

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO BUREAU OF WORKERS' COMPENSATION
FILE ID NO.: 2016-CA00019
DATE OF REPORT: DECEMBER 14, 2017

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: 2016-CA00019

SUBJECT NAME: Lina Dumbaugh

POSITION: Claims Service Specialist

AGENCY: Ohio Bureau of Workers' Compensation

BASIS FOR INVESTIGATION: Agency Referral

ALLEGATIONS: Failure to Comply with State Law and/or Regulations;
Failure to Comply with State or Department Rules, Procedures or Policies; and
Misuse or Abuse of State Property or Equipment.

INITIATED: May 4, 2016

DATE OF REPORT: December 14, 2017

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On May 3, 2016, the Ohio Bureau of Workers' Compensation (OBWC) contacted the Office of the Ohio Inspector General alleging Mansfield Service Office Claims Service Specialist Lina Dumbaugh improperly accessed an injured worker's confidential personal information (CPI). OBWC reported that it had identified 749 accesses during the period from May 1, 2015, through February 27, 2016, where Dumbaugh had improperly accessed an injured worker's claim. OBWC also reported that Dumbaugh had a close personal relationship with the injured worker's attorney, John "Jack" Donaldson, who owned the Donaldson Law Office, LPA¹. OBWC further noted that in 181 of the 749 accesses, Dumbaugh had accessed a total of 63 injured workers' claim files either once or multiple times in claims to which she was not assigned, and failed to enter a note indicating the business reason for her access. Additionally, OBWC further discovered during its review that, in certain instances, Dumbaugh was the assigned claims service specialist and accessed injured workers' claim files when Donaldson was a legal party.

BACKGROUND

The Ohio Bureau of Workers' Compensation is responsible for providing workers' compensation insurance to all public and private employees except those who qualify for self-insurance. It is the largest exclusive workers' compensation system in the United States. An administrator/chief executive officer of OBWC is appointed by the governor. OBWC is also overseen by an 11-member board with members experienced in financial accounting, investments and securities, and actuarial management. OBWC is funded through assessments paid by employers.

The Ohio General Assembly enacted Ohio Revised Code §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers' Compensation and the Industrial Commission of Ohio (ICO). This statute requires a deputy inspector general be designated who "... shall investigate wrongful acts or omissions that have been committed or are being committed by officers or employees ..." of both OBWC and the ICO, and provides the deputy inspector general the same powers and duties as specified in Ohio Revised Code §121.42, §121.43, and §121.45 for matters involving OBWC and ICO.

¹ John "Jack" Donaldson was the owner of Donaldson Law Offices. Since the start of this investigation, the law firm's name changed to Donaldson & Dunkle Law Offices, LPA.

Confidential Personal Information (CPI)

In response to a report of investigation issued by the Office of the Ohio Inspector General, the Ohio General Assembly passed House Bill 648, establishing §1347.15 of the Ohio Revised Code. This section defines “confidential personal information” and identifies what personal information is not to be considered as a public record. Common examples of confidential personal information protected by this section include an individual’s Social Security number, driver’s license number, medical records, and records whose release is prohibited by state or federal law. Possible ramifications for an employee violating this code section by improperly accessing or releasing CPI range from administrative action to criminal charges and being permanently prohibited from state employment.

This section also mandates that all state agencies, excluding the judiciary and state assisted institutions of higher-learning, develop and adopt agency rules regarding the access of CPI that is maintained by the agency. The law specifies several requirements that agencies must incorporate into their rules concerning the handling of CPI, including but not limited to: defined criteria used to determine an employee’s level of access to CPI and a list of the valid reasons as to when employees are permitted to access CPI; a procedure for logging and recording employee access to CPI and the requirement that a password or other authentication must be used to access CPI stored electronically; that agencies designate an employee to serve as the data privacy point-of-contact who ensures that CPI is properly protected; the requirement that agencies must provide on demand to an individual, a detailed listing of all CPI maintained by that agency concerning that individual, unless the CPI relates to an investigation; and a policy that requires agencies to notify individuals whose CPI has been accessed for an invalid reason.

Ohio Revised Code §1347.15 requires all applicable state agencies to establish a training program for all employees who access, or who supervise employees who access, or who authorize employees to access, confidential personal information, so that all employees are made aware of all statutes, rules, and policies governing access to such information.

