Dep't of Social Services (Human Resources Admin.) v. Lawrence

OATH Index No. 940/25 (Sept. 3, 2025)

Respondent, an eligibility specialist, violated agency code of conduct when she engaged in a scheme to defraud the Small Business Administration and failed to report her arrest. Termination of employment recommended.

NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

In the Matter of
DEPARTMENT OF SOCIAL SERVICES (HUMAN RESOURCES ADMINISTRATION)
Petitioner
- against -
YOLANDA LAWRENCE
Respondent

REPORT AND RECOMMENDATION

CHARLOTTE E. DAVIDSON, *Administrative Law Judge*

Petitioner, the Department of Social Services ("DSS" or "the Department"), brought this disciplinary proceeding pursuant to section 75 of the Civil Service Law. The petition charges respondent, Yolanda Lawrence, an Eligibility Specialist Level II with the New York City Department of Social Services, Human Resources Administration ("HRA"), with violations of the agency code of conduct arising from a scheme to defraud the Small Business Administration. Respondent contests the charges.

A trial was held before me by videoconference on April 4 and 11, 2025. Petitioner relied on the testimony of two HRA employees as well as documentary evidence, including superseding federal indictments of respondent, the transcript of her allocution before a United States District Court Judge for the Southern District of New York, and other documentation of a deferred prosecution agreement in respondent's federal criminal case. Respondent testified and called two additional witnesses. For the reasons set forth below, I find that petitioner proved the charges. I recommend that respondent's employment be terminated.

ANALYSIS

The Charges

The allegations against respondent are that, from June 2020 to May 2021, she engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through its Economic Injury Disaster Loan ("EIDL") Program by submitting false and fraudulent loan applications, which resulted in her receiving payments from the SBA in the amounts of $9,000 and $54,700. According to the allegations, respondent was arrested for this conduct on or about November 30, 2022, on federal charges of wire fraud and conspiracy to commit wire fraud. Petitioner alleges that respondent's fraudulent conduct and her failure to correctly or timely report her arrest to the Department violated Department rules and standards.

In bringing these allegations, the Department cites several standards to which its employees must adhere. The Code of Conduct for HRA Employees, Executive Order No. 726, effective January 15, 2010, states that: "[o]ffenses committed off Agency premises may result in disciplinary action if they reflect unfavorably on the fitness of the employee or if they bring or may bring discredit to the Agency;" "[e]mployees are expected to conduct themselves in a manner which will reflect favorably upon them, upon the Agency and the City. They are not to conduct themselves in a manner prejudicial to good order and discipline;" and "[e]mployees shall not engage in any conduct detrimental to the Agency or which would undermine the effectiveness of the employee in the performance of his/her duties" (Pet. Ex. 1, §§ II(G), III(1), (37)).

The successor Code of Conduct for DSS-HRA-DHS Employees, Executive Order No. 748, effective September 15, 2022, that was put in place after the consolidation of the Department of Homeless Services ("DHS") into HRA, contains virtually identical provisions (Tr. 27, 29-31; Pet. Ex. 2, §§ II(A)(2), II(A)(7), III(B)(3)). This Code of Conduct also states that "[e]mployees shall immediately notify, in writing, SID *and* DOI of the circumstances surrounding any arrest, indictment or conviction of a crime, and have a continuing obligation to notify DOI and SID or ELU of all pending criminal charges and the disposition of such charges, e.g., dismissal, conviction, and sentence upon conviction" (Pet. Ex. 2 at § VI(A)(3)).

The Department's Procedure No. 03-10, dated April 8, 2003, and entitled, "Disciplinary Action for Misconduct Relating to Criminal Activities, Fraud, Conflict of Interest and Unethical Conduct," states that:

> Municipal employees hold positions of public trust, which require integrity and honesty. Misconduct which involves moral turpitude or which affects an employee's fitness for public service shall be grounds for initiating disciplinary action. Misconduct includes, but is not limited to: unethical conduct, financial irregularities, falsification of records, theft, conflicts of interest or any criminal activity whether committed on or off Agency premises.

