State of Illinois
EXECUTIVE ETHICS COMMISSION

OEIG Investigation No.: 23-00074
Subject(s) Name(s): Bryan Foster

Investigative Summary Report Publication
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If you have questions about the content of the report, please contact the Executive Inspector General for the Agencies of the Illinois Governor. For enquiries about the Commission's publication process, please email eec@Illinois.gov or visit eec.illinois.gov for additional information.

Office of Executive Inspector General for the Agencies of the Illinois Governor

Investigation Case No. 23-00074

[Redacted].

I. INTRODUCTION

Based on finding evidence of a State employee fraudulently obtaining a federal Paycheck Protection Program (PPP) loan, the OEIG conducted a larger review to determine whether State employees properly obtained PPP loans and provided notice of secondary employment. Based on the large volume of PPP loans obtained by State employees, the OEIG narrowed its review based on certain factors including those State employees who received approximately $20,000 or more in PPP loan funds.[1]

The OEIG self-initiated this investigation regarding two $20,833 PPP loans obtained by Bryan Foster while employed at the Illinois Department of Human Services (DHS). During his interview with the OEIG, Mr. Foster ultimately admitted that he submitted PPP loan applications and PPP loan forgiveness applications containing false information.

II. BACKGROUND

Bryan Foster began working for the State in September 2007 as a DHS Mental Health Technician Trainee, and currently works at Ludeman Developmental Center as a Mental Health Technician III.

The PPP was created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and administered by the Small Business Administration (SBA) to provide relief to small businesses affected by the COVID-19 pandemic. PPP loans were made to eligible businesses, which included sole proprietorships and self-employed individuals, for qualifying payroll costs and business operating expenses such as insurance, rent, and utilities.[2] To apply for the loan, a sole proprietor or self-employed individual needed to submit certain tax filings or other payroll documentation to an SBA-approved lender, establishing their eligibility and demonstrating the qualifying payroll amount, which as of March 2021 could be based on "gross income" reported on an IRS Form 1040, Schedule C.[3] PPP loans were eligible for forgiveness by the SBA if used on qualifying expenses and if at least 60% was used for payroll costs.[4]

III. INVESTIGATION

A. PPP Records For Bryan Foster

The OEIG located public records from the SBA showing that Mr. Foster received two $20,833 PPP loans, on April 15 and June 8, 2021, for a sole proprietorship. The OEIG subpoenaed loan documents from the lenders, which included a loan application for "Schedule C Filers," signed in Mr. Foster's name and dated April 13, 2021, and a second draw loan application for "Schedule

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[1] From the OEIG's review, in order to be eligible for at least $20,000 in loan proceeds, the small business typically had approximately $100,000 or more in yearly net profit or gross income. The OEIG will be referring to the Ultimate Jurisdictional Authority those State employees who obtained PPP loans in smaller amounts or were not investigated for other logistical reasons.
[2] 15 U.S.C. § 636(a)(36); SBA Interim Final Rule, 85 FR 20811 (Apr. 15, 2020).
[3] SBA Interim Final Rule, 86 FR 13149 (Mar. 8, 2021) (expanded definition of "payroll costs" for sole proprietors).
[4] *See id.*; 15 U.S.C. § 636(m).

C Filers," signed in Mr. Foster's name and dated May 12, 2021. On both applications, the "Sole proprietor" box was checked, the Business Legal Name was "Bryan Foster" with establishment year 2018, and the business was categorized under a code for "couriers and express delivery services." Both applications identified Mr. Foster as the sole employee, and both had a box checked under "Purpose of the loan" for payroll costs. The forms contained various certifications, all reflecting the initials "BXF," which included a statement that the applicant "was in operation on February 15, 2020…and was either an eligible self-employed individual, independent contractor, or sole proprietorship with no employees…"; a statement that the funds would be used as authorized by PPP rules; and a statement that information provided in the application and supporting documentation was "true and accurate in all material respects." The second draw form included an additional certification, reflecting the initials "BXF," which stated that the applicant "received a First Draw [PPP] Loan and, before the Second Draw [PPP] Loan is disbursed, will have used the full loan amount . . . only for eligible expenses." On both applications, the gross income from tax year 2020 from the "IRS Form 1040, Schedule C, line 7" was identified as $101,000. That figure was used to calculate the loan amounts of $20,833 each (intended to cover a period up to 2.5 months).

Other documents were submitted related to the loans, which included:

- an identical 2020 Schedule C Profit or Loss From Business form with each application;
- a copy of Mr. Foster's Illinois driver's license submitted with the first loan application; and
- an IRS W-9 Request for Taxpayer Identification Number and Certification for an "Individual/sole proprietor or single-member LLC" signed in Mr. Foster's name and dated June 8, 2021, submitted with the second loan application.

