



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

March 6, 2012

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-11-1649

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on disclosures received from Tamry McCauley, an Audiovisual Media Specialist at the 61st Airbase Group, Los Angeles Air Force Base (LAAFB), El Segundo, California. Ms. McCauley, who consented to the disclosure of her name, alleged that an employee of the 61st Airbase Group operated a business from her workstation, during duty hours, using government equipment and supplies in violation of the Standards of Ethical Conduct. 5 C.F.R. §§ 2635.704-.705. Ms. McCauley further alleged that this employee's supervisor was aware of the employee's conduct and did nothing to stop it.

Ms. McCauley's allegations were referred to the Honorable Michael Donley, Secretary of the Air Force, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on April 8, 2011. On October 11, 2011, the Secretary submitted his report, based on the results of its investigation (§1213 investigation). Ms. McCauley provided comments on the agency report on November 13, 2011. As required by law, 5 U.S.C. § 1213(e)(3), I am now transmitting the report and Ms. McCauley's comments to you.

Ms. McCauley disclosed that Video Teleconferencing Technician Janell Green owned and operated a business known as Drippin' Nectar Natural Bath & Body Products (Drippin' Nectar). As the owner of Drippin' Nectar, Ms. Green produced and sold body creams, lotions, oils, scrubs and sprays. According to Ms. McCauley, Ms. Green advertised her Drippin' Nectar products to friends and Air Force co-workers using her work e-mail and demonstrated her products at her workstation during duty hours. In addition, she alleged that Ms. Green distributed her products and collected payment for the sales during duty hours. Further, according to Ms. McCauley, Ms. Green utilized Air Force office equipment to order supplies needed for the production of her products during duty hours. Ms. McCauley indicated that she witnessed Ms. Green engaging in this improper activity on a daily basis and that Ms. Green's supervisor, Christine Whetsel, Supervisor, Conference Services, was fully aware of Ms. Green's actions.

Ms. McCauley reported Ms. Green's activities related to Drippin' Nectar to the Space and Missile Systems Center Inspector General (SMC/IG) and her disclosure resulted in an

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investigation. Our office verified that an SMG/IG investigation was conducted in June and July 2010. This investigation, according to the information received by our office, substantiated Ms. McCauley's allegations regarding Ms. Green's misuse of government property and improper on-duty conduct. The investigation further concluded that Ms. Whetsel had knowledge of Ms. Green's improper activities. Despite these findings, disciplinary action was not taken against either employee and Ms. Green's activities continued.

The subsequent § 1213 investigation substantiated Ms. McCauley's allegation that Ms. Green operated her personal business in violation of Department of Defense regulations and provisions of the Code of Federal Regulations. The investigation further concluded that although Ms. Whetsel denied knowledge of Ms. Green's activities, she was aware of the conduct and abused her authority by allowing Ms. Green to conduct her business at work during duty hours. As a result of the investigation, the Commander of the Space and Missile Systems Center at LAAFB issued an e-mail directive to the entire base population on September 22, 2011, ordering an immediate cease and desist of personal commercial activity, directing compliance with off-duty employment rules, and mandating remedial ethics training for the base population. The report indicated that a two-day suspension was proposed against Ms. Green and a three-day suspension was proposed against Ms. Whetsel as a result of the investigation.

In her comments, Ms. McCauley characterized Ms. Whetsel's denial of knowledge of Ms. Green's activities as a "blatant misrepresentation of the truth." According to Ms. McCauley, Ms. Whetsel was not only aware of Ms. Green's activities but promoted her business by suggesting that other employees support Ms. Green and advising Ms. Green with regard to her business cards. In addition, according to Ms. McCauley, Ms. Whetsel was present as Air Force employees entered and exited the office where Ms. Green, Ms. Whetsel and Ms. McCauley worked to place orders and pick up products. Ms. McCauley believes the corrective action that was taken by the agency as a result of the Secretary's investigation was not sufficient to send a message to managers that whistleblowing should be taken seriously and that wrongdoing should not be covered up. As further evidence of her assertion that the agency did not respond appropriately to this matter, Ms. McCauley indicated that, during the course of the investigation, Ms. Whetsel was promoted to a GS-12 position and was recognized as a "Civilian of the Quarter."

In response to the concerns raised by Ms. McCauley in her comments regarding Ms. Whetsel's promotion and award, we contacted Air Force officials for additional information. On November 30, 2011, we were informed that Ms. Whetsel had applied and been selected for a higher graded position in September 2010. Information provided to our office regarding the SMC/IG investigation which preceded the § 1213 investigation indicates that at the time of Ms. Whetsel's selection, the on-site portion of the investigation had been concluded but the final report had not yet been issued. Ms. Whetsel assumed this new position, according to Air Force officials, on October 24, 2010. With respect to the "Civilian of the Quarter" award, we were informed that Ms. Whetsel was recognized for her

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performance in her new position for the period from July through September 2011. With respect to the disciplinary actions proposed as a result of the § 1213 investigation, our office was notified on January 11, 2012, that Ms. Greene's one-day suspension was mitigated to a letter of reprimand and Ms. Whetsel's three-day suspension was mitigated to a one-day suspension.

I have reviewed the original disclosure, the agency report, and Ms. McCauley's comments. Based on that review, I have determined that while the agency's report contains all of the information required by statute, I have significant concerns that the disciplinary actions taken do not provide a measured response to the nature and seriousness of the wrongdoing committed. The report essentially ignores the finding that Ms. Green with Ms. Whetsel's knowledge and support, continued to conduct her personal business during duty hours and using government equipment despite the findings of the SMC/IG investigation. The report further suggests that Ms. Whetsel was less than candid during both the SMC/IG investigation and the § 1213 investigation. Ms. Whetsel's testimony that she was unaware of Ms. Green's activities was contradicted by the testimony of numerous witnesses including Ms. Green herself.

I am especially disturbed by Ms. Whetsel's selection for a promotion and award in the midst of the SMC/IG and § 1213 investigations; investigations that determined that Ms. Whetsel abused her supervisory authority by condoning and supporting the wrongdoing of a subordinate employee. The agency's decision to recognize and reward this individual at virtually the same time they found that she abused her supervisory authority is troubling.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency report and Ms. McCauley's comments to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed a copy of the redacted report and Ms. McCauley's comments in our public file, which is now available online at www.osc.gov, and closed the matter.

Respectfully,



Carolyn N. Lerner

Enclosures