(Pet. Ex. 9 at § II). If the allegations against respondent are true, her actions clearly violate these rules.

HRA Employment

Respondent has worked at HRA for approximately ten years, with one leave of absence to work for the New York City Police Department (Tr. 65-66). In May 2021, she was an Eligibility Specialist Level II (Tr. 14, 17). Prior to working at HRA, she held positions in foster care and an HIV/AIDS program (Tr. 66). She is single and the mother of three children (Tr. 65-66). Respondent acknowledged receiving the code of conduct while she was working at HRA's 505 Clermont Avenue location, where she worked until about June or July of 2023 (Tr. 67, 87, 92-93, 109).

Petitioner called two witnesses who testified about respondent's role and responsibilities at DSS. The first, Charrise Andrews, is the Executive Director for Home Health Care Services, Medicaid Eligibility Unit (Tr. 12). Andrews has worked for HRA for about 33 years and has been in her current role since June of 2020 (*Id.*). The Home Care Services Program determines eligibility of vulnerable New Yorkers for in-home nursing and other services (Tr. 13). As part of that process, program employees review bank accounts, other financial information, details of household composition, and other sensitive information (*Id.*). Although Andrews was not respondent's direct supervisor, as director of the unit she was familiar with respondent's work (Tr. 12-14, 20). In that capacity, respondent reviewed applications for the program and for Medicaid, along with attachments such as social security cards, proof of citizenship, birth certificates, proof of employment and salary, residential leases, rent receipts, deeds, bank statements, annuity accounts, and other personal and sensitive information (Tr. 14-16).

Petitioner's second witness, Mark George, is the Director of the Office of Employee Integrity and Performance (Tr. 23). George confirmed that, although there is no physical handbook, all employees have access to the Department's Code of Conduct and the memo on

Disciplinary Action for Misconduct Relating to Criminal Activates, Fraud, Conflict of Interest and Unethical Conduct through HRA's Intranet and eDocs (Tr. 26-27, 29-31, 36-37, 45; Pet. Exs. 1, 2, 9). According to George, respondent did not report her November 2022 arrest to her employer, and the Department only learned of it when it broke in the news (Tr. 32). At that point, the Department suspended respondent and, given the nature of the criminal allegations against her, restricted her access to client information when she returned and reassigned her to tasks that did not involve system access (Tr. 32-35, 48).

Federal Criminal Prosecution

Petitioner's evidence related to the federal criminal case against respondent consists of a criminal complaint against respondent dated November 29, 2022 (Pet. Ex. 4); superseding indictments dated April 26, 2023 (Pet. Ex. 5), and May 24, 2023 (Pet. Ex. 6); a Deferred Prosecution Agreement signed by respondent, her lawyer, and the judge on December 13, 2023 (Pet. Ex. 3); the transcript of respondent's sworn admission to the conduct for which she was arrested made on December 13, 2023, before Hon. Laura Taylor Swain, Chief Judge of the United States District Court for the Southern District of New York (Pet. Ex. 8); and a *nolle prosequi* filing dated July 16, 2024 (Pet. Ex. 7). The November 29, 2022, criminal complaint alleges that that, from June 2020 to May 2021, respondent engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program by submitting false and fraudulent loan applications, which resulted in her receiving payments from the SBA in the amount of $9,000 and $54,700 (Pet. Ex. 4 at ¶¶ 1-3, 45(a)).

The charging documents establish by a preponderance of the evidence that respondent was arrested for and charged with federal crimes including conspiracy to commit wire fraud and wire fraud against the SBA and the SBA's EIDL Program (Pet. Exs. 4, 5, 6). The Deferred Prosecution Agreement, transcript, and *nolle prosequi* filing establish by a preponderance of the evidence that respondent entered into an agreement with prosecutors to defer and ultimately dismiss their prosecution of her (Pet. Exs. 3, 7, 8). As part of this agreement, respondent admitted to her conduct under oath in federal court before Judge Swain on December 13, 2023 (Pet. Ex. 8).

