

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO ENVIRONMENTAL PROTECTION AGENCY
FILE ID NO.: 2015-CA00034
DATE OF REPORT: FEBRUARY 4, 2016

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2015-CA00034

SUBJECT NAME: Edwin Perez

POSITION: Environmental Specialist 2

AGENCY: Ohio Environmental Protection Agency

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Operating a Business or Private Interest on State Time

INITIATED: June 25, 2015

DATE OF REPORT: February 4, 2016

INITIAL ALLEGATION AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General received a notification from the Ohio Environmental Protection Agency (OEPA) concerning one of its employees suspected of illegal or improper activity. OEPA had received information that the employee, Environmental Specialist 2 Edwin Perez, Division of Air Pollution Control in the Northeast District Office, was conducting numerous cell phone conversations related to real estate transactions during days and times when Perez was paid and claimed to be at work for the state of Ohio.

BACKGROUND

The Ohio Environmental Protection Agency (OEPA) is charged with protecting the environment and public health by ensuring compliance with environmental laws. To carry out this mission, the OEPA issues permits, conducts inspections, monitors and reports on environmental quality, provides public education, takes enforcement actions against violators and responds to spills and other environmental emergencies. OEPA also provides low-interest loans, subsidies, and grants to local governments for various environmental construction, restoration, protection, and clean-up projects. The director of the OEPA is appointed by the governor and confirmed by the Ohio Senate. The OEPA is funded through licenses, permits and fees charged to those they regulate, and federal funds.¹

OEPA's central office is located in Columbus. Five district offices, located in Bowling Green (Northwest District Office – NWDO), Twinsburg (Northeast District Office – NEDO), Dayton (Southwest District Office – SWDO), Columbus (Central District Office – CDO), and Logan (Southeast District Office – SEDO), manage the agency's programs at the local level. The district offices review permit applications; investigate citizen complaints; investigate and oversee cleanups of spills and releases; monitor compliance with environmental standards; provide technical assistance to help regulated facilities understand and comply with environmental laws and permit requirements; initiate enforcement action against facilities that are not in compliance; provide environmental information and other assistance to the public; coordinate public records requests; and conduct public presentations.

¹ Source: Biennial budget documents.

Map of OEPA Districts



EPA Policies

The OEPA *Outside Employment Policy* states that,

... An EPA employee shall notify the agency and request pre-approval for engaging in outside employment when the hours of performing the outside employment conflict with the core business hours of the agency (8:00 a.m. to 5:00 p.m. Monday through Friday except paid holidays).

The Request for Approval of Outside Employment form, once completed and approved by the director, is maintained in the employee's personnel file. Employees are prohibited from

engaging in activities in the pursuit of personal profit while on state time or state property. An employee's outside employment shall not involve the use of state time, facilities, personnel, copiers, computer or Internet and telecommunication resources, vehicles, equipment, supplies, or any other state resource.²

The OEPA *Appropriate Use of IT Resources* policy states, in part;

1. Unacceptable Personal Use. Personal use of Agency provided IT resources shall be kept to a minimum and, whenever possible, be done during lunch hours or authorized breaks. Any personal use of Agency provided IT resources that disrupts or interferes with OEPA business, incurs an undue cost to the agency, interferes with the productivity of the employee, could potentially embarrass or harm the OEPA, or has the appearance of impropriety is strictly prohibited which includes, but is not limited to, the following:

- c. Operating a Business. Operating a business, directly or indirectly, for personal gain.

INVESTIGATIVE SUMMARY

On April 29, 2015, a former OEPA employee completed an exit interview that included an allegation that Environmental Specialist 2 Edwin Perez was conducting numerous cell phone conversations related to real estate transactions while on state time. OEPA Northeast District Office (NEDO) Chief Kurt Princic notified OEPA management in Columbus, Ohio, of the allegation.

