Office of Executive Inspector General for the Agencies of the Illinois Governor

Investigation Case No. 23-00627

[*Redacted.*]

I. INTRODUCTION

Based on finding evidence of a State employee fraudulently obtaining a federal Paycheck Protection Program (PPP) loan, the OEIG conducted a larger review to determine whether State employees properly obtained PPP loans and provided notice of secondary employment.[1] The OEIG then self-initiated this investigation regarding a PPP loan obtained by Antonio Davis in the amount of $20,833, while he was employed at the Illinois Department of Human Services (DHS), and determined that Mr. Davis obtained the federal PPP loan and loan forgiveness based on falsified information he personally supplied, in violation of DHS and State of Illinois policies on employee conduct. Mr. Davis also admitted he did not report his activities related to a personal business as secondary employment to DHS.

II. BACKGROUND

Antonio Davis began working at DHS in April 2002, though his employment there has not been continuous, but since February 2019 he has been a Human Services Caseworker at the Roseland Family Community Resource Center (FCRC).

The PPP was created by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and administered by the Small Business Administration (SBA) to provide relief to small businesses affected by the COVID-19 pandemic. PPP loans were made to eligible businesses, which included sole proprietorships, independent contractors, and self-employed individuals, for qualifying payroll costs and business operating expenses such as insurance, rent, and utilities.[2] To apply for the loan, a sole proprietor, independent contractor, or self-employed individual needed to submit certain tax filings or other payroll documentation to an SBA-approved lender, establishing their eligibility and demonstrating the qualifying payroll amount, which as of March 2021 could be based on “gross income” reported on an IRS Form 1040, Schedule C.[3] PPP loans were eligible for forgiveness by the SBA if used on qualifying expenses and if at least 60% was used for payroll costs.[4]

III. INVESTIGATION

A. PPP Records For Antonio Davis

The OEIG located public records showing that Mr. Davis was approved for a PPP loan in 2021 for a “sole proprietorship,” in the amount of $20,833, and subpoenaed loan documents from the identified lender.

[1] From the OEIG’s review, in order to be eligible for at least $20,000 in loan proceeds, the small business typically had approximately $100,000 or more in yearly net profit or gross income. The OEIG may refer to the Ultimate Jurisdictional Authority those State employees who obtained PPP loans in smaller amounts or were not investigated for other logistical reasons.
[2] 15 U.S.C. § 636(a)(36); SBA Interim Final Rule, 85 FR 20811 (Apr. 15, 2020).
[3] *See* SBA Interim Final Rule, 86 FR 13149 (Mar. 8, 2021) (expanded definition of “payroll costs” for sole proprietors).
[4] 15 U.S.C. § 636(m); *see* SBA Interim Final Rule, 86 FR 13149 (Mar. 8, 2021).

Mr. Davis's loan documents included a "Borrower Application Form for Schedule C Filers Using Gross Income," dated April 25, 2021, and DocuSigned in Mr. Davis's name. The sole proprietor box was checked, the Business Legal Name was Antonio Davis, and the DBA or Tradename was "[Company 1]," with a year of establishment of [Redacted], 2012, and an "NAICS Code" corresponding to the category Family Clothing Stores.[5] Mr. Davis was identified as the sole owner and employee. An address and social security number listed matched information in Mr. Davis's DHS personnel file, and under purpose of the loan, the "Payroll Costs" box was checked. The form contained several certifications, all reflecting the initials "AD," including statements the applicant "was in operation on February 15, 2020" and was an "eligible self- employed individual, independent contractor, or sole proprietorship…"; a statement the funds would be used as authorized by PPP rules; a statement that information provided in the application and supporting documentation was "true and accurate in all material respects;" and an acknowledgement the lender would "confirm the eligible loan amount using required documents submitted."

