

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: BENJAMIN MACARTHY)

OEIG Case # 09-00654

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Commission to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut its factual allegations or legal conclusions before the Commission.

The Executive Ethics Commission (“Commission”) received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Benjamin Macarthy at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

I. BACKGROUND

The Office of Executive Inspector General (OEIG) received a complaint alleging that Benjamin Macarthy (Macarthy), Senior Rehabilitation Counselor, Department of Human Services, authorized payments for a State vendor, Excelsior Healthcare Academy (Excelsior), which was owned by his wife, [redacted].¹ During the course of the investigation, it was further alleged that Macarthy may have improperly obtained a motorized wheelchair for a DHS client and forged a coworker’s signature on an official DHS document.

¹ It was further alleged that Macarthy improperly referred clients to SAM Network, Inc. (SAM Network), a transportation company, which was also owned and operated by [wife]. However, a search of State records and interviews of SAM Network owners revealed that neither Macarthy nor [wife] owned or operated SAM Network, Inc. In addition, OEIG investigators did not uncover any additional evidence to suggest improper referrals. Therefore, that allegation is UNFOUNDED and is thus not addressed in this report.

II. INVESTIGATION

A. *Excelsior Healthcare Academy*

1. Articles of Incorporation

OEIG investigators obtained and reviewed Excelsior's Articles of Incorporation, dated July 10, 2007. According to its Articles of Incorporation, Excelsior was established to "foster education and training of health career so that our graduates can perform safe and diligent care in a healthcare environment." Excelsior maintained three directors: [wife], Macarthy and [son]. [The son] was identified as [wife's] and Macarthy's son. According to the Articles of Incorporation, all resided at the same address. Each director signed the Articles of Incorporation.

DHS Payments to Excelsior

OEIG obtained and reviewed DHS' payments to Excelsior made between November 11, 2006 and August 25, 2009, which totaled thirty-five payments for a total amount of \$28,149.50. OEIG investigators also found that, on July 27, 2009, Macarthy referred a client to Excelsior and authorized a payment of \$1,080 for that individual.

2. [Wife] Interview

On March 5, 2010, OEIG investigators interviewed [wife]. She stated that she established Excelsior in approximately June 2003 to prepare individuals to work in the healthcare field as nursing assistants. The nursing assistant program lasted four weeks and consisted of instruction four days per week for four to six hours per day. [Wife] advertised her business on the internet and received referrals from different sources.

[Wife] stated that DHS referrals constituted approximately five percent of her business. [Wife] stated that her husband, Macarthy, is not involved with Excelsior. OEIG investigators subsequently showed her Excelsior's Articles of Incorporation, which listed her husband as a director. In response, [wife] stated that she signed all of the signatures on the Articles of Incorporation.

3. [Redacted] Interview

On October 19, 2009, OEIG investigators interviewed [redacted]. [Redacted]. [Redacted] stated that Excelsior trained students in the field of nursing and was owned by Macarthy's wife, [redacted]. [Redacted] stated that she was aware that Macarthy previously enrolled a DHS client in Excelsior's program. When [redacted] was made aware of the situation, she [redacted] reassigned the client to another counselor. [Redacted] was also aware that Macarthy previously attempted to obtain a motorized wheelchair for an individual without first verifying the person's insurance coverage and, in a separate instance, signed a coworker's name on a travel voucher.

B. Court of Claims document

1. Claim 08-CC-3150

OEIG investigators obtained and reviewed a “Court of Claims-State of Illinois” document,² claim number 08-CC-3150, dated July 23, 2008. The document addressed payment for Macarthy’s travel expenses, for a total amount of \$222.50, and was signed by [redacted—another DHS employee]. On September 16, 2008, Macarthy presented an amended “Court of Claims” document, also numbered 08-CC-3150, in the amount of \$235.80. The September 16, 2008 document was approved on September 18, 2008 and Macarthy was reimbursed for his travel expenses totaling \$235.80.³

2. [DHS employee] Interview

On March 30, 2010, OEIG investigators interviewed [another DHS employee]. [Employee] told investigators he recalled in approximately 2008 he was informed that someone may have signed his name on Macarthy’s Court of Claims document. He stated that he assumed it was Macarthy who forged his name and confronted him about the matter. [Employee] stated that he asked: “Who signed my name to your Court of Claims form?” According to [employee], Macarthy replied that he was sorry and walked away without saying anything further. [Employee] iterated that he never gave Macarthy permission to sign his [employee’s] name on the document.

III. BENJAMIN MACARTHY INTERVIEW

On January 28, 2010, OEIG investigators interviewed Benjamin Macarthy. During his interview, Macarthy told investigators that he had been employed by DHS since 1992. As a senior rehabilitation counselor, Macarthy’s duties include interviewing and counseling visually impaired DHS clients, evaluating their needs and recommending training programs.

Macarthy stated that Excelsior was a DHS vendor that offered vocational training for individuals interested in becoming certified nursing assistants. Although Excelsior was owned by his wife, [redacted], Macarthy stated that he was not involved in the business. Macarthy pointed to the fact that he and his wife maintained separate bank accounts and that funds from Excelsior are remitted only to [wife’s] bank account, thereby preventing the comingling of funds.