The OEPA Office of Administrative Investigations compiled and reviewed Perez's State of Ohio email records, Internet records, and state telephone records dating back to January 29, 2015. The review showed Perez used state resources to conduct work related to his secondary employment during his scheduled work hours. A search of Ohio Secretary of State business filings revealed two limited liability companies that listed Edwin Perez as the agent, or registrant. The two companies were Laurelhurst Investment Properties, LLC, and KNS Realty, LLC. Both Edwin

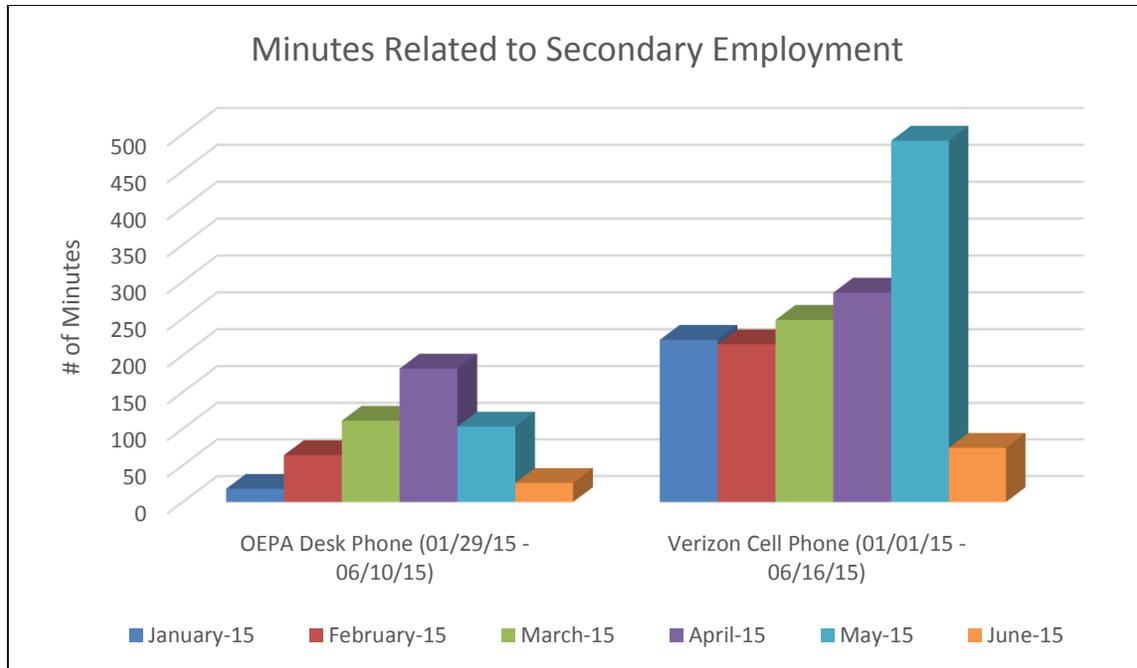
² OEPA *Outside Employment Policy*.

Perez and Crystal Perez were listed as the incorporators for the companies. The filings also revealed that both companies were listed as active and registered to Perez’s home address. A search of Summit County Fiscal Office property records revealed three properties listed to Edwin Perez, and 14 properties listed to Laurelhurst Investment Properties, LLC. A further search revealed two more properties owned by Equity Trust Company – with the custodian listed as Edwin Perez and two additional properties listed to Crystal Perez.

The Office of the Ohio Inspector General obtained telephone records for the personal cell phone number listed for Perez on the OEPA employee contact list from January 1, 2015, through June 16, 2015, and for the OEPA desk telephone assigned to Perez from January 29, 2015, through June 10, 2015. Investigators also obtained the Northeast District Office employee sign in/sign out records from December 29, 2014, through June 29, 2015. These three sets of records were combined into one spreadsheet showing both Perez’s OEPA desk telephone usage as well as his personal cell phone usage during hours he was working for the state. This analysis revealed that Perez utilized 504 minutes on his OEPA desk telephone and 1,534 minutes on his personal cell phone for real estate business-related calls.

