



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Labor and Industries

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December 4, 2017

Joel Sacks, Director
Department of Labor and Industries

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB 17-018 at the Department of Labor and Industries.

The State Auditor's Office received an assertion of improper governmental activity at the Department. This assertion was submitted to us under the provisions of Chapter 42.40 of the Revised Code of Washington, the Whistleblower Act. We have investigated the assertion independently and objectively through interviews and by reviewing relevant documents. This report contains the result of our investigation.

If you are a member of the media and have questions about this report, please contact Assistant Director for Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Whistleblower Manager Jim Brownell at (360) 725-5352.

Sincerely,

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Todd Bishopp, Audit Coordinator
Kate Reynolds, Executive Director, Executive Ethics Board
Jacque Hawkins-Jones, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertions and Results

Our Office received a whistleblower complaint asserting a Department of Labor and Industries (Department) manager (subject) is using state time and resources to shop at home improvement stores and drive by properties she was interested in purchasing. Additionally, the complaint asserted the subject promoted an employee who had worked on her properties.

We found no reasonable cause to believe an improper governmental action occurred.

About the Investigation

We reviewed the subject's emails and computer hard drive, and also interviewed witnesses. The subject had recently received a new computer and, following Department procedure, the hard drive from her previous computer was wiped, limiting our review to only seven weeks of internet history.

We found no evidence of personal use of the state email system. We found four hours of non-work-related browsing on her hard drive, which is considered de minimis use, and therefore not a violation of state law.

We interviewed witnesses and found that the subject did, on occasion, stop for non-work-related endeavors. However, according to most witnesses she used her personal vehicle and made the stops during her breaks, not on work time.

Regarding the assertion that the subject promoted an employee in exchange for work done on one of her properties, we found no evidence to substantiate this assertion.

The subject declined to be interviewed, but provided a statement categorically denying each assertion. She further stated that this forum was used solely to disparage and harass her.

We found no reasonable cause to believe an improper governmental action occurred.

State Auditor's Office Concluding Remarks

We thank Department officials and personnel for their assistance and cooperation during the investigation.

WHISTLEBLOWER INVESTIGATION CRITERIA

We came to our determination in this investigation by evaluating the facts against the criteria below:

Assertion 1:

Criteria: RCW 42.52.160(1) – Use of persons, money, or property for private gain.

(1) No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

WAC 292-110-010(1) – Use of state resources.

(1) Statement of principles. All state employees and officers are responsible for the proper use of state resources, including funds, facilities, tools, property, and their time. This section does not restrict the use of state resources as described in subsections (2) and (3) of this section.

Assertion 2:

Criteria: RCW 42.52.070 – Special Privileges.

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.