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REPORT OF INVESTIGATION

UNITED STATES SECURITIES AND EXCHANGE COMMISSION OFFICE OF INSPECTOR GENERAL

Case No. OIG-493

FALSIFICATION OF EMPLOYMENT APPLICATION AND PERSONNEL FORMS

Introduction and Summary of Results of Investigation

On (b)(7)(C) 2008, the Office of Inspector General (OIG) became aware that the Division of Trading and Markets (TM) had placed a request with the Office of Information and Technology (OIT) to have the computer network access of (b)(7)(C) Program Analyst (b)(7)(C) terminated effective immediately. The OIG inquired as to the reason for the request and learned that (b)(7)(C) who joined the SEC as a Program Analyst SK-0343 (b)(7)(C) on (b)(7)(C) 2008, had falsified two Standard Form (SF) 50 personnel forms. The OIG also learned that (b)(7)(C) had been placed on administrative leave as of (b)(7)(C) 2008. On June 6, 2008, the OIG opened up a formal investigation.

After review of the relevant documents and an interview of (b)(7)(C) the OIG learned that (b)(7)(C) falsified her SF 50 forms in several respects and provided false information in the work history section of her Avue employment application. (b)(7)(C) admitted that she falsified these forms and stated that she did so because she did not think she would qualify for the position for which she applied based upon her actual employment information.

Accordingly, the OIG investigation determined, based on (b)(7)(C) own admissions, that she intentionally falsified her employment application and SF 50s submitted in support of that application. In view of the significant findings of this investigation, we are referring this matter to the Director of the Division of Trading and Markets, the Associate Executive Director for Human Resources, the Associate General Counsel for Litigation and Administrative Practice, and the Ethics Counsel for disciplinary action, up to and including dismissal.

Scope of Investigation

During our investigation, we reviewed various documents provided by the Office of Human Resources including (b)(7)(C) Avue employment application, the false SF

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50s she submitted in support of that application, the accurate SF 50s provided by the Department of Commerce, and a copy of her Official Personnel Folder.

On June 13, 2008, OIG Special Agent (b)(7)(C) and Investigator (b)(7)(C) interviewed (b)(7)(C) at her residence in (b)(7)(C). A memorandum summarizing the results of this interview is at Exhibit 1.

Relevant Case Law

An administrative charge of falsification “requires proof that the employee knowingly supplied incorrect information with the intent of defrauding the agency.” *Tackett v. Dep’t of the Air Force*, 80 M.S.P.R. 624, 629 (M.S.P.B. 1999). See also *Naekel v. Dep’t of Transportation*, 782 F.2d 975, 977 (Fed. Cir. 1986); *Harmon v. GSA*, 61 M.S.P.R. 327, 330 (M.S.P.B. 1994), *aff’d without op.*, 47 F.3d 1181 (Fed. Cir. 1995). “Intent to defraud may be established, inter alia, by circumstantial evidence.” *Dangerfield v. USPS*, 77 M.S.P.R. 678, 683 (1998).

The Merit Systems Protection Board (MSPB) has made clear that an “agency is not required to establish that it detrimentally relied upon an employee’s falsification of an employment document in order for a charge of falsification to be sustained.” *Warnock v. DOJ*, 38 M.S.P.R. 457, 459 (1988). Rather, “[a] showing of intentional falsification with the purpose of defrauding the government is sufficient to support such a charge, since proof of such intent and conduct ordinarily evidences a lack of trustworthiness in the employee, warranting the imposition of a disciplinary action.” *Id.* As the Board has explained, “false information on an employment form which related to an employee’s prior experience, education and employment is ‘material,’ since it relates directly to the qualities expected of that individual in his job.” *Id.* at 460.

The MSPB has further stated that “falsification is generally considered a serious offense that affects an employee’s reliability, veracity, trustworthiness, and ethical conduct, and the Board has frequently upheld the penalty of removal for a sustained charge of falsification.” *Hylick v. Dep’t of the Air Force*, 85 M.S.P.R. 145, 155 (M.S.P.B. 2000). Specifically where false employment applications are involved, the Board has consistently held that removal is a reasonable penalty, especially where the “employee was explicitly warned that she could be removed for such falsification.” *Stevenson v. DOD*, 55 M.S.P.R. 625, 631-632 (1992), *aff’d per curiam without op.*, 996 F.2d 1236 (Fed. Cir. 1993). See also *Hamilton v. Dep’t of the Air Force*, 52 M.S.P.R. 45 (1991), *aff’d without op.*, 980 F.2d 744 (Fed. Cir. 1992) (“removal for falsification of government documents promotes the efficiency of the service because such falsification raises serious doubts regarding the employee’s honesty and fitness for employment”).

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Results of the Investigation

The OIG interview of (b)(7)(C) established that she intentionally falsified her Avue employment application to the SEC and two SF 50s submitted in support of that application.

