



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

December 7, 2018

US OFFICE OF SPECIAL COUNSEL
WASHINGTON, DC

2018 DEC 11 AM 8:38

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

Re: OSC File No. DI-18-2335

Dear Mr. Kerner:

I am responding to your March 13, 2018, letter regarding allegations made by a whistleblower at the Department of Veterans Affairs (VA), Southern Arizona VA Healthcare System (SAVAHCS) in Tucson, Arizona, that an employee may have engaged in conduct that constitutes a violation of law, rule, or regulation.

██████████ a maintenance worker at SAVAHCS, alleged that another employee who was responsible for managing SAVAHCS's vehicle fleet terminated a contract for vehicle detailing services in order to hire her brother's company to perform the same work.

The Office of Inspector General's (OIG) Office of Investigations conducted an investigation and began interviews on March 15, 2018. The results of the investigation are in the enclosed report. OIG substantiated the allegation that the employee terminated the facility's vehicle detailing contract and hired her brother's company to do the same work. The employee resigned from the Federal Government during the course of the investigation. OIG referred the case to the United States Attorney's Office, which declined to prosecute the employee.

Thank you for the opportunity to respond.

Sincerely,

Robert L. Wilkie

Enclosure



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20001



November 5, 2018

MEMORANDUM

TO: Office of Special Counsel

FROM: Office of Inspector General, Department of Veterans Affairs

SUBJECT: Report of Investigation re File No. DI-19-2335

2018 DEC 11 AM 8:39

US OFFICE OF SPECIAL COUNSEL
WASHINGTON, DC

Summary

On December 5, 2017, a Southern Arizona Veterans Affairs Healthcare System (SAVAHCS) Compliance Officer received an anonymous referral that the program coordinator for the VAMC's vehicle fleet used a government fleet credit card to pay for on-station car wash services from a company allegedly owned by her brother. An audit of the credit card bills for the previous quarter was conducted revealing over \$8,000 in payments to a company called G.A. Painting.

On March 13, 2018, Henry J. Kerner, Special Counsel, reported a whistleblower disclosure concerning the same matter to then-Secretary of the Department of Veterans Affairs David J. Shulkin. The whistleblower, Maintenance Lead and former Fleet Manager (Maintenance Lead), alleged that:

- SAVAHCS Fleet Management Lead terminated a contract with Mobile Detailing Concepts (MDC) for vehicle detailing services in order to hire G.A. Painting, a company owned by her brother, to perform the same service for the SAVAHCS vehicle fleet; and
- In response to Maintenance Lead's disclosure concerning this matter, SAVAHCS management told Maintenance Lead not to discuss this matter with anyone outside the agency and took steps to conceal G.A. Painting's work at the SAVAHCS.

The Office of Inspector General (OIG) accepted the referral for investigation. On March 15, 2018, the OIG interviewed Maintenance Lead. On March 30, 2018, the OIG interviewed Fleet Management Lead. Fleet Management Lead admitted that she recommended that her brother's company be hired and that she attempted to conceal the familial relationship by omitting her brother's last name on the facility's vendor list. Other SAVAHCS fleet employees said that Fleet Management Lead directly hired her brother's company. In total, SAVAHCS paid G.A. Painting \$10,570. The OIG referred this case to the Office of the United States Attorney for the

District of Arizona for potential prosecution. In September 2018, the U.S. Attorney's Office informed the OIG that it declined to prosecute.

Relevant Authorities

18 U.S.C. § 208, *Acts affecting a personal financial interest*: Generally prohibits any U.S. government employee to “participate[] personally and substantially” in a contract in which “he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest”

18 U.S.C. § 641, *Public money, property or records*: Generally prohibits the unauthorized taking or receiving of any item of value from the U.S. government.

Interviews Conducted

- SAVAHCS Maintenance Lead and former Fleet Manager
- SAVAHCS Fleet Clerk
- SAVAHCS Administrative Officer/Engineering Service
- Owner of Mobile Detailing Concepts
- SAVAHCS Fleet Management Lead
- Secretary to the SAVAHCS Chief of Facility Management
- SAVAHCS Program Support Specialist

