

## **Miami-Dade Commission on Ethics & Public Trust**

### **Investigative Report**

**Investigator:** Breno Penichet

<b>Case K12-094</b>	<b>Case Name:</b> Abuse of K time by Union Representatives	<b><u>Date Open:</u></b> June 27, 2012	<b><u>Date Closed:</u></b> May 7, 2013
<b>Complainant(s):</b> John Panico	<b>Subject(s):</b> Vivienne Dixon (AFSCME) Martha Baker (SEIU)		

### **Allegation(s):**

Union representatives may have abused "K" time, a payroll code used by the Jackson Hospital Trust (JHT) to indicate paid time for an employee conducting union business.



## **Relevant Ordinances:**

*Exploitation of official position prohibited*

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### **Investigation:**

Assistant State Attorney Johnette Hardiman (ASA Hardiman) referred a complaint received by her office concerning a possible misuse of “K” time by JHT union officials.

According to the information received by ASA Hardiman Mr. John Panico (Panico) alleged that union officials that were assigned to the Joint Efficiencies Task Force (JETF) may have been using “K” time and not accounting for how it was being used.

Panico stated in a memo that union employees traveled to Tallahassee, on (K) time to provide testimony before the Legislature. According to Panico this may be a violation of PHT policy.

Panico stated that the biggest problem was the fact that no one could account for how the [“K”] time was being spent, because the union members were not required to punch a clock. Panico felt the union members may have been taking advantage of the system and not using their own time such as annual time and sick time when appropriate.

COE investigator reviewed the documents related to the time usage issues that prompted the formation of the JETF..

On or about February 2010 an agreement was reached between the Public Health Trust (PHT) and the Service Employees International Union (SEIU) to create the Jackson Health System Sustainability Project also known as (JETF).

This task force was created to bring together all the collective bargaining units and the PHT in order to save JMH/PHT from financial ruin. The agreement also allowed for certain numbers of union employees to be detached to work on ways of saving money. The employees that were assigned to JETF were not closely monitored by management thus creating the ”K” time loop- hole and allowed some of these individuals to inappropriately bank extra sick time and holiday time.



## *Interviews*

Mr. John Panico (Panico) voluntarily agreed to be interviewed telephonically and provide information concerning the memo he wrote to ASA Hardiman.

Panico advised that he was Director Employee / Labor Relations for the PHT when the JETF was first established. Panico advised he was never in favor of the way the "K" time program was instituted, he was also opposed to the way the agreement entered between the PHT and the unions was negotiated. Panico felt that upper management did not include labor relations at the time of the negotiations and that created the situation with the lack oversight.

Panico advised that he brought this to the attention of several top level administrators but was ignored. Panico also advised that he was told to leave the union pay time business alone. According to Panico because of his pursuit of the "K" time matter he (Panico) was let go several months later as part of a re-organization of the HR department. Panico advised that he is presently in litigation with the PHT.

Mr. Roberto Campos-Marquetti (Campos –Marquetti) voluntarily agreed to meet with COE investigators and provide information regarding the investigation. Campos –Marquetti stated that he is the Assistant Director for Labor Relations; Campos-Marquetti advised he worked with Panico and was involved in the review of the use of "K" time. Campos –Marquetti advised that when the JETF was formed, it was done to help the PHT overcome a big financial shortcoming. Campos-Marquetti advised the HR department has the authority to change the time usage as when information is received that an employee has used the wrong time designation.

Campos –Marquetti advised that even though the union employees were on "K" time if it was found that they were not on union business then the proper time designation was applied. Campos-Marquetti advised that now the procedure has changed. Campos-Marquetti is now in charge of signing all the vacation and sick leave request for any union member involved in any type of union business. Campos –Marquetti further stated that now HR is in charge of picking the union members



that are on “K” time and there is only a certain amount of “K” time allotted to each bargaining unit. Campos –Marquetti advised that now the time is much more closely monitored by HR and there is much more communication between the different bargaining units and HR staff.

***Document/Audio/Video Review:***

Memo dated February 24, 2012 to ASA Hardiman / with attachments.

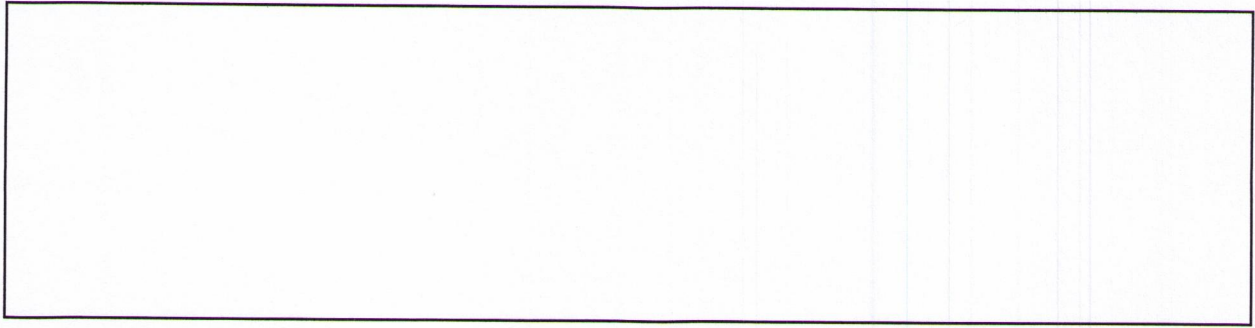
Field notes  
E-mails  
OIG report

**Conclusion(s):**

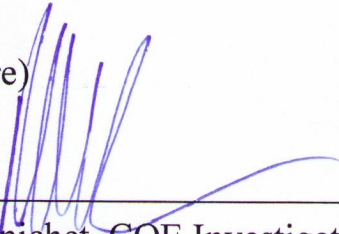
After reviewing the documents provided and interviewing some of the persons involved it appeared there was little provision put in place for true oversight by management. The JETF was created to help the PHT overcome a big financial shortcoming. When the new policy was put in place there was a marked improvement and the system seemed to work much better. The Miami Dade County office of the Inspector General was alerted and after a cursory review they decided not to open an investigation, which lends credence to the theory that if you look at the totality of the circumstances, there is no way to prove individual misconduct due to flaws in the management system, which have now been corrected.

Advocate Michael Murawski advised that no further action would be taken since there does not appear to be any ethics related violations. Accordingly, it is recommended that the above case be closed.





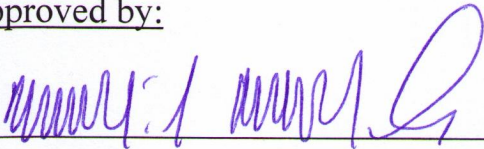
(Signature)



6/12/2013

Breno Penichet, COE Investigator

Approved by:



Michael Murawski, Advocate

Miriam S. Ramos, Deputy General Counsel



6/24/13

Joseph Centorino, Executive Director