The court's allocution included a thorough probing of respondent's physical and mental condition and her fitness to make sworn admissions regarding the case against her. The court began by swearing in respondent under penalty of perjury and asking respondent's name, age, level of education, if she was proficient in English, and if she was a citizen (Pet. Ex. 8 at 3-4). The court asked respondent if she was then or had recently been under the care of a doctor or a psychiatrist, to which respondent answered, "Doctor, yes" (*Id.* at 4). Respondent answered "no" to the questions "Are you under care for any condition that diminishes your ability to understand complex information?," "Are you taking any medication or suffering from any condition that diminishes your ability to make important decisions for yourself well?," "Have you ever been treated or hospitalized for any mental illness or for any kind of addiction, including drug or alcohol addiction?," "Have you ever been addicted to any drugs or alcohol?," and "In the past 24 hours, have you taken any drugs, medicine, or pills or had any alcohol to drink?" (*Id.* at 4-5). Respondent confirmed that her mind was clear that day and that she was feeling well enough physically that day to concentrate on the proceeding (*Id.* at 5). The court then asked again "Are you feeling well enough physically today to go through with this proceeding?," to which respondent answered, "Yes" (*Id.*).

The court also established that respondent was adequately represented. Respondent confirmed that she was represented by a lawyer and was satisfied with his representation. She also confirmed that she had fully discussed her case with her attorney, including the conduct she intended to admit in the agreement with the prosecution and the consequences of her admissions and agreement (*Id.* at 5-6).

As to the written agreement between respondent and the government, the court asked respondent whether she had signed the agreement and whether, before signing it, she had read it, understood it, and discussed it with her attorney. Respondent replied, "Yes" (*Id.* at 7). The court asked similar questions with respect to the November 29, 2022, complaint against respondent, to which respondent also replied, "Yes." (*Id.* at 7-8). The court asked, "[D]oes the agreement reflect accurately your complete and total understanding of the entire agreement between the government, your attorney and you?," and "Is everything that you understand about the deferred prosecution arrangement covered in the agreement?," to which respondent answered, "Yes" (*Id.* at 7). When asked, "Has anything been left out?" and "Has anyone made any promises to you other than what is written in that agreement or threatened you or forced you to enter into the agreement?" respondent answered, "No." (*Id.*).

The court then allocuted respondent as to the facts of the case, asking respondent, "Do you understand that the agreement provides on page one that you are admitting to certain facts related to your conduct that are in the complaint[?] Specifically, that on or about June 30, 2020, you caused to be filed and conspired with others to file a fraudulent Economic Injury Disaster Loan, or EIDL, application with the United States Small Business Administration, or the SBA, that contained false statements, including statements regarding the number of employees your purported business had, and its gross revenue in the 12-month period ending January 31, 2020?" (*Id.* at 8-9). Respondent answered, "Yes" (*Id.* at 9). The court went on to ask, "And do you also understand that page one of the agreement provides that you are admitting that you caused to be filed two additional fraudulent EIDL applications which were filed on or about January 26, 2021, and on or about January 29, 2021, respectively, both of which were denied by the SBA?" (*Id.*). Respondent again answered, "Yes" (*Id.*).

