [REDACTED] executed in October 2007,<sup>7</sup> based on [REDACTED] intent to relocate there. [REDACTED] reported that [REDACTED] only lived in the property for a few months before [REDACTED] returned to the [REDACTED] address. Subsequently [REDACTED] stated, [REDACTED] partner [REDACTED] moved in and began paying the mortgage. [REDACTED] could not remember if they ever lived in the property at the same time. If they had, [REDACTED] indicated, it was only very briefly. According to [REDACTED] neither at this time nor at any other time was the property generating income. [REDACTED] stated that [REDACTED] did not include this address on [REDACTED] SF 85P because [REDACTED] lived in the house for such a short period of time. [REDACTED] acknowledged that [REDACTED] probably should have included it. [REDACTED] stated [REDACTED] just did not think it was important. [REDACTED] also explained that [REDACTED] considered asking OGC whether [REDACTED] should include it on his OGE form 450 as a reportable asset, but since it never generated any income, [REDACTED] did not feel it needed to be reported. [REDACTED] admitted that it was an oversight and stupidity. [REDACTED] stated that [REDACTED] did not take these forms very seriously.

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[REDACTED]

The RA then asked [REDACTED] to tell [REDACTED] about [REDACTED]. [REDACTED] explained that the business was started by [REDACTED] and three other partners. [REDACTED] said that it was first established in 2005 and that [REDACTED] thought they were up and running sometime in 2006. [REDACTED] stated that [REDACTED] role in the business was always one of a "hands-off" partner. [REDACTED] explained further that [REDACTED] showed up at the business at the most, a couple of times a week, usually less. [REDACTED] stated that [REDACTED] did not go to the business during [REDACTED] normal NCUA working hours. [REDACTED] explained further that the business was not making money and the other three partners dropped out [REDACTED] did not recall exactly when]. At around this time, [REDACTED] related [REDACTED] hired [REDACTED] as a [REDACTED]. In October 2007, [REDACTED] and [REDACTED] applied as co-borrowers for two accounts together at [REDACTED] a line of credit and a credit card, both for use in the business.<sup>8</sup>

<sup>7</sup> The original loan for the property was a construction loan. The Refinance Deed of Trust retired the construction loan.

<sup>8</sup> As mentioned above, [REDACTED] and [REDACTED] as co-borrowers, applied for these loans as personal loans, not member business loans. See, *supra*, at p. 2.

█████ stated that █████ did not pay attention to the income amount █████ claimed on the loan applications (\$25,000/month). █████ indicated that █████ only concern was the accuracy of the information █████ reported on the loan applications. █████ stated that has no idea whether █████ ever earned \$25,000 per month.

█████ indicated that █████ finally realized, probably in late 2008, that the business was unraveling and felt that █████ and █████ were not accounting for the profits properly. In early 2009 █████ ended █████ involvement in █████. At that time █████ stated █████ stopped any further monetary investment in the business, changed the locks at the business office, and removed the furniture.

#### █████ Membership Application

█████ and █████ were eligible to jointly apply for the LOC and the credit card at █████ FCU because they were both members at the CU. As mentioned above, █████ joined the credit union in November 2007 based on █████ relationship with █████ who had been a member since 2003. Shortly after █████ membership application was approved █████ and █████ sought the personal loan and the credit card. As part of this investigation, the RA inquired into whether █████ fraudulently claimed on █████ membership application that █████ was eligible for membership based on a family or household relationship with █████.

As discussed above, in the box on the application asking for █████ relationship with █████, the written response appears to have been "whited out" or otherwise obscured. The RA asked █████ what █████ originally entered in that box. █████ responded that █████ did not remember if █████ ever knew what was written there, and said that █████ did not give any thought to it at the time. █████ affirmed that █████ had no family or household relationship with █████. █████ indicated that █████ did not specifically remember completing the application, although █████ affirmed that the signature was █████.

#### UGE Forms 450 and 450-A

The RA asked █████ why █████ had never reported █████ as an outside interest on █████ UGE 450 or 450-A forms. █████ reiterated what █████ had said about the residence: the business was not making money and █████ just did not think it was important enough to report. The RA asked if █████ understood the purpose for reporting on the Financial Disclosure Forms. █████ stated that █████ knew that it was to rule out conflicts of interest. █████ explained that █████ believed that since █████ was a silent partner and █████ was never profitable, █████ did not need to report it. █████ also stated that █████ probably did not give the form enough thought and had not given █████ answers serious thought.

The RA then asked about █████. █████ appeared genuinely confused and stated that █████ did not remember having established that company with █████ but said that █████ must have since the Articles of Organization the RA showed █████ had █████ signature. The

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RA pointed out the company had been established for the purpose of designing, building, selling and developing real property and asked [REDACTED] if [REDACTED] and [REDACTED] had built the [REDACTED] home under the LLC or, alternatively, in their individual capacities. [REDACTED] stated that the company had not been used and that the financing had all been as individuals. [REDACTED] stated that [REDACTED] never reported it on the Forms 450 because [REDACTED] did not even remember that the company existed and had never done any business under its auspices.

#### SF 85P, Questionnaire for Public Trust Positions

The RA then asked [REDACTED] about section 22 of the SF 85P, "Your Financial Record." [REDACTED] read question (a) which asked: "In the last 7 years, have you, or a company over which you exercised some control, filed for bankruptcy, been declared bankrupt, been subject to a tax lien, or had legal judgment rendered against you for a debt?" The RA showed [REDACTED] the two Notices of Confessed Judgment served on him in April 2010. [REDACTED] acknowledged that [REDACTED] had been served with these notices. [REDACTED] thought that when [REDACTED] filled out the SF 85P [REDACTED] had not yet been served with the notices, but that [REDACTED] also didn't look closely at the form. The RA pointed out that both notices were served in April 2010 and that [REDACTED] SF 85P was certified online in May 2010. [REDACTED] reiterated that [REDACTED] probably had not paid close enough attention to the questions and that [REDACTED] didn't take the form seriously enough.

In conclusion [REDACTED] admitted [REDACTED] did not take either reporting obligation seriously. Rather, [REDACTED] just quickly filled out the forms [REDACTED] was asked to complete without giving much thought to the completeness of his answers or the purpose of the forms. The RA told [REDACTED] that it was [REDACTED] option to provide a written statement.

[REDACTED] came to the RA's office a short time later to offer some additional clarification. [REDACTED] stated that [REDACTED] had brain surgery in 2005 and again in 2008.<sup>9</sup> [REDACTED] felt that getting involved in the businesses and loans was probably affected by the surgeries. [REDACTED] felt "out of it" at the time. [REDACTED] stated his belief that [REDACTED] memory and judgment were affected at the time.

