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Governor



Andy Tobin
Director

ARIZONA DEPARTMENT OF ADMINISTRATION

OFFICE OF THE DIRECTOR

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July 15, 2019

Mr. William T. Buividas
Chairman, Board of Trustees
Public Safety Personnel Retirement System (PSPRS)
3010 E. Camelback Road, Suite 200
Phoenix, AZ 85016

Dear Mr. Buividas:

The information contained in this letter is being provided to you in your official capacity as Chairman of the PSPRS Board. As you review the information below, please be reminded that State Rules and policy prohibit retaliation in any form against anyone for raising a concern about, assisting in an investigation of, or filing a complaint in good faith.

As you may recall, the Arizona Department of Administration (ADOA) previously notified you in March that we had received an email from [REDACTED] that contained serious allegations regarding PSPRS ([REDACTED] email). Due to the seriousness and sensitivity of the allegations, ADOA determined that outside counsel would be conducting the investigation. During the investigation, PSPRS Administrator Jared Smout was placed on administrative leave and remains in that status. The investigation is now complete, and the findings are provided in this letter.

Scope and Background

The [REDACTED] email contained several allegations, some of which had already been addressed by PSPRS. Thus, this investigation focused primarily on the allegation that Mr. Smout was in an [REDACTED]. Shortly after the investigation was initiated, on April 2, 2019, ADOA received anonymously a second email. The anonymous second email alleged additional improper behavior by Mr. Smout towards [REDACTED], and specifically mentioned an [REDACTED], outlining a specific interaction between Mr. Smout and [REDACTED].

The investigators reviewed all information supplied by the authors of the two emails and by PSPRS. In-person or telephonic interviews were conducted with eight current or former PSPRS staff, which included interviews with the author of the [REDACTED] email, as well as Mr. Smout. The investigators also interviewed a Sergeant with the Phoenix Police Department because there was reason to believe the Sergeant may have information relevant to the subject matter of the investigation.

Allegations and Findings

- Allegation of [REDACTED] - The [REDACTED] email alleges that Mr. Smout has an [REDACTED] with [REDACTED]. During [REDACTED] interview, [REDACTED] alleged [REDACTED] has been subjected to inappropriate behavior by Mr. Smout for about a year, which included him looking at [REDACTED] inappropriately, making inappropriate comments about [REDACTED] body, engaging in inappropriate physical contact and leaving [REDACTED] in and on desk. Mr. Smout admitted to and confirmed the following:
 - He is attracted to [REDACTED] and that, in light of his attraction, [REDACTED] should not be [REDACTED].
 - He has sent inappropriate text messages to [REDACTED], and often included emojis [REDACTED] those texts, and acknowledged sending such emojis to [REDACTED] was inappropriate.
 - He has often hugged [REDACTED] and that he may have run his hands up and down [REDACTED] back when they hugged, which he acknowledged may have amplified the improper nature of his conduct.
 - He has given [REDACTED], acknowledged that the [REDACTED] that he gave [REDACTED] were accompanied by [REDACTED] and that it was inappropriate for him to tell [REDACTED] that he [REDACTED].
 - He has given [REDACTED]
 - He has secretly placed [REDACTED] coin purse on at least five occasions, which he stated were for “lunches”, and gave [REDACTED].

- [REDACTED] Incident Described in April 2, 2019 Anonymous Email - The author of the anonymous email alleged s/he had [REDACTED] Mr. Smout and [REDACTED]
[REDACTED]
[REDACTED] Mr. Smout admitted to and confirmed the following:
 - The complaint and its description were accurate.
 - He had told [REDACTED] during the exchange and that he was looking at [REDACTED] body and was trying to apologize to [REDACTED] for doing so.
 - He had looked over or stared at [REDACTED] body in an inappropriate manner on multiple other occasions, and attempted to explain his behavior by remarking that he “was a man”.
 - [REDACTED] has reacted to his behavior by crossing [REDACTED] arms across [REDACTED] chest.
 - His conduct in this regard was not appropriate, especially because he was the Administrator and [REDACTED]

