

## NATIONAL RAILROAD PASSENGER CORPORATION

## OFFICE OF INSPECTOR GENERAL

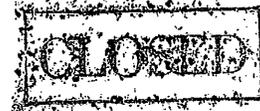
## INVESTIGATIVE CLOSING REPORT

TITLE: Payroll Fraud

CASE NUMBER: 06-134

DATE OF REPORT: November 27, 2009

REPORT PREPARED BY: [REDACTED]



## Allegation:

A Confidential Source ("Source") claimed that [REDACTED], Amtrak B&B Supervisor, [REDACTED], consistently put in for overtime not worked. The Source claims this practice has been going on for several years. The Source offered that the [REDACTED], which is being worked as an overtime detail on the weekends, is a project where [REDACTED] will not show up; however, he will put in for overtime. The Source also claimed that [REDACTED] was planning to use an Amtrak bucket truck to shrink wrap boats at a marina near his home.

## Investigation:

OI conducted an investigation, which included surveillance and interviews of relevant individuals. On March 20, 2008, OI Agents interviewed [REDACTED]. During the course of the interview, [REDACTED] confessed to putting in overtime that he did not earn. [REDACTED] initially estimated that he put in for overtime that he did not work from five to 10 occasions for 4 to 8 hours each time. He then stated that if it was more than ten times, it wasn't much more than that. [REDACTED] stated that the [REDACTED] project during 2006 was when he put in for the overtime he did not work. [REDACTED] stated that he knew he used bad judgment. He further stated that his immediate supervisor at the time, Assistant Division Engineer ("ADE") [REDACTED], did not allow him to put in for overtime he did not work.

Regarding the use of the Amtrak bucket truck, [REDACTED] admitted that he used the bucket truck to remove a tree from his yard about one year previous. [REDACTED] also admitted that he used the Amtrak bucket truck to help a friend shrink wrap a building at the Bay Boat Works marina in North East, Maryland.

**Management Referral and Company Hearing:**

On March 27, 2008, OI delivered to ██████████ Mid-Atlantic Division, a written Management Referral outlining the investigation. As a result, ██████████ was charged with violating Amtrak's "Standards of Excellence", specifically the section pertaining to Trust and Honesty. ██████████ was also charged with Dereliction of Duty and violation of NORAC rules B, D, E, L, N, and T.

On April 24, 2008, an Administrative Hearing was held at the ██████████. ██████████ ("████████") was the Hearing Officer, ██████████ was the charging officer, and ██████████ was the union official from the ARASA-MW, representing ██████████. On May 6, 2008, ██████████ rendered his decision that ██████████ was guilty of all charges. On May 7, 2008, ██████████ was terminated from Amtrak.

**Public Law Board Finding:**

On August 14, 2009, the Public Law Board ("Board") returned a decision, which modified ██████████'s discipline and allowed him to return to service as a member of the BMW, not ARASA, but retaining ARASA seniority. In addition, ██████████ is to be considered ARASA disqualified. The Board held that, if ██████████ can prove himself once more in his craft and is capable of redeeming himself with management, that he should be permitted to return to the ARASA (MW) ranks.<sup>1</sup>

The organization raised numerous procedural issues, questioned the Carrier's proof of the charges and argued that the discipline was highly excessive. The Board reviewed the procedural issues; the timeliness of the OIG investigation; the rules on withholding from service; the time limit; and all other issues raised by the Organization. The Board found that the Carrier did not violate any Agreement provision or in any manner whatsoever fail to provide a fair, timely, and proper investigation.

The Board found that, after studying the record, the proceedings were a "sound evidentiary proceeding with overwhelming evidence in the record on all of the charges leveled against the Claimant." The Board continued, "There is no factual issue before this Board on proof. The Claimant is guilty as charged."

However, the Board modified ██████████'s discipline due to his, "many years of flawless and outstanding service and the immediate and serious issues surrounding his life." The Board continued, "In short, the Claimant (████████) is to be returned to service due to his spotless record."

<sup>1</sup> See Copy of Public Law Board No. 6139, Case No. 24; Award No. 24 decision letter. (3 pages)

**Recommendation:**

This case should be closed.

Deputy Inspector General/Counsel:                     *CLP/JS*                     Date:                     12/1/2009                    