#### FINDINGS

The investigation revealed that [REDACTED] omitted reportable information on his OGE Forms 450 and SF 85P. However, the investigation did not develop evidence to conclude that [REDACTED] did so knowingly and willfully, as required for a criminal false statements violation.<sup>10</sup> With regard to the requirement to report the outside interests on the OGE Form 450, the

<sup>9</sup> There is evidence to substantiate that [REDACTED] did indeed undergo two surgeries, in 2005 and 2008, for a brain tumor.

<sup>10</sup> 18 U.S.C. § 1001.

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Investigation found that [REDACTED] statements that [REDACTED] derived no profit from the business investments, and that [REDACTED] had a good faith belief that [REDACTED] was not required to disclose the information as a result; were credible. Likewise, the investigation concluded that [REDACTED] explanations regarding [REDACTED] failure to report the [REDACTED] address on [REDACTED] SF 85P were credible and, therefore, also do not rise to the level of a false statements violation. In both cases, by [REDACTED] own admission, [REDACTED] failed to give the proper consideration to [REDACTED] obligation to file the forms to best of [REDACTED] ability.

On the other hand, as a senior level manager and a federal employee of over 40 years standing [REDACTED] should have striven to understand and fulfill his obligation to disclose personal financial interests "to ensure integrity in the Federal Government by demonstrating that they are able to carry out their duties without compromising the public trust." 5 CFR §2634.104(a). While the investigation did not substantiate all of the elements of a criminal false statements violation, the evidence developed does support a conclusion that [REDACTED] failed to comply with filing procedures regarding report contents when [REDACTED] omitted information necessary for the agency to conduct a relevant conflict of interest review. 5 CFR § 2634.907. In filing [REDACTED] most recent OGE Form 450 (for filing year 2009), OGC affirmatively offered additional assistance to [REDACTED] in completing the report, after the OIG pointed out to OGC that on the 2009 form, as well as on forms for previous years [REDACTED] had failed to complete entire portions of the reports. Moreover, as mentioned previously, [REDACTED] had many years experience completing the forms and had received the same detailed agency guidance that was made available to all confidential filers.

That said, the investigation found evidence demonstrating that the NCUA OGC's confidential financial reporting review process was inconsistent and inefficiently administered. As a result, the OIG will consider a proactive review of the NCUA's confidential financial reporting review process in the future.

With regard to the charge that [REDACTED] may have falsified information on the original [REDACTED] FCU membership application form, the investigation could neither conclusively substantiate nor disprove whether [REDACTED] lied about [REDACTED] relationship to [REDACTED]—the basis for membership eligibility.

The investigation did conclude that [REDACTED] actions violated ethical standards of conduct for Federal employees. Specifically, [REDACTED] failure to report reportable assets and liabilities, as well as outside interests, on [REDACTED] confidential financial disclosure report violated *Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture* 5 CFR Part 2634, Subpart I, which outlines the responsibilities of filers of confidential financial reports.

Moreover, the investigation concluded that [REDACTED] violated the *Standards of Ethical Conduct for Employees of the Executive Branch*, 5 CFR § 2635.101(a) and (b)(1), (b)(12), and (b)(14) – *Basic Obligations of Public Service*. Federal employees fulfill the

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REPORT OF INVESTIGATION

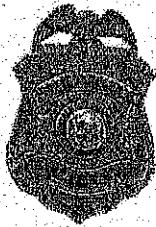
CASE NUMBER: 09-I-R9-11

trust placed in them by adhering to general principles of ethical conduct as well as specific ethical standards. In [REDACTED] case, [REDACTED] failed to "satisfy in good faith . . . [REDACTED] just financial obligations and failed to avoid "actions creating the appearance that [REDACTED] was] violating the law or the ethical standards." 5 CFR § 2635.101(b)(12) and (b)(14). (b)(6) (b)(7) (C)

In reviewing the circumstances surrounding [REDACTED] violations and determining whether disciplinary action is warranted, due consideration should be given to the "Douglas" factors.<sup>11</sup> The "Douglas" factors are the pertinent mitigating and aggravating factors that must be considered by the responsible agency official(s) before proposing or deciding on a particular disciplinary measure or penalty.

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<sup>11</sup> See *Douglas v. Veteran's Administration*, 5 MSPR 280, 5 MSPB 313 (1981).



**NATIONAL CREDIT UNION ADMINISTRATION**  
**Office of the Inspector General**  
**Investigations Division**

**INVESTIGATIVE MEMORANDUM**

**MEMORANDUM TO:** File

**FROM:** [REDACTED]  
 Director of Investigations

**SUBJECT:** [REDACTED]

**DATE:** November 22, 2010

**BACKGROUND**

On August 23, 2010, the Office of Inspector General (OIG) received an allegation from [REDACTED] Corporate Counsel at [REDACTED] Federal Credit Union. Specifically, [REDACTED] supplied an email from [REDACTED], an examiner in [REDACTED] CA which contains language suggesting [REDACTED] might attempt to use [REDACTED] position as a Credit Union examiner to influence a financial transaction with [REDACTED] Credit Union.<sup>1</sup> Misuse of [REDACTED] position would constitute an administrative

<sup>1</sup> Email dated October 23, 2009 –

From: [REDACTED]  
 To: [REDACTED] Lead – Loss Prevention]  
 [REDACTED] [Manager, Loss Prevention & Recovery]  
 [REDACTED] [President/CEO]  
 Subject: [REDACTED] Actions in Response to My Inquiry

You are not being truthful with me about responding to my inquiry, rather you have placed an order for repossession. I cannot prevent you from taking this action; however, if you agree to accept the vehicle as full payment, I will arrange for its pickup. (The vehicle is in excellent condition.) [REDACTED] sue me for a deficiency balance, I will counter sue for damages.

I was an examiner at [REDACTED] and am aware of illegal lending practices. I am also aware of required consumer disclosures [REDACTED] U failed to provide. As you did not provide me with my complete file, you will be required to provide it, as well as other information, when I file my counter-claim. If I were you, I would consult with the credit union's surety bond holder. [REDACTED] practices were systemic and therefore grounds for a class action for violating Regulation Z and the ECOA.

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(b)(7)(C)

Joseph Smith  
November 22, 2010

violation of the Standards of Ethical Conduct for Employees for the Executive Branch.

### ACTIVITY

On August 23, 2010 the Reporting Agent (RA) initiated an investigation into the allegations. This inquiry encompassed issuing a subpoena, records review and interviews with Credit Union personnel.