"Notes" for the first and second loans were dated April 15, 2021 and June 8, 2021, and contained electronic signatures in Mr. Foster's name for loans in the amount of $20,833 each. An Additional and Correction Documents Agreement accompanying the second application contained an electronic signature in Mr. Foster's name for June 8, 2021. Separate PPP loan forgiveness applications for each loan were dated October 14, 2021, and contained electronic signatures in Mr. Foster's name, indicating the amount spent on payroll costs was $20,833 for each loan, and requesting forgiveness of the full amount of $20,833 for each loan. The applications included certifications that the borrower had complied with all requirements, including those related to eligible use of PPP loan proceeds, and that the information provided in the applications was "true and correct in all material respects." SBA documents, both bearing the date October 19, 2021, stated that the loans had been forgiven in full.

B. DHS Secondary Employment Information

The OEIG also reviewed the DHS personnel file for Mr. Foster, for any documents related to his secondary employment. Mr. Foster's personnel file contained several copies of Reports of Secondary Employment that indicated he did not have secondary employment.

C. Bryan Foster's OEIG Interview

On February 1, 2023, the OEIG interviewed Mr. Foster. Mr. Foster said that he has had outside employment for approximately the last five to six years of his DHS employment. Mr. Foster said that employment was as a silent partner/financial investor in a business called TCBM, which transported goods, rented out cars, and might have been involved in short term residential rentals. Mr. Foster said that he created a limited liability company called "[Company 1]" to function as the investor in TCBM, and said that he was the only employee. Mr. Foster said that he did not do any work for the business, but only invested in it. Mr. Foster said that he never made any money, but took a loss on the investment, and dissolved his company after the investment failed to make money.

Mr. Foster was shown a DHS Report of Secondary Employment form, dated February 6, 2020, and confirmed that he filled out the form and completed the section of the form reporting that he did not have any secondary employment. Mr. Foster was shown a copy of DHS's Secondary Employment Administrative Directive, and said that he was familiar with the policy but did not fully understand it.

Mr. Foster confirmed that he applied for both PPP loans, and completed the applications online. Mr. Foster said that he learned about PPP loans from the internet, social media, and word of mouth. Mr. Foster said that a friend who lives in California (Individual A) helped him apply for the loans over the phone. Mr. Foster said that he thought he paid Individual A for helping with the applications, but could not recall when, how much, or what means of payment was used. Mr. Foster said that he gave Individual A information from his business as well as some personal information. Mr. Foster confirmed that funds from both loans were deposited directly into his bank account.

When shown the applications for both of his PPP loans, Mr. Foster confirmed that he filled out the forms. Mr. Foster confirmed that the forms contained his name, address, phone number, email address, and social security number. Mr. Foster also confirmed that he checked the sole proprietor box, wrote in the business name as "Bryan Foster," wrote in the NAICS code of 492110, and indicated that he was the only employee on both forms. When shown the section of the forms that reflected Mr. Foster's business had a gross income of $101,000 in 2020, Mr. Foster said that was not an accurate number for either form and further stated that he did not put that amount on the second application form and did not know where it came from. Mr. Foster confirmed that he initialed the boxes, including those reflecting that each statement on the forms was true, and applied his signature to both applications. Mr. Foster said that other than the gross income of $101,000, the information on the forms was true.

When shown the 2020 IRS Schedule C submitted with his applications, Mr. Foster confirmed that he filled it out, and that it contained his personal information. Mr. Foster said that he listed the principal business as a courier on the form. When asked about the listed gross income of $101,000, Mr. Foster claimed that he did not write that, and it was possible that Individual A had filled that portion out. Mr. Foster said that he was not sure if he had listed the advertising expense on the form, because he had not spent money to advertise, but that he listed the amounts for commissions and fees, as well as legal and professional services. Mr. Foster also said that he did not input the expenses for supplies or travel shown on the form. Mr. Foster also said that he did not do any of the calculations on the form, including the total expenses or the tentative profit. Mr. Foster said that he did not submit the Schedule C with his second draw application, but that Individual A might have done so on his behalf. Finally, Mr. Foster said that he did not submit the form to the IRS with his taxes, nor did he pay any taxes on the profit calculated on the form.

Mr. Foster was shown the SBA Notes from both PPP loans and confirmed that he signed the Notes. Mr. Foster said that he used the funds from his PPP loans to invest in other businesses that did not work out, possibly to pay Individual A, and to spend on unspecified other expenses. Mr. Foster said that he spent all of the funds, and that he thought the purpose of PPP loans was to start and maintain a business.