- Allegations Regarding Electronic Spying or Hacking - The [REDACTED] email alleges that Mr. Smout has asked Information Technology (IT) staff to spy on employees he doesn’t like. During employee interviews, [REDACTED] as well as at least one other [REDACTED] staff member expressed concerns that PSPRS IT employees may be spying on them. Mr. Smout admitted to and confirmed the following:
 - In about November 2018, he had a meeting with two [REDACTED] PSPRS employees and PSPRS Human Resources, during which both [REDACTED] employees reported that they believed they were being spied upon by employees in PSPRS’s IT office; during the

- meeting, he stated he would contact the forensic investigator whose business card he had received from one of the employees in the meeting.
- In about January 2019, he brought in Phoenix Police Detective Sgt. Daren Wunderle, who met with [REDACTED] and Mr. Smout to discuss concerns about possible spying by PSPRS IT staff.
 - He never actually retained a forensic investigator and acknowledged that Sgt. Wunderle was critical of Mr. Smout during their meeting for not acting promptly to investigate the employees' allegations regarding being spied upon.
 - He considered the employees' allegations of being spied upon to be credible and suspected that IT staff may have spied in some manner on PSPRS employees.
 - If the employees' allegations were correct, PSPRS computer systems, databases and network might be compromised.
 - Agreed it was his responsibility as the Administrator to ensure the safety and security of PSPRS's operations and employees.
 - Despite all concerns, he did not retain a computer forensic expert to conduct an investigation in a timely manner, file a police report, contact the FBI, or even inform the PSPRS Board that two [REDACTED] employees believed that they were being spied upon by IT.
- Mr. Smout's Video Viewing Habits - During the course of the investigation, the investigators were made aware of a thumb drive related to a prior investigation of Mr. Smout; the thumb drive contained a letter from 2014 regarding Mr. Smout's PSPRS video surveillance viewing habits, in particular, between May 19 and June 23, 2014; the summary and spreadsheet indicated that Mr. Smout spent a great deal of time "viewing live video sometimes for hours every day" of [REDACTED] PSPRS employees, of which [REDACTED] was the primary focus. Mr. Smout admitted to and confirmed the following:
 - He had feelings for [REDACTED], that he was attracted to [REDACTED], and that his attraction to [REDACTED] was romantic.
 - He watched [REDACTED] on the PSPRS video cameras because of his attraction to [REDACTED].
 - He regularly watched [REDACTED] (without [REDACTED] knowledge) on PSPRS's video surveillance cameras for at least a few months but maybe longer.
 - He acknowledges that his conduct was neither appropriate nor acceptable and that he looked back at his behavior with remorse and regret.
 - If he were on the PSPRS Board, he would have wanted to know about his video surveillance viewing when he was being considered for the Administrator position.
 - He acknowledged that the Board might not have approved his appointment to Administrator if Board members had learned of his earlier conduct related to watching videos of a [REDACTED] employee toward whom he was romantically attracted.

Conclusion and Recommendations

As a state officer/employee, the Administrator is subject to the Standards of Conduct requirements outlined in State Personnel System Rules. As the chief executive officer for PSPRS, the Administrator has many duties, including, without limitation, recruiting, hiring, and managing PSPRS employees; investing contributions; establishing and maintaining accounts and records for PSPRS; and performing duties delegated by the Board. A.R.S. § 38-848(N). The Administrator serves as the public face of PSPRS and is expected to set an example for the entire organization.

Mr. Smout clearly engaged in improper and inappropriate behavior and failed to meet the expectations and requirements of his job as the Administrator of PSPRS. The conduct to which Mr. Smout has himself

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admitted does not even remotely comply with the values of PSPRS and has brought embarrassment and discredit to the State.

For all the foregoing reasons, ADOA recommends that immediate action be taken to terminate Mr. Smout as Administrator for PSPRS, and that Mr. Smout not be employed in any other capacity with the State of Arizona.

In addition to our recommendations, we are aware that PSPRS has already hired a new Human Resources Manager and ADOA Human Resources has provided training to this individual. It is also our understanding that PSPRS will be providing additional training to all PSPRS staff; however, ADOA recommends that any such training be reviewed by ADOA and the Attorney General's Office. ADOA further recommends that PSPRS conduct a full review of its human resources policies and procedures to ensure PSPRS staff is properly trained on appropriate conduct in the workplace and the Standards of Conduct requirements in State Personnel System Rules.

If you would like to discuss any of the information provided in this letter, or if you are in need of ADOA's assistance with this matter, please do not hesitate to contact me.

Sincerely,

Elizabeth Thorson
Deputy Director