The review showed that [REDACTED] opened an account with [REDACTED] Union [REDACTED] on December 11, 2007. On December 31, 2007 [REDACTED] approved [REDACTED] for a car loan in the amount of fifty two thousand, nine hundred ninety-seven dollars and sixty-five cents (\$52,997.65). The assets of [REDACTED] were purchased on September 26, 2008 by [REDACTED] Federal Credit Union [REDACTED]. [REDACTED] stopped making payments on the loan after the payment credited in June 2009. According to [REDACTED] a Collector with [REDACTED], who spoke with [REDACTED] concerning [REDACTED] delinquent loan, while [REDACTED] found [REDACTED] to be condescending and mean [REDACTED] did not feel intimidated by [REDACTED] nor did [REDACTED] feel that [REDACTED] was using [REDACTED] position at the National Credit Union Administration (NCUA). In fact, [REDACTED] did not even realize that [REDACTED] was an employee of NCUA until sometime after their conversations.

[REDACTED], Employee Relations Specialist in the Office of Human Resources supplied the RA with documentation that [REDACTED] will be retiring from NCUA on December 31, 2010.

Based on information obtained from these sources, we found no corroborating evidence that [REDACTED] used his position to influence his financial transaction with [REDACTED] Federal Credit Union.

### STATUS

This investigation is closed with no further action.

If accepting the vehicle as full payment is acceptable, we can make the appropriate arrangements.

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Form OI-16D  
07/2008

Office of the Inspector General – Investigations  
National Credit Union Administration

(b) (6)  
(b) (7) (C)



NATIONAL CREDIT UNION ADMINISTRATION  
Office of Inspector General  
Investigations Division

REPORT OF INVESTIGATION

DATE OF REPORT: May 16, 2011  
CASE NUMBER: 10-I-R3-10  
CASE TITLE: [REDACTED] Examiner  
VIOLATIONS: N/A

SYNOPSIS

Based on a referral from [REDACTED], Vice President of Human Resources at [REDACTED], the Office of Inspector General (OIG) initiated an investigation into allegations of inappropriate comments and gestures made by NCUA Examiner CU-12 [REDACTED] toward managers at [REDACTED].

The information developed in this investigation could neither conclusively substantiate nor disprove the allegations.

DISTRIBUTION:	CASE AGENT:	APPROVED:
Herbert Yolles Regional Director, Region III Executive Director David Marquis  OHR Director Lorraine Phillips	[REDACTED] Director of Investigations  [REDACTED] (Signature)	William A. DeSarno Inspector General  [Signature] (Signature)

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(b)(7)(C)

BACKGROUND

█████ submitted a memorandum, dated December 20, 2010 to █████, █████, █████, alleging essentially the following: On December 2, 2010, █████ spoke with a female manager about a meeting with one of █████ subordinate managers, also female. During the course of the conversation, █████ asked which person █████ would be meeting with concerning foreclosures. When told, █████ turned to the manager and asked if she was "the girl with ..." and then made a gesture indicating large breasts. During the same conversation, █████ also entered into a conversation about the Civil War and indicated that his family had owned slaves and that he felt the country should have stayed split.

During the same time frame, █████ had a conversation with another senior manager about students funding college by serving in the military. He stated that they could join the military for college funds unless they were homosexuals or "queer." During the course of the investigation, the reporting agent (RA) discovered that █████ made the same gesture in reference to the foreclosures manager to this senior manager as well. (Attachment 1)

During subsequent conversations with █████ she indicated that the Vice President of █████ it had also had conversations with █████ that he found unprofessional.

The RA interviewed the three (3) █████ staff employees identified by █████: █████, █████, and █████. The RA interviewed █████ under oath in the OIG office. The RA also consulted █████ who was █████ during the █████ examination. Finally, the RA interviewed Regional Supervisor █████ from the █████ who was the state's lead examiner.

DETAILS

On February 10, 2011, D █████ was interviewed in █████ office. █████ reported that █████ has been in banking for approximately 33 years. The 2010 exam was the only time █████ ever dealt with █████ directly. This was a joint exam with the State █████ regulators. █████ opened by stating that █████ regularly came into █████ office and closed the door just to talk. These conversations were not relevant to the examination and █████ own staff hesitated at █████ door and then left on multiple occasions rather than disturb what they thought was official business. This was disruptive to █████ productivity. Additionally, █████ indicated █████ had three specific examples of █████ behavior that concerned █████.

First, [REDACTED] reported [REDACTED] talked about the closing of [REDACTED]. [REDACTED] told [REDACTED] that examiners had been dismissed and it was not going to happen to him. [REDACTED] related that Haase had gone into additional detail including talking about the examiners, but [REDACTED] did not remember specifics. [REDACTED] had been uncomfortable with the conversation. [REDACTED] felt that the entire conversation was "odd and unusual" and did not feel it was appropriate for the exam situation.

Second, when [REDACTED] asked to review the outside audit, the auditing company, [REDACTED] requested that [REDACTED] agree to confidentiality restrictions. Basically, they were requesting that the audit product be treated as confidential information under the Freedom of Information Act or similar laws and regulations and that [REDACTED] receive written notice before audit documentation (or copies thereof) be released to others. According to [REDACTED] would not agree to the confidentiality restrictions and asserted that he was going to sue [REDACTED] and require them to bring the audit report to NCUA headquarters in Alexandria without restrictions. [REDACTED] indicated that [REDACTED] eventually called the Office of General Counsel who agreed to the restrictions. [REDACTED] continued to "bad mouth" [REDACTED] in what [REDACTED] considered a very unprofessional manner.

Third, [REDACTED] explained that [REDACTED] has loan participations that were purchased from [REDACTED]. [REDACTED] expressed concern that these loans were all to [REDACTED]s which he feels would carry a higher risk due to the fact that many of the [REDACTED]s are dependent on the [REDACTED] and when they are removed for any reason, the [REDACTED] are at high risk of failure. [REDACTED] agreed and thought that the concern was valid. However, [REDACTED] went on to discuss a [REDACTED]. [REDACTED] was taken aback by this statement and felt it was highly inappropriate.

The RA asked [REDACTED] if he had any further information that [REDACTED] felt was important to the investigation. [REDACTED] added that [REDACTED] had brought [REDACTED] a very long list of documents that he wanted made available to him with hundreds highlighted. [REDACTED] asked [REDACTED] if he was sure that he wanted all of the documents, because while [REDACTED] had no objections to supplying them [REDACTED] felt it was much more than could be reviewed during the examination. [REDACTED] indicated that he did want all of the documents which [REDACTED] felt was related to the fact that [REDACTED] was being extremely thorough due to his concerns with the failure of [REDACTED]. While [REDACTED] understood this concern, [REDACTED] was frustrated with the time wasted by [REDACTED] staff getting these documents ready when [REDACTED] came back later to say that, in fact, he did not need all of the highlighted documents.

[REDACTED] closed by saying that [REDACTED] had given [REDACTED] assessments of his [REDACTED] fellow examiners, talking about one in particular who was from Kentucky and insinuating that he was a "hick." As it turns out, [REDACTED] worked in the same town, [REDACTED], as



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the examiner in question and was familiar with the examiner. [REDACTED] so told [REDACTED] that [REDACTED] needed to "go babysit my staff."