Discussion

Detailed Whistleblower Allegations

On March 15, 2018, OIG investigators interviewed Maintenance Lead, a maintenance work leader for the SAVAHCS Engineering Department. On May 1, 2017, Maintenance Lead received a temporary assignment as a specialist for fleet management until the end of November 2017. One of his responsibilities was to ensure the SAVAHCS fleet vehicles were regularly cleaned. Mobile Detailing Concepts (MDC) was a company that detailed the SAVAHCS's General Services Administration (GSA) and fleet vehicles. There are approximately 90 vehicles in the fleet. In July 2017, Fleet Management Lead complained to Maintenance Lead that MDC was not showing up and the company only wanted to wash the larger vehicles. Maintenance Lead said Fleet Management Lead terminated the contract with MDC. In August 2017, G.A. Painting started washing the vehicles. In September 2017, Fleet Clerk and Maintenance Lead went to the office of the secretary for the Chief of Facility Management (CFM Secretary) to look at a receipt for G.A. Painting. Fleet Clerk said that Fleet Management Lead's brother lived at the address for G.A. Painting on the receipt. Neither CFM Secretary nor Maintenance Lead were able to locate G.A. Painting on any website.

In early November 2017, Maintenance Lead told Fleet Clerk that he (Maintenance Lead) was taking online ethics training. According to Maintenance Lead, Fleet Clerk told Fleet Management Lead, who angrily told Maintenance Lead that it was not illegal to have her brother washing vehicles because he was hired to wash GSA vehicles. On November 22, 2017, CFM Secretary and Maintenance Lead met with SAVAHCS Associate Director to discuss the issue.

Maintenance Lead said Fleet Management Lead and Fleet Clerk are good friends outside of work. Fleet Clerk knows Fleet Management Lead's mother and family. According to Maintenance Lead, Fleet Clerk was afraid of retaliation and did not want to step forward to discuss Fleet Management Lead. The only people who saw the receipts were Fleet Management Lead and Fleet Clerk. The vehicles were washed every two weeks. Fleet Management Lead was the person who called and scheduled the car washes. Maintenance Lead alleged that Fleet Management Lead contacted her brother at G.A. Painting to wash the vehicles at SAVAHCS.

On or about November 25, 2017, Administrative Officer/Engineering Service instructed Maintenance Lead and Fleet Clerk to remove all receipts for G.A. painting from the vehicle folders for an audit. G.A. Painting charged \$30 to wash small vehicles, \$125 for medium sized vehicles, and \$225 for buses. Maintenance Lead stated he saw a bank statement from August to December and estimated the Department paid G.A. Painting approximately \$10,000.

Other Investigative Interviews

On March 15, 2018, OIG investigators interviewed Fleet Clerk. Fleet Clerk has worked for the Department for 43 years. He has spent the last 12 years working in the Engineering Department. He is familiar with the process involved with the washing and detailing of SAVAHCS's GSA and fleet vehicles. MDC was a vendor who came on station on Thursdays to wash the vehicles (approximately 96 vehicles) and was used for several years. Fleet Clerk believed there was once a contract in place, but the owner of MDC cancelled the contract. A new vendor, G.A Painting, then came on station to wash the vehicles on the weekends. Fleet Clerk set up the cars and obtained the keys for the vehicles. He believed his supervisor Administrative Officer/Engineering Service contacted G.A Painting to wash the cars. The receipts for each washed vehicle arrived in a brown envelope for Fleet Clerk to file.

Fleet Clerk was shown a receipt from G.A. Painting. When asked about the address on the receipt, he said he did not know who lived at that address nor did he know the phone number. Fleet Clerk denied knowing the owner of G.A. Painting. He stated he met him once. Fleet Clerk did not want to continue answering questions and terminated the interview.

On March 16, 2018, OIG investigators interviewed Administrative Officer/Engineering Service. She manages administrative operations and telecommunications. The SAVAHCS fleet program is under the Chief of Engineering, but she supervises the employees. Administrative Officer/Engineering Service manages day to day operations of the vehicle fleet. Program Support Specialist was the Fleet Coordinator as of October 2017. Prior to Program Support Specialist's appointment, Fleet Management Lead was the acting Fleet Coordinator from May 2016 through October 2017 and was immersed in the day to day operations.

G.A Painting conducted on station car washes. Administrative Officer/Engineering Service did not know when the company began to wash the fleet vehicles. Administrative Officer/Engineering Service recalled Fleet Management Lead told her that MDC, the previous company, only wanted to wash the buses and charged too much. Fleet Management Lead said she was going to look for another vendor.

Fleet Management Lead never told Administrative Officer/Engineering Service she had hired G.A. Painting. Administrative Officer/Engineering Service received information that Fleet Management Lead had hired her brother's company from Human Resources. Administrative Officer/Engineering Service said she knows hiring family members is a conflict of interest and it is stated as such in ethics training. Administrative Officer/Engineering Service said that when she gave Fleet Management Lead a letter of counseling, Fleet Management Lead apologized and said, "I didn't think it was an issue because I did not enter into a contract." Administrative Officer/Engineering Service told her regardless of the situation, she cannot hire a family member.

