

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

In re: KWA MISTER, ) OEIG Case #11-01495

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (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 the report’s factual allegations or legal conclusions before the Commission.

The 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, pursuant to 5 ILCS 430/20-52, 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 Kwa Mister at his last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

**I. INTRODUCTION**

In 2008, Southern Illinois University (SIU) entered into an Intergovernmental Agreement for the Establishment of a Highway Construction Preparatory Training Program (Construction Training Program) with the Illinois Department of Transportation (IDOT). The Construction Training Program provided opportunities for employment diversity and preparation of individuals for placement and retention in highway construction apprenticeship programs. Kwa Mister was the Director of the SIU Edwardsville (SIUE) Small Business Development Center and served as the SIUE Project Manager for the Construction Training Program.

In September 2011, the OEIG received a complaint alleging that SIUE had paid subcontractor Phoenix Support Service (Phoenix) \$85,000 for work on the Construction Training Program, but had not obtained approval for the subcontractor from IDOT.

During the course of the investigation, the OEIG discovered that Phoenix was owned by Kwa Mister's mother, Lorine A. Sloan. The OEIG also discovered that SIUE, through Kwa Mister, paid his sister, Rhonda Monigan, doing business as (d.b.a.) the Monigan Group, over \$148,000 for professional and artistic services under various contracts and grants.

## **II. BACKGROUND**

### **A. Intergovernmental Agreement Between SIU And IDOT**

The Intergovernmental Agreement between SIU and IDOT for the Construction Training Program (Intergovernmental Agreement) was signed on September 11, 2008, and ended on June 30, 2009. The Intergovernmental Agreement contained a clause permitting up to four, one-year renewals, and the agreement was subsequently renewed in 2009 and 2010. Under the Intergovernmental Agreement, SIU received \$400,000 from IDOT for serving as the Construction Training Program Administrator and Fiscal Agent, along with other services.

The Intergovernmental Agreement specifically stated that subcontracting by SIU was prohibited without the prior written consent of IDOT and that competitive selection procedures were required for products or services having a total over \$10,000. Solicitation of a proposal from only one source was allowed only in limited circumstances.

### **B. SIUE Director Of Operations, Budgets, And Grants Kwa Mister**

Kwa Mister served as the Director of the SIUE Small Business Development Center from 2007 until 2011, when he became the SIUE Director of Operations, Budgets, and Grants. Between 2007 and 2012, Mr. Mister was responsible for oversight of approximately thirteen grants or contracts totaling over \$2,400,000, twelve of which were with the Illinois Department of Commerce and Economic Opportunity (DCEO) and one (Construction Training Program) was with IDOT. Mr. Mister also served as the SIUE Project Manager for the Construction Training Program. In May 2012, Mr. Mister resigned from SIUE.

### **C. OEIG Criminal Referrals**

After conducting an initial investigation into the allegations involving contracts with Phoenix, the OEIG referred its investigation to the Illinois Attorney General's Office on January 10, 2012.<sup>1</sup> On November 29, 2012, the Attorney General's Office informed the OEIG that they were declining to pursue a criminal prosecution of Mr. Mister.

After conducting a more extensive investigation, the OEIG referred its investigation to the United States Attorney's Office for the Southern District of Illinois (U.S. Attorney's Office) on February 20, 2013.<sup>2</sup> In January 2015, a federal grand jury indicted Mr. Mister on two counts of making false statements to federal agents in violation Title 18, United States Code, Section

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<sup>1</sup> The referral was pursuant to the Ethics Act, 5 ILCS 430/20-80.

<sup>2</sup> During the time that the criminal referrals were pending with the Attorney General's Office and the United States Attorney's Office for the Southern District of Illinois, the OEIG delayed certain aspects of its investigation so as to not interfere with possible criminal investigation.

