

Washington State Auditor's Office
Whistleblower Report

Community Colleges of Spokane

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WASHINGTON
BRIAN SONNTAG
STATE AUDITOR



**Washington State Auditor
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Community Colleges of Spokane
Spokane County
Spokane, Washington

Report on Whistleblower Investigation

Attached is the official report on Whistleblower Case No. WB No. 09-007 for the Community Colleges of Spokane.

The State Auditor's Office received an assertion of improper governmental activity at the College. 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 results of our investigation.

Questions about this report should be directed to Senior Investigator LaRene Barlin at (360) 902-2213 or Director of Special Investigations Jim Brittain at (360) 902-0372.

BRIAN SONNTAG, CGFM
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cc: Ms. Linda McDermott, Chief Financial Officer
Lynn Holmes, District Director, Budget and Fiscal Services

Investigation Summary

State of Washington Community Colleges of Spokane

ABOUT THE INVESTIGATION

On July 31, 2008, the State Auditor's Office opened an investigation into an assertion that an employee is using state resources for personal use.

During the investigation we conducted a forensic examination of the employee's computer hard drive. We reviewed the employee's network computer files, Internet activity, email communications and College policies. We were unable to review the Manager's telephone activity on the State Controlled Area Network (SCAN) because the office building where the district offices reside does not require the use of SCAN numbers when dialing long distance. Therefore, no SCAN records exist for this employee.

ASSERTION AND RESULTS

The Manager of Employee Compensation and Accounts Payable, Community Colleges of Spokane, is using state resources for personal business.

We found reasonable cause to believe an improper governmental action occurred.

The Manager stated, when he was initially hired by the College in 2006, he did not have access to his personal computer so he scanned in many personal documents and stored them on the College's shared drives. He did this in case he received any personal telephone calls and could respond to them.

The Manager received a written reprimand on June 16, 2008, for using state resources for personal gain by copying and saving personal documents to his state computer, some of which related to his private employment as an independent loan originator. This reprimand and the College's investigation did not include email or Internet use.

During our investigation, documents found on the Manager's computer included: 2006 Holiday Greetings letter, his checking account history, personal W-2 forms, personal family information, family business checking account, bankruptcy documents, personal letters, passport application and property information including pictures, appraisals and loan information.

In addition, the Manager stated he assists other people with their income taxes and answers their questions. Documents on his computer are individual tax returns for 2005 and 2006 for individuals residing in Washington and Oregon.

Further, the Manager had documents stored in a file folder on his computer relating to financial ratings for a private company. He stated he was assisting a fellow College employee with one of her College classes by doing research and gathering information.

We found, at a minimum, 190 nonwork related emails spanning 2006, 2007 and 2008. From June 17 to August 19, 2008, which is after the reprimand, there were at least 40 nonwork related emails. These personal emails refer to mortgage loans and appraisals, mortgage rates, selling a

home, assisting people with income taxes, family issues, loan data spreadsheets, mortgage training classes, personal retail and credit card accounts, and jokes.

The majority of the emails appear to be initiated from the Manager's personal email account during work hours. The Manager stated he accessed his personal hotmail account and MSN instant messenger. He stated the College's IT Department showed him how to set up his personal hotmail account on his desk top so he could check his personal emails during the day. The Manager's supervisor stated this is not allowed pursuant to College policy. In addition, the Manager had ethics training during his new employee orientation in March 2006.

We were able to capture 28 days of Internet history for the timeframe September 2007 to August 2008. During those 28 days, the Manager visited nonwork related sites on 20 days totaling approximately 17 hours. In addition, the Manager downloaded games such as hearts and scrabble. The Manager stated he plays these games during lunch; however, the Internet activity shows these games were accessed at times other than the lunch hour. The Manager stated he did go to the Internet and played these games while he was talking on the phone.

The Internet sites visited include: pogo (which is a game site), uprip, sports.iwon, home.iwon, assets.espon, wheresgeorge, quizrocket, classicrock, ESPN, genealogy, Amazon, Verizon Wireless and an IQ quiz.

The Manager has the following licenses with the state of Washington: Mortgage Loan Originator through the Department of Financial Institutions with a renewal date of December 31, 2008, Insurance Broker through the Insurance Commissioner with an expiration date of April 2, 2009 and a current business filed with the Department of Revenue called Primary Solutions. Further, the Manager renewed his Loan Originator License on line. These licenses are not required as part of his state employment.

Therefore, we find reasonable cause to believe an improper governmental action occurred.

COLLEGE'S PLAN OF RESOLUTION

Management evaluated the Manager, Employee Compensation and Accounts Payable use of state resources for personal business at the Community Colleges of Spokane (CCS) and agrees that improper governmental action occurred. At this time, the use of entity resources for personal business purposes including e-mail, internet, copying and saving personal documents to the state computer has stopped and the manager has been specifically directed by his supervisor that such use will not occur in the future. Further, he was provided with a hard copy of CCS Administrative Procedures 2.10.06-A and the district's Ethics Brochure – a document that is sent annually to all CCS employees in October – and directed to read the material and forward any questions to his supervisor. Finally, he has been notified that failure to follow this directive or procedure will lead to additional disciplinary action, up to and including termination.

The employee will be disciplined for his personal use of CCS resources. By January 15, 2009, the employee is required to complete the CCS on-line ethics training course and to register for the next available in person ethics training course offered by the CCS Human Resources Office. The supervisor is monitoring the employee's use of e-mail and the internet on a periodic basis.

Further, the employee was advised of the seriousness of the findings presented in this Whistleblower case and the importance of conducting business consistent with the Washington State's Ethics in Public Service law.

AUDITOR'S REMARKS

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

INVESTIGATION CRITERIA/POLICIES

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

RCW 42.52.160 Use of persons, money, or property for private gain, states:

(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 Use of state resources. (1) Statement of principles – stewardship, states in part:

The proper stewardship of state resources, including funds, facilities, tools, property, and employees and their time, is a responsibility that all state officers and employees share. Accordingly, state employees may not use state resources for personal benefit or gain or for the benefit or gain of other individuals of outside organizations. Personal benefit or gain may include a use solely for personal convenience, or a use to avoid personal expense. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer and state employee, or with the state officer or state employee who authorizes such use . . .

(3) Permitted uses – under limited circumstances. Extensive or repeated personal misuse of state resources, including state time, significantly undermines public trust in state government . . . a state officer or employee may make an occasional but limited use of state resources only if each of the following conditions are met:

- (a) There is little or no cost to the state;
- (b) Any use is brief in duration, occurs infrequently, and is the most effective use of time or resources;
- (c) The use does not interfere with the performance of the officer's or employee's official duties;
- (d) The use does not disrupt or distract from the conduct of state business due to volume or frequency;
- (e) The use does not disrupt other state employees and does not obligate them to make a personal use of state resources; and
- (f) The use does not compromise the security or integrity of state property, information, or software.

(6) Prohibited uses. The state Constitution, state and federal laws, and the Ethics in Public Service Act strictly prohibit certain private activity and certain uses of state resources . . .

(a) Any use for the purpose of conducting an outside business or private employment;

(b) Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group , . .

(e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy; and

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