Edwin Perez - Minutes Used Related to Secondary Employment

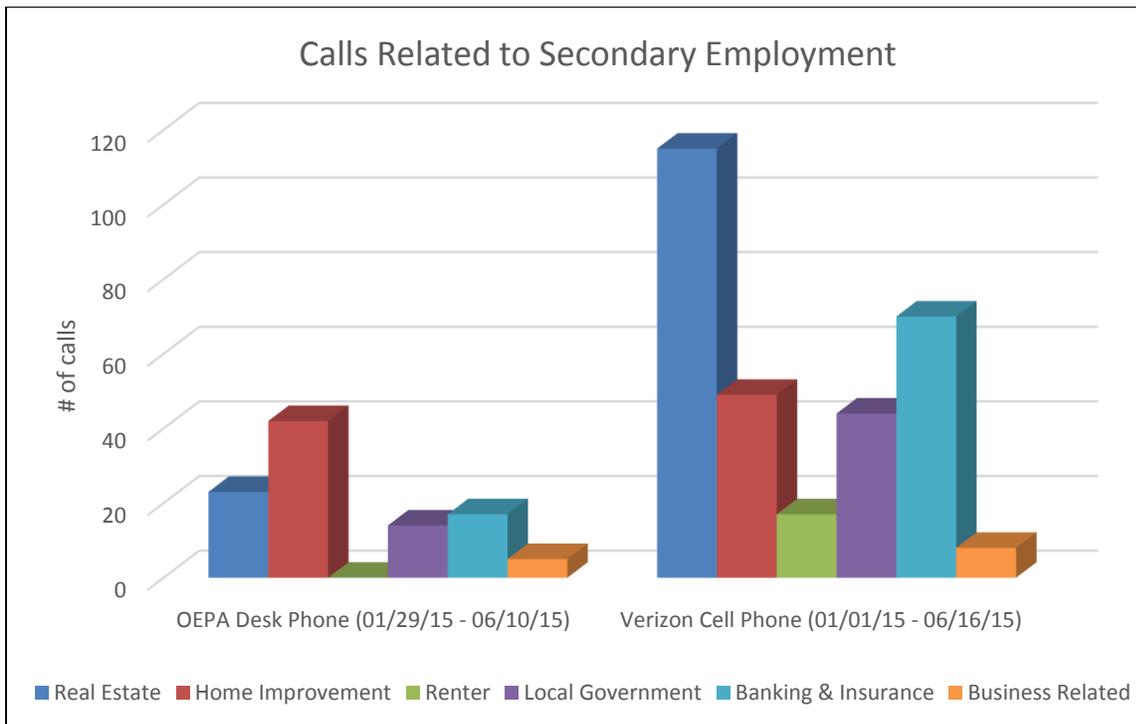
Month	OEPA Desk Phone (01/29/15 - 06/10/15)	Perez’s Personal Verizon Cell Phone (01/01/15 - 06/16/15)	TOTAL:
	Minutes Used	Minutes Used	
January 2015	18	221	239
February 2015	64	215	279
March 2015	111	248	359
April 2015	182	285	467
May 2015	103	491	594
June 2015	26	74	100
TOTAL:	504	1,534	2,038
	<i>8.4 hours</i>	<i>25.5 hours</i>	<i>33.9 hours</i>



This analysis also identified by category, the number of calls Perez made from his OEPA desk phone and his personal cell phone to the various real estate companies and agents, home improvement companies, renters, local government entities, banking and insurance companies, and other business-related companies.

Edwin Perez - Number of Calls Related to Secondary Employment

Type	OEPA Desk Phone (01/29/15 - 06/10/15)	Perez's Personal Verizon Cell Phone (01/01/15 - 06/16/15)	TOTAL:
	# of Calls	# of Calls	
Real Estate	23	115	138
Home Improvement	42	49	91
Renter	0	17	17
Local Government	14	44	58
Banking & Insurance	17	70	87
Business Related	5	8	13
TOTAL:	101	303	404



The analysis also revealed 374 calls totaling 1,843 minutes during work hours to recipients who do not appear to be OEPA work-related.

The Office of the Ohio Inspector General also obtained a web browsing summary for the Internet Protocol (IP) address associated with Perez at the Northeast District Office for the period of January 1, 2015, through June 29, 2015. The summary identified Internet sites visited by Perez, categories of site visits by Perez, and number of visits by site. For example, the web browsing summary revealed that Perez’s IP address visited real estate sites 3,179 times (e.g., Zillow.com, Zillowstatic.com, Remax.com, Move.com, Realtor.com). The summary also revealed that in the Finance & Investment category, Perez’s IP address visited Bankrate.com 708 times.

On July 21, 2015, the Office of the Ohio Inspector General interviewed NEDO Assistant District Chief Jennifer Kurko. Kurko explained that, as an inspector, the job duties of Perez included reviewing air permits and inspecting facilities that are issued permits for compliance. Kurko knew of no OEPA work-related reason for Perez to contact a water heater company, granite and marble company, paint stores, carpet cleaners, home improvement stores, credit unions, banks,

attorneys, real estate agents, or real estate companies. Regarding Perez's contact with the Akron Metropolitan Housing Authority, Kurko said, "... we do not regulate anything in Summit County." Summit County is regulated by its own local air agency.

