



State of Ohio
Office of the Inspector General

THOMAS P. CHARLES, Inspector General

REPORT OF INVESTIGATION

FILE ID NUMBER: 2009113

AGENCY: Industrial Commission of Ohio

BASIS FOR INVESTIGATION: Agency Referral

ALLEGATION: Misuse or Abuse of State Time

INITIATED: April 21, 2009

DATE OF REPORT: November 17, 2009

EXECUTIVE SUMMARY

On April 3, 2009, Industrial Commission of Ohio (“ICO”) Executive Director Christa Deegan reported to the Deputy Inspector General for the Bureau of Workers’ Compensation and Industrial Commission that ICO Supervisor Myron “Skip” Downard was suspected of falsifying his time sheets. Downard’s supervisor suspected he was coming in later and leaving work earlier than the times he was reporting on his time sheets.

Through investigation, we learned that Downard is an avid golfer and is a member of a group that regularly golfs at various central Ohio golf courses on Wednesday afternoons. The members of Downard’s golf group routinely report their golf scores to the Ohio Golf Association (“OGA”).

Our comparison of Downard’s time sheets to the detailed information reported to the OGA led us to subpoena records from ten of these courses. Our subsequent reviews of those records revealed that on at least eleven occasions since April 2008, Downard falsified his time sheets and was being paid by the state for time he spent golfing. Additionally, we found four other instances of Downard golfing while on paid sick leave status. Accordingly, we found reasonable cause to believe that acts of wrongdoing occurred in these instances.

Downard announced his resignation to the ICO on September 17, 2009, the day after our first interview with him. Downard subsequently retired from the ICO, effective October 17, 2009.

This report is being forwarded to the Franklin County Prosecutor’s Office and the Columbus City Attorney’s Office for their review.

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I. BASIS FOR INVESTIGATION

On April 3, 2009, Industrial Commission of Ohio (“ICO”) Executive Director Christa Deegan reported to the Deputy Inspector General for the Bureau of Workers’ Compensation and Industrial Commission that ICO Supervisor Myron “Skip” Downard was suspected of falsifying his time sheets.

II. ACTION TAKEN IN FURTHERANCE OF INVESTIGATION

Our office conducted interviews of Downard, his supervisor and an employee in his department. We obtained and reviewed Downard’s timekeeping and email records. We also subpoenaed records from ten golf courses where Downard was suspected of golfing while on state time, obtained records from the Ohio Golf Association (“OGA”), and we collected data on Downard’s travel time to various golf courses where he golfed.

Our office received assistance from the ICO and the Bureau of Workers’ Compensation Special Investigations Department.

III. DISCUSSION

Background Information

Downard began his employment with the ICO on October 17, 1983. Since that time, Downard has held various management level positions as an Administrative Assistant 4. At the time of this investigation, Downard was the Supervisor of the ICO’s Litigation Management Unit, supervising two employees, and was paid \$39.38 per hour (\$81,904.00 per year). Downard retired from the ICO, effective October 17, 2009.

Downard was designated as a “Flex Time Employee,” which, pursuant to ICO policy and procedure (Exhibit A), allows selected employees to work flexible schedules. Employees designated as “Flex Time Employees” are not required to start and end their work days on a set schedule. “Flex Time Employees” are permitted to start their work day any time after 7:00 a.m.

and end their work day at any time before 6:00 p.m., and are allowed to adjust their starting and ending times on a daily basis.

The ICO's "Hours of Work" policy (also Exhibit A) states: "Employees shall sign-in/out on the appropriate forms, documenting their actual time of arrival and departure." This policy also states that "Employees designated as flex time shall record their start and end time at the time they arrive and end their work day."

The ICO's "Sick Leave" policy (also Exhibit A) states that the benefit may be used for "absences due to personal illness, pregnancy, injury, exposure to contagious disease...illness or injury in the employee's immediate family... [and for] pre-arranged medical appointments." Employees receive 100% of their pay for the first 40 hours of sick leave usage during the year. Employees can also receive up to 55% of their hourly rate of pay for each hour they have accrued at the time of their retirement.

Allegation: Myron E. "Skip" Downard, Supervisor, ICO Litigation Management Unit, falsified his timekeeping records.

On March 19, 2009, Downard's supervisor informed ICO Human Resources Director Barnett that she had noted several discrepancies on Downard's time sheets, suggesting that he may be falsifying those records to reflect that he was working when he was not. The supervisor indicated she had reason to believe that this occurred twice. Specifically, the supervisor related that on March 11 and 18, 2009, Downard reported on his time sheets that he was working when he was absent from work.

