

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF COMMERCE
FILE ID NO.: 2015-CA00037
DATE OF REPORT: APRIL 12, 2016

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

“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2015-CA00037

SUBJECT NAME: Cheryl Kimble

POSITION: Consumer Finance Examiner 3

AGENCY: Ohio Department of Commerce

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Abuse of Office/Position

INITIATED: July 2, 2015

DATE OF REPORT: April 12, 2016

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On July 2, 2015, the Office of the Ohio Inspector General received information from the Ohio Department of Commerce (ODC) alleging Consumer Finance Examiner 3 Cheryl Kimble had conducted a pawn shop examination at Erie Pawn, located in Port Clinton, Ohio, beginning on April 15, 2015, and lasting three days, while previous examinations had been completed in half a day. The complaint further alleged that Kimble made purchases from Erie Pawn during the time she was conducting the examination, and had informed the owner that he was charging customers too much interest for their pawn loans. The complaint alleged Kimble instructed the owner to refund \$5 to every customer that was overcharged. The complaint also stated that Kimble provided the owner of Erie Pawn with the name of a prospective buyer for Erie Pawn, after the owner voiced concerns to Kimble about the refunds she had instructed him to issue back to the customers.

BACKGROUND

The Ohio Department of Commerce is responsible for consumer protection and establishing various regulations for industries and businesses in the state of Ohio. The department is comprised of seven divisions: Financial Institutions, Industrial Compliance and Labor, Liquor Control, Real Estate and Professional Licensing, Securities, the State Fire Marshall, and Unclaimed Funds. The director is appointed by the governor and confirmed by the Ohio Senate. The Ohio Department of Commerce is funded through fees and charges on the industries the department regulates.¹

The Division of Financial Institutions (DFI) regulates state-chartered financial institutions and consumer finance companies. The division charters depository institutions, licenses non-depository financial services, and conducts on-site examinations. All examinations, supervision, and regulatory activities are performed by division staff that specializes in the operations of each of the specific industries. The

¹ Source: Biennial budget documents.

division's Office of Consumer Affairs works to provide education to Ohioans regarding borrowing and related financial topics.²

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General requested and reviewed the following documents from ODC:

- Policies and procedures related to pawn shop examinations and the consumer finance examiners;
- A copy of Erie Pawn's file;
- Cheryl Kimble's personnel file.

On August 27, 2015, during an interview with the Office of the Ohio Inspector General, the proprietor of Erie Pawn stated that he had owned the pawn shop since 2011, and identified Cheryl Kimble as the DFI consumer finance examiner who had always conducted the examinations of his shop. The owner stated that the examination beginning on April 15, 2015, was the third examination his shop had undergone. The owner noted that, in the past, the examinations would usually take about half a day to complete; however, he stated the examination conducted in April 2015 lasted three days. The owner told investigators that during the three days Kimble was at his shop conducting the examination, she also spent time shopping at his pawn shop. He said Kimble walked around his shop pricing several items and compared the item prices online on her cell phone. The owner added that Kimble also made telephone calls to her husband while she was shopping to discuss the items of interest with him. The shop owner stated that on April 15, 2015, during the first day of the examination, Kimble purchased a whole house fan, drill bits, and sockets. The owner provided to investigators a copy of the receipt for these purchases. ([Exhibit 1](#)) The owner said that Kimble made an additional purchase – a tap and die set – on April 17, 2015, during the last day of the

² Source: www.com.ohio.gov

examination. The owner also provided to investigators a copy of the receipt for this item. ([Exhibit 2](#)).

The owner of Erie Pawn stated that although the receipts for Kimble's purchases stated "cash customer," Kimble used credit cards to purchase the items. The owner indicated that Kimble received 10 percent off of the purchases that she made, but said he was offering a 10-percent discount on tool purchases to all his customers, as he was overstocked.

The pawn shop owner told investigators that during the examination of his shop, Kimble determined he was overcharging his customers interest on items pawned having a value of \$100 or less. Because of these overcharges, the owner said Kimble informed him that he would be required to refund the monies back to those customers. The owner told Kimble that if he had to provide refunds to those customers, he would have to sell his business because it would "break him." The owner stated that Kimble responded by informing him that she had a prospective buyer who would be interested in purchasing his business. According to the owner, this prospective buyer contacted him minutes after Kimble exited the pawn shop. The pawn shop owner stated that the prospective buyer visited his shop the following day; however, the buyer did not make any offer to acquire the shop.

On September 16, 2015, the Office of the Ohio Inspector General conducted a telephone interview with the prospective buyer. The prospective buyer told investigators that he had no business relationship with Kimble, other than during a previous time when he had owned a pawn shop and she had conducted the examinations. He stated that he sold his pawn shop in December 2014. He indicated that when he was at his former pawn shop picking up the last of his items, he ran into Kimble, who was there conducting an examination. He said he recalled mentioning to Kimble that he was contracting with a Pennsylvania business to locate pawn shops that were for sale. The prospective buyer

said he told Kimble to let him know if she knew anyone interested in selling their business. He said after Kimble told him that Erie Pawn might be interested in selling, he contacted the owner and visited the shop, but wasn't interested in purchasing it. When asked if Kimble ever made purchases from his former pawn shop while she was conducting examinations, he stated that Kimble had purchased a mig welder for her husband.