Kurko acknowledged that OEPA has a policy that restricts the use of state phones, computers, and other equipment for personal business. Kurko added that OEPA also has a secondary employment policy requiring employees to complete a form identifying any secondary employment or private business for profit, and that Perez does not have a secondary employment form on file with OEPA.

Kurko said there were rumors of Perez conducting real estate business during hours he was working for the state, spending a substantial amount of time on his personal cell phone, and generating low work product. Kurko advised supervisors to question Perez about his excessive cell phone use and to document all instances. Kurko said that it was an exit interview of a former OEPA employee complaining about Perez's excessive personal cell phone use during work hours that spurred them to contact the OEPA Human Resource department to examine his office phone records. Kurko stated that, "Everybody thought or assumed, you know, that he would be too smart for it. The complaints we were hearing was that he was on his cell, so we didn't suspect he was doing anything with state resources and had we checked that, we would have been on to that a lot sooner."

The Office of the Ohio Inspector General interviewed NEDO Air Pollution Supervisor Misty Koletich, who is Perez's direct supervisor. Koletich was aware that Perez owned several rental homes in the Akron area, and noted that Perez had once asked her if she wanted to rent one of his homes. Koletich was also aware that Perez was remodeling a more expensive home in the Twinsburg area to be sold.

Koletich said she had called Perez and received calls from him on his cell phone, the same cell phone number listed on the office directory (phone number ending in 1926). Koletich reiterated that there was no reason for Perez to contact any place that was not a permit holder, and that

permit holders in Summit, Portage, and Medina Counties are issued permits by the Akron Regional Air Quality District, and not the OEPA.

On July 21, 2015, the Office of the Ohio Inspector General interviewed NEDO Air Pollution Supervisor Tim Fischer. Fischer supervises another group of OEPA Division of Air Pollution Control employees in the northeast district, but does not directly supervise Perez. Fischer told investigators that he has known Perez for 15 years and had seen pictures of house renovations Perez had completed, noting, "... kind of before and after kind of things where he has contractors come in and do the work um for the most part." Fischer said,

... his truck usually has appliances in it on most days or paint supplies or things that look like, you know, you would be redoing homes or, or something of that nature. Um and they, they change from day to day. There's something new in there every day... I think everybody here just kind of knows he has the side business uh whether, you know, that's on work or not. Um you know I get, I get some, you know, people saying, 'Well, you know, Ed's just more concerned about his side business.'

Fischer added, "I did hear a phone conversation um where uh he was talking about Section 8 and it --- and to me I recognize that as, as you know some of the, the lesser homes that he owns."

On July 23, 2015, the Office of the Ohio Inspector General interviewed former NEDO Air Pollution employee Amy O'Reilly. O'Reilly stated that after an office reorganization, Perez was moved to an office across the hallway from her office. O'Reilly said,

... you can't avoid, you know, overhearing things and just noticing, you know, the general activity of your co-workers ... I began to highly suspect he was running his ... uh real estate interests or coordinating some of that during, during work time. Um that um, hum ... it became apparent to me that this --- his personal cell phone usage was abnormally high ... he would talk to me and others that he was buying or selling a house or he was, he was in the process of selling a house, it became even greater. It became apparent um that that cell phone use was ... a lot. Um it was my understanding from conversations with him that he did not use a real estate agent. He actually would list them um himself and he would coordinate all the showings, etc. himself and he would work through an attorney when he was flipping them, he would act as the general

contractor when he was refurbishing a house, though it's my ... suspicion that a lot of that was done during work hours."

O'Reilly said, "... there are times where I do believe I walked in when he was either speaking with the contractor he uses to, to do some of the work or um lawyers --- his lawyer uh handling stuff um etc." O'Reilly confirmed that she had exchanged cell phone numbers with Perez and the number she had for him was the 1926 number. O'Reilly stated that when she left her position at the OEPA, she had completed an exit interview which included statements regarding areas where she believed the OEPA could improve. Specifically, O'Reilly recommended that staff members, particularly Perez, should be held accountable for completing their projects. O'Reilly had a follow-up interview with NEDO Chief Kurt Princic and Assistant Chief Kurko.

On July 28, 2015, the Office of the Ohio Inspector General interviewed OEPA NEDO Air Pollution Manager Ed Fasko. Fasko said he had heard Perez had remodeled and flipped houses in the past. Fasko stated, "... He showed me pictures on occasion of things that he had done." Fasko confirmed that the 1926 number was Perez's personal cell phone number. Fasko also confirmed that the (330) 963-1161 number listed on the Perez cell phone records was his office number.

