

Department of Veterans Affairs

Memorandum

Date: December 21, 2012

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation, Appearance of Preferential Treatment, Veterans Relationship Management (VRM), Office of Information & Technology (OI&T), Washington, DC (2012-00396-1Q-0009)

To: (b) (7)(C)

1. The VA Office of Inspector General Administrative Investigations Division investigated an allegation that (b) (7)(C) OI&T, gave preferential treatment to a subordinate, (b) (7)(C). To assess this allegation, we interviewed (b) (7)(C). We also reviewed email, personnel records, as well as Federal laws, regulations and VA policy. We investigated and did not substantiate other allegations, and they will not be discussed further in this memorandum.

2. We concluded that (b) (7)(C) and (b) (7)(C) close friendship created an appearance of preferential treatment; however, we found no instances of actual preferential treatment. We found that their closer-than-arm's-length personal relationship could be problematic. Their testimony and email records reflected that their familiarity and comfort level with one another went beyond that of professional colleagues. We suggest that you emphasize to (b) (7)(C) that engaging in even the appearance of preferential treatment diminishes her position and authority. As a leader, she is not only held to a higher standard but she sets the tone for her subordinates to follow. We suggest that you ensure that (b) (7)(C) takes refresher ethics training, advise her to avoid any actions creating the appearance that she is engaging in preferential treatment, and ensure that (b) (7)(C) recuses herself from any work or personnel-related decisions concerning (b) (7)(C). **No response is necessary.**

Background

3. (b) (7)(C) and (b) (7)(C) told us that they first met in the late 1990s or early 2000s. She said that she considered him a friend and that they met when she worked for a contractor and he worked for VA. Personnel records reflected that he first worked for VA from July 1997 to March 2000 and returned to VA effective May 5, 2008. (b) (7)(C) told us that he and (b) (7)(C) were friends for the past 12 years and that they live near one another. An online mapping tool reflected that the distance between their residences was about a 2-minute commute. (b) (7)(C) said that in the past, he and (b) (7)(C) did ultra-marathons and 100-mile bike rides together. He

said that "we have a very intense relationship of high performance ... when it comes to physical activity, as well as work activity. So we work well together. We're a good team. We like each other. We have fun, and our partners all know about each other."

4. Systems Research and Applications Corporation International, Inc. (SRA) personnel records reflected that (b) (7)(C) and (b) (7)(C) worked together while both were employed at SRA. Records reflected that (b) (7)(C) worked at SRA from April 4, 2005, to September 12, 2008. (b) (7)(C)'s resume reflected, and he confirmed, that he worked at SRA from November 2004 to May 2008, prior to returning to VA. He told us that (b) (7)(C) supervised him at different times while they both worked at SRA.

Appearance of Preferential Treatment

5. Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any individual, and to avoid any actions creating the appearance that they are violating the law or ethical standards 5 CFR § 2635.101(b)(8) and (14).

6. Personnel records reflected that (b) (7)(C) began working for VA on September 14, 2008, and (b) (7)(C) began working at VA on May 5, 2008. Records contained (b) (7)(C)'s self-assessment for the period of October 1, 2009, to September 30, 2010, listing (b) (7)(C) as one of his managers and reflecting her concurring signature. Records also reflected that (b) (7)(C) received a management directed re-assignment on April 25, 2010, requested by (b) (7)(C) and (b) (7)(C) told us that although she did not recall the request, she thought it was related to (b) (7)(C) transfer to the VRM Program. Further, records reflected that (b) (7)(C) rated his performance as "excellent" for the performance period from April 25 to September 30, 2010. (b) (7)(C) told us that she rated (b) (7)(C) for this rating period.

7. Email records reflected that (b) (7)(C) and (b) (7)(C) exchanged emails that reflected a less-than-arm's-length relationship between a supervisor and subordinate.

- On Saturday, June 5, 2010, (b) (7)(C) sent (b) (7)(C) an email with her horoscope which stated, "You need to stop analyzing, because it's time to act. You're a creative phenomenon with talent to spare – and the ability to inspire. You can galvanize even the most lackadaisical into participating in your wild schemes with enthusiasm. Your people can see how awesome you are, so isn't it time you saw it yourself? Big changes are on the way, and you can see that things are sure to improve."
- In a July 6, 2010, email, (b) (7)(C) told (b) (7)(C) "Miss you lots" and included a copy of his and her horoscope readings. Hers stated, "Your strong opinions and magnetic personality ensure that you're always engaging, if occasionally challenging..."
- In a September 8, 2010, email, (b) (7)(C) told Ms. (b) (7)(C), "Checking in."