<u>Respondent's Testimony</u>

Respondent testified about the circumstances leading to her SBA loan application. According to respondent, during the pandemic, she worked together with family members on "pop-up shops," a type of temporary retail operation (Tr. 68-69). She described a conversation with Rodney Smith Sr, who is related to her in that he is her grandson's grandfather, in 2020 at Smith's house where he told her about a small business loan opportunity (Tr. 68-70, 94). Respondent trusted Smith, so she met with him at his home to complete a loan application (Tr. 70). As respondent described it, she provided Smith with information, including her name and social security number, and he submitted the application on his computer while they were sitting with two other family members in the backyard of Smith's home (Tr. 70, 94-95). She did not use her DSS computer in applying for the loan (Tr. 85-86). According to respondent, she never saw the application Smith prepared (Tr. 70-71). Smith told her she would receive an email from the SBA; she did receive an email from the SBA, signed the consent signature form contained in that email, and sent it back to the SBA via email (Tr. 71-72, 108). A few days later she received funding in the amounts of $9,000 and $54,000 transferred to her bank account from the SBA (Tr. 72-73, 108-09). She then spoke with Smith regarding a $5,000 fee to him for preparing the application (Tr. 73, 95-98). Respondent claims to have used the funds to purchase items for her pop-up shop (Tr. 73-74, 107). According to respondent, she first learned of the investigation regarding her receipt of SBA funding when federal and local law enforcement officers arrived at her home to arrest her (Tr. 74-75). Respondent testified that she reported her arrest to her supervisor, whom she did not identify by name (Tr. 110-11). Specifically, she testified that, while she was receiving treatment in the emergency room shortly after arrest, she "called someone who worked at the site who then went to the unit that I worked in, who got somebody for me to speak to, and they reported it to my supervisor" (Tr. 75, 111).

Respondent was diagnosed[1] with Stage 3 breast cancer, for which she received chemotherapy and radiation treatment and is currently undergoing immunotherapy (Tr. 77-78). Respondent recalls receiving chemotherapy on November 13 and December 6, 2023, shortly before her December 13 court date where she entered into the Deferred Prosecution Agreement (Tr. 80). Between November 13 and December 6, she was hospitalized for four days for a reaction to the chemotherapy, which she explained was "like, the highest dose to actually combat the cancer" (Tr. 80, 82). She described chemotherapy as "rough" mentally and that the treatment "clouds your brain" and "makes it so, like, you're very confused a lot" (Tr. 80-81). Her doctor gave her medicine to treat the anxiety she developed following chemotherapy, which she continues to take (Tr. 80-81).

In this proceeding, respondent disavows her admissions in her federal criminal case and the agreement that allowed her to avoid prosecution in the federal case. While respondent recalled some details of that deferred prosecution agreement, she testified that the agreement was not explained to her, she did not read it before signing it, and she did not receive a copy of the written agreement until days or a month after she signed it (Tr. 76-77, 83). She was briefed by her lawyer right before they entered the courtroom (Tr. 83, 103-04). She understood that she needed to sign the agreement in order "to be home rather than be in the jailhouse for a period of six-months, and once the six-months was done, that the case would be over," and she signed it because her lawyer told her to (Tr. 76-77, 82-83). At the time of the allocution, she "did not know what was going on" because she was not feeling well following her chemotherapy treatments (Tr. 83-84). She noted that she was allowed to sit during the proceeding because she felt unwell (Tr. 103).

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[1] Respondent initially remembered receiving her diagnosis on October 21, 2022, but then agreed that the diagnosis may have actually been made in October of 2023, which seems more likely, as it is closer in time to November 13, 2023, the date of her first cancer treatment (Tr. 77-78, 80, 90-91).

Respondent does not now recall the questions asked to her by Judge Swain during her allocution, aside from questions about her medical condition and medication (Tr. 83-84, 100-06). For the rest of the questions, respondent testified that her attorney "leaned over to me to tell me what to respond to. He told me each response to the question" during the allocution (Tr. 84, 102). She answered as prompted by her lawyer because she trusted him and believed he would not let her "enter into something that would say I was guilty" (Tr. 85). Respondent also conceded that she knew she was under oath at the time of her allocution (Tr. 100, 102-03).

Respondent served no jail time other than her hours-long detention following her arrest (Tr. 74-75, 85). Respondent did not return to court after her allocution, and, after six months, her case was dismissed (Tr. 85).