On March 21, 2018, OIG investigators spoke with the owner of MDC. He said he told Fleet Clerk they needed to do a mass, higher volume washing to make it worth coming to SAVAHCS to wash vehicles. He said he never told anyone he would only wash the larger vehicles. He wanted more vehicles to wash when he came on Thursdays. They used to wash 30 vehicles at a time but some days SAVAHCS only made two or three vehicles available. He charged the Department half the regular fee. The owner of MDC said he had not received a call from anyone at SAVAHCS to schedule car washes in over six months.

On March 30, 2018, OIG investigators interviewed Fleet Management Lead. Fleet Management Lead stated that from May 2016 through October 2017 she assisted maintenance with daily operations, which consisted of making reservations with staff to borrow vehicles. She said she had no decision-making authority within the Engineering Department. There are approximately 17 VA-owned vehicles and 70 GSA fleet vehicles. A company called MDC would come on station to wash the GSA vehicles. Fleet Clerk arranged for MDC to come on station. Fleet Clerk told Fleet Management Lead that MDC only wanted to wash the big buses (\$225) and the high-top wheel chair accessible vehicles (\$50-\$70). Fleet Management Lead said MDC changed their prices all the time. She knows this because she reconciled the purchase cards. Fleet Management Lead had two purchase cards, one for maintenance and another for maintenance and operations. She saw the receipts (gas, maintenance, and car washes) and she filed the receipts in each vehicle folder.

Fleet Management Lead said Fleet Clerk informed her MDC had stopped coming to the VA. After that, Fleet Management Lead said her brother's company, G.A. Painting, came on station to wash the vehicles. She said she did not contact her brother's company. Fleet Management Lead said that Fleet Clerk dealt with the vendors and he must have hired G.A. Painting. Fleet Management Lead denied discussing her brother's company with Fleet Clerk. She did not inform her supervisor her brother was the new vendor washing vehicles.

Fleet Management Lead was a VA employee for eight years and took ethics training. She did not think her brother's company selection as the new vendor was a conflict of interest because she was not involved with selecting his company to wash the vehicles, despite working in the Engineering Department. She denied knowing what G.A. Painting charged per vehicle despite filing receipts in the vehicle folders.

Fleet Management Lead is aware that her brother owns several businesses, which provide services including house painting, staining, and power washing. Fleet Clerk and Fleet

Management Lead's brother live in the same neighborhood and Fleet Management Lead's brother has performed work at Fleet Clerk's house.

Fleet Management Lead reviewed a copy of the SAVAHCS vendor list and verified that G.A. Painting and Wash was her brother's company and that the corresponding address was her brother's home address. She noted that her brother's first name was misspelled on the vendor list and that the last name given for him was incorrect. She did not know why the wrong last name was given. She said Maintenance Lead updated the vendor list.

Fleet Management Lead said she accepted responsibility for not disclosing that her brother's company was working on VA property. OIG investigators told Fleet Management Lead that there were two conflicting stories about who hired G.A. Painting. Fleet Management Lead insisted she did not hire her brother's company. OIG investigators explained that Fleet Clerk also denied hiring him. Subsequently, Fleet Management Lead began to cry and said she had recommended that Fleet Clerk contact her brother's company. Fleet Management Lead said she provided Fleet Clerk her brother's phone number and told him to contact him about washing the vehicles.

Fleet Management Lead admitted that she provided Maintenance Lead the information for G.A. Painting to input into the vendor list. Fleet Management Lead identified her brother by his wife's maiden name because Fleet Management Lead did not want her last name to appear on the vendor list. She was worried about how it would look if the vendor had the same last name. Fleet Management Lead denied that she coached her brother on what to charge the VA for the different vehicles.

On April 5, 2018, OIG investigators re-interviewed Maintenance Lead. Maintenance Lead worked in the Engineering Department for seven months from May 1, 2017 through November 30, 2017. Maintenance Lead said that, in July 2017, Fleet Management Lead complained MDC refused to wash the smaller vehicles. Fleet Management Lead told Maintenance Lead she had terminated MDC and retained another company, G. A. Painting, to do the work. Maintenance Lead said in September 2017, Fleet Clerk showed him a receipt for G.A. Painting and said the address on the receipt belonged to Fleet Management Lead's brother. Maintenance Lead saw the receipts from G.A. Painting. He noticed they were charging the same as MDC or even one or two dollars more per vehicle.