1001.<sup>3</sup> The indictment specifically alleged that on May 19, 2014, Mr. Mister willfully and knowingly made false statements when he told federal agents that any statements by anyone at SIUE that they had asked Mr. Mister about the contracts with his mother were untrue. The indictment also alleges that on July 24, 2014, Mr. Mister willfully and knowingly made false statements to federal agents when he said that he never denied to SIUE officials that L.A.S. [initials listed in indictment] was his mother or the owner of Phoenix. On April 17, 2015, Mr. Mister pled guilty to both counts charged in the indictment, and his sentencing is scheduled for July 24, 2015.

### III. INVESTIGATION

#### A. Investigation Into Allegations Involving SIUE Subcontractor Phoenix

##### 1. SIUE Contracts with Phoenix

Between March and December 2010, SIUE entered into five Consultant Agreements with Phoenix for Phoenix to serve as an independent consultant and provide support for the Construction Training Program.<sup>4</sup> These Consultant Agreements were obtained as sole source contracts. Kwa Mister was listed as the requestor of the sole source contracts and signed documents to that effect.

The Consultant Agreements were also signed by Lorine A. Sloan d.b.a. Phoenix and contained a provision indicating that the Consultant (Ms. Sloan) agreed there was no conflict of interest between herself or her family and her services under the agreement.

The five sole source contracts between SIUE and Phoenix were for the following amounts and the indicated timeframes:

<u><i>Contract Amount</i></u>	<u><i>Contract Timeframe</i></u>
\$19,500	April 1, 2010 - June 30, 2010
\$7,500	June 16, 2010 - June 30, 2010
\$19,500	July 1, 2010 - December 31, 2010
\$19,500	September 15, 2010 - June 30, 2011
\$19,500	January 1, 2011 - June 30, 2011

<sup>3</sup> The criminal case number assigned to the case against Mr. Mister is 15-30006-DRH.

<sup>4</sup> Despite researching numerous sources, including, but not limited to, State and federal tax records, State corporate records, and disadvantaged business enterprise records, the OEIG was unable to locate any corporate and/or business documentation for Phoenix.

Under these contracts, Phoenix was paid a total of \$85,500 by SIUE for its work on the Construction Training Program through approximately 16 separate invoices. The OEIG requested and obtained from SIUE the work product produced by Phoenix under these sole source contracts for the Construction Training Program. Phoenix's work product consisted primarily of the following:

- a Construction Training Program flow chart;
- a Construction Training Program pamphlet;
- a list of addresses and telephone numbers for local unions;
- seven Construction Training Program forms; and
- eight spreadsheets.

The OEIG also requested any documentation reflecting that SIUE requested or obtained written approval from IDOT to use Phoenix as a subcontractor as required by the Intergovernmental Agreement. SIUE did not produce any documents reflecting that subcontractor approval was obtained from IDOT.

## **2. Relationship Between Kwa Mister and Lorine Sloan**

The OEIG obtained and analyzed Mr. Mister's SIUE personnel file and found that Lorine Sloan was listed as Kwa Mister's mother and emergency contact on an SIUE employment form. The phone number listed for Ms. Sloan on this form is the same phone number listed for Phoenix on invoices and other documents submitted to SIUE for work conducted on the Construction Training Program.

On October 15, 2012, the OEIG seized four SIUE computers that were assigned to Kwa Mister prior to his resignation from SIUE. The OEIG's analysis of the computers revealed an email dated, July 11, 2008, from Lorine Sloan to Mr. Mister's SIUE email account stating:

Just want to let you know how proud I am of you, would'nt [sic] trade you for the whole, [w]anted to share that with you my son. Love you forever, your mother.