On July 28, 2015, the Office of the Ohio Inspector General interviewed OEPA NEDO Chief Kurt Princic. Princic noted that he suspected that Perez was in the real estate business - remodeling, selling, and renting properties; however, Princic stated that he had assumed the work was conducted through his (Perez's) personal cell phone. Princic said when reviewing the exit interview of former employee Amy O'Reilly, he read O'Reilly's comments about Perez doing personal business on state time. Princic spoke to O'Reilly to obtain more information. Princic contacted OEPA Administrative Officer 3 Kathleen Botos, who reviewed the office phone records and computer use records for Perez and found that Perez's contacts with people or companies was not work-related. Princic stated that on June 8, 2015, he (Princic), Fasko, and Koletich met with Perez to inform him to stop using his assigned work phone and computer and his personal cell phone to conduct personal business during work hours. Princic noted that when

he suspected that Perez was conducting personal business while on state time, he instructed Fasko and Koletich to monitor Perez's actions.

On August 13, 2015, the Office of the Ohio Inspector General interviewed OEPA NEDO Vehicle Fleet Manager Bill Carney, whose cell phone number appeared several times in the cell phone records of Perez. Carney did not recall specific telephone conversations with Perez, but believed the phone calls dealt with the use of state vehicles. Carney acknowledged that Perez called him on his cell phone and that Carney had Perez's cell phone number (1926) stored in his cell phone.

On August 13, 2015, the Office of the Ohio Inspector General interviewed OEPA NEDO Air Pollution Permit Writer Kevin Fortune, whose cell phone number appeared several times in the cell phone records of Perez. Fortune's job duties are the same as Perez, and Fortune acknowledged socializing with Perez. Fortune also had Perez's cell phone number (1926) saved in his cell phone.

On August 13, 2015, the Office of the Ohio Inspector General interviewed OEPA NEDO Air Pollution Permit Writer Corey Kurjian whose cell phone number appeared several times in the cell phone records of Perez. Kurjian's job duties are the same as Perez, and he also has Perez's cell phone number (1926) saved in his cell phone. Kurjian said he received not only cell phone calls from Perez, but also text messages from Perez's cell phone. Kurjian said Perez would send him numerous text messages, to the point that he blocked messages from Perez. Kurjian was also aware that Perez owned homes that he rented, and homes that he remodeled and sold.

On July 28, 2015, the Office of the Ohio Inspector General interviewed Environmental Specialist 2 Edwin Perez. Perez confirmed that the cell phone number listed on the OEPA employee contact list was his personal cell phone number, and the cell phone he had with him during the interview was the same, with the last four digits of 1926. Perez agreed that he called his supervisors and co-workers from his cell phone.

Perez admitted to investigators that he owned several homes through Laurelhurst Investment Properties, LLC and Equity Trust Company. Perez estimated he had 13 properties and explained that he bought properties that are distressed, hires contractors to work on those properties, and then rents them to people.

State desk phone

Investigators told Perez that he had made numerous calls from his state desk phone to real estate companies, home improvement companies, as well as financial and mortgage institutions. Perez stated,

... Um no. I asked um --- when I refinanced my property, I um just asked questions um on my personal home to question about --- I never really made any, any uh phone calls that are related to real estate business using any state equipment. Um not that I can remember.

When asked if he used his state desk phone to call real estate companies or real estate agents, Perez said, “Uh no. I don’t remember.” When asked by investigators to explain the phone calls from his state desk phone during his work hours, Perez said he usually made phone calls around his break time, and added that his wife made all the calls to tenants or real estate business-related calls. Perez agreed that his wife did not come to his office to call real estate agents or real estate companies from his state desk phone. Perez agreed that there was no OEPA work-related reason to make calls to the Akron Metropolitan Housing Authority, real estate agents or companies, or banks and mortgage companies.

Personal cell phone

When questioned about the numerous phone calls made from his personal cell phone to real estate companies, home improvement companies, financial and mortgage institutions during hours he was working for the state, Perez said, “I don’t do that. My wife, she does all the callings. Um so um I don’t really remember making such phone calls.”

Perez identified his wife’s cell phone number ending in 6503 and his daughter’s cell phone number ending in 4573. Initially, Perez stated that he and his wife switched cell phones back and forth. When questioned about cell phone calls involving people who rent homes from him,

Perez said that his wife was more likely in possession of his cell phone. Perez could not explain how his wife could have his cell phone when the cell phone records showed phone calls were made to OEPA employees, and were then made to renters or real estate companies (i.e., Homes Staged Right, Bocazo Real Estate).