Upon questioning, [REDACTED] reported [REDACTED] found [REDACTED] examination to be thorough, appropriate and fair; however, [REDACTED] found many of [REDACTED] personal interactions with [REDACTED] to be very unprofessional.

[REDACTED]

On February 10, 2011, the RA interviewed [REDACTED] [REDACTED] shared two examples of unprofessional behavior by [REDACTED] during their last examination. In the first instance, the two [REDACTED] were alone in the lunch room near [REDACTED] office. [REDACTED] had been looking at student loans during the examination and [REDACTED] commented that he did not understand how anyone could not afford college unless they were queer because otherwise they could join the military like his nephew to pay for college. [REDACTED] felt that the tone of the comment was derogatory toward homosexuals.

The second inappropriate encounter happened when [REDACTED] asked [REDACTED] about foreclosure and delinquencies. [REDACTED] told him [REDACTED] that [REDACTED] was the person to ask for those questions. In response, [REDACTED] used his hands to make a gesture indicating a woman with large breasts and asked if that was [REDACTED] confirmed, yes, and ended the conversation because it made [REDACTED] uncomfortable.

The RA asked [REDACTED] about the examination process. [REDACTED] related that there were some problems with business loans in [REDACTED] report but they went over each of them and were able to settle all of the issues. [REDACTED] indicated that overall he felt [REDACTED] asked for reasonable things and that the exam had been hard but fair.

[REDACTED]

On February 10, 2011 the RA interviewed [REDACTED] [REDACTED] is indicated [REDACTED] had worked in the credit union industry for nearly 30 years.

[REDACTED] had quite a bit of contact with [REDACTED] during this exam because [REDACTED] office was near the conference room the examiners were using. They used [REDACTED] office to store documents because [REDACTED] door locked but the door to the conference did not. [REDACTED] told [REDACTED] he needed to speak to the collections manager to ask about foreclosures. [REDACTED] told him to talk to [REDACTED] [REDACTED] reported that [REDACTED] made a gesture to indicate a woman with large breasts. [REDACTED] said after giving him a questioning look he stated, "It's OK my daughter is large" too. [REDACTED] was uncomfortable having [REDACTED] meet one on one with [REDACTED], so [REDACTED] asked the assistant manager to sit in on the

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meeting between [REDACTED] and [REDACTED] was unaware of the gesture made by [REDACTED]

[REDACTED] reported a second incident when [REDACTED] was standing in the doorway of her office talking about his family. [REDACTED] stated that he talked about slavery and shared with [REDACTED] that his family had owned slaves. He went on to say that he felt the North and South should have stayed split. [REDACTED] found the conversation to be very odd and was most uncomfortable because an African-American woman works in a cubicle just outside [REDACTED] office and [REDACTED] hoped the woman had not overheard and been hurt or offended.

[REDACTED] went on to say that [REDACTED] had never experienced anything like these comments before and that [REDACTED] found [REDACTED] to be less professional than [REDACTED] was accustomed to during examinations. In addition, [REDACTED] found him to be "chatty" which took [REDACTED] attention from work. Prior to this examination [REDACTED] had never dealt with him in person. She further stated that [REDACTED] was relieved to be told that [REDACTED], who [REDACTED] found to be very professional, would be the lead examiner for the next year's examination.

[REDACTED] was interviewed under oath on March 31, 2011. Also present, in addition to the RA, were [REDACTED], NCUA National Treasury Employees Union (NTEU) representative; [REDACTED], NTEU; and [REDACTED] OIG.

Prior to the start of the interview, [REDACTED] informed us that since his surgery he cannot regulate his body temperature, as if he has menopause, therefore he might need to stop and put on or take off his sweater. The reporting RA assured him that accommodations would be made. [REDACTED] later asked him about the appropriateness of the comment, considering all of the other participants in the interview were women. [REDACTED] stated his wife thought it was funny, so he did not think it would be offensive. [REDACTED] pointed out that this was a business setting. [REDACTED] again stated he just thought it was a funny comment.

[REDACTED] reported he had been an examiner since November 9, 1986.<sup>1</sup> He confirmed that he had been the lead examiner on the most recent [REDACTED] on. The RA explained that the OIG received a complaint from [REDACTED] about his conduct while at the credit union during the examination. The RA further explained that the complaint included reports from three managers at [REDACTED].

The RA told [REDACTED] that [REDACTED] reported [REDACTED] inappropriately discussed the examination of [REDACTED]. [REDACTED] stated that the [REDACTED], had asked him about [REDACTED] but he could not recall having discussed [REDACTED] with [REDACTED].

<sup>1</sup> [REDACTED] employment records confirmed that he was hired by NCUA on November 9, 1986.

REPORT OF INVESTIGATION

CASE NUMBER: 10-I-R3-10

The RA then asked [REDACTED] to explain a dispute with [REDACTED] regarding the outside audit and if he had threatened to sue [REDACTED]. [REDACTED] stated that he had not threatened to sue [REDACTED]. He said that [REDACTED] had presented him with a letter requiring his agreement to keep their outside audit confidential. He was concerned about agreeing to this stipulation and faxed the agreement to [REDACTED] in the Division of Supervision in Region 3.<sup>2</sup> He stated that he eventually received permission to agree to the requirements, but that it was too late in the examination so he was not able to review the outside audit at that time.<sup>3</sup>

The RA asked about loan participations purchased by [REDACTED]. Specifically, [REDACTED] expressed concern that these loans were a high risk due to the fact that many of the loans were made to [REDACTED] and that some of the [REDACTED] [REDACTED] indicated that he remembered discussing this issue and that he considered it to be a valid concern. He was then asked if he remembered discussing a [REDACTED] where the [REDACTED] [REDACTED] and if he said, "You know [REDACTED]" [REDACTED] said he did not remember giving that specific example and denied having made the statement about [REDACTED].

The RA then asked about the large request for documents made to [REDACTED] during the examination. [REDACTED] explained that he used a program written by another examiner to perform a "data scrub" on the AIRES download. He said he never asked for documents to support the larger list. [REDACTED] denied having changed the request as [REDACTED] reported. Rather, he stated he had highlighted the list from the beginning to identify the loans he wanted supporting documents for.

The RA told [REDACTED] that [REDACTED] reported he [REDACTED] had given assessments of his fellow examiners, talking about one in particular who was from Kentucky and insinuating that he was a "hick" and had separately indicated the needed to "go babysit my staff." [REDACTED] stated that the examiner from Kentucky was a Certified Public Accountant (CPA) that he put in charge of the call reports. He indicated that he felt the examiner was extremely competent. He went on to say he could not imagine having those conversations and that "maybe [REDACTED] judgment was clouded by his son's suicide."