## **3. Mr. Mister's Denial to SIU of His Relationship With Lorine Sloan**

On January 11, 2012, the OEIG interviewed [former SIU Attorney] who said that he was made aware of allegations involving a possible relationship between Kwa Mister and Lorine Sloan around May 2011. He stated that he then talked to Mr. Mister, and Mr. Mister said he was not related to Lorine A. Sloan. [Former SIU Attorney] said that on January 6, 2012, he again contacted Mr. Mister, and Mr. Mister said he was not related to Lorine A. Sloan, his mother's name was Lorraine Sloan-Mister, and his mother was not related to Lorine A. Sloan. [Former SIU Attorney] said that Mr. Mister said that his mother was not the owner of Phoenix, but she may have worked on the subcontract Phoenix had with SIUE. [Former SIU Attorney] stated that on January 9, 2012, in the presence of Mr. Mister's former supervisor and an SIUE Director, Mr. Mister said again during a telephone conversation that he was not related to Lorine A. Sloan nor was Lorine A. Sloan related to his mother Lorraine Sloan-Mister.

#### **4. IDOT Internal Audit Involving Work Performed By Phoenix**

The OEIG obtained an internal IDOT Memorandum dated July 30, 2012, from IDOT's Chief Financial Review Officer regarding an IDOT review of expenses charged by Phoenix to the Construction Training Program. According to the Memorandum, IDOT auditors were unable to verify any documentation concerning the costs charged to the Construction Training Program by Phoenix or even the existence of Phoenix, and, to the auditors' knowledge, no one at IDOT granted approval for the subcontracts with Phoenix. The IDOT Memorandum also states the following:

- In March 2012, Kwa Mister told IDOT auditors that Lorine A. Sloan is his mother, she was not the owner of Phoenix, but she worked for Phoenix and sometimes signed for the owners.<sup>5</sup>
- IDOT obtained from Kwa Mister the deliverables he said were prepared by Phoenix under the contract with SIU on the Construction Training Program which consisted of spreadsheets, a weekly assessment form, flow charts, and a rubric to assess project performance.

The IDOT review recommended that IDOT submit an invoice to SIU for \$85,300<sup>6</sup> to recover the Construction Training Program costs attributable to charges from Phoenix.

#### **5. SIU Response to IDOT Internal Audit**

The OEIG obtained a copy of a letter dated July 23, 2012, from [former SIU Attorney] to IDOT in response to IDOT's July 30, 2012, Memorandum. Mr. McLellan wrote that SIU and IDOT were unaware at the time that Kwa Mister was engaging in inappropriate activity with respect to the Construction Training Program. [Former SIU Attorney] wrote, "SIU's position is that IDOT did receive a product and/or services for the monies paid and thus would be unjustly enriched if SIU were required to repay these funds."

#### **6. Interview of Kwa Mister by Federal Agents**

On May and July of 2014, pursuant to the federal criminal investigation, Mr. Mister was interviewed by Special Agents from the United States Department of Transportation, Office of Inspector General, and the United States Department of Labor, Office of Inspector General, and the OEIG obtained copies of these interview reports from federal authorities. During these interviews, Mr. Mister admitted that Lorine Sloan was his mother and the owner of Phoenix. Mr. Mister said that he recommended that his mother perform the work on the Construction Training Program because she had the background in administrative work that was needed. He said that

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<sup>5</sup> In a March 13, 2012, email from Mr. Mister to [former SIU Attorney], Mr. Mister wrote that he met with IDOT personnel from IDOT's Financial Review Team that day. Mr. Mister wrote that the IDOT personnel asked if there was a relationship between his mother and Phoenix, and he confirmed with them "that my mother has a relationship with the company."

<sup>6</sup> SIUE paid Phoenix \$85,500 for work under the Construction Training Program, but IDOT had only reimbursed SIUE for \$85,300 of those expenses.

the sole source contracts with his mother did not have to be bid because the contracts were under a certain threshold amount of \$20,000. Mr. Mister said that he initially did not tell anyone at SIUE that Ms. Sloan was his mother because no one asked him and that it was the responsibility of the other SIUE employees who signed off on the contract documents with Phoenix to ask questions before they signed the documents. He said that he did not see a conflict of interest for him to sign the contract documents for his mother's business.

## **B. Investigation Into Allegations Involving The Monigan Group**

During the course of this investigation, the OEIG discovered that Mr. Mister, on behalf of SIUE, entered into contracts with Rhonda Monigan, his sister.