In response to this requirement, OBWC implemented Memo 4.42 *Confidential Personal Information (CPI) Access and Logging*, revised and reissued in July 2013² and September 28, 2015, which defines CPI, identifies the computer systems that automatically log the employee accessing CPI, and identifies when an OBWC employee is required to manually log their access to CPI. ([Exhibit 1](#))

Ohio Revised Code §4123.88 and OBWC policies state that injured worker claim information is confidential and only available to parties of the claim or individuals authorized to access the information. Ohio's injured workers have a right to expect their claim information will not be disclosed in an unauthorized manner. Both the Ohio Bureau of Workers' Compensation and Office of the Ohio Inspector General have taken measures to protect all injured worker information obtained in furtherance of this investigation.

Code of Ethics for OBWC Employees

The Office of the Ohio Inspector General also reviewed OBWC Memo 1.01 Code of Ethics revised and reissued on September 1, 2015.³ ([Exhibit 2](#)) OBWC Memo 1.01 incorporates Ohio Administrative Code §4123-15, and serves as the Code of Ethics for OBWC employees. Ohio Administrative Code §4123-15-03 (B)(1)(j) prohibits the use or disclosure of confidential information protected by law, and §4123-15-03 (G) states:

... The overall intent of this code of ethics is that employees avoid any action, whether or not prohibited by the proceeding provisions, which result in, or create the appearance of: (1) Using public office for private gain, or (2) *Giving preferential treatment to any person, entity, or group* [emphasis added].

Lina Dumbaugh

Lina Dumbaugh is an OBWC claims service specialist assigned to the Mansfield Service Office. Dumbaugh's job description states that her job duties include, but are not limited to: managing claims, performing initial and subsequent claim investigations, processing medical and legal documents, and assisting injured workers with their claims.

² OBWC initially issued this policy on June 1, 2011.

³ OBWC initially issued this policy in August 2007 and revised it in February 2008 and October 2012.

OBWC provided a training transcript showing Dumbaugh completed computer and/or classroom courses for confidential personal information on June 21, 2011; and OBWC ethics topics on October 8, 2013, November 10, 2014, and September 16, 2015. Dumbaugh also acknowledged receipt of OBWC policy Memo 4.42 on September 30, 2015, and July 20, 2016; and of OBWC policy Memo 1.01 on October 19, 2012, and again on August 28, 2015.

INVESTIGATIVE SUMMARY

During the course of the investigation, the Office of the Ohio Inspector General held meetings and conducted interviews with OBWC Mansfield Service Office management and staff regarding Dumbaugh's accesses to injured worker claim files and her relationship with injured worker attorney, John "Jack" Donaldson, owner of Donaldson Law Offices. In addition, investigators reviewed claim files, CPI access logs, and interviewed additional claims service specialists assigned to the Mansfield Service Office. These activities were conducted during the period from June 20, 2016, through June 21, 2017. The Office of the Ohio Inspector General and OBWC produced several reports of analysis on Dumbaugh's accesses to injured worker claim files. From these various analyses, investigators discovered that Dumbaugh engaged in two distinct types of conduct involving injured worker claim files: unauthorized access of CPI and access contrary to OBWC Memo 1.01 Code of Ethics.

Interviews with OBWC Mansfield Service Office Management

The Office of the Ohio Inspector General conducted interviews regarding Dumbaugh's accesses to claim files with OBWC Mansfield Service Office Manager Sherman Caldwell;⁴ current Injury Management supervisors Melissa Miller and Cindy Finley; and former OBWC Injury Management Supervisor Anthony Guarnera.⁵

During an interview with investigators on June 20, 2016, Caldwell and Miller explained that John "Jack" Donaldson was a Mansfield-area workers' compensation attorney who was in an on-

⁴ Caldwell was promoted in September 2016 to the director of the OBWC Self-Insured Department. Caldwell split his time and remained as the Mansfield Service Office manager until February 2017. Due to other circumstances, Caldwell resigned from OBWC effective October 20, 2017.

⁵ Guarnera retired from OBWC effective June 2, 2015.

again, off-again romantic relationship with Dumbaugh. Miller also noted that she had recently become aware that Dumbaugh was the godmother to Donaldson's child. During a subsequent interview, Caldwell stated that supervisor Cindy Finley had notified him on February 25, 2016, that there were instances of Dumbaugh's improper access of injured worker claim files. Caldwell recalled receiving emails from Finley identifying several instances where Dumbaugh had accessed claim files in which Donaldson was listed as the legal representative and in some instances, Dumbaugh had improperly completed tasks in the claim.