<sup>2</sup> The RA presented [REDACTED] with an undated fax found in the AIRES files for the [REDACTED] examination. The fax was directed to DOS mail, attention [REDACTED] with the notation, "Please read the last sentence in the memo. Do I have NCUA's permission to review the workpapers [sic]? Thank You, [REDACTED]." The [REDACTED] memo was also included in the fax. [REDACTED] confirmed that he sent the fax.

<sup>3</sup> The confidential section of the AIRES report included a detailed account of the issues with the audit review.

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REPORT OF INVESTIGATION

CASE NUMBER: 10-I-R3-10

When told that [REDACTED] reported [REDACTED] regularly came into [REDACTED] office and closed the door just to talk and that the conversations were not relevant but instead disruptive to [REDACTED] productivity, [REDACTED] responded he did not think he had been in [REDACTED] office too much, that it had been primarily business. He did indicate that they had talked about motorcycles because [REDACTED] is interested in Harley-Davidson motorcycles. [REDACTED] stated that he would engage in conversation with credit union managers as needed to make them comfortable and establish rapport.

The RA related a conversation as reported by [REDACTED] where the two [REDACTED] were alone in the lunch room near [REDACTED] office. [REDACTED] had been looking at student loans which were part of [REDACTED] responsibility and he [REDACTED] commented that he did not understand how anyone could not afford college unless they were queer because otherwise they could join the military like his nephew to pay for college. [REDACTED] stated he did not recall having that conversation. [REDACTED] said he does not believe that conversation ever took place as he would not discuss business in public places (like the lunchroom) because others could overhear. He confirmed that multiple members of his family have served in the military, including his nephew, who he believed had used military benefits to pay for college.

The RA explained that [REDACTED] had reported that [REDACTED] had frequent contact with [REDACTED] because the examiners used [REDACTED] office to store documents because [REDACTED] door locked but the door to the conference did not. [REDACTED] confirmed this and stated that they also used [REDACTED] office for the same purpose. The RA related [REDACTED] claim that while standing in the doorway of her office [REDACTED] talked about slavery and shared with [REDACTED] that his family had owned slaves and that he said the North and South should have stayed split. [REDACTED] labeled the claim as "bizarre" as he has bi-racial grandkids. He said that he did not remember having that conversation regarding slavery. However, when pressed he stated that he could have talked about his family owning slaves because, being southern, he would talk about his family if asked and his family had owned slaves. He stated that does not make intellectual sense to have suggested that the North and South should have stayed split. He reiterated that he did not recall the conversation.

The RA explained to [REDACTED] that the last issue had been reported separately by both [REDACTED]. They each indicated that at different times [REDACTED] told them he needed to speak to the [REDACTED] and when they identified [REDACTED] as [REDACTED]; he made a gesture that indicated a woman with large breasts as a way to identify that he was thinking of the right person. [REDACTED] further said after giving him a questioning look he stated, "It's OK my daughter is large" too. [REDACTED] stated that [REDACTED] is super obese but that he had not made any hand gesture. He also did not recall any conversation about his daughter being well endowed. He explained that he often carried a pad of paper to take notes and a pen in his pocket and maybe someone could have mistaken his removal of the pen as a gesture.

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When the interview continued, the RA repeated the question regarding why two managers would report the same experience, separately demonstrating the same gesture. He stated that maybe the credit union did not want him there as he has a reputation as a bulldog and for being thorough. He went on to say that [REDACTED] officials try to control the regulators and that the state is softer on them. [REDACTED] routinely asked to have items excluded from the exam. The only other time a credit union had requested he exclude items, it was having major problems. He explained that the examination was five weeks long and he felt that he might have been close to finding fraud.

Upon resuming the interview, [REDACTED] added that he had heard "chatter" from other credit unions that [REDACTED] was not trustworthy. He talked about [REDACTED] being in a band and using "product." The RA asked if he meant drugs and he confirmed he did. He went on to say that others in the industry reported [REDACTED] would try to get [REDACTED] "tentacles" into you and lacked a conscience.

█████ asked the RA to speak with ██████ who was the State examiner assigned to the ██████ examination. ██████ felt he could give information relevant to the investigation.

On April 6, 2011, the RA interviewed Supervisory Examiner (SE) [REDACTED] [REDACTED] provided documentation of issues [REDACTED] he had during the examination. In an email, dated October 29, 2010, discussing the audit issue with [REDACTED], [REDACTED] expressed concern that

(b) (8)

[REDACTED] was also concerned that [REDACTED] saw aggressive regulation as a risk. On January 18, 2011, he forwarded an excerpt from board minutes to [REDACTED] that stated, [REDACTED]

[REDACTED] However, [REDACTED] a categorically denied that [REDACTED] had indicated to [REDACTED] that he felt he was close to [REDACTED] [REDACTED] told the RA that [REDACTED] had a "pretty good nose for that kind of thing," referring to [REDACTED] in credit unions. [REDACTED] would not have let him leave the credit union had he expressed that concern to her. In his December 2010 update to [REDACTED] la on [REDACTED] he indicated, "[REDACTED]"

On April 8, 2011, the RA interviewed [REDACTED] from the [REDACTED]

[REDACTED] z stated he has known [REDACTED] for 20 or 21 years, and they have worked together frequently, having collaborated on seven exams in 2010 alone. [REDACTED] stated that [REDACTED] worked on the [REDACTED] examination with [REDACTED] in 2010. [REDACTED] said that no one told [REDACTED] of any inappropriate behavior by [REDACTED] during the examination and that [REDACTED] had not witnessed any inappropriate conduct. [REDACTED] further stated [REDACTED] had never heard or seen [REDACTED] act inappropriately.

### FINDINGS

In reviewing this allegation, all of the statements were analyzed for credibility and consistency. While none of the individual comments or actions allegedly made during the exam of [REDACTED] had independent witnesses, [REDACTED] did confirm portions of the conversations in question. In addition, two managers separately reported a nearly identical interaction with [REDACTED]

The information developed in this investigation could neither conclusively substantiate nor disprove the allegations. Nevertheless, between the credibility of the statements made by credit union officials and [REDACTED] partial confirmation of some of those statements, the investigation reasonably raised the specter that [REDACTED] conduct at the credit union was questionable, if not outright inappropriate and unprofessional. As a CU-12 Examiner, [REDACTED]'s conduct towards and interactions with credit union officials should be above reproach.

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REPORT OF INVESTIGATION

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In reviewing the circumstances surrounding [REDACTED] actions and determining whether disciplinary action is warranted, due consideration should be given to the "Douglas" factors.<sup>5</sup> The "Douglas" factors are the pertinent mitigating and aggravating factors that must be considered by the responsible agency official(s) before proposing or deciding on a particular disciplinary measure or penalty.

