



Office of the Washington State Auditor
Pat McCarthy

Whistleblower Investigation Report

Department of Licensing

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Report No. 1024293





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July 15, 2019

Teresa Berntsen, Director
Department of Licensing

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. 19-018 at the Department of Licensing.

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 Director of Communications Kathleen Cooper at (360) 902-0470. Otherwise, please contact Assistant Director of State Audit Troy Niemeyer at (360) 725-5363.

Sincerely,

A handwritten signature in cursive script that reads "Pat McCarthy".

Pat McCarthy
State Auditor
Olympia, WA

cc: Governor Jay Inslee
Jamie Black, Deputy Chief Audit Executive
Kate Reynolds, Executive Director, Executive Ethics Board
Cristopher de la Peña, Investigator

WHISTLEBLOWER INVESTIGATION REPORT

Assertion and Results

Our Office received a whistleblower complaint asserting that a Department of Licensing (Department) employee (subject) sold scented candle and personal care products to co-workers and subordinates in the Department.

About the Investigation

We reviewed the subject's hard drive, internet history and emails from January 2, 2018, through January 1, 2019. We also interviewed the subject and a witness.

We found no evidence the subject used her state computer to purchase or sell scented candle and personal care products.

The subject said she conducted her personal business outside of her work hours. She said she did not bring her products into her work place because there was a scent free policy and co-workers would have complained because her products were heavily scented.

A witness confirmed the subject conducted her business outside of work hours. The witness said the subject did not display or advertise any products at work. The witness did not recall the subject discussing her personal business during work hours.

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:

RCW 42.52.020 - Activities incompatible with public duties.

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

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) and (3) - 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.

(3) Permitted personal use of state resources. This subsection applies to any use of state resources not included in subsection (2) of this section.

(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any state officer's or employee's official duties;
- (v) The use does not compromise the security or integrity of state property, information systems, or software;
- (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.