Finley told investigators that after noticing Donaldson's picture on Dumbaugh's desk and remembering a previous incident involving Dumbaugh's leave usage, she began to question Dumbaugh's compliance with agency policies regarding OBWC Memo 1.01 Code of Ethics and supervisory directives. Finley stated that she obtained a list of claim file numbers Dumbaugh had accessed from her (Dumbaugh's) CPI access log. Finley then provided the claim file numbers to Miller, who generated a report from the OBWC data warehouse⁶ identifying the injured worker legal representative for each claim file. Finley stated she reviewed the report provided by Miller and discovered that Dumbaugh had accessed claim files belonging to injured workers represented by Donaldson.

Caldwell recalled to investigators a second incident when Finley reported to him an access of a claim file performed by Dumbaugh on February 26, 2016. In this instance, Dumbaugh had informed Finley that she had accessed a claim associated with Donaldson. Caldwell explained that former Injury Management Supervisor Anthony Guarnera had directed Dumbaugh, when first opening a claim file from her worklist, to verify whether Donaldson was involved in the claim. Guarnera had informed Dumbaugh that if she discovered in the file that Donaldson was listed as a legal party in the claim, Dumbaugh should not perform any work in the claim, close the claim file, and notify her supervisor that she had accessed the claim file.

Investigators confirmed with OBWC Mansfield Service Office management that Dumbaugh would initially need to open the injured worker's claim file to determine whether Donaldson was

⁶ The OBWC data warehouse stores claim-related information that is accessed by OBWC claims management systems.

involved as a legal party to the claim, since the worklist does not identify the legal parties to a claim. Caldwell also remembered Finley stating that she believed Dumbaugh recalled Guarnera's direction to her, since Dumbaugh had previously reported to Finley that she accessed claim files in which Donaldson was involved as a legal party.

Based on the information Finley provided, Caldwell contacted then-Chief of Operations Dale Hamilton⁷ to discuss Dumbaugh's improper access of claim files belonging to injured workers in which Donaldson was a legal party to the claim. Hamilton directed Caldwell to forward his concerns to the OBWC Special Investigations Department for further review. On May 3, 2016, OBWC's Special Investigations Department contacted the Office of the Ohio Inspector General, and provided a verbal summary of its review. The following day, May 4, 2016, OBWC's Special Investigations Department submitted a written report to the Office of the Ohio Inspector General summarizing the results of its review.

Shortly after Finley's discovery of Dumbaugh's improper access of injured worker claim files, Injury Management Supervisor Melissa Miller recalled a decision had been made by Caldwell and Hamilton to switch the caseloads between another claims service specialist and Dumbaugh, which resulted in Dumbaugh being assigned a virtual caseload for the Youngstown Service Office. Miller noted that having Dumbaugh work on a caseload from the Youngstown Service Office made it less likely that parties to those claims would be represented by Donaldson, whose caseload was mainly assigned to the Mansfield Service Office.

Miller said she met with Dumbaugh to discuss the change in Dumbaugh's caseload and to inform Dumbaugh that she was being assigned to the Youngstown Service Office injured worker claim files, effective April 5, 2016. Miller stated she also instructed Dumbaugh that she was "... not to work Mansfield claims" once she was transferred to the Youngstown Service Office virtual team, so that the possibility of accessing claim files involving Donaldson would no longer be an issue.

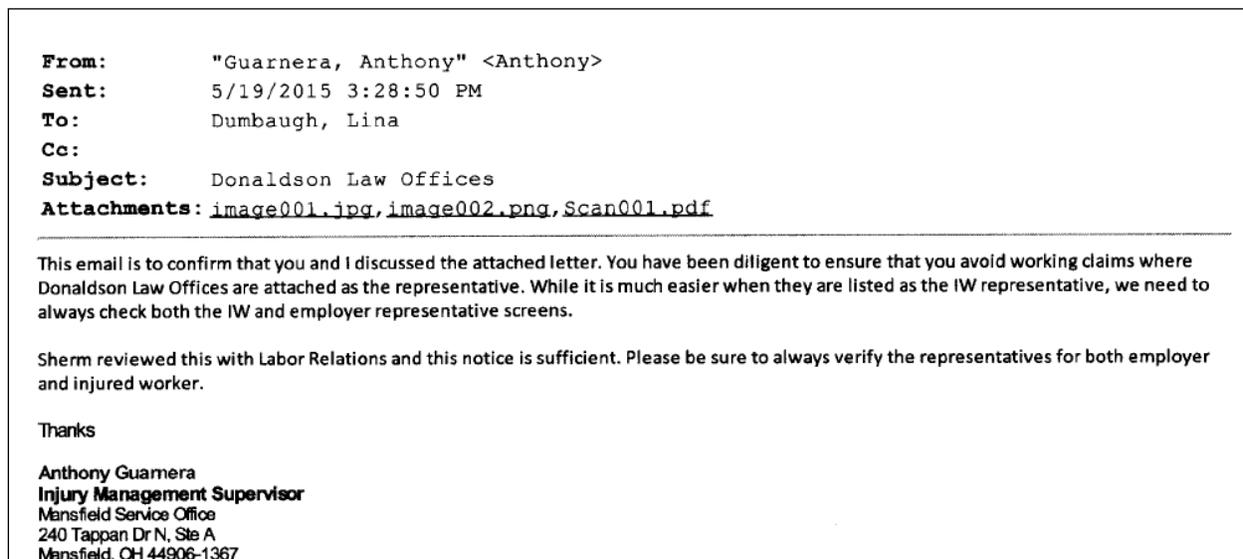
⁷ Per state payroll records, Hamilton resigned from OBWC effective October 4, 2016.