On June 13, 2008, at approximately 11:40 a.m. (EDT), OIG Special Agent (b)(7)(C) and OIG Investigator (b)(7)(C) interviewed (b)(7)(C) at her home located at (b)(7)(C). Upon arrival, the OIG investigators identified themselves and showed (b)(7)(C) their credentials. Before commencing the interview, Investigator (b)(7)(C) handed (b)(7)(C) an Office of Inspector General (OIG) Employee Notice of Rights form and asked that she read, sign and date the form, which she did. See attachment A to Exhibit 1.

During the interview, (b)(7)(C) stated that she began her employment as a "GS-management assistant 318 secretary" with the Department of Commerce (DOC), Patent and Trademark Office on (b)(7)(C). Prior to working for DOC, (b)(7)(C) was employed as an Imagery Intelligent Analyst at the Department of Defense (DOD) (b)(7)(C). When (b)(7)(C) left her position at DOD, she was a GS- (b)(7)(C). For the period between (b)(7)(C) and (b)(7)(C) had a separation in federal service due to her (b)(7)(C). When she returned to Washington, D.C., her security clearance had lapsed and she was looking for a job. The only position she said she could find was as a secretary with DOC. According to (b)(7)(C) notwithstanding the fact that she was extremely overqualified, she accepted the DOC secretary position.

Although (b)(7)(C) was working as a GS (b)(7)(C) at DOC, she submitted an application for an SK (b)(7)(C) program analyst (Series 343) position with the SEC. (b)(7)(C) admitted altering two SF 50s: one with an effective date of (b)(7)(C) 2007 which she faxed to Avue when she submitted her initial job application through the Avue system; and the other with an effective date of (b)(7)(C) 2008, which she faxed to the SEC's Office of Human Resources when it requested that she supply a more recent SF 50 to properly set her SEC pay. (b)(7)(C) further admitted that she faxed both SF 50s from an official DOC fax machine (fax# (b)(7)(C)).

(b)(7)(C) explained that she falsified the SF 50s by using white out and a DOC typewriter to delete and insert information on an old Form SF 50 she found. She typed in her name, date of birth, and social security number on the old SF 50 and altered the position title and adjusted basic pay. See attachment B to Exhibit 1. The forged SF 50s falsely demonstrated that she was qualified as a GS (b)(7)(C) Program Analyst at DOC's Patent and Trademark Office. (b)(7)(C) actual SF 50s provided by the DOC, showing she was a GS (b)(7)(C) and then a GS (b)(7)(C) secretary, are at Exhibit 2.

In addition to admitting that she falsified the SF-50s, (b)(7)(C) also admitted that she provided false information in the work history section of her Avue application,

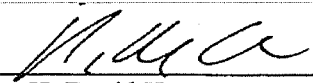
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Exhibit 3.¹ In the work history section, she falsely stated that from (b)(7)(C) 2006, to the present she was employed as a GS (b)(7)(C) Series 0343 Management Analyst when, in fact, she was a GS (b)(7)(C) and GS (b)(7)(C) secretary. (b)(7)(C) acknowledged making a tremendous error in judgment by altering the SF-50s, and apologized for her actions. She stated that she falsified the forms and provided the false information because she did not think she would qualify for the higher graded position based upon her actual resume and information. When she submitted the Avue application for the SK (b)(7)(C) program analyst position with the SEC, (b)(7)(C) certified, in part as follows: "I certify that, to the best of my knowledge and belief, all of the information on and submitted in support of my application is true, correct, complete and made in good faith. I understand that false or fraudulent information on or attached to this application may be grounds for not hiring me or firing me after I begin work" Exhibit 3.

At the time she applied for the SEC position, (b)(7)(C) said she had been offered two other jobs – one by the State Department as a Management Analyst GS (b)(7)(C) and the other by the Defense Intelligence Agency as an Intelligence Program Analyst GS (b)(7)(C). (b)(7)(C) said she accepted neither position because both were in the excepted service and she wanted a competitive service position. (b)(7)(C) believed that the SEC had the most complete package and was the better all around choice for her. (b)(7)(C) maintained that at the time she falsified the SF 50s and Avue application. (b)(7)(C)

Conclusion

The evidence established that (b)(7)(C) intentionally falsified her employment application with the SEC and two SF 50s submitted in support of that application. Accordingly, this matter is being referred to management for disciplinary action, up to and including dismissal.

Submitted:	(b)(7)(C)	Date:	<u>6/24/08</u>
Concur:		Date:	<u>6/24/08</u>
Approved:	 H. David Kotz	Date:	<u>6/24/08</u>

¹ The notations on the application were made by (b)(7)(C) during the OIG interview of her, as were the notations on the two falsified SF 50s attached to Exhibit 1.