Maintenance Lead said Fleet Management Lead angrily said there was nothing wrong with hiring her brother's company. He said she was very aggressive at work and made comments to both Fleet Clerk and Maintenance Lead about how old they looked. Fleet Management Lead intimidated Fleet Clerk and Fleet Clerk told Maintenance Lead that he thought Fleet Management Lead could get him fired.

The Engineering Department had a vendor list. Maintenance Lead said he is good with computers and Administrative Officer/Engineering Service asked him to update the vendor list. The vendor list was on a shared drive and all SAVAHCS employees had access to the drive to update and input information for a vendor. Maintenance Lead said Fleet Management Lead had him remove MDC from the vendor list and add G.A. Painting. Maintenance Lead was shown a portion of the vendor list. He said he did not add "and Wash" to G.A. Painting's description in

the vendor list. He added the first name of the contact person for G.A. Painting (that is Fleet Management Lead's brother's wife's first name). Maintenance Lead said someone else added Fleet Management Lead's brother's misspelled first name and the brother's wife's maiden name in the contact field. Before Maintenance Lead left the Engineering Department at the end of November 2017, he told the new supervisor, Program Support Specialist, that Fleet Management Lead had hired her brother's company.

On April 11, 2018, OIG investigators interviewed CFM Secretary. CFM Secretary is a retired VA employee who worked for SAVAHCS from January 2005 through November 30, 2017. She said Fleet Management Lead, Maintenance Lead, and Fleet Clerk were the employees involved with the reported conflict of interest. Maintenance Lead and Fleet Clerk worked in the Engineering Department. Fleet Management Lead was hired to oversee the vehicle fleet. A young man used to come on Thursdays to wash the SAVAHCS fleet vehicles. CFM Secretary noticed he no longer came to the VA but the vehicles were still washed. One Friday afternoon she noticed that Fleet Management Lead and Fleet Clerk were rushing around gathering vehicle keys. The following Monday, CFM Secretary asked Fleet Clerk who washed the vehicles and he responded that he did not want anyone to know, but he believed that Fleet Management Lead's brothers were washing the vehicles. CFM Secretary told Fleet Clerk that was a conflict of interest and Fleet Clerk asked her not to say anything. CFM Secretary said Fleet Clerk was afraid of Fleet Management Lead and believed she could get him fired.

CFM Secretary asked Maintenance Lead if he could pull a receipt from the car wash company. She looked up the business and discovered it was a construction company that built and painted homes. CFM Secretary pulled the address on the computer to locate the business and determined it was a residence. She asked Fleet Clerk to look at the house and he confirmed that it belonged to Fleet Management Lead's brother. CFM Secretary said if Fleet Management Lead fired the young man to hire her brother's company it was a serious conflict of interest. Fleet Clerk informed Fleet Management Lead that CFM Secretary and Maintenance Lead knew she had hired her brother's company. CFM Secretary said Fleet Management Lead told Fleet Clerk that it was not a conflict of interest. CFM Secretary is not sure if Fleet Management Lead vendorized her brother's company, but noted that Fleet Management Lead had a lot of control over the computer system.

CFM Secretary said she knows Fleet Clerk well and he confided in her. She said Fleet Clerk does not have any family and only has one friend. Fleet Clerk is unorganized and Fleet Management Lead went to his house to help him organize. Fleet Clerk told CFM Secretary he did not want Fleet Management Lead in his house but he was afraid to tell her. Fleet Clerk said Fleet Management Lead would tell him he was old and should retire. He was convinced Fleet Management Lead could have him fired. Fleet Management Lead talked Fleet Clerk into going to Las Vegas with her family as well as to dinners with her family. CFM Secretary described Fleet Management Lead as overbearing.

CFM Secretary believed Fleet Management Lead contacted G.A. Painting to wash vehicles because she had the authority to vendorize companies and Fleet Clerk does not have that authority. When CFM Secretary asked Fleet Clerk what happened to the other company, he told her Fleet Management Lead made excuses that they were not showing up to wash the vehicles.

Fleet Clerk never complained to CFM Secretary about the previous company. She believed G.A. Painting started washing the VA vehicles shortly after Maintenance Lead started in June 2017.

CFM Secretary and Maintenance Lead met with the SAVAHCS Associate Director to inform her of the matter. Associate Director told them she would take care of it.