During a telephone interview conducted on June 20, 2017, former Injury Management Supervisor Anthony Guarnera told investigators that after his transfer in 1994 to the OBWC Mansfield Service Office, he believed he became aware in 1996 that Dumbaugh was the godmother of Donaldson's child. After learning of this information, Guarnera stated that he had verbally directed Dumbaugh to not perform work in any claim files where Donaldson was involved as a party of the claim. Guarnera also recalled that Dumbaugh had notified him that she and Donaldson were dating sometime between late 2012 and September 2013. After Dumbaugh notified him, Guarnera recalled reminding Dumbaugh of the same verbal instructions he had previously provided. Guarnera told investigators that he had assigned Dumbaugh to virtual teams who were responsible for processing claims for other OBWC service offices. Guarnera said he did this to reduce the likelihood that Dumbaugh would be assigned to or access injured workers' claim files in which Donaldson was a legal party to the claims.

Guarnera also mentioned to investigators a conversation he had with Dumbaugh in May 2015, regarding a letter she had sent to the Donaldson Law Offices concerning a C-84 Request for Temporary Total Disability Compensation form previously submitted to OBWC. Guarnera explained to investigators that he had told Dumbaugh she should have checked the legal representative screen in the claim file before performing a task which resulted in the correspondence being automatically generated and mailed to multiple people. Caldwell recalled, in a separate interview with investigators, that after Guarnera notified Caldwell of this incident, Caldwell questioned Guarnera as to whether his (Guarnera's) direction to Dumbaugh instructing her to check whether Donaldson was a legal party to the claim before accessing the claim was documented in writing and dated. Caldwell stated that Guarnera told him that Dumbaugh had not been provided written direction with this guidance and to date, there had only been verbal discussions. At that time, Caldwell said he had requested Guarnera to conduct a follow-up discussion with Dumbaugh specifying the exact direction and course of action to take when she opened a claim file where Donaldson was involved.

After the discussions with Caldwell and then Dumbaugh, Guarnera told investigators that he sent Dumbaugh the following email summarizing the directions and guidance she should follow when

accessing claim files where Donaldson was a party to the claim. The email was sent on May 19, 2015:



Guarnera also told investigators that he believed supervisor Cindy Finley was aware that Dumbaugh had been directed not to perform work on claims where Donaldson was a legal party to the claim. In an April 5, 2017, interview, Finley stated to investigators that Guarnera notified her that he had instructed Dumbaugh, when opening a claim file, to check the legal parties for both the injured worker and employer before proceeding further into the claim. Finley also confirmed that prior to the instances in February 2016 reported to Caldwell, Dumbaugh had either sent her an instant message or verbally informed her that she (Dumbaugh) had accessed a claim in which Donaldson was listed as a legal party, and Dumbaugh notified Finley that she exited the claim. Finley acknowledged that she had reminded Dumbaugh to check who the legal parties were before proceeding further into the claim file.

Analysis of Dumbaugh's Accesses of OBWC Case Files

Dumbaugh's Accesses of CPI Policy –

Analysis by the Office of the Ohio Inspector General and OBWC

Though OBWC had previously provided to the Office of the Ohio Inspector General its analysis of Lina Dumbaugh's accesses to injured workers' files for the period from May 1, 2015, through February 27, 2016, OBWC also provided at the request of the Office of the Ohio Inspector

General, Dumbaugh's CPI access log for the extended period of October 1, 2013, through March 24, 2016. The period under review was expanded by investigators due to additional information provided from OBWC Mansfield Service Office management.

