

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA



NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

DIVISION OF MOTOR VEHICLES
LICENSE AND THEFT BUREAU
RALEIGH, NORTH CAROLINA

INVESTIGATIVE REPORT
JANUARY 2016



NCOSA
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

PURPOSE

The Office of State Auditor received an allegation through the State Auditor's Hotline concerning the North Carolina Department of Transportation, Division of Motor Vehicles (DMV), License and Theft Bureau (Bureau). Allegedly, a Bureau employee's secondary employment created a conflict with his primary responsibilities as a law enforcement agent.

BACKGROUND

The Bureau regulates vehicle dealers and manufacturers, inspection stations, towing and storage facilities, and repair businesses. It employs approximately 150 law enforcement agents who enforce laws related to vehicle theft, document fraud, driver's license fraud, vehicle inspection fraud, and odometer rollback.

FINDING

A Bureau supervisor's undisclosed business activity concealed a conflict of interest.

RECOMMENDATIONS

- DMV should consider disciplinary action, up to and including termination, for the supervisor's engagement in, and failure to disclose, secondary employment (business activity) that created a conflict of interest.
- DMV should consider pursuing reimbursement from the supervisor for any time worked on the business activity while on-duty with the Bureau.

STATE OF NORTH CAROLINA
Office of the State Auditor



Beth A. Wood, CPA
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
<http://www.ncauditor.net>

AUDITOR'S TRANSMITTAL

January 28, 2016

The Honorable Pat McCrory, Governor
Members of the North Carolina General Assembly
Nick Tennyson, Secretary, North Carolina Department of Transportation
Kelly J. Thomas, Commissioner, North Carolina Division of Motor Vehicles

Ladies and Gentlemen:

Pursuant to *North Carolina General Statute §147-64.6(c)(16)*, we have completed an investigation into an allegation concerning the North Carolina Department of Transportation, Division of Motor Vehicles, License and Theft Bureau. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of North Carolina Department of Transportation during our investigation.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Beth A. Wood'.

Beth A. Wood, CPA
State Auditor



**Beth A. Wood, CPA
State Auditor**

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Article 5A, Chapter 147 of the North Carolina General Statutes, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.



BACKGROUND

The Office of the State Auditor (OSA) initiated an investigation after receiving an allegation through the State Auditor's Hotline concerning the North Carolina Department of Transportation, Division of Motor Vehicles (DMV), License and Theft Bureau (Bureau). Allegedly, a Bureau employee's secondary employment created a conflict with his primary responsibilities as a law enforcement agent.

Our investigation included the following procedures:

- Review of applicable state and agency policies and procedures
- Interviews with automotive dealership personnel
- Interview with the Assistant District Supervisor
- Examination and analysis of documents and records related to the allegation
- Forensic examination of the Assistant District Supervisor's computer

The Bureau regulates vehicle dealers and manufacturers, inspection stations, towing and storage facilities, and repair businesses. It employs approximately 150 law enforcement agents who enforce the laws related to vehicle theft, document fraud, driver's license fraud, vehicle inspection fraud, and odometer rollback.

This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statute § 147-64.6 (c) (16)*.



FINDINGS AND RECOMMENDATIONS

1. UNDISCLOSED BUSINESS ACTIVITY CONCEALED CONFLICT OF INTEREST

A Division of Motor Vehicles (DMV) Assistant District Supervisor (Supervisor), a law enforcement officer, sold and serviced fire extinguishers to some of the same automotive dealerships for which the Supervisor had regulatory oversight. This regulatory oversight included the enforcement of motor vehicle laws, safety and emission inspections, special investigations, auditing, and licensing.

During the course of on-site visits at several automotive dealerships, investigators discovered:

- Fire extinguishers with sales and service tags of a business bearing the Supervisor's name.
- Dealership management who acknowledged the Supervisor installed and serviced their extinguishers.
- An employee at one dealership who commented the Supervisor switched out a fire extinguisher the previous Monday morning during standard work hours.
- Invoices from the fire extinguisher sales and service business, which included handwritten thank-you notes with the Supervisor's signature.