### **1. SIUE Contracts with The Monigan Group**

The OEIG obtained contracts between SIUE and Rhonda Monigan d.b.a. the Monigan Group. The SIUE documents indicate that between May 2008 and February 2012, SIUE paid Rhonda Monigan d.b.a. the Monigan Group just over \$148,000 for professional or artistic services. The payments were mainly for professional or artistic services that were provided for the SIUE Small Business Development Center, but included work under grants awarded to SIUE by DCEO and approximately \$26,000 in payments for work on the Construction Training Program. According to SIU, the payments to Ms. Monigan for work on the Construction Training Program were made using SIUE administrative costs and were not thereafter reimbursed by IDOT.

Mr. Mister signed numerous documents related to the contracts and payments to Ms. Monigan, including, but not limited to, the Consultant Agreements, SIUE Independent Contractor Analysis Forms, Invoices, and Invoice Distribution Forms. Additionally, notes on the SIUE Invoice Distribution Forms indicated that Mr. Mister should be contacted to pick up payments for Ms. Monigan.

The Consultant Agreements between SIUE and Ms. Monigan contained a provision that the Consultant (Ms. Monigan) agreed there was no conflict of interest between herself or her family and her services under the agreement. There is no indication in any of the contract documents with Ms. Monigan that either Mr. Mister or Ms. Monigan disclosed any familial relationship to SIUE.

### **2. Relationship Between Kwa Mister and Rhonda Monigan**

During his May and July of 2014 interviews by federal agents, Mr. Mister admitted that Rhonda Monigan was his sister. Additionally, Mr. Mister said that he prepared the invoices for Phoenix and the Monigan Group because an SIUE employee asked him to complete all contractors' invoices so that the invoices would be consistent. Mr. Mister told federal agents that he did not perform any of the work for Phoenix or the Monigan Group nor did he receive payments from his mother or his sister for the work they were contracted to perform. During the

interviews, Mr. Mister also said that his sister Rhonda Monigan developed an internal system for DCEO as part of her contractual work and that system is still used by DCEO today.

#### IV. ANALYSIS

SIU policy provides that employees have a duty to conduct themselves in a manner that will maintain and strengthen the public's trust and confidence in the integrity of SIU, make ethical decisions, and avoid even the appearance of impropriety.<sup>7</sup> SIU Guidelines state, "The University does not condone and will not tolerate fraudulent, illegal or improper business practices, or practices of questionable ethics or conflict of interest in the conduct of University business"<sup>8</sup> and that "[a]ll University employees have an obligation to safeguard the property and assets of the State and help to maintain the high standards of professional conduct we expect from all University employees."<sup>9</sup>

##### A. Kwa Mister Entered into Contracts with his Mother

Mr. Mister requested and entered into sole source contracts with Phoenix, a company owned and operated by his mother. Mr. Mister requested the sole source contract for Phoenix and signed approval of payments to Phoenix for the Construction Training Program. These sole source contracts with Phoenix resulted in Phoenix being paid \$85,500 for work product consisting primarily of a flow chart, a pamphlet, a list of addresses and telephone numbers for local unions, seven forms, and eight spreadsheets.

Mr. Mister failed to disclose to anyone at SIUE that Phoenix was owned by his mother. Based on Mr. Mister's actions involving the contracts with Phoenix and his failure to disclose that his mother owned Phoenix, Mr. Mister failed to conduct himself in a manner that maintained and strengthened the public's trust and confidence in integrity of SIU, failed to make ethical decisions and avoid the appearance of impropriety, practiced questionable ethics and a conflict of interest, and failed to maintain a high standard of professional conduct in violation of SIU policy. Thus, the allegation is **FOUNDED**.