From this second analysis, investigators determined Dumbaugh made 1,109 accesses associated with 109⁸ claim files in which Donaldson was listed as a legal representative. Investigators forwarded their analysis to the OBWC Mansfield Service Office management for further review. OBWC found no evidence of a valid business reason for 53 of the 1,109 accesses made by Dumbaugh of the 109 claim files associated with Donaldson. In each of the 53 accesses, the OBWC Mansfield Service Office management determined the claims service specialist assigned to manage the claim was not Dumbaugh, not on Dumbaugh's team, and was unable to locate evidence that Dumbaugh entered a note, completed a diary entry, or performed some other action in the claim supporting the business reason for her access.

Investigators further noted that for 11 of the 53 instances, Dumbaugh was assigned only a virtual caseload for another service office and was not assigned a Mansfield Service Office caseload. As such, Dumbaugh had no business reason to access and, therefore, should not have accessed these injured workers' claim files assigned to the OBWC Mansfield Service Office. In each of the 53 accesses identified, the Office of the Ohio Inspector General determined that Dumbaugh failed to follow the requirements of OBWC Memo 4.42 ([Exhibit 1](#)), and improperly accessed an injured worker's confidential information (CPI) without a valid business reason or failed to properly document a reason for her access in either the claim file or the CPI access log.

In response to a request for additional information by the Office of the Ohio Inspector General, OBWC provided Dumbaugh's CPI access log and identified the assigned service offices for the claim files that Dumbaugh accessed from April 6, 2016, to May 12, 2016. Upon receipt of these assignments, investigators reviewed 40 accesses by Dumbaugh of claim files assigned to the Mansfield Service Office during the period of time she was assigned to the Youngstown Service Office virtual team. From this review, investigators found no evidence of a valid business reason

⁸ The 109 claims include the initial 63 injured worker claim files identified by OBWC on May 3, 2016, and an additional 46 injured worker claim files identified during this investigation.

for Dumbaugh's accesses in eight of the 40 instances which occurred during the period under review. Investigators further determined that Dumbaugh failed to enter a note in the claim file as required by the OBWC Notes Refresher manual ([Exhibit 3](#)) for these eight accesses, and did not document phone calls with a party to the claim in nine of the 40 accesses reviewed. OBWC Memo 4.42 requires employees to have a valid business reason before accessing CPI, or to make a note at the time of the access in a separate CPI access log, explaining why the access was made. In the eight accesses identified,⁹ the Office of the Ohio Inspector General determined that Dumbaugh failed to follow the requirements of Memo 4.42, and improperly accessed confidential injured worker information without a valid business reason or failed to properly document a reason for her access in either the claim file or the CPI access log.

Dumbaugh's Accesses to Claim Files Connected to Donaldson Contrary to OBWC Ethics Policy – Investigators' Analysis

Also, for the period reviewed, investigators discovered a total of 496 instances of Dumbaugh accessing claim files that indicated Donaldson was a legal party:

- 162 instances of access by Dumbaugh as the assigned claims service specialist;
- 266 instances of access by Dumbaugh when she was *not* the assigned claims service specialist;
- 44 instances of access without a business reason;
- 17 instances of access after the claim file was requested to be or had been reassigned;
- 7 instances of access which Dumbaugh requested her supervisor to reassign the claim.

Additionally, investigators discovered Dumbaugh had performed work in the case files in 19 of the 162 instances of access when she was the assigned claims service specialist and in each of the 266 instances of access when she was *not* the assigned claims service specialist.

Investigators further analyzed the 428¹⁰ instances of access performed by Dumbaugh to determine whether each access was in accordance with Guarnera's verbal and email directives to

⁹ The 61 accesses consist of the 53 accesses identified initially, plus the eight accesses which occurred after Dumbaugh was transferred to the Youngstown Service Office virtual team.

¹⁰ The 428 instances consisted of the 162 accesses by Dumbaugh as the assigned claims service specialist and the 266 instances in which Dumbaugh performed work when she was not the assigned claims service specialist.

Dumbaugh. Of the 428 instances reviewed, investigators discovered that 312 instances of access had occurred after Dumbaugh had received a written directive from Guarnera on May 19, 2015, instructing her to not perform work in any claim files indicating Donaldson as a legal party. The remaining 116 instances occurred prior to the written directive from Guarnera, but were after Guarnera had provided verbal directives to Dumbaugh.

Further review by investigators of the injured worker claim files identified 46 instances of access in which Dumbaugh opened the injured worker's claim file on the same day or shortly after Donaldson filed an appeal on behalf of the injured worker or when an Industrial Commission of Ohio hearing notification or decision was mailed to the parties of the claim. In addition, investigators noted Dumbaugh accessed an injured worker's claim file a total of four times for an unknown reason shortly after payments totaling \$17,984.13, were issued to either Donaldson or his client, who was the injured worker.