On April 12, 2018, OIG investigators interviewed Program Support Specialist. Program Support Specialist was hired as the fleet coordinator on October 30, 2017. She has been a VA employee for fifteen years. G.A. Painting was the company that washed the fleet vehicles when she started in her position. Program Support Specialist said Fleet Management Lead told her G.A. Painting was her brother's company and they came once a month on the weekends. Fleet Management Lead or Fleet Clerk sent out e-mails to VA employees to coordinate bringing the vehicles to SAVAHCS to be washed on the weekends.

Program Support Specialist said she was uncomfortable because she did not believe Administrative Officer/Engineering Service knew the company was owned by Fleet Management Lead's brother. Maintenance Lead told Program Support Specialist she should tell Administrative Officer/Engineering Service because he was bothered by Fleet Management Lead's relationship to the company. Program Support Specialist said Fleet Management Lead told her she was not doing anything improper by using her brother's company because she was not the fleet manager. Program Support Specialist said an audit of the car washes and receipts was conducted. Administrative Officer/Engineering Service was informed of the situation and directed everyone to stop using G.A. Painting.

Program Support Specialist was shown copies of receipts from G.A. Painting. She said the name of the company was a red flag because it was a painting company. Program Support Specialist believed Fleet Management Lead, not Fleet Clerk, coordinated the hiring of G.A. Painting because Fleet Clerk needed to be constantly managed and told what to do. Fleet Management Lead was known to help Fleet Clerk at his home and they appeared to be close friends. I asked Program Support Specialist about the vendor list. She believed Fleet Management Lead created the vendor list and sent it to her when she started in the Fleet Department.

On April 12, 2018, Program Support Specialist forwarded to OIG investigators a copy of an e-mail she received from Fleet Management Lead dated August 29, 2017. The e-mail subject was, "Car Wash vendor here this Saturday." The e-mail read:

I have a new vendor washing cars on Saturday and Sunday, and Monday, September 1-3, 2017. Please park in Lot N and drop keys in drop box or give keys to [Employee 1] (MHCL) or [Employee 2] (HBPC) with credit cards by 3:45 p.m. on Friday, September 1, 2017. Please remove all personal items out of vehicles (laptops, phone chargers, and etc.) Fleet Management is not responsible for items left in vehicles.

The email identified a list of 37 vehicles to be washed and was signed by Fleet Management Lead with instructions to contact her directly with any questions.

On April 18, 2018, OIG investigators re-interviewed Fleet Clerk.¹ Fleet Clerk explained that, for the last few years, MDC washed government vehicles on station. Fleet Clerk denied contacting G.A. Painting. He said Fleet Management Lead contacted G.A. Painting to take over the vehicle washes. Fleet Clerk said she told him they could come on the weekends. On Mondays, Fleet Clerk would put away the vehicle keys and receipts from the weekend washes.

Fleet Clerk has known Fleet Management Lead for approximately three years. He said he attended a family party for Fleet Management Lead's mother and Fleet Management Lead came to his residence to help him organize. Fleet Clerk said he went to Las Vegas with Fleet Management Lead's family. He met Fleet Management Lead's brother and the brother's wife. Fleet Management Lead's brother and his wife own G.A. Painting. Fleet Clerk said Fleet Management Lead told him hiring her brother's company was not a problem because there were husbands and wives working together in the same department at SAVAHCS.

Fleet Clerk said he went to Fleet Management Lead's brother's residence to pick up vehicle receipts. I showed Fleet Clerk a receipt from G.A. Painting and he acknowledged the address on the receipt belonged to Fleet Management Lead's brother.

Additional Information

On April 20, 2018, Fleet Management Lead brought a knife to work and made statements that alarmed Program Support Specialist, who filed a report with the VA Police Department (VAPD). Fleet Management Lead was interviewed and said she has brought knives to work several times for a co-worker to sharpen. She denied making any threatening comments. Upon her return to duty on April 23, 2018, VAPD cited Fleet Management Lead for violation of 38 C.F.R. §§ 1.218(a)(13) and (b)(39) for possession of a knife with a blade length exceeding 3 inches.

Result of Investigation

On April 23, 2018, Fleet Management Lead provided a four-page letter to Chief of Engineering detailing both personal and work-related issues she had experienced and stating her intention to resign. On May 1, 2018, Fleet Management Lead called Chief of Engineering to inform him she was coming in to resign and collect her personal items.

Beginning in April 2018, the OIG began briefing the Office of the United States Attorney for the District of Arizona on the results of its investigation. An Assistant United States Attorney (AUSA) agreed to review the OIG's report for consideration for prosecution. In September 2018, the AUSA informed the OIG that her office declined to prosecute Fleet Management Lead.

¹ A VA Police Department Sergeant and the Executive Chief Steward were also present for the interview.