

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

80 MAIDEN LANE, 20TH FLOOR
NEW YORK, NEW YORK 10038

RICHARD J. CONDON
SPECIAL COMMISSIONER

TELEPHONE: (212) 510-1400
FAX: (212) 510-1550
WWW.NYCSCI.ORG

January 11, 2012

Hon. Dennis M. Walcott
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Liza Cruz Diaz
Melissa Carey
SCI Case #2010-3783

Dear Chancellor Walcott:

An investigation conducted by this office has substantiated that Liza Cruz Diaz, a principal assigned to PS 31 in the Bronx, left the school at the end of her regular work day, but directed Payroll Secretary Melissa Carey to punch out Cruz Diaz's per session activity timecard several hours later so that Cruz Diaz earned per session pay.¹ The investigation also substantiated that Cruz Diaz used Department of Education ("DOE") funds to pay for items for her daughter's "Sweet 16" party and asked a staff member to falsify DOE records to reflect that Cruz Diaz had reimbursed the school for the non-DOE expenditure. The investigation further substantiated that Cruz Diaz removed official DOE records from the school in an attempt to conceal evidence of her misconduct. Carey assisted Cruz Diaz by punching out Cruz Diaz's timecard and by recording the false hours on Cruz-Diaz's time sheets.

This investigation began on July 30, 2010, when a confidential source ("source") contacted the Office of the Special Commissioner of Investigation ("SCI") and lodged a complaint against Cruz Diaz and Carey.

¹ Neither Cruz Diaz nor Carey was reassigned during this investigation.

SCI investigators interviewed the source who said that Cruz Diaz and Carey were stealing per session funds. The source added that Cruz Diaz left the school at the end of regular school hours and Carey punched out Cruz Diaz's timecard when Carey was punching out her own timecard at the end of her per session activity.

The assigned SCI investigator met with DOE Division of Instructional and Information Technology ("DIIT") Video Support Manager Paul Ringel who advised that he could upload video from PS 31 cameras, back to February 26, 2010. Ringel agreed to do so for the six cameras requested by the investigator.

DIIT Support Video Evidence Administrator Peter Lombardo provided SCI investigators with disks containing video surveillance from the six PS 31 security cameras for specific dates between March 2010 and July 2010. During the course of the investigation, Lombardo continued to provide video disks from the school cameras, including the dates when SCI investigators conducted surveillance at the school.

In January 2011, the source told SCI investigators that Cruz Diaz made personal purchases for her daughter's "Sweet 16" party using a DOE Purchase Order ("PO").

Deputy Director of Accounts Payable Kim Lowry provided investigators with a printout of a PS 31 PO for the purchase of metallic sunglasses and bead necklaces from the Oriental Trading Company, Inc. The PO was entered by PS 31 Budget Manager John Blackman and authorized by Cruz Diaz on December 1, 2010. Lowry also provided a copy of the Oriental Trading Company, Inc. invoice for the purchase of eight dozen metallic sunglasses at \$7.99 per dozen – totaling \$63.92 – and one mega metallic bead necklace assortment for \$19.99. The invoice referenced the DOE PO from PS 31. The total amount of the transaction was \$91.70, which included shipping. The assigned investigator visited the website for Oriental Trading Company, Inc. and reviewed explanations and pictures of the purchased items. The posting suggested that the sunglasses could be added "to goody bags at your next beach party!" The metallic bead assortment included 144 necklaces described as "the perfect favor for a birthday bash or other colorful celebration. Fun for Mardi Gras, too!"

In February 2011, the source informed SCI investigators that Carey had returned from an extended medical leave and Carey was again punching out the per session activity timecards for both Carey and Cruz Diaz – who left early – at the end of Carey's per session work hours.

On February 9, 2011, SCI investigators conducted a surveillance at PS 31 and at Cruz Diaz's residence in New Jersey. At PS 31, SCI investigators observed Cruz Diaz's car, a Honda CRV with New Jersey plates, parked in the school lot. At about 3:54 p.m., Cruz Diaz left PS 31 through a door to the schoolyard parking lot and entered her vehicle.

At about 4:36 p.m., the car pulled into the driveway at Cruz Diaz's residence. A man, later identified as Cruz Diaz's spouse, exited the front driver's side, Cruz Diaz exited the front passenger side, and an unknown male – believed to be Cruz Diaz's son – exited the rear passenger side. All three went into the house. The arrival of Cruz Diaz and her family was recorded on video. Cruz Diaz's per session activity timecard for February 9, 2011, was punched out at 6:21 p.m.