Analysis of Dumbaugh's Telephone and Text Records

Investigators obtained and reviewed Dumbaugh's OBWC-assigned desk phone records for the period of January 1, 2015, through May 15, 2016, and noted 19 calls totaling approximately 16 minutes between Dumbaugh and telephone numbers associated with Donaldson and his business. Investigators also reviewed Dumbaugh's personal cell phone records and text messages made during the work day from June 4, 2015, thru July 18, 2016. From this review, investigators determined 874 text messages and 1,285 calls were exchanged between Dumbaugh and telephone numbers associated with Donaldson and his business, for a total of 26 hours and 19 minutes.

Investigators also compared the time of the phone calls that were made or answered and text messages sent and received by Dumbaugh, to the times that Dumbaugh used her OBWC claims management system user ID to access an injured worker's claim file. This analysis determined there was phone activity between Dumbaugh's personal cell phone and a phone number associated to Donaldson 71 times at or near the time of her access to an injured worker's claim file. For example, Dumbaugh received a telephone call from Donaldson on July 31, 2015, at 11:18 a.m. for one minute, 23 seconds. Dumbaugh accessed an injured worker's claim file on

the same date at 11:40 a.m. There was no evidence indicating that Dumbaugh had performed work in the claim. At 11:41:24 a.m., Dumbaugh's personal cell phone was used to call a phone number associated with Donaldson. At 11:42:12 a.m., Dumbaugh's personal cell received a return phone call from the number associated with Donaldson which lasted 47 seconds. Dumbaugh accessed the claim file again at 11:46 a.m., after the phone call with Donaldson had ended.

Investigators also compared the time of the phone calls made or answered and text messages sent and received by Dumbaugh to the times that Donaldson used his OBWC claims management system user ID to access an injured worker's claim file. This analysis determined that there was phone activity between a phone number associated with Donaldson and Dumbaugh's personal cell phone in 64 instances at or near the time Donaldson accessed an injured worker's claim file. For example, a phone number associated with Donaldson was used to call Dumbaugh's personal cell phone at 2:23 p.m. on October 2, 2015. The call lasted for eight minutes, 36 seconds. During the call, Donaldson used his OBWC user ID¹¹ to access an injured worker's claim file at 2:30 p.m.

Dumbaugh's Interview with Investigators

On June 21, 2017, the Office of the Ohio Inspector General interviewed Claims Service Specialist Lina Dumbaugh. During the interview, Dumbaugh explained to investigators that she was not allowed to access any claim files that were connected to Donaldson. Dumbaugh noted that Donaldson was once her boyfriend; that they became engaged sometime in 2015; and that their relationship ended approximately in June 2016. However, Dumbaugh admitted that they "still see each other," they are still friends, and that she is the godmother of his child. Dumbaugh noted that "they're family," and she and Donaldson talk about the kids and had always been friends.

Dumbaugh stated that she knew she could not manage claim files connected to Donaldson and if she did, she was directed to inform her supervisors that she had accessed a claim file in which Donaldson was involved. Dumbaugh noted to investigators that she had informed Guarnera

¹¹ OBWC claims management system records indicate the user ID was assigned to John "Jack" Donaldson.

about her relationship with Donaldson. She told investigators that Guarnera provided her with guidance as to what she could not do regarding accessing claim files where Donaldson was a legal party to the claim; however, Dumbaugh was unable to recall specifics.

When accessing a claim file, Dumbaugh stated that she generally would verify which attorney was assigned to the claim. However, she acknowledged to investigators that there were times she failed to do so and processed documents in the claim file, sometimes later realizing Donaldson was a legal party to the claim. Dumbaugh admitted to investigators that there were occasions when she had to notify her supervisor that she had accessed a claim assigned to Donaldson, and they needed to reassign the claim to another claims service specialist. Dumbaugh recalled one instance in which she accessed a claim and issued a payment, but failed to verify whether Donaldson was involved in the claim before issuing the payment. Dumbaugh stated that she “got into trouble” for this instance; however, investigators were unable to locate any evidence of discipline being issued to Dumbaugh by OBWC management.

When discussing OBWC Memo 1.01 Code of Ethics, Dumbaugh told investigators that while working at the front counter for several years, she got to know many attorneys personally. When she transferred to a claims service specialist position, Dumbaugh stated attorneys would call her directly when they wanted an immediate answer to a question, because she would either provide an answer right away, or would research the issue and call them back. When questioned whether attorneys would shortcut the OBWC process by going directly to her, Dumbaugh replied, “exactly.”