##### B. Kwa Mister Entered into Contracts with his Sister

Kwa Mister entered into numerous Consultant Agreements with the Rhonda Monigan d.b.a. the Monigan Group and signed various documents related to those contracts, resulting in Rhonda Monigan being paid \$148,000 by SIUE. However, Mr. Mister failed to disclose that the Monigan Group was owned by his sister Rhonda Monigan. Through Mr. Mister's actions involving the agreements with the Monigan Group and his failure to disclose that the company was owned by his sister, Mr. Mister failed to conduct himself in a manner that maintained and strengthened the public's trust and confidence in integrity of SIU, failed to make ethical decisions and avoid the appearance of impropriety, practiced questionable ethics and a conflict of

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<sup>7</sup> Southern Illinois University Guidelines, Section 7, Ethics: University Employee Misconduct Policy and Procedures, 7.1 General Statement (issued April 2005).

<sup>8</sup> *Id.*

<sup>9</sup> Southern Illinois University Guidelines, Section 7, Ethics: University Employee Misconduct Policy and Procedures, 7.3, Employees Responsibilities (issued April 2005).

interest, and failed to maintain a high standard of professional conduct in violation of SIU policy, and this allegation is **FOUNDED**.

### C. **Kwa Mister's Denial of Relationship with Ms. Sloan to SIU General Counsel**

Former SIU [Attorney] said that he asked Kwa Mister if Mr. Mister's mother was the owner of Phoenix, on three separate occasions, and each time Mr. Mister denied that his mother owned Phoenix or that he was related to Lorine A. Sloan. [Former SIU Attorney] said that Mr. Mister's denial on January 9, 2012, was in front of two other SIUE officials. Mr. Mister pled guilty on April 17, 2015, to a federal indictment charging that he willfully and knowingly made false statements to federal agents when he said that he never denied to SIUE officials that L.A.S. [initials listed in indictment] was his mother or the owner of Phoenix and when he told federal agents that if SIUE said that they had asked Mr. Mister about the contracts with his mother, it was untrue.

When Mr. Mister denied to [former] SIU [Attorney] that his mother was the owner of Phoenix, Mr. Mister failed to conduct himself in a manner that maintained and strengthened the public's trust and confidence in integrity of SIU, failed to make ethical decisions and avoid the appearance of impropriety, practiced questionable ethics and a conflict of interest, and failed to maintain a high standard of professional conduct in violation of SIU policy, and this allegation is **FOUNDED**.

## V. **RECOMMENDATIONS**

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Kwa Mister violated SIU Misconduct Policy and Procedures, Section 7 by contracting with a company owned by his mother and failing to notify SIU of this potential conflict of interest.
- **FOUNDED** – Kwa Mister violated SIU Misconduct Policy and Procedures, Section 7 by contracting with a company owned by his sister and failing to notify SIU of this potential conflict of interest.
- **FOUNDED** – Kwa Mister violated SIU Misconduct Policy and Procedures, Section 7 when he falsely denied his relationship with the owner of Phoenix to SIU General Counsel on three separate instances.

Based upon the evidence and because Mr. Mister is no longer employed by SIUE, the OEIG recommends that this report be placed in Kwa Mister's SIUE personnel file and he not be rehired.

As stated above, the OEIG referred its investigation to the U. S. Attorney's Office for possible criminal prosecution of Kwa Mister. On April 17, 2015, Mr. Mister pled guilty to two counts of making false statements to federal agents. Mr. Mister's sentencing on these charges is currently pending in the United States District Court for the Southern District of Illinois.

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

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AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY  
RESPONSE FORM

Case Number: 11-01495

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

A copy of the OEIG Final Report in Case No. 11-01495 has been placed in the personnel file of former SIUE employee Kwa Mister, and a notation has been made in his employee record that he is not to be re-hired by the University.

We will implement some or all of the OEIG recommendations but will require additional time to do so.

We will report to OEIG within \_\_\_\_\_ days from the original return date.

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

\_\_\_\_\_  
Signature

Southern Illinois University Edwardsville  
Senior Associate General Counsel

\_\_\_\_\_  
Print Agency and Job Title

Phyleccia Reed-Cole  
Print Name

June 26, 2015  
Date