On November 23, 2015, the Office of the Ohio Inspector General interviewed Cheryl Kimble by telephone. Kimble admitted to investigators that she had purchased items from the pawn shops she was assigned to examine. Kimble stated she paid the price listed on the items she was purchasing and never negotiated pricing with the pawn shop owners. Kimble stated that examiners are permitted to make purchases from the pawn shops they examine. Kimble referred to a "directive" that was issued to examiners stating that they were permitted to make purchases from pawn shops; however, the examiners were prohibited from conducting any other type of business transactions, such as pawn loans. ([Exhibit 3](#))

When asked about her relationship with the prospective buyer for Erie Pawn, Kimble explained that she had no relationship with him except when she had conducted examinations at the prospective buyer's pawn shop, which he eventually sold. When asked specifically about a business relationship, Kimble responded that she had no business relationship with him. Kimble stated that she was just passing along the information to the prospective buyer that Erie Pawn might be interested in selling.

Kimble explained that because of violations she found during the examination of Erie Pawn on April 15, 2015, she had to conduct further investigation, which caused the examination to take much longer than usual. Kimble noted that most examinations are completed in one working day.

On September 15, 2015, ODC Division of Financial Institutions Chief Counsel Anthony Siciliano responded to investigators by email to the question of whether or not a policy was in place prohibiting consumer finance examiners from making purchases from the businesses they were examining. Siciliano responded that no such policy existed, but noted that an employee had asked if DFI employees were permitted to make purchases from pawn shops, and Siciliano's response was "yes." Siciliano explained that as long as fair market value is paid by the employee, such purchases, without some evidence of wrongdoing, do not violate ORC §102.03(D) or (E), ORC §1181.05(B), or the Department of Commerce's Ethics Policy 200.0. Siciliano further explained that when he provided this answer to the DFI employee, he "... did not foresee a Consumer Finance Section examiner making a purchase from a pawnshop during an examination." Siciliano wrote, "Merely from an appearance of impropriety standpoint, this is inadvisable."

During a telephone conversation with Siciliano on December 8, 2015, Siciliano reiterated to investigators the opinion he provided to DFI employees regarding making purchases from pawn shops; however, Siciliano stated that he had never contemplated employees making purchases during a pawn shop examination. Siciliano acknowledged that the purchases made by a consumer finance examiner from a pawn shop to which he or she was assigned to examine created an appearance of impropriety; particularly when those purchases were made during the examination.

CONCLUSION

The Office of the Ohio Inspector General determined that Cheryl Kimble did make purchases totaling \$294.04 from Erie Pawn while she was conducting an examination of the pawn shop from April 15, 2015, through April 17, 2015. Although prices at pawn shops are negotiable, according to the Erie Pawn owner, Kimble paid the same price as any other customer would have paid for the items she purchased.

A review of the documents provided to the Office of the Ohio Inspector General by the Ohio Department of Commerce revealed that ODC Ethics Policy 200.0 states, in part:

No employee of the Division of Financial Institutions (DFI) may directly or indirectly, own an equity interest in, obtain an extension of credit from, be employed by, serve as a director for, any financial institution, consumer finance company, or licensed person that is under the supervision of the Superintendent of DFI. An employee is not prohibited from establishing a depositor relationship with such entities.

This policy does not prohibit DFI employees from making purchases from the pawn shops they are assigned to examine or making those purchases during the examinations.

On May 8, 2013, Siciliano responded by email to an ODC DFI employee inquiring whether DFI employees were permitted to make purchases from pawn shops. In that response, Siciliano stated that DFI employees were permitted to make purchases from pawn shops. However, Siciliano noted that DFI employees and their immediate families were prohibited from owning an interest in a pawn shop, receiving paychecks from a pawn shop, and obtaining any loans from a pawn shop.

Though no policy is in place prohibiting DFI employees from making purchases from the pawn shops they are assigned to examine, the Office of the Ohio Inspector General finds that the nature of the action is questionable, as DFI employees are in a position to influence the decision as to whether or not a pawn shop may or may not continue to operate; particularly when the purchases are made during the course of an examination.

Therefore, the Office of the Ohio Inspector General finds cause to believe an appearance of impropriety occurred in this instance.

Investigators determined from interviews conducted with both Kimble and the prospective pawn shop buyer that there was no business relationship between the two. Furthermore, investigators determined that Kimble did not receive any benefit from referring Erie Pawn shop to the prospective buyer.

Accordingly, the Office of the Ohio Inspector General finds no reasonable cause to believe that 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 Department of Commerce to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Commerce should:

- 1) Review the actions of the individual named in this report and determine if administrative action or additional training is warranted.

- 2) Develop and implement policies regarding DFI employees making purchases from the pawn shops they are assigned to examine; particularly when those purchases are made during the examination.

REFERRAL(S)

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



STATE OF OHIO
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RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Commerce

FILE ID #: 2015-CA00037

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
April 12, 2016

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