After becoming the godmother to Donaldson’s child, Dumbaugh confirmed to investigators that she continued to interact with Donaldson about OBWC claim matters, and that Donaldson called her at work about injured workers’ claim files. Dumbaugh added that Donaldson Law Office personnel would also call her when filing a lump sum settlement application to ask her how much medical and indemnity compensation had been paid in the claim. Dumbaugh stated she would answer their questions and that was the extent of the conversations. However, Dumbaugh noted to investigators that Donaldson himself did not call her directly about injured workers’ claims while they were living together, and added that they both knew it was a “no-no.”

Dumbaugh also confirmed with investigators that Donaldson Law Office personnel would contact her on both her personal cell phone and her OBWC-issued desk phone. Dumbaugh explained that she responded to only very basic questions. Dumbaugh noted she was very mindful as to what she would discuss over the telephone with Donaldson Law Offices because of her personal relationship with Donaldson. Dumbaugh explained that she was prohibited from talking to Donaldson directly about claims or providing him with information. Dumbaugh stated that Donaldson knew he should not call her about claim files. Investigators informed Dumbaugh about the findings from their review of her telephone usage between herself and Donaldson and/or his office. Dumbaugh responded to investigators that she did not know what the calls reviewed pertained to, and then stated, “that’s the truth.”

During her interview, Dumbaugh acknowledged to investigators that she was assigned to virtual teams because of her connection to Donaldson. Dumbaugh explained that Donaldson was the legal representative on a significant number of claims assigned to the Mansfield Service Office. When she was transferred to the Youngstown Service Office virtual team, Dumbaugh told investigators that OBWC Mansfield Service Office management informed her she was being assigned to this team because of her connection to Donaldson, and she was not allowed to work on Mansfield claims any longer. Dumbaugh stated she was not provided the reason for being assigned to other service offices. When investigators asked why she had accessed Mansfield Service Office claims after being transferred to the Youngstown Service Office virtual team, Dumbaugh speculated that another Mansfield Service Office claims service specialist may have approached her and asked her about something in a claim file.

During her interview, Dumbaugh told investigators she would not refer injured workers to a specific attorney, nor would OBWC allow claim service specialists to provide injured workers with names of attorneys who could represent them in their workers’ compensation claims. Investigators noted that on January 5, 2016, at 1:46 p.m., Donaldson faxed to the OBWC Mansfield Service Office an R-2 card showing that an injured worker had hired him to represent them. Dumbaugh’s failure to document her conversation with the injured worker on January 4, 2016, and the subsequent submission of the R-2 card by Donaldson on January 5, 2016, provides the appearance that Dumbaugh may have referred the injured worker to Donaldson.

Investigators asked Dumbaugh whether, based on her understanding of OBWC policies, she could access a claim and perform work in a claim in which Donaldson was the injured worker's legal representative. Dumbaugh told investigators that if she accessed a claim file in which Donaldson was listed as the legal representative, she was directed to inform Guarnera. When Dumbaugh was asked if she had ever accessed a claim file, failed to determine whether Donaldson was involved, and performed work in the claim file, Dumbaugh replied, "I have." Dumbaugh stated further that there could be additional instances where she worked on claims listing Donaldson as the legal representative, other than the one identified in the May 19, 2015, email from Guarnera.

CONCLUSION

On May 3, 2016, the Ohio Bureau of Workers' Compensation (OBWC) contacted the Office of the Ohio Inspector General alleging Mansfield Service Office Claims Service Specialist Lina Dumbaugh improperly accessed an injured worker confidential personal information (CPI). OBWC reported it had identified 181 accesses during the period of May 1, 2015, through February 27, 2016, where Dumbaugh had accessed an injured worker's claim file in which John Donaldson was the injured worker's attorney. OBWC further reported that Dumbaugh had a close personal relationship with the injured worker's attorney, John "Jack" Donaldson, who owned Donaldson Law Office LPA.

The Office of the Ohio Inspector General determined that between the period of October 1, 2013, through March 24, 2016, Dumbaugh had inappropriately accessed injured worker claim files in 61¹² instances. At the time of each access, neither Dumbaugh nor her team was assigned to the injured worker's claim file. It was further noted that Dumbaugh also failed to enter a note, as required by OBWC policy, to support a reason for her access. In each instance, OBWC Mansfield Service Office management were unable to determine a valid business reason for these accesses.