The application listed gross income as $104,100, from line 7 of a 2019 IRS Form 1040, Schedule C, and that amount was used to calculate the requested loan amount of $20,833 (intended to cover a period of up to 2.5 months). Other documents related to the loan included a 2019 IRS 1040, Schedule C Profit or Loss From Business (Sole Proprietorship) form, which reflected Mr. Davis as the proprietor, along with his address and social security number, a business name of [Company 1], and principal business or profession of "Family Clothing." Gross income on line 7 was $104,100, and the same amount was also reflected on line 1 for "gross receipts or sales" for the year. Under the "Expenses" section, the following were listed: $1,200 for advertising; $1,100 for contract labor; $3,400 for mortgage; $500 for legal and professional services; $3,000 for office expense; $2,000 for supplies; $1,150 for taxes and licenses; and $450 for travel.

An SBA "Note" was executed with the lender, for a PPP loan of $20,833, dated April 30, 2021 and DocuSigned in Mr. Davis's name. A document reflected the funds were to be deposited into a bank account in Mr. Davis's name. Documents reflect a disbursement date of May 2, 2021.

A PPP Loan Forgiveness Application Form was dated October 18, 2021 and DocuSigned in Mr. Davis's name, requesting forgiveness of the full loan amount, and indicating $14,500 had been spent on Payroll Costs. The application included certifications with the initials "AD," stating the borrower had complied with rules related to eligible uses of PPP loan proceeds, and that information provided was true and correct. An SBA notice, included in the lender documents, stated the loan was forgiven on December 22, 2021, including the principal amount of $20,833, and $133.56 in interest.

B. Internet Research

The OEIG conducted internet research using name and associated contact information for Mr. Davis. The OEIG located three social media pages associated with Mr. Davis and/or [Company 1], with multiple posts in 2019, 2021 and 2022, which primarily appeared to advertise t- shirts and bags with various slogans, or that were customizable. Posts from November 2022 stated catering for Thanksgiving was available, and a few earlier posts showed photographs of food. One

[5] The "NAICS [North American Industry Classification System] Code" listed was 448140.

of the social media sites listed a phone number and email address for [Company 1] that corresponded to those on Mr. Davis's PPP Borrower Application.

C. Review of DHS Secondary Employment Forms

The OEIG requested Mr. Davis's personnel file from DHS, and review of the documents provided showed two DHS Report of Secondary Employment forms signed in Mr. Davis's name after his most recent return to DHS, one dated February 20, 2019 and one dated January 29, 2020. Each form was signed under the section that stated: "This section to be completed by all new hires and all current employees reporting no secondary employment, including self-employment. / I am employed only in my current position as identified above…and will, as an IDHS employee, report accepting any secondary employment."

D. Antonio Davis's OEIG Interview

On May 4, 2023, the OEIG interviewed Mr. Davis, who said his DHS job duties are to provide DHS benefits to State of Illinois residents. Mr. Davis confirmed he had a business called [Company 1], which he started with his [relation 1], [Individual 1] (Mr. Davis explained that "[Company 1]" stood for "[Redacted]").[6] Mr. Davis said he considered [Company 1] a "hobby," rather than employment, because it was not his main source of income and did not have paid employees. Mr. Davis said the business engaged in clothing sales and catering, and that only he, his [relation 1], and their [redacted] perform work for it. Mr. Davis said he devoted approximately 20 to 30 hours per week to the business, outside his DHS work hours, and that as the owner, his duties covered everything, including things like ordering supplies and the day-to- day events. Mr. Davis claimed he filed annual income taxes for the business and believed it had been registered with the Illinois Secretary of State since 2017.[7] Mr. Davis said he was aware the DHS secondary employment policy required disclosure of self-employment, but that his understanding was a business was not secondary employment. Mr. Davis reiterated several times that his business was more of a hobby.

Mr. Davis said [Company 1] had between 10 to 20 customers per month, some of whom were repeat customers, and that he attracted customers to [Company 1] through word of mouth and social media platforms; he said he also had a business website but that most people contacted him by phone. Mr. Davis said the average cost of a shirt was $20, and that the catering jobs varied, from a small job of one or two items, to being present at an event such as a festival. Mr. Davis said the business's annual income also varied, and when asked what the business had made the previous year, Mr. Davis indicated he did not have documents in front of him for reference. However, when asked about approximate income ranges over the past several years, Mr. Davis initially provided the following information towards the beginning of the interview: for 2022, he said the business made no more than $50,000, and possibly made more than $10,000; for 2021, he said it made more than $10,000 and likely less than $75,000, and he was uncertain if $20,000 to $50,000 was too high an estimate; for 2020, he said the amount was possibly around $20,000, but he was uncertain due to the COVID-19 pandemic; and for 2019, he said it was less than $50,000, and could have been around $20,000. Mr. Davis said he has personal and business bank accounts.

