U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

Analysis of Disclosures, Agency Investigation and Reports, Whistleblower Comments, and Comments of the Special Counsel

OSC File No. DI-08-0680

Summary

Michelle Genovese, Customer Service Representative (CSR), who originally requested to remain anonymous,[1] alleged that employees at the U.S. Small Business Administration (SBA), Disaster Assistance Customer Service Center, Buffalo, New York, engaged in gambling on agency premises. Ms. Genovese disclosed that SBA employees engaged in gambling pools for both lottery tickets and National Football League games involving the Buffalo Bills.

Steven C. Preston, former Administrator, SBA, tasked the Office of Inspector General (OIG), SBA, to investigate Ms. Genovese's allegations. The OIG concluded that multiple employees engaged in gambling pools on agency premises in violation of 5 C.F.R. § 735.201. On August 4, 2008, Jovita Carranza, Acting Administrator, SBA, reviewed and approved the OIG's report.

OSC finds that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

The Whistleblower's Disclosures

Ms. Genovese alleged that gambling pools took place over several years for each Buffalo Bills football game and frequently, but not necessarily each week, for lottery drawings. Ms. Genovese submitted representative pool sheets from the previous year. These sheets include employees' first names and last initials and the date of the game or the date of the lottery drawing. The pool sheets with 100 squares had a cost of $2 per square while the pool sheets with 10 squares had a cost of either $5 or $10 per square.

Ms. Genovese's allegations raise issues of impropriety under 5 C.F.R. § 735.201. Section 735.201 prohibits employees, while on Government-owned or leased property or while on duty for the Government, from conducting or participating in any gambling activity, including conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket.

---

[1] Ms. Genovese provided consent to the release of her name in connection with these allegations at the time she submitted comments on the agency's report.

SBA Report

The OIG interviewed 14 employees of the Disaster Assistance Customer Service Center, Buffalo, New York.[2] The agency determined that state lottery pools were not gambling based upon an opinion received from Napolean Avery, Chief Human Capital Officer, SBA Office of Human Capital Management. As a result, the investigation and report focused solely on the football pools. All 14 interviewed employees admitted to at least occasionally participating in football pools run by either Program Specialist Jennie Fortuna or CSR Rick Vanni. Only one employee, CSR Ken Hoffman, knew that participating in football pools was prohibited. Mr. Hoffman participated in spite of this knowledge, because he felt it was harmless. Disaster Center Director William Leggiero admitted to regular participation in the football pools. Mr. Leggiero did not consider the pools to be illegal and believed they helped to increase employee morale. During his interview on February 27, 2008, Mr. Leggiero noted that the football pools would be immediately discontinued.

The agency took disciplinary action by issuing Mr. Leggiero a letter of reprimand and letters of admonishment to involved employees. Further, the agency issued an agency-wide Information Notice to all SBA employees informing them of the prohibition of gambling while on duty or on government-owned or leased property.

The Whistleblower's Comments

Ms. Genovese first noted that she has been a valued SBA employee since 1998. She attached as exhibits to her comments various ratings and an award notice demonstrating her outstanding performance. Ms. Genovese suggested that Mr. Leggiero was told that these pools violated provisions of the Code of Federal Regulations.

Ms. Genovese also attached a photograph as an exhibit. The photograph purportedly shows Mr. Leggiero playing cards in his office with three unidentified individuals in February 2006. Ms. Genovese was outraged that Mr. Leggiero "just six months after Hurricane Katrina . . . . found time to play." Ms. Genovese provided no further information on the date or time of the photograph, the context in which it was taken, or the identity of the photographer.

Special Counsel's Findings

Based on my review of the original disclosures, the SBA report, and Ms. Genovese's comments, I have determined that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

---

[2] Ms. Genovese was not among the 14 employees interviewed, because she had not consented to the release of her name at the time of the investigation.