Mr. Foster was shown the PPP Loan Forgiveness Applications for both loans. He said that Individual A filled out the application for the first loan with his permission because he did not know how to fill it out, and that he filled out the application for the second loan with Individual A's assistance over the phone. Mr. Foster confirmed that both applications contained his personal information, but said that the email address listed on them belonged to Individual A. Mr. Foster confirmed that he signed both applications, and said that he applied for forgiveness because he was unable to repay the loans. Mr. Foster confirmed that both PPP loans had been fully forgiven.

IV. ANALYSIS

The DHS Rules of Employee Conduct state that an employee's "conduct while off-duty may subject the Employee to discipline up to and including discharge" when the conduct raises "reasonable doubt concerning the Employee's suitability for continued state employment."[5] In addition, the State of Illinois Code of Personal Conduct provides that "A State Employee will conduct himself or herself…with integrity and in a manner that reflects favorably upon the State."[6]

Mr. Foster acknowledged that he obtained two PPP loans in 2021, that he used the proceeds, and that the loans were forgiven in full by the SBA. The information in Mr. Foster's loan documentation, however, was false. Mr. Foster's loan applications listed 2020 gross income from a "courier and express delivery service" in an amount of $101,000. Mr. Foster admitted in his interview that he completed both loan applications himself, and initialed and signed them, including certifications that the information contained therein was true, although he maintained that he did not put the $101,000 amount on the second application. He also admitted that he had personally filled out the 2020 IRS Schedule C form, although he claimed that Individual A (who he said was helping him over the phone from California) may have filled out the income amount and several of the expenses claimed on the form. Mr. Foster explained that he never made any money from the business, and in fact took a loss on it. He also admitted that the $101,000 gross income figure listed on his PPP application forms and Schedule C was not accurate.

Mr. Foster further admitted that after being approved for the PPP loans, he spent the loan proceeds of $41,666 in public funds, including for personal things such as investments in other businesses, paying Individual A, and unspecified personal purchases. Mr. Foster admitted that he authorized Individual A to complete and submit one forgiveness application for him and personally

[5] DHS Administrative Directive 01.02.03.040.
[6] Illinois Code of Personal Conduct, Conduct Unbecoming of a State Employee (2017 & March 17, 2021).

completed and submitted the second forgiveness application and that his loans were both forgiven. Thus, Mr. Foster submitted two loan applications with false information, received and spent the loan proceeds in violation of PPP rules, and accepted forgiveness in full by the federal government. Based on the evidence, there is reasonable cause to believe that Mr. Foster violated DHS and State of Illinois policies on employee conduct.

V. [REDACTED] AND RECOMMENDATIONS

Based on the evidence detailed above, the OEIG has determined **THERE IS REASONABLE CAUSE TO BELIEVE THE FOLLOWING:**

- **[REDACTED]** – Bryan Foster obtained two federal PPP loans based on falsified information in violation of DHS and State of Illinois policies on employee conduct.

Regardless of the ease of procuring these PPP funds, this was not free money for the taking. These loans, as with any other, required truthful information as a basis for approval. State employees are expected, at minimum, to maintain the public's trust and confidence. Misappropriating such funds is far from being ethical, professional, acting with integrity, or conducting oneself in a manner that reflects favorably upon the State. Accordingly, the OEIG recommends that DHS terminate Bryan Foster.

No further investigative action is necessary, and this matter is considered closed.

Date: March 8, 2023

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March 20, 2023

Via e-mail to Senior Paralegal Sherry Bult (at [redacted]@illinois.gov), on behalf of:
Susan M. Haling
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RE: Response to the Final Reports for Complaints [redacted], [redacted], [redacted], 23-00074, [redacted], [redacted], [redacted], [redacted], [redacted], and [redacted]

Dear Executive Inspector General Haling:

This letter responds to the Final Reports for the complaints listed above. The Department of Human Services (DHS) is currently reviewing the complaints. Your office will receive an update by May 15, 2023. If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards,

/s/ Grace B. Hou by /s/ Robert J. Grindle

Grace B. Hou
Secretary

JB Pritzker, *Governor* Illinois Department of Human Services Grace B. Hou, *Secretary*

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September 12, 2023

Via e-mail to Senior Paralegal Sherry Bult (at [redacted]@illinois.gov) on behalf of:
Susan M. Haling
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RE: Updated Response to the Final Report for Complaint 23-00074

Dear Executive Inspector General Haling:

This letter updates a previous response for the Final Report for Complaint Number 23-00074. That Final Report details one [redacted] allegation, regarding the federal Paycheck Protection Program (PPP). It makes one recommendation. The recommendation was being followed. However, the employee resigned before the Department of Human Services (DHS) could hold a pre-disciplinary meeting with the employee.

With the employee's separation, DHS considers this matter closed. If you have any questions, please feel free to contact Robert J. Grindle, DHS' Ethics Officer.

Regards,

/s/ Grace B. Hou by /s/ Robert J. Grindle

Grace B. Hou
Secretary