Investigators showed Perez the OEPA NEDO sign in/sign out logs for April 29 and 30, 2015, which indicated that he signed in early and signed out late both days. Noted on the log was the word “field,” which meant that Perez was working outside the office that day. However, records showed numerous phone calls made on his cell phone (1926) to the OEPA Northeast District Office or other OEPA employees. Among other calls Perez made from his cell phone during his work hours were four calls to the Summit County Public Health Department and a call to Cross County Mortgage. Later in his interview with investigators, Perez admitted that he had used the cell phone (1926) the “majority time.”

Perez said he was aware that he should not conduct private business using state equipment or personal cell phone during work hours, saying, “... I’m aware that uh you shouldn’t be calling --- uh doing anything to gain any personal --- I mean do personal gain.” Perez contended that calls made during work hours from his state desk phone or personal cell phone to home improvement companies, real estate agents and companies, and banking and insurance, did not involve his rental properties, but was related to his own personal residence. Perez reasoned that the income generated from his rental properties,

... is not to gain personal gain. I mean not taking advantage of the state property or anything like that. So um... you know, that’s the point and uh the... the uh, uh rents that we’re getting is to subsidize our kids’ college funds. And the um, the Equity Trust Company that’s under a self-directed I.R.A., that’s to uh help um... you know, uh help us in retirement.

During the interview, Perez admitted that he had no OEPA work-related reason to call the Akron Metropolitan Housing Authority, banks, mortgage companies, insurance companies, real estate companies, or home improvement companies.

Cell phone records for all cell phone accounts from January 1, 2015, through June 30, 2015, of Edwin Perez or his wife Crystal Perez were obtained. The records revealed four cell phone accounts or numbers listed for Crystal Perez at the address listed for Edwin Perez's residence. The cell phone number ending in 1926 that Perez listed on the OEPA Northeast District Office contact list was one of the four. The cell phone that Perez identified as being his wife's number ended with 6503. A review of the cell phone records for the 6503 number showed no calls to OEPA supervisors or employees. The 6503 number did have calls to Perez's desk phone and cell phone. Perez said his wife is a nurse and works at a hospital. The 6503 cell phone had numerous calls to Hillcrest hospital. Perez identified the cell phone ending in 4573 as belonging to his daughter.

State computer

Perez was shown a list of websites accessed on the Internet Protocol (IP) address associated with the computer used by Perez. Perez was asked why he would go to the Zillow.com³ website 1,195 times. Perez answered, "I'm just curious...it's not that I'm doing this all the time." Perez admitted that there was no OEPA work-related reason to go to the Zillow.com site. Perez explained the reason he went to the Bankrate.com website 708 times was to calculate paying off his house by increasing his mortgage payment by different amounts.

CONCLUSION

A former OEPA employee made an allegation that current OEPA employee Edwin Perez had frequently engaged in cell phone conversations regarding Perez's real estate business during work hours. Many OEPA Northeast District Office employees knew that Perez owned various residential properties that he remodeled and rented real estate to individuals.

The usage records for the State of Ohio office desk phone assigned to Perez revealed numerous calls, during work hours, made to real estate agents and companies, home improvement companies, local government (utilities, housing programs), banking, mortgage and insurance companies, and other non-state business-related calls. Additionally, Perez's cell phone records

³ Zillow.com website - Zillow serves the full lifecycle of owning and living in a home: buying, selling, renting, financing, remodeling, and more.

revealed the same type of calls made and received during Perez's work hours. All of Perez's coworkers and supervisors interviewed had contact with Perez from his cell phone and identified the (1926) cell phone number as belonging to Perez. This (1926) cell phone number was the only cell phone number used by Perez.

Perez admitted using the state computer to access banking websites for personal business during hours he was working for the state.

Accordingly, the Office of the Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Environmental Protection Agency to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Environmental Protection Agency should:

1. Review the actions of Edwin Perez to determine whether his conduct warrants administrative action or training.
2. Consider revising the secondary employment policy to include all secondary employment.
3. Distribute the information technology use and secondary employment policies for review and acknowledgement by all employees.

REFERRALS

This report of investigation will be provided to the Summit County Prosecutor's Office for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Environmental Protection Agency

FILE ID #: 2015-CA00034

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
February 4, 2016**

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