¹² The 61 accesses consist of the 53 accesses identified initially plus the eight accesses which occurred after Dumbaugh was transferred to the Youngstown Service Office virtual team.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

On May 4, 2016, OBWC alleged in a follow-up memo that Dumbaugh had accessed claim files of injured workers who were legally represented by Donaldson. Interviews conducted with then-OBWC Service Office Manager Sherman Caldwell and former Injury Management Supervisor Anthony Guarnera revealed that Dumbaugh had been given guidance since at least 2000 that she was not permitted to access claims in which Donaldson was involved, and that before performing work in a claim, Dumbaugh was directed to verify that Donaldson was not the legal representative for that claim.

The Office of the Ohio Inspector General determined 496 instances of access in which Dumbaugh had accessed injured worker claim files that had indicated John Donaldson was representing either an injured worker or employer. In many of these instances, investigators found that Dumbaugh had performed work in injured workers' claim files that she was or was not assigned, accessed claim files without a business reason to do so, or accessed claim files after requesting reassignment of the claim.

Investigators also determined 46 instances of access in which Dumbaugh had opened a claim file on the same day or shortly after Donaldson filed an appeal on behalf of the injured worker or when an Industrial Commission of Ohio hearing notification or decision was mailed to the parties of the claim. Investigators further found Dumbaugh had accessed an injured worker's claim file a total of four times for an unknown reason shortly after payments totaling \$17,984.13, were issued to either Donaldson or his client.

Lastly, investigators determined 71 instances of access in which Dumbaugh had accessed claim files during the same time phone activity had occurred between Dumbaugh's personal cell phone and a phone number associated with Donaldson or his business. Investigators further determined 64 instances of access during the same time Donaldson used his OBWC user ID to access an injured worker's claim file and phone activity between Dumbaugh's personal cell phone and a phone number associated with Donaldson or his business.

Dumbaugh's actions created an appearance that certain injured worker claims received preferential treatment if the injured worker or employer was represented by Donaldson. These actions are contrary to the provisions of OBWC's policy Memo 1.01.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the administrator of the Ohio Bureau of Workers' Compensation to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Bureau of Workers' Compensation should:

1. Review the conduct of the employees identified in this report and determine whether administrative action is warranted.
2. Consider the merits of providing additional guidance to supervisors on the types of action to be taken when notified that an employee has a close personal relationship with an individual that is a party to a workers' compensation claim, whether the individual is employed by OBWC or is a legal representative, third party administrator, or a managed care organization.
3. Consider the benefits requiring that all directives given to employees limiting their access to certain injured workers' claim files or employer policies be in writing and dated. It is recommended that such directives be shared with all managers who interact with the employee to ensure all understand the employee's limitations involving certain types of claims or employer's policies.
4. Consider the merits of disseminating the results of past investigations involving OBWC policy violations which include the type of discipline issued to emphasize the importance of the OBWC employees' compliance with OBWC policies.

5. Consider whether future ethics trainings should include training on preferential treatment, how an appearance of such treatment occurs, and clarifying what is permissible per Ohio Administrative Code §4123-15-3. It is recommended OBWC consider whether additional topics from Ohio Administrative Code §4123-15 should also be incorporated into future ethics trainings.
6. Consider the benefit of providing additional training to OBWC employees on the OBWC employee policies addressing confidential personal information, distribution of sensitive information, and the differences between the information covered by these policies.
7. Consider whether the new OBWC claims management system should be modified to restrict an employee's access to injured workers' claim files based on personal conflicts identified; to prevent multiple employees from working on the same task thereby eliminating duplication of effort by the employees; and to notify the assigned claims service specialist when another OBWC employee accessed and completed tasks in their assigned injured worker's claim file.

REFERRAL(S)

During the course of this investigation, the Office of the Ohio Inspector General consulted with the Ohio Ethics Commission. The Office of the Ohio Inspector General will forward this report of investigation to the City of Mansfield law director for consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Bureau of Workers' Compensation

FILE ID #: 2016-CA00019

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
December 14, 2017

MAILING ADDRESS

OFFICE OF THE INSPECTOR GENERAL
JAMES A. RHODES STATE OFFICE TOWER
30 EAST BROAD STREET – SUITE 2940
COLUMBUS, OH 43215-3414

TELEPHONE

(614) 644-9110

IN STATE TOLL- FREE

(800) 686-1525

FAX

(614) 644-9504

EMAIL

OIG_WATCHDOG@OIG.OHIO.GOV

INTERNET

WATCHDOG.OHIO.GOV