The fire extinguisher sales and services business is a limited liability company registered to the Supervisor's wife. However, according to the Supervisor, he and his wife report the income generated from this business on their joint personal income tax returns. The Supervisor has the authority to write checks and withdraw cash from the business's bank account. According to the Supervisor, his wife is a full-time school teacher. The Supervisor explained that his wife handles the clerical aspects of the business and he performs the installation and servicing of fire extinguishers.

Selling and servicing fire extinguishers to automotive dealerships for which the Supervisor had regulatory oversight created a conflict of interest whereby:

- Violations may be overlooked to generate or retain business.
- Dealerships may feel pressured to select the fire extinguisher business.

The Supervisor elected not to disclose and seek approval for the fire extinguisher business activity to DMV despite a requirement¹ to disclose and obtain approval for any type of secondary employment. The purpose of this approval is to determine whether secondary employment may have an adverse effect on a state employee's primary responsibilities and ensure a conflict of interest does not exist.

The Supervisor knew of the disclosure requirement as evidenced by his decision to disclose his involvement with the Southern Pines Fire and Rescue Department to DMV. Nevertheless, the Supervisor said he chose not to disclose the fire extinguisher business because his wife owned the business and he did not receive a paycheck or otherwise benefit financially. However, as noted above, the Supervisor and his wife reported all income jointly and shared access to the fire extinguisher business bank account.

¹ State Human Resources Manual: Employment and Records Section 3, Page 35 – requires state employees to complete a Secondary Employment Form for all employment that is not covered by Dual Employment and to update the form annually, as well as to document employment changes as they occur.

The Division of Motor Vehicles License and Theft Bureau Policy Manual Directive Number 2.03 – Secondary Employment includes the following key provisions relative to secondary employment:

“Employment responsibilities to the NCDMV License and Theft Bureau are **primary**. Any other employment in which a member [employee] chooses to engage is **secondary** and must not create a **conflict of interest**.” (emphasis added)

“No member [employee] of the License and Theft Bureau may accept gainful off-duty employment which would result directly or indirectly in a conflict of interest, or would in any way compromise the position of the member or the State of North Carolina with firms or individuals doing business with or desiring to do business with the State or **which are regulated by the Bureau**.” (emphasis added)

The North Carolina Department of Transportation’s (DOT) Ethics Policy defines a conflict of interest.

“A conflict of interest is a situation in which an employee’s private interest, usually of a financial or economic nature, conflicts or raises a reasonable question of conflict with the employee’s public duties and responsibilities.”

RECOMMENDATIONS

- DMV should consider disciplinary action, up to and including termination, for the Supervisor’s engagement in, and failure to disclose, secondary employment (business activity) that created a conflict of interest.
- DMV should consider pursuing reimbursement from the Supervisor for any time worked on the business activity while on-duty with the Bureau.



Transportation

PAT McCrory
Governor

NICHOLAS J. TENNYSON
Secretary

January 20, 2016

Ms. Beth A. Wood, CPA
State Auditor
Office of the State Auditor
20601 Mail Service Center
Raleigh, North Carolina 27699

Dear State Auditor Wood:

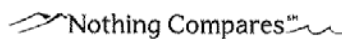
This letter is in response to the investigative report dated January 2016 regarding secondary employment for a License and Theft Inspector. After reviewing the report and supporting information, NCDOT's Division of Motor Vehicles initiated disciplinary action on this employee.

Thank you for bringing this matter to our attention and appropriate action will be taken.

Sincerely,

Nicholas J. Tennyson

cc: Barry Long, Office of the State Auditor
Kevin Thomas, Office of the State Auditor
Kelly Thomas, DMV Commissioner
Hope Mozingo, DMV Assistant Commissioner



ORDERING INFORMATION

COPIES OF THIS REPORT MAY BE OBTAINED BY CONTACTING:

Office of the State Auditor
State of North Carolina
2 South Salisbury Street
20601 Mail Service Center
Raleigh, North Carolina 27699-0601

Telephone: 919-807-7500
Facsimile: 919-807-7647
Internet: <http://www.ncauditor.net>

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For additional information contact:
Bill Holmes
Director of External Affairs
919-807-7513



This investigation required 334 hours at an approximate cost of \$33,066.