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<sup>5</sup> See Douglas v. Veteran's Administration, 5 MSPR 280, 5 MSPB 313 (1981).



NATIONAL CREDIT UNION ADMINISTRATION  
Office of Inspector General  
Investigations Division

REPORT OF INVESTIGATION

DATE OF REPORT: March 28, 2011

CASE NUMBER: 1-I-R9-04

CASE TITLE:

[REDACTED]  
Office of the Chief Financial Officer

VIOLATIONS:

*Standards of Ethical Conduct for Employees of the Executive Branch – Use of Government Property, 5 CFR §§ 2635.704*  
NCUA Collective Bargaining Agreement Article 14, Section 18 – Government-Issued Charge Card  
NCUA Collective Bargaining Agreement Article 9, Section 6 – Transportation Subsidies

**SYNOPSIS**

On March 15, 2011, the Office of Inspector General (OIG) received a referral from [REDACTED], Office of the Chief Financial Officer (OCFO), regarding the possible misuse of a government-issued JP Morgan Chase (Chase) charge card by [REDACTED] who is the [REDACTED].

The OIG investigated the referral and determined that [REDACTED] had misused [REDACTED] card in violation of agency policy. The investigation also found that [REDACTED] did not accurately account for the actual cost of his public transportation use which [REDACTED] submitted for transit subsidy reimbursement, an additional violation of agency policy. [REDACTED] provided a written statement for inclusion in this report.

**DISTRIBUTION:**

Chief Financial Officer Mary Ann Woodson

Executive Director David Marquis

OHR Director Lorraine Phillips

**CASE AGENT:**

[REDACTED]  
Director of Investigations

(Signature)

**APPROVED:**

William A. DeSarno  
Inspector General

(Signature)

NO PORTION OF THIS REPORT MAY BE REPRODUCED WITHOUT THE EXPRESS AUTHORIZATION OF THE INSPECTOR GENERAL OR DIRECTOR OF INVESTIGATIONS. THIS REPORT IS MADE AVAILABLE ONLY ON A NEED TO KNOW BASIS.

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### BACKGROUND

██████████ provided the OIG with records related to charge card use by ██████████. The spreadsheet ██████████ provided contained transactions from February 2009 through January 2011 supplied by JP Morgan Chase (Chase). ██████████ also provided ██████████ travel vouchers for the years 2006 – 2011. The OIG limited its review to transactions made in 2009, 2010, and 2011, the period in which Chase has been the issuer for NCUA's travel card program. The records indicated that ██████████ may have used ██████████ government-issued Chase VISA for unauthorized purposes. While reviewing ██████████ charges on ██████████ travel cards, the OIG also discovered that ██████████ had not properly tracked the days ██████████ used public transportation, resulting in an overpayment of ██████████ transit subsidy.

██████████ JPMorgan Relationship Manager Federal Card Solutions provided the Reporting Agent with access to the Chase SmartPay system to produce reports relevant to this investigation.

On March 17, 2011, the OIG presented evidence of ██████████ potential theft and misuse of his travel card for prosecutorial consideration to the United States Attorney's Office (USAO), Eastern District of Virginia. On March 21, 2011, the OIG presented facts concerning ██████████ overstatement of his transit subsidy reimbursement on ██████████ travel vouchers to the ASUO. After determining that this investigation did not meet the office's investigative threshold in both instances, Assistant United States Attorney ██████████ declined criminal prosecution and authorized use of Kalkines Warnings.

### DETAILS

On March 23, 2011, the OIG interviewed ██████████ and followed-up with additional questions via email. The Reporting Agent (RA) read aloud the Kalkines warning as ██████████ followed on ██████████ own copy. ██████████ confirmed that ██████████ understood the warning and then signed the form. (EXHIBIT 1) ██████████ was then placed under oath.

██████████ was presented with statements from ██████████ government-issued Chase travel charge cards, account numbers ██████████ and ██████████. The statements are dated from February 2009 through February 2011. When asked to classify the transactions, ██████████ spontaneously stated ██████████ the last official NCUA travel charges were for the NCUA Regional Conference held in Orlando, FL during April 2010. ██████████ reviewed the statements and highlighted in yellow all transactions that were

<sup>1</sup> ██████████ had two account numbers because ██████████ wallet was stolen in November 2009. ██████████ reported it stolen to the Prince William County Police Department on November 21, 2009. ██████████ also reported the loss to JP Morgan Chase along with providing an affidavit of credit card fraud for three (3) transactions. (EXHIBIT 2) ██████████ was subsequently issued a new travel card.

(b) (7) (C)

personal charges and highlighted in green all transactions that were NCUA authorized charges.<sup>2</sup> [REDACTED] treated payments made on the account differently throughout the statements. In some cases [REDACTED] did not highlight the payment transactions, some [REDACTED] highlighted in yellow and on others [REDACTED] highlighted in green. However, [REDACTED] indicated that [REDACTED] was responsible for making all of the payments. (EXHIBIT 3)

The OIG analysis of the Chase statements and transaction report revealed that [REDACTED] initiated transactions, for both personal and business related expenses for twenty-four thousand, eight hundred and eighty-one dollars and seventy-six cents (\$24,881.76) during the time period covered by the investigation. Of these total transactions, [REDACTED] identified over four hundred (400) transactions with a total value of twenty-two thousand, six hundred and thirty-nine dollars and twenty-one cents (\$22,639.21) as personal expenses. [REDACTED] identified thirty-five transactions totaling two thousand, two hundred and forty-two dollars and fifty-five cents (\$2,242.55) as charges related to official government travel. Of the personal charges, nearly ten thousand dollars were cash disbursements from Automated Teller Machines (ATMs) and related fees. The majority of the remaining personal transactions represented the following categories: gasoline, groceries, Washington Metropolitan Area Transit Authority (Metro) expenses not related to travel, warehouse storage, wireless and cable, utilities, Wal-Mart purchases, restaurants, drug stores, personal hotel stays and parking in the NCUA garage. There were infrequent additional transactions in various categories. [REDACTED] made payments during this period equaling sixteen thousand, fifty-six dollars and forty-seven cents (\$16,056.47). [REDACTED] advised that [REDACTED] used the Chase charge card to cover everyday household needs and personal travel. [REDACTED] also reported use of the card for unauthorized expenses, such as a rental car and additional hotel rooms, during authorized NCUA travel. (EXHIBIT 4)

