

A. Background - Allan Patricof's Employment with DOF

DOI's investigation revealed that Allan Patricof has worked as an ALJ for DOF since November 1997 and is currently a Senior ALJ. During calendar year 2006, Allan Patricof's official title was "Senior ALJ." However, during this time period, according to DOF, Allan Patricof functioned as the Managing ALJ of the QBC. During all relevant times, Allan Patricof was not a DOF employee, but instead worked as an independent contractor and was paid on a per diem hourly basis.²

According to DOF records provided to DOI, Allan Patricof was paid \$47.72/hour for January 1, 2006 through July 31, 2006, and \$48.46/hour for August 1, 2006 through December 31, 2006, consistent with his title of Senior ALJ.

B. Allegation that Allan Patricof Abused City Time

DOI conducted an audit of Allan Patricof's 2006 timekeeping records, which included a comparison of Allan Patricof's logbook entries with the records recording the time Allan Patricof's DOF access card was used for the rear entrance of the QBC³ and EZ-Pass records for Allan Patricof's vehicle. DOI determined that there were discrepancies between these records. Specifically, with respect to Allan Patricof's arrival and departure times at the QBC, Allan Patricof noted in the logbook that he arrived at and departed from the QBC at times that are inconsistent with the EZ-Pass records. DOI's comparison showed a number of instances when Allan Patricof's EZ-Pass records reflect that his EZ-Pass tag was used to pay the Triborough Bridge toll at times that were later than the times Allan Patricof recorded in the logbook as his arrival time at the QBC. Similarly, the EZ-Pass records reflect that the EZ-pass tag was used earlier than the departure times he recorded in the logbook as his end time at the QBC. The times that Allan Patricof was in transit reflected in the EZ-Pass records are, however, consistent with the DOF access card records for Allan Patricof.

Allan Patricof was questioned by DOI on two separate occasions under oath and each time given the opportunity to provide DOI with information about the discrepancies referenced above and his timekeeping practices. During these interviews, Allan Patricof denied that he falsified his time records to include hours that he did not work and further denied that he ever over-billed DOF. Allan Patricof asserted that his logbook entries do not accurately reflect the time he physically worked at the QBC because he claimed it was his practice to add additional hours that he worked from his home or his vehicle so that he would be compensated for that time. In response to the discrepancies between Allan Patricof's use of his EZ-Pass and the time worked recorded on his timesheets, Allan Patricof asserted that there were a number of days that he did not start his work day at the QBC, but rather began work at DOF in Manhattan or some other location. In addition, Allan Patricof testified that he was not the only member of his household who used his car and so some of the instances in

² VTL §236(d) requires that hearing examiners, which are referred to as ALJs by DOF, assigned to adjudicate parking violation matters not be employees of the City that they are working in. Thus, ALJs are hourly per diem contract workers and not City employees.

³ It should be noted that the QBC does not require an access card to enter the main entrance of the building.

which his EZ-Pass was used did not reflect times that he was driving his car. Allan Patricof further stated that he believed his direct supervisor, Chief ALJ Mary Gotsopoulos ("Gotsopoulos"), was aware that he performed work outside the QBC because of general discussions he had with her and because it would have been impossible for him to have done all his work in the hours the QBC was physically open. Allan Patricof was asked to provide DOI with any additional information he had of dates that he did not start or end his work day at the QBC due to meetings or other commitments. No additional information for such dates was ever provided to DOI.

DOI interviewed Gotsopoulos regarding her supervision of Allan Patricof. In her interview, Gotsopoulos told DOI that she recalled having a conversation with Allan Patricof about him doing work from home, but that she did not discuss how he accounted for this time on his timesheet. However, Gotsopoulos said that she assumed that Allan Patricof was adding this time to the timesheet he submitted to DOF for payment, known as an ETR.

DOI determined that there were inadequate timekeeping systems and procedures in place in DOF's Adjudications Division to ensure that ALJs, who are per diem employees, properly record time spent performing DOF work when they are not physically at the business centers. As a result, DOI made a Policy and Procedure Recommendation to Chief ALJ Gotsopoulos which included ways in which DOF could improve its time-keeping procedures.

In response to DOI's Policy and Procedure Recommendation, DOF indicated that it had launched CityTime and that its employees, including ALJs, are now recording their arrival and departure times through the CityTime System, including the use of a hand scanner. With respect to work from home, DOF indicated that employees who perform work from home can mark this time in the "comment section" available on CityTime. DOI confirmed with OPA that CityTime has been launched at DOF, although according to a DOF official who has helped to roll out the system, the hand scan feature is not mandatory for any DOF staff, including the ALJs.

With respect to the allegations against Allan Patricof, on May 1, 2007, DOI made a referral to Commissioner Stark. This referral included a list of every day where there was a discrepancy between Allan Patricof's EZ-Pass records and/or building swipes and the times reported on his time sheets during a one year period. However, DOI did not include any days Allan Patricof informed DOI that he had not begun his work day at the QBC or any day that he had not been driving his car at the time his EZ-Pass was used. DOI also did not include any days where Allan Patricof's EZ-Pass was used at a location other than the Triborough Bridge, which is the toll bridge he indicated that he used to get to the QBC. DOI also asked the Chief ALJ for the Adjudications Division at DOF to provide a list of all the days when meetings were held in Manhattan for Managing ALJs and did not include any dates when DOI was informed that one of those meetings took place. In addition, DOI did not include any other time that Allan Patricof identified that he started or ended a day at an off-site meeting.

With this referral, DOI recommended that DOF conduct a complete audit of Allan Patricof's billing records using the Generally Accepted Government Auditing Standards relied on by the Comptroller's Office when auditing work performed by independent contractors such as an ALJ, and

further recommended DOF seek reimbursement from Allan Patricof for any inadequately documented time billed to DOF.

In response to DOI's referral to Commissioner Stark, on April 8, 2008, Commissioner Stark informed DOI that, based on her independent analysis, she had concluded that while Allan Patricof's timesheets do not reflect the time he was physically present at the QBC, they accurately reflected the amount of time he actually performed work and services to DOF and so he had properly been paid for work he had performed.

[REDACTED]

CONCLUSION AND RECOMMENDATION:

Based on the aforementioned information, it is recommended that this case be closed.

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Inspector General

Approved by: Robert C. Joyse Date: 4/10/08
Robert C. Joyse
Associate Commissioner