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[6] The OEIG determined that [Individual 1] is [redacted].

[7] A search of the Illinois Secretary of State's online Department of Business Services database showed that "[Company 1]" was established in October 2022, over a year after the PPP loan, with Antonio L Davis listed as president and agent.

Mr. Davis confirmed that he sought a business loan for [Company 1], and upon being shown documents associated with his PPP loan, Mr. Davis said he personally completed, initialed, and signed them, including the Borrower Application, 2019 Schedule C, SBA Note, and Loan Forgiveness Application. Mr. Davis said his understanding was that the loan could be used to cover business losses incurred due to the pandemic, and to maintain the business, upgrade equipment, and cover payroll. Mr. Davis said he applied online and did not recall that anyone assisted him in the process. Mr. Davis said he did not take out any other PPP loans for [Company 1], and when asked about his knowledge of his [relation 1] obtaining a loan, Mr. Davis said that she "thought about taking out a loan but I'm assuming that she returned the money," said that he could not speak to why his [relation 1] sought to obtain a loan, and reiterated that she "returned the loan."

In reviewing his PPP Borrower Application during the OEIG interview, Mr. Davis said he did not remember why he included only his name as the Business Legal Name, instead of [Individual 1] and Antonio Davis, and when asked about the year of establishment of 2012, Mr. Davis said it might have been established that year but not registered until later. Mr. Davis acknowledged his application listed only one employee, which he explained included him as the business owner, and he said he did not consider anyone else an employee.

Mr. Davis confirmed that he supplied $104,100 on the Borrower Application as gross income from a 2019 Schedule C. Mr. Davis said he was not sure if he usually filed Schedule Cs, explaining that he generally relies on a tax professional to prepare his and [Individual 1]'s income tax returns, to whom he provides information about DHS income and business income and losses. Mr. Davis said he typically receives copies of the tax returns after they have been completed. However, Mr. Davis admitted that he created the 2019 Schedule C submitted with the PPP loan application himself, and that he did not check to see whether his 2019 tax return included an actual Schedule C to provide. Mr. Davis further admitted that the gross income amount he listed included more than only business income, stating that he did not separate personal income from business income. Rather, Mr. Davis said he included his and [Individual 1]'s [redacted] income for the year, which included [redacted] DHS income in addition to business income. At that point in the interview, Mr. Davis said he assumed the $104,100 figure represented his and [Individual 1]'s 2019 [redacted] DHS income after taxes, as well as approximately $4,000 from the business.

Mr. Davis confirmed that he received the PPP loan funds of $20,833, which he said were deposited into his personal bank account. Mr. Davis said he did not use the business account he previously referenced due to an issue registering that account in the application process, and that the personal account he used was at a different financial institution. Mr. Davis said that after receiving the money, he used $8,000 to purchase a grill and $4,500 to upgrade equipment for making clothing, adding that he remembered those amounts because to apply for loan forgiveness, he believed he had to show he used 60% of the funds towards the business. Mr. Davis said he did not use any of the money on payroll costs, including to pay himself, and upon being shown his Loan Forgiveness Application, Mr. Davis stated it was not accurate because it listed $14,500 was spent on payroll costs. Mr. Davis confirmed he personally completed that application and said he did so using his general understanding of the loan's purpose. Mr. Davis further confirmed that he never made payments on the PPP loan and that it has been forgiven.