The OIG reviewed [REDACTED] travel vouchers for 2009 through 2011 focusing on two points: [REDACTED] claim on March 5, 2010 for reimbursement for a plane ticket for seven hundred fifty-nine dollars and forty cents (\$759.40), that [REDACTED] later rescheduled for a lower price and transit subsidy reimbursements claimed throughout the investigative period. [REDACTED] confirmed that [REDACTED] had submitted the charges contained on the reports, stating that they were "definitely all legit travel vouchers." [REDACTED] stated that [REDACTED] had never filed for reimbursement for any of [REDACTED] personal charges. [REDACTED] initialed each page to acknowledge that [REDACTED] had reviewed and confirmed that [REDACTED] submitted each voucher. [REDACTED] verified that [REDACTED] had filed the March 5<sup>th</sup> claim and did not correct it when [REDACTED] changed the ticket. [REDACTED] stated it was an oversight on [REDACTED] part. [REDACTED] further stated that [REDACTED] would be happy to pay back any excess charges. (EXHIBIT 5)

[REDACTED] was presented with a spreadsheet created by the RA based on the number of

<sup>2</sup> One of the charges [REDACTED] claimed as business related was for \$144.00 by LXR BUENA VISTA PALACE LK BUENA VISTA FL with an arrival date of April 18, 2010. [REDACTED] clarified via email dated March 25, 2011 that [REDACTED] had "overlooked this expense" when highlighting the statements and confirmed this was for the extra night [REDACTED] stayed after the conference. [REDACTED] concluded, "This expense was personal and I covered it."

workdays in each month, the number of days [REDACTED] took an entire day of leave, and the number of days [REDACTED] charged parking to [REDACTED] travel card. Along with this report, [REDACTED] was presented with a report from the NCUA Electronic Time and Attendance Management System (ETAMS) which detailed [REDACTED] leave from January 1, 2009 through March 18, 2011. (EXHIBIT 6) [REDACTED] indicated that the ETAMS system was a correct accounting of [REDACTED] leave and initialed the report. The RA then asked [REDACTED] how [REDACTED] tracked the number of days [REDACTED] reported for transit reimbursement or [REDACTED] travel voucher. [REDACTED] indicated that [REDACTED] checked a calendar at the end of each month and then subtracted the days [REDACTED] was out of the office on leave. [REDACTED] and the RA reviewed the report and although the transit subsidy requests did not always correspond with the number of workdays minus the days of leave [REDACTED] took, they were close. There were a few occurrences where [REDACTED] requested less than [REDACTED] could have actually claimed. The RA asked if [REDACTED] ever tried to account for the days that [REDACTED] drove to the Central Office and parked in the parking garage since that would mean that [REDACTED] had not taken public transit. [REDACTED] replied that [REDACTED] had not. The RA showed [REDACTED] Collective Bargaining Agreement (CBA) Article 14, and asked if [REDACTED] was aware of Section 12, Transit Subsidy. [REDACTED] initialed acknowledgement and advised that [REDACTED] was aware of the policy. [REDACTED] was then shown Article 9, Compensation and Benefits, Section 6, Transportation Subsidies. [REDACTED] acknowledged that [REDACTED] knew the rules were there, but that [REDACTED] had not read them closely. The RA pointed out that the agreement specifically says, "The Agency will continue to reimburse non-field employees for the **actual cost** of public transportation to and from an Agency-provided workspace to the extent permitted by the Internal Revenue Service (IRS)." (Emphasis added.) [REDACTED] initialed that [REDACTED] had read the policy. [REDACTED] stated that [REDACTED] was not aware that [REDACTED] should have subtracted the days [REDACTED] came to work but parked in the garage. [REDACTED] believed that [REDACTED] could claim transit subsidy for any day that [REDACTED] came to the office. [REDACTED] said, "I'll be happy to reimburse the Agency for overpayments I may have received." (EXHIBIT 7)

[REDACTED] acknowledged [REDACTED] extensive understanding of the regulations covering the use of a government-issued travel card. The RA showed [REDACTED] a copy of CBA Article 14, Travel and Expense Reimbursement, Section 18 - Government Issued Charge Card and asked if [REDACTED] was familiar with this provision. [REDACTED] affirmed that [REDACTED] was aware of this provision and initialed the copy of the rule. (EXHIBIT 7) The RA also presented [REDACTED] with a copy of the Chase Cardholder Agreement. [REDACTED] stated that [REDACTED] had received a copy with each card [REDACTED] was issued by Chase and initialed the agreement. [REDACTED] stated that [REDACTED] knew [REDACTED] was not allowed to use his travel charge card for personal expenses. The RA also presented [REDACTED] with a copy of a Power Point presentation, titled Training - Travel Cards Do's and Don'ts, last updated on September 18, 2009. The RA obtained the presentation from the NCUA intranet (NCUA Central) via the Office of the Chief Financial Officer (OCFO) site, under the New Examiner Training - Level 1 section of the OCFO Presentation Tab. [REDACTED] confirmed that [REDACTED] created the presentation and that [REDACTED] used it during new examiner training. [REDACTED] acknowledged that one of the slides states "DON'T use your travel charge card for personal use." [REDACTED] initialed the presentation to confirm [REDACTED] knowledge of the document and its contents.

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The RA also showed [REDACTED] printouts generated by the General Service Administration (GSA) showing the SmartPay sessions [REDACTED] attended at the Conferences in 2009 and 2010. The RA asked if the sessions covered fraud training and best practices. [REDACTED] said that the training did cover those topics. [REDACTED] initialed confirming that [REDACTED] had attended the sessions as reported by GSA. (EXHIBIT 8)

The RA and [REDACTED] addressed the NCUA policy on ATM usage for travel cards. The RA provided [REDACTED] a memo [REDACTED] authored, dated April 23, 2009, with the subject line, Board Member ATM Access for International Travel. The memo details the steps Board Members need to take to have ATM access activated during international travel. The RA provided [REDACTED] notes from the transition meeting held on Wednesday, March 5, 2008, which [REDACTED] attended. One item discussed during the meeting was the policy that cardholder accounts would be set up without ATM access and that NCUA wanted ATM access only for international travel. The RA also presented two sets of meeting notes from a February 5, 2008, meeting between personnel from NCUA and Chase, again a meeting [REDACTED] attended. One topic included a discussion of ATM access. The notes indicate that ATM access was unnecessary for domestic travel and would only be made available for international travel. [REDACTED] confirmed that [REDACTED] had attended the meetings between NCUA and Chase and that [REDACTED] had authored the memo. [REDACTED] acknowledged that [REDACTED] was aware that NCUA policy did not allow for ATM access except for international travel. [REDACTED] stated, "I take responsibility for what I've done. I'm not denying any wrong actions." [REDACTED] explained that [REDACTED] acquired access to ATM withdrawals by adding the Merchant Category Code Groups (MCCGs) that allow ATM access to [REDACTED] account. [REDACTED] denied adding any Merchant Category Codes (MCCs) to existing groups because that required coordination with Chase. The MCCGs TRAVEMER (Travel Emergency) and TRAVCASH (Travel Cash) already existed in the NCUA travel charge system and [REDACTED] used those codes to gain access. (EXHIBIT 9)