Additional Testimony

Rodney Smith testified on respondent's behalf and essentially echoed respondent's account of the circumstances surrounding the loan application, except that he testified that he told respondent up front that he would charge her a fee (Tr. 114-17, 119, 121). He claimed that, unbeknownst to respondent, he inflated the income and employee numbers she gave him in order to increase the likelihood of the loan being approved (Tr. 116-17). Smith engaged in a similar process with about 96 other applications, 26 of which were approved for loans (Tr. 119). Smith ultimately entered a guilty plea to some of the charges against him and was sentenced to 24 months' incarceration (Tr. 120). While Smith minimized respondent's role in his criminal conduct, he conceded that he pled guilty to conspiring with respondent and others to obtain funds from the SBA by submitting false and fraudulent loan applications (Tr. 128-29).

Respondent's daughter, Leshae Crandell, testified that she was with her mother on the day she entered into her deferred prosecution agreement in federal court and that her mother was not feeling well (Tr. 155-56). Due to her cancer treatments, respondent was "groggy" and her "memory was bad" (Tr. 157). Crandell testified that she observed respondent's attorney bending down and whispering in respondent's ear during her allocution by the judge (*Id.*).

Legal Analysis

Petitioner has met its burden of proving respondent engaged in conduct that reflects unfavorably on her fitness for her job with the Department and may bring discredit to the Agency.

As an initial matter, the fact that respondent's misconduct took place outside the Department does not insulate her from discipline. *Dep't of Correction v. Francis*, OATH Index No. 2362/24 (June 21, 2024), *adopted*, Comm'r Dec. (Aug. 21, 2024), *aff'd*, NYC Civ. Serv. Comm'n Case No. 2024-0480 (Nov. 27, 2024) ("It is well-established that an agency may discipline an employee for off-duty misconduct" (citing *Cromwell v. Bates*, 105 A.D.2d 699, 699 (2d Dep't 1984); *Zazycki v. City of Albany*, 94 A.D.2d 925, 926 (3d Dep't 1983); *Dep't of Correction v. Dash*, OATH Index No. 336/06 at 9 (Mar. 28, 2006), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 07-66-SA (June 13, 2007))). To discipline an employee for off-duty conduct, "the agency must establish some relationship between the conduct sought to be sanctioned, the agency's mission, and the employee's position." *Dep't of Correction v. Blanc*, OATH Index No. 2571/11, 32-33 (Feb. 2, 2012), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 12-40-SA (Aug. 10, 2012).

Here, there is a clear nexus between respondent's alleged off-duty conduct and her job responsibilities. In the course of her work, respondent had access to sensitive personal information for agency clients, many of whom are elderly, housebound, or otherwise vulnerable. Agency personnel who handle that sort of information must be trustworthy and above reproach. It would be irresponsible of the Department to permit respondent to continue to access personal identifying information of vulnerable New Yorkers after knowing of her admissions of fraud against the federal government.

Petitioner presented strong and compelling evidence of respondent's misconduct. Her allocution in federal court was careful, thorough, and robust. The judge asked respondent repeatedly about her health and competence to enter into her agreement with prosecutors and the court. The judge also asked a number of questions about respondent's legal representation and her familiarity with the written agreement. Respondent signed a written agreement and admitted under oath to her role in perpetrating a fraud against the federal government. Respondent testified that her lawyer leaned over her and told her how to answer the questions asked of her. Respondent's daughter corroborated this testimony. I am not persuaded by this self-serving testimony, and it seems unlikely that an experienced federal judge would take such pains to carefully allocate respondent while permitting her lawyer to interfere so boldly into the sworn allocution.