Hope all is good. Traveling to Cambodia tomorrow, how r u doing? Miss you." (b) (7)(C) responded, "Cool Hope u r having fun[.]" (b) (7)(C) told us that although he was on personal travel to Cambodia, he was "just checking in" with (b) (7)(C) because they used that as a "code word," if they had not spoken to one another for a period of time.

- In a September 9, 2010, email, (b) (7)(C) told (b) (7)(C), "I think its Friday here, but Thursday still for you...(about 11 hours difference). I think yours is good?" In the email, he included both of their horoscopes.

(b) (7)(C) told us that "it's been a while" since he sent any other VA employee, other than (b) (7)(C) their horoscopes.

8. (b) (7)(C) told us that (b) (7)(C) sent her many horoscopes and that it was a hobby or habit of his. She said that she recalled a period of time when he frequently sent her horoscopes but that she did not know why he sent them. Regarding the emails that contained "miss you lots" or "miss you," she said it was "probably inappropriate," but she said that it did not concern her, since no improprieties occurred between them. (b) (7)(C) told us that the email interactions were appropriate within the context of their friendship but inappropriate between a supervisor and a subordinate. He however said that their email exchanges never interfered with their work and (b) (7)(C) never gave him any preferential treatment. He told us that he expected to be treated even more harshly than his colleagues because of his relationship with (b) (7)(C).

9. (b) (7)(C) told us that when OI&T reorganized in October 2010, (b) (7)(C) then became his supervisor. A Memorandum dated October 12, 2010, from the Acting Deputy Chief Information Officer (CIO) for Product Development, stated that effective October 24, 2010, (b) (7)(C) position was realigned with Product Development under the Development Management Service, Planning & Analysis Competency Division. It also reflected that his first-line supervisor would be (b) (7)(C) and his second-line supervisor (b) (7)(C) Director of Planning & Analysis Competency.

10. Personnel records reflected that (b) (7)(C) rated (b) (7)(C) for the rating period from October 1, 2010, to September 30, 2011. (b) (7)(C) told us that (b) (7)(C) was the initiative lead and that he worked for her with (b) (7)(C) as his supervisor for leave and administrative matters. He said that (b) (7)(C) did his performance appraisal with (b) (7)(C) input. (b) (7)(C) told us that (b) (7)(C) was a Project Manager; she gave him strategic direction; but she was not his supervisor. She gave us a copy of the May 2012 VRM organizational chart reflecting her as the Acting Initiative Lead and (b) (7)(C) as still being within her chain of command.

Conclusion

11. We concluded that (b) (7)(C) and (b) (7)(C) close friendship created an appearance of preferential treatment; however, we found no instances of actual

preferential treatment. We found that their closer-than-arm's-length personal relationship could be problematic. Their testimony and email records reflected that their familiarity and comfort level with one another went beyond that of professional colleagues. We suggest that you emphasize to [REDACTED] that engaging in even the appearance of preferential treatment diminishes her position and authority. As a leader, she is not only held to a higher standard but she sets the tone for her subordinates to follow. We suggest that you ensure that [REDACTED] takes refresher ethics training, advise her to avoid any actions creating the appearance that she is engaging in preferential treatment, and ensure that [REDACTED] recuses herself from any work or personnel-related decisions concerning [REDACTED]. **No response is necessary.**

12. We are providing this memorandum for your information and official use and whatever action you deem appropriate. It is subject to the provisions of the Privacy Act of 1974 (5 USC §552a). You may discuss the contents of this memorandum with the identified parties, within the bounds of the Privacy Act; however, it may not be released to them. No response is necessary. If you have any questions, please contact

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WARNING
5 U.S.C. §552A, PRIVACY ACT STATEMENT

This memorandum contains information subject to the provisions of the Privacy Act of 1974 (5 U.S.C. §552a). Such information may be disclosed only as authorized by this statute. Questions concerning release of this memorandum should be coordinated with the Department of Veterans Affairs, Office of Inspector General. The contents of this memorandum must be safeguarded from unauthorized disclosure and may be shared within the Department of Veterans Affairs on a need-to-know basis only.