According to [REDACTED] immediate supervisor [REDACTED] was tasked with creating an agency-wide delinquency report monthly and a quarterly report detailing travel card usage by employees in OCFO. [REDACTED] reported that [REDACTED] account had never been reported delinquent on either report. According to the Chase reporting system, [REDACTED] account was past due during February 2011, January 2011, December 2010, September 2010, August 2010, and July 2010. [REDACTED] was shown NCUA delinquency reports from February 21, 2011, January 21, 2011, December 21, 2010, and September 21, 2010, which represented months that [REDACTED] card was past due. [REDACTED] said that [REDACTED] removed [REDACTED] information before issuing these reports. [REDACTED] initialed the reports for February and September. Although [REDACTED] overlooked initialing the reports for December and January, [REDACTED] indicated that whenever [REDACTED] card appeared on the Chase reports [REDACTED] removed [REDACTED] information from the agency reports. The RA showed [REDACTED] a computer screen shot of the files from his Q: drive that displayed the delinquency reports files. There were no reports for July or August 2010, both months that [REDACTED] was delinquent. [REDACTED] stated that when no one in NCUA was delinquent [REDACTED] did not produce any reports and that when [REDACTED] was the only delinquent account [REDACTED] did

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not produce the report. [REDACTED] advised that this was probably the case for July and August. The RA informed [REDACTED] that there were no paper copies or electronic files for any quarterly reports after the end of 2008. [REDACTED] stated that [REDACTED] only produced that report in hard copy and did not keep an electronic file. [REDACTED] stated that [REDACTED] was sure that [REDACTED] produced at least one report since 2008, but stated that [REDACTED] stopped reporting after [REDACTED] became delinquent, which first occurred during June 2009. (EXHIBIT 10)

The RA reviewed the Account Audit (Audit) report generated from Chase records. The Audit report displays all changes made to the two (2) accounts held by [REDACTED]. The Audit report reveals that [REDACTED] first card was activated on October 03, 2008 (although [REDACTED] did not start using it for transactions until February of 2009). The RA showed [REDACTED] that the Audit indicated that [REDACTED] username, [REDACTED] was used to change the hierarchy of [REDACTED] account on a number of occasions. According to the Audit, November 18, 2009, was the last time [REDACTED] account hierarchy was modified by [REDACTED] S, when it was moved from [REDACTED] (OFCO accounts) to [REDACTED]. The RA informed him that when [REDACTED] account was at the [REDACTED] level, it would not have shown up on reports run by anyone else in the agency, including delinquency reports. [REDACTED] stated [REDACTED] was not aware of that and stated that [REDACTED] could not recall modifying [REDACTED] account to change the hierarchy. Nevertheless, [REDACTED] acknowledged that [REDACTED] had taken actions to set a cash advance limit and to include the MCCG TRAVEMER and MCCG TRAVCASH on various occasions to give [REDACTED] access to ATM cash advances. [REDACTED] initialed several of the changes shown on the Audit report to acknowledge that [REDACTED] knew [REDACTED] had made changes; however [REDACTED] did not recall all of the instances that [REDACTED] had made changes in [REDACTED] account and did not recall making changes as often as was shown on the Audit report.<sup>3</sup> [REDACTED] stated [REDACTED] does not suspect anyone else made the changes attributed to the [REDACTED] user account. (EXHIBIT 11)

[REDACTED] explained why [REDACTED] had used his card for personal use even though [REDACTED] was aware that it not authorized. [REDACTED] related that in 2008 [REDACTED] father became seriously ill and only had Medicare to cover the medical expenses. [REDACTED] stated that since [REDACTED] mother could not pay the bills, [REDACTED] relied heavily on [REDACTED] because [REDACTED] was the child with the best job. According to [REDACTED] supporting [REDACTED] parents left him unable to pay [REDACTED] own bills, which included a mortgage, a son in college, and the normal household expenses. [REDACTED] stated that [REDACTED] became overwhelmed and panicked. Seeing no way out, [REDACTED] used his government-issued charge card for [REDACTED] personal expenses. [REDACTED] submitted a funeral program showing [REDACTED] father died on January 19, 2011. (EXHIBIT 12) He also stated that by then all of the expenses from the prior years had gotten out of hand and [REDACTED] could no longer keep up with the payments. [REDACTED] further stated that since [REDACTED] began

<sup>3</sup> The RA requested a detailed explanation of the changes made in [REDACTED] accounts from Chase including any notes in their customer service system. They were not able to supply it in time for this report. However, [REDACTED] acknowledged and the audit report supports [REDACTED] use of the Chase system to add the MCCGs TRAVEMER and TRAVCASH to [REDACTED] account which made ATM withdrawals available.

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# REPORT OF INVESTIGATION

CASE NUMBER: 11-I-R9-04

█████ Federal career in 1992, █████ had never done anything unethical prior to █████ misuse of the charge card. █████ said █████ only used it because since it was in █████ name, █████ knew █████ would be responsible for the payments. █████ stated that although █████ knew it was not a proper use of the travel card, █████ intended to pay for all of █████ personal charges to the card. █████ indicated that █████ might have started using the card in August 2008; however, since █████ Chase account was not activated until October 2008, and no charges were recorded until February 2009, █████ agreed that was probably the more accurate information. █████ denied ever using █████ previous card, issued by Bank of America, for personal charges. █████ also stated that █████ had never used any other account at NCUA for personal expenses.

█████ was deeply remorseful and stated that █████ regretted letting █████ co-workers and supervisor down. █████ prided himself with being the best employee █████ could be. He reiterated that █████ panicked and used the card out of desperation because █████ had no other alternative. █████ does not feel this is part of █████ character and knows that it will tarnish █████ forever.

█████ again expressed that what █████ did was wrong. █████ said █████ did not misuse the card for personal gain. █████ did it because of family problems and felt █████ had no other alternative. █████ stated █████ had tried to get a loan, but was not approved and felt desperate. █████ apologized for the problems █████ created for the Agency and asked that █████ mother not be involved, if possible.

█████ provided a written statement for inclusion in this report. (EXHIBIT 13)

In reviewing the circumstances surrounding █████ violations and determining whether disciplinary action is warranted, due consideration should be given to the "Douglas" factors.<sup>5</sup> The "Douglas" factors are the pertinent mitigating and aggravating factors that must be considered by the responsible agency official(s) before proposing or deciding on a particular disciplinary measure or penalty.

<sup>4</sup> █████ started at NCUA in 2006.

<sup>5</sup> See Douglas v. Veteran's Administration, 5 MSPR 280, 5 MSPB 313 (1981).

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