IV. ANALYSIS

The DHS Rules of Employee Conduct state that an employee's "conduct while off-duty may subject the Employee to discipline up to and including discharge" when the conduct raises "reasonable doubt concerning the Employee's suitability for continued state employment."[8] In addition, the State of Illinois Code of Personal Conduct provides that "A State Employee will conduct himself or herself…with integrity and in a manner that reflects favorably upon the State."[9]

In addition, the DHS secondary employment policy requires employees to complete a new Report of Secondary Employment form annually, confirming "any secondary employment, including self-employment, or whether no secondary employment exists." It further states that "[f]ailure to have an accurate and current form submitted may result in disciplinary action, up to and including discharge."[10]

Mr. Davis acknowledged that he applied for and obtained a PPP loan of $20,833 in 2021, and thereafter requested loan forgiveness, which was granted in full by the SBA. But his admissions to the OEIG establish that information he provided in the loan documents was falsified. Mr. Davis confirmed that he personally completed a PPP Borrower Application designated for "Schedule C Filers," which asked for 2019 or 2020 gross income as a basis to calculate the loan amount. Mr. Davis wrote on the application that his business, [Company 1], had $104,100 of gross income, from line 7 of a 2019 Schedule C. However, Mr. Davis admitted that he filled out the 2019 Schedule C submitted with the PPP loan application himself, and that he did not check to see whether his 2019 tax return included an actual Schedule C to provide. He further admitted that the 2019 Schedule C he created included much more than just business income, adding together his annual DHS income, [Individual 1]'s annual [redacted] income, and the business income. Mr. Davis acknowledged he supplied that combined amount as gross income on line 7 (and it was also listed as the "gross receipts or sales" for the year), despite the fact that the Schedule C is clearly labeled "Profit or Loss From Business," and he listed [Company 1] as the business.

Mr. Davis was not able to provide a reliable estimate of [Company 1]' actual 2019 gross income during his OEIG interview, initially stating it might have been around $20,000, but later revising that guess to around $4,000. Mr. Davis described the business as offering custom t- shirts and similar items and providing food for events, without any other paid employees. But even if closer to Mr. Davis's higher estimate, the business income he provided in his loan application was still significantly inflated, and he nevertheless proceeded to initial various certifications about the accuracy of documentation submitted and accept the funds. Mr. Davis further admitted that he had not sought to make any loan repayments, apparently even after learning at some point that his [relation 1] had sought and returned PPP loan funds for the business. He instead acknowledged that he personally completed a Loan Forgiveness Application dated in October 2021, certifying compliance with PPP rules, and representing that at least 60% of the loan had been spent on "payroll costs," though he said he had not in fact spent the proceeds on such costs, and could not say with certainty that 100% of the loan funds were spent on the business.

[8] DHS Administrative Directive 01.02.03.040.

[9] Illinois Code of Personal Conduct, Conduct Unbecoming of a State Employee (2017 & March 17, 2021).

[10] DHS Administrative Directive 01.02.03.120. The policy states that if secondary employment is reported, the form will be placed in the employee's official personnel file. *Id*.

Based on the evidence, there is reasonable cause to believe that Mr. Davis violated DHS and State of Illinois policies on employee conduct, when he personally completed PPP loan paperwork and supporting documentation with false information, accepted over $20,000 to which he was not entitled, and obtained loan forgiveness in full from the federal government. Mr. Davis further admitted that he never reported his business activities as secondary employment to DHS, claiming it was more of a "hobby;" however, he also said he worked on it 20-30 hours a week and registered it as a corporate entity. DHS policy and the secondary employment forms Mr. Davis completed plainly call for the disclosure of any secondary employment, including self-employment; thus, there is reasonable cause to believe that Mr. Davis violated DHS's secondary employment policy.

V. [REDACTED] AND RECOMMENDATIONS

Based on the evidence detailed above, the OEIG has determined **THERE IS REASONABLE CAUSE TO BELIEVE THE FOLLOWING:**

- **[REDACTED]** – Antonio Davis obtained a federal PPP loan and loan forgiveness based on falsified information in violation of DHS and State of Illinois policies on employee conduct.

- **[REDACTED]** – Antonio Davis failed to report secondary employment in violation of DHS policy.

Regardless of the ease of procuring these PPP funds, this was not free money for the taking. The PPP was a public program set up to provide qualifying small businesses with public funds to assist during the pandemic, provided they met the established criteria. These loans, as with any other, required truthful information as a basis for approval. State employees are expected, at minimum, to maintain the public's trust and confidence. Misappropriation of such funds is far from being ethical, professional, acting with integrity, or conducting oneself in a manner that reflects favorably upon the State. Accordingly, the OEIG recommends that DHS terminate Mr. Davis.

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