Macarthy further stated that his DHS responsibilities required him to find training programs for his customers and that he only recalled referring one or two individuals to his wife’s business. Macarthy did not believe referring clients to his wife’s business constituted a conflict because his objective was to seek appropriate training for his DHS clients.

² In the present instance, a Court of Claims-State of Illinois document was filed when either DHS or Macarthy was dilatory in filing for reimbursement of travel expenses not paid in fiscal year 2007.

³ DHS records indicated that Macarthy was only paid for the voucher dated September 16, 2008, in the amount of \$235.80.

Macarthy also stated that he had previously sought to obtain a motorized wheelchair for a former coworker, who was also a DHS client, but was subsequently told by [employee], to close the file.⁴

In approximately August 2008, Macarthy recalled signing a coworker's name, [redacted], on a claim document. Macarthy said he signed [redacted] name on the document because he needed [redacted's] approval and [redacted] was out of the office at the time. Macarthy stated he subsequently notified [redacted] that he had signed his [redacted—DHS employee's] name on the document.

IV. ANALYSIS

A. *Conflict of Interest*

The Illinois Department of Human Services Employee Handbook (DHS Handbook), Section V, "Employee Personal Conduct," states, in part: "An employee holds a position of public trust and is expected to conduct himself or herself in a responsible, professional manner, refraining from conduct which could adversely affect the confidence of the public." The Handbook continues, "[c]onflicts of interest that involve personal business and employment with DHS must be avoided."⁵

The evidence, taken in its totality, shows that Macarthy referred one DHS client to his wife's business on July 27, 2009 and approved training totaling \$1,080. Although Macarthy claims he was not involved with [wife's] business, the fact that his wife owns the business, and he referred a DHS client to that business, gives rise to an appearance of impropriety and created a conflict of interest. Such conflict, in accordance with the Handbook, should have been avoided because it could adversely affect the public's confidence in the objectivity of DHS referrals of vendor services. Therefore, the allegation that Macarthy improperly made a referral, which created a conflict of interest is **FOUNDED**.

B. *Court of Claims Forgery*

Section V of the DHS Handbook, titled "Employee Personal Conduct," states, in part: "An employee shall not participate in or condone fraud, dishonesty, or misrepresentation in the performance of duties."

During his OEIG interview, Macarthy admitted that he signed [redacted] name on his own Court of Claims document. While Macarthy explained to OEIG investigators that he wanted to expedite the reimbursement of his travel expenses, [redacted] had not given Macarthy permission to sign his name and was not aware of Macarthy's actions until another DHS employee brought the matter to his [DHS employee's] attention. The OEIG notes that by signing [redacted's] name on the July 23, 2008 document, Macarthy misrepresented that [redacted] was aware of the claim and approved the expenses. Therefore, the OEIG finds that Macarthy

⁴ According to [redacted] and Macarthy, the file was subsequently closed on June 15, 2009 and the wheelchair was never ordered. Since the file has already been closed and no benefits were conferred, the OEIG declines to make a recommendation regarding this matter.

⁵ DHS Handbook, Section V, "Conflicts of Interest."

improperly signed a coworker's name on an official DHS document. And thus this allegation is Founded.

V. CONCLUSIONS

- **FOUNDED** – Macarthy referred one DHS client to his wife's business, in violation of DHS policy.
- **FOUNDED** – Macarthy signed a coworker's name on an official DHS document, in violation of DHS policy.

Based upon our findings, the OEIG recommends that Macarthy be disciplined for engaging in a conflict of interest and forging a coworker's signature on an official DHS document.

No further investigative action is warranted and this case is considered closed.



Pat Quinn, Governor

Michelle R.B. Saddler, Secretary

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January 24, 2011

Mr. Ricardo Meza
Executive Inspector General
Office of the Executive Inspector General
For the Agencies of the Illinois Governor
32 West Randolph Street, Suite 1900
Chicago, Illinois 60601

2011 JAN 26 PM 1:19
Received
OIG - Chicago

RE: OEIG Complaint No: 09-00654

Dear Inspector General Meza:

The Department of Human Services/Division of Rehabilitation Services (DHS/DRS) received allegations from the OEIG regarding Rehabilitation Counselor Benjamin Macarthy. Mr. Macarthy is a counselor in the Bureau of Blind Services in the Chicago Heights office. The founded allegations include referrals of DHS/DRS customers to Mr. Macarthy's wife's business and signing a coworker's name on an official DHS document.

Approximately one year ago, *redacted* became aware that Mr. Macarthy had been sharing information about his wife's business and soliciting referrals of customers to this business. Subsequently, *[redacted]* referred the information to the OEIG and reviewed all referrals to this business.

DHS/DRS staff was also working concurrently on *redacted*

Mr. Macarthy had been on a medical leave for over a year and then retired while on leave on December 1, 2010. Since he has retired, we believe no further action is necessary and respectfully request that your office close this case.

Sincerely,

Michelle R.B. Saddler
Secretary