Respondent's denials in this proceeding are insufficient to overcome petitioner's evidence. Respondent has faced and is facing significant obstacles, not least of which are her cancer diagnosis and her difficult course of treatment. However, her claim that she was so impaired on

December 13, 2023, by her December 6 chemotherapy treatment that she should not now be held to her admissions in her federal case is unpersuasive. She presented no medical documentation or other corroborating evidence to support her claim outside of her daughter's testimony that she was groggy. She had the support of her daughter and her lawyer at the time of the agreement. She was given ample opportunity to disclose any mental or physical impairment. Nonetheless, she chose to move forward with the deferred prosecution agreement. She received the benefit of the agreement and now wishes to avoid its consequences. *See United States v. Jaata*, 2021 U.S. Dist. LEXIS 176533 (S.D.N.Y. Sept. 16, 2021) (denying motion to withdraw guilty plea).

Respondent has a significant motive to disavow her admissions in the federal case, which diminishes the credibility of her testimony. Similarly, Smith and Crandell have incentives here that dilutes their credibility. They are both members of respondent's family, and Smith may have an additional desire to protect respondent from the consequences of her conduct for which he is partially responsible.

As for respondent's failure to report her arrest, as stated above, I credit George's clear statement that the Department only learned of the arrest when it broke in the news over respondent's vague testimony that she did report her arrest to a nameless supervisor by phone call to a nameless co-worker.

FINDINGS AND CONCLUSIONS

1. Petitioner proved that respondent engaged in a scheme to obtain funds from the SBA through fraud for which she received payments totaling $63,000 and that she was arrested in November 2022 for conspiracy to commit wire fraud and wire fraud.

2. Petitioner proved that respondent failed to report her arrest to the agency.

RECOMMENDATION

After making the above findings, pursuant to this section 1-47(b) of this tribunal's rules, I requested and reviewed respondent's personnel history. Respondent began working for the agency in 2014. She took a conditional leave of absence from August 2016 to April 2017 to work for the

New York City Police Department before returning to HRA. She has no prior disciplinary history and has already served a 30-day suspension for the conduct charged here.

Petitioner seeks termination of respondent's employment, which is appropriate. Petitioner proved that respondent stole public money by engaging in a conspiracy to defraud the SBA. This tribunal often recommends termination of employment for acts of fraud on a public agency. *See Dep't of Social Services (Human Resources Admin.) v. Jaata*, OATH Index No. 1442/19 (July 25, 2019), *adopted*, Comm'r Dec. (Aug. 15, 2019), *aff'd*, Civ. Serv. Comm'n Case No. 2019-0912 (Nov. 20, 2020) (citing *Human Resources Admin. v. Palmer-Davis*, OATH Index No. 2968/10 at 6 (Dec. 2, 2010) (termination of employment recommended where supervisor defrauded another agency of more than $18,000 by submitting fraudulent documents); *Human Resources Admin. v. Finley*, OATH Index No. 947/05 at 8-9 (Oct. 12, 2005), *aff'd*, NYC Civ. Serv. Comm'n Item No. CD 06-53-SA (Apr. 24, 2006) (eligibility specialist's employment terminated for committing insurance fraud and wrongfully obtaining property worth more than $1,000); *Human Resources Admin. v. DeFreitas*, OATH Index No. 629/01 (Nov. 30, 2000) (welfare fraud resulted in employment termination)).

While there is mitigating evidence here of respondent's illness and long tenure with HRA, it is insufficient to overcome HRA's legitimate concerns. *See, e.g.*, *Human Resources Admin. v. Charleman*, OATH Index No. 1653/16 (Aug. 5, 2016). Respondent engaged in serious misconduct, demonstrating a level of dishonesty and indifference to public welfare that is incompatible with her continued employment accessing sensitive personal information and managing public assistance.

Accordingly, I recommend termination of respondent's employment.

Charlotte E. Davidson
Administrative Law Judge

September 3, 2025

SUBMITTED TO:

MOLLY WASOW PARK
Commissioner

APPEARANCES:

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ALAIN MASSENA, ESQ.
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