On March 21, 2011, SCI investigators conducted a surveillance at PS 31 and at the residence of Cruz Diaz. At about 3:30 p.m., Cruz Diaz exited PS 31 through the schoolyard parking lot door and entered a Silver Chrysler 300 with Pennsylvania plates, which was parked in the school lot. Cruz Diaz arrived at her residence at about 4:32 p.m. Cruz Diaz parked in front of her driveway; a teenaged female left the residence and got into the Chrysler. Cruz Diaz drove to an area of professional buildings in Old Bridge, New Jersey, parked there at approximately 4:45 p.m., and went into one of the buildings. Cruz Diaz and the girl left the building at about 5:36 p.m. and re-entered the Chrysler. After a stop in a strip mall, Cruz Diaz drove to her residence; at about 6:00 p.m., she and the teenager got out of the car and went into the home. SCI investigators video recorded Cruz Diaz arriving at her residence at 4:32 p.m. and returning to her residence at 6:00 p.m. The entry on Cruz Diaz's per session timecard for March 21, 2011, showed that she was punched out at 5:38 p.m.

In an interview with investigators from this office, Melissa Carey admitted that she punched out Cruz Diaz's per session activity timecard when Carey was leaving PS 31 at the end of her per session work. Carey acknowledged that Cruz Diaz left earlier and told Carey to "punch me out" when Carey punched out her own per session activity timecard. Carey reported that she had been punching out Cruz Diaz's per session activity timecard since approximately 2008. Carey asserted that Cruz Diaz never threatened her, but Carey felt compelled to punch Cruz Diaz's timecard. Carey added that she had seen how Cruz Diaz treated staff whom Cruz Diaz did not like. Carey claimed that she did not know who punched out Cruz Diaz's per session timecard when Carey was out on medical leave in November and December 2010.

Carey admitted that she filled in the information on most of Cruz Diaz's per session time sheets. Carey said that Cruz Diaz was authorized for 500 per session activity hours each school year. Carey added that Cruz Diaz collected more per session hours in the beginning of the school year and slowed down toward the end of the school year. Cruz Diaz gave Carey her authorization code for Galaxy and Carey used it to authorize per session hours for the staff.

The assigned investigator removed Cruz Diaz's per session activity timecard for May 2011. In addition, Carey made copies of her own and Cruz Diaz's per session timecards and time sheets for the period from March 2010 to March 2011, and turned over the originals to SCI. Carey could not find Cruz Diaz's original time sheet for June

2010. The Cruz Diaz time sheet for February 2011 was mistakenly dated February 28, 2010, but signed by Cruz Diaz on March 2, 2011.

In an interview with investigators from this office, conducted in the presence of her union representative, Liza Cruz Diaz acknowledged that she knew Carey was punching out Cruz Diaz's per session activity timecard when Carey was punching out her own per session activity timecard. Cruz Diaz maintained that she did not direct or tell Carey to punch out Cruz Diaz's timecard, but admitted that she did not direct Carey to stop punching out Cruz Diaz's timecard. Cruz Diaz asserted that Carey was the only staff member who knew the reason why Cruz Diaz sometimes left the school early; Cruz Diaz requested that the reason remain confidential. Investigators asked why almost all of her timecards were not punched in at the start of her per session activity and Cruz Diaz responded that it was the way she always did it.

Cruz Diaz explained that, on a monthly basis, Carey budgeted the amount of per session hours allotted to Cruz Diaz and Carey punched out Cruz Diaz's timecard accordingly. Cruz Diaz reported that Carey's daughter, who worked for an after school program at PS 31, but was not a DOE employee, punched out Cruz Diaz's timecard on approximately three occasions when Carey was out sick. Cruz Diaz claimed that she did not know whether anyone else punched out Cruz Diaz's timecard when Carey was out on long-term sick leave.

Cruz Diaz asserted that Carey prepared Cruz Diaz's monthly time sheets and Cruz Diaz did not know the exact number of per session hours she was given. Cruz Diaz admitted signing her own per session time sheets, but claimed that she did not review the amount of per session hours because she had to sign the time sheets for the entire PS 31 staff. Cruz Diaz acknowledged that she authorized the per session hours with her Galaxy code, but reiterated that she did not know how many hours she was receiving. Cruz Diaz said that she had been issued some per session activity checks which she had not yet deposited or cashed.

The assigned investigator asked whether Cruz Diaz used school funds to purchase personal items for her daughter's "Sweet 16" party. Cruz Diaz reviewed a copy of the relevant PO and the invoice from the Oriental Trading Company, Inc. and responded that she used DOE funds to purchase the sunglasses and the necklaces. Cruz Diaz claimed that she had reimbursed Budget Manager John Blackman with cash. Cruz Diaz maintained that Blackman did not issue a receipt for her cash payment.