During interviews of Downard's supervisor, she related that she was assigned to supervise Downard and his unit in February 2009. She told us that in March 2009, she began to suspect that Downard was leaving work earlier than the times reflected on his time sheets. The supervisor began monitoring his work activities more closely and noted dates and times when he

left work early. The supervisor also began noting the discrepancies between the times he recorded on his time sheets and the times she knew he had left the office for the day.

The supervisor explained she had heard that Downard was an avid golfer and that he golfed in a league that played on Wednesday afternoons, which coincided with the day of the weeks she had noted he appeared to have left work earlier than the time he reported on his time sheets. The supervisor also noted that on Wednesday, April 22, 2009, Downard was absent from work and did not call her to say he was not coming to work. Downard subsequently submitted a "Request for Leave" for five hours of sick leave for this date. The supervisor denied Downard's leave request because Downard did not follow ICO policy, which requires an employee to contact his/her immediate supervisor when the employee is ill and cannot report for work.

Our investigation revealed that Downard is a member of a golf group known as "WAGGLE." A member of the group posts specific information on each member's scores on the OGA website. The reported information includes the individual's golf score, the date of their outings, and the golf course where they played for handicapping purposes. The OGA provided us with a report (Exhibit B) identifying the scores and courses where Downard recorded golf scores on fifty-eight dates between October 3, 2007 and September 9, 2009. Fifty-seven of the fifty-eight dates were Wednesdays.

On September 16, 2009, during the first of two interviews, Downard said it was unlikely that he used sick leave on days he was golfing. After he was confronted with evidence to the contrary, Downard elected to terminate the interview. On September 17, 2009, Downard informed the ICO that he intended to retire from state service within the next several weeks.

On October 15, 2009, Downard was interviewed again and acknowledged being a member of the WAGGLE golf group. Downard said that the group plays golf on Wednesday afternoons and usually begins play between 1:00 p.m. and 2:00 p.m. After first saying it was unlikely that he golfed while on state time, he was confronted with documents which indicated that he was, in fact, golfing on state time. Downard explained the discrepancies as being the result of "sloppy

record keeping” on his part, or due to the fact that he sometimes filled out his time sheet in advance and neglected to correct his departure times on the sheets prior to submitting them to the ICO. Downard also explained that if members of management had questions about his timekeeping, they should have brought it to his attention. After being confronted with evidence that he golfed while on paid sick leave, Downard said he considered his use of sick leave the same as using vacation or personal leave. He also told us he has counseled other employees nearing retirement to use up their sick leave, which is paid at 70% to 100% of their regular rate of pay, versus cashing in their sick leave at retirement, which is only paid at 55% of the employee’s hourly rate of pay.

A comparison of the report provided by the OGA with the times Downard recorded on his time sheets revealed multiple occasions that Downard was golfing on afternoons when he was being paid by the ICO. We also identified multiple instances where Downard was golfing on days he was on paid sick leave status.

We issued subpoenas to ten of the golf courses identified in the report from the OGA. Our review of Downard’s reported golf scores, the witness statements, documents from the golf courses, his admissions and timekeeping records revealed that on twelve occasions between April 9, 2008 and April 15, 2009, Downard was golfing during hours he claimed to have been working (Exhibit C). We calculated Downard received over twenty-seven hours of pay totaling \$1,388.64 from the state for time he spent golfing.

We also found evidence that on at least five occasions, Downard was golfing while receiving (or attempting to receive) paid sick leave. As referenced earlier, on April 22, 2009, Downard was absent from work and failed to inform his supervisor that he was taking the day off. Two days later, Downard submitted a “Request for Leave” form requesting payment for five hours of sick leave, which was denied by his supervisor because Downard failed to call and report his absence. It was determined that Downard was on the golf course that afternoon. Our review of the evidence collected revealed that on four occasions between April 16, 2008 and July 9, 2009,

Downard received over nineteen hours of sick leave benefits totaling \$993.88 when he was golfing (Exhibit D).

The evidence clearly demonstrates that Downard falsified his time sheets and was golfing while on state time and/or receiving paid sick leave. Downard's attempt to explain his actions as being the result of "sloppy record keeping," completing his time sheets in advance, and management not intervening to stop him lack credibility.

Accordingly, we find reasonable cause to believe that acts of wrongdoing occurred in these instances.

IV. CONCLUSION

Our investigation found that Downard falsified his time sheets to reflect that he was working, when in fact he was golfing. Downard's misrepresentations resulted in him receiving over \$1,300 in state pay for time he was actually golfing. Further, Downard violated agency policy by using sick leave benefits to take time off to go golfing. Since accrued vacation and personal leave is paid at 100% when an employee retires, versus the 55% that is paid for accrued sick leave, Downard benefited monetarily by claiming sick time. He received full pay for that time, thereby preserving his vacation and personal leave benefits.

V. REFERRAL

This investigation is being forwarded to the Franklin County Prosecutor and the Columbus City Attorney's Office for their review.