In June 2011, the source advised the assigned investigator that, on June 13, 2011, Cruz Diaz returned to PS 31 after her interview with SCI investigators and asked Budget Manager Blackman to falsify records to reflect that, when the merchandise was delivered to the school, Cruz Diaz gave Blackman cash to pay for the Oriental Trading Company, Inc. invoice.

SCI investigators interviewed Budget Manager John Blackman who said that he was responsible for the Galaxy budget, including purchasing. Blackman reviewed a copy of the PO and invoice from the Oriental Trading Company, Inc. for sunglasses and bead necklaces and responded that Cruz Diaz directed him to order those items in early December 2010. Blackman added that Cruz Diaz took custody of the merchandise upon delivery and he did not know what happened to the items. Cruz Diaz did not tell Blackman what the items were for and Cruz Diaz did not reimburse Blackman for the items. Blackman confirmed that, on June 13, 2011, Cruz Diaz asked whether Blackman could find some transaction to manipulate the financial records to show that Cruz Diaz provided cash as a reimbursement for the purchase of the items. Blackman told Cruz Diaz that he could not alter any records, including the cash control sheets and deposit slips.

Blackman continued that, on June 16, 2011, Cruz Diaz returned to the school from a meeting, displayed \$92 in cash to Blackman, and placed the money in an envelope. Cruz Diaz told Blackman that she was reimbursing the DOE for the purchase from Oriental Trading Company, Inc. Blackman reported that he had not yet received a cash control form or a deposit slip for the reimbursement.

SCI investigators re-interviewed Payroll Secretary Carey who said that Blackman prepared a monthly detailed analysis of per session funds for each job code and staff title. Carey added that, almost every pay period, she met with Blackman to determine how many per session hours were available for the staff for that pay period, and to distribute the hours equitably among the staff. Carey explained that she then met with Cruz Diaz and determined how many per session hours the principal would be allotted for each pay period. According to Carey, she and Cruz Diaz went day by day with a calendar to determine the amount of per session hours Diaz would earn for that pay period. At the end of each school day when Cruz Diaz was set to earn per session hours, Cruz Diaz informed Carey that she was leaving the school and reminded her to punch out Cruz Diaz's per session timecard.

Carey acknowledged that her daughter, Kiara Delgado, punched out Cruz Diaz's per session activity timecard on two or three occasions. Carey said that she was not on sick leave when her daughter punched out Diaz's timecard. Carey explained that she had left the building without punching Cruz Diaz's timecard, so she called Delgado, who was then employed in an after school program at PS 31, and directed her to punch out Cruz Diaz's timecard.

On June 17, 2011, the source informed the assigned investigator that, on June 16, 2011, Principal Cruz Diaz gathered per session activity timecards and time sheets and, at the end of the day, carried the documents out of the school in a bag.

Cruz Diaz's union representative turned over copies of per session activity checks which the principal said she had not deposited or negotiated. The submission included a copy of a fax cover sheet from Cruz Diaz to the union representative, copies of six DOE checks made payable to Liza Cruz Diaz, dated between December 2, 2010 and May 12, 2011, and three pages of a DOE time and attendance inquiry for Cruz Diaz for the period from September 1, 2010 to June 15, 2011.

SCI investigators interviewed Carey's daughter, Kiara Delgado, a former employee of ASPIRA, which operated a program in PS 31. Delgado was never a DOE employee. Delgado admitted that she punched out Principal Cruz Diaz's per session activity timecard on two occasions. Delgado could not recall the dates, but knew that it was before her mother, Carey, went out on long-term sick leave. Delgado explained that Carey asked Delgado to punch out Cruz Diaz's per session activity timecard because Carey had forgotten to do so. Delgado said that, after the second time, she told her mother that she felt uncomfortable and did not want to punch Cruz Diaz's timecard. According to Delgado, Cruz Diaz never asked her to punch her timecard and she never saw anyone punch out Cruz Diaz's timecard. Delgado added that, other than her mother, no one asked her to punch Cruz Diaz's timecard.

The assigned SCI investigator compared Cruz Diaz's per session activity timecards with Carey's per session activity timecards: There were 72 dates when Cruz Diaz's per session activity punch out time and Carey's per session activity punch out time were exactly the same or differed by a minute. The assigned SCI investigator also analyzed Principal Cruz Diaz's per session activity pay using database documentation and video surveillance. The assigned investigator reviewed 47 of 134 days of video, recorded between March 1, 2010 and March 31, 2011, when Cruz Diaz received per session activity pay; Cruz Diaz left early, but was paid for 111:01 hours as if she had been present for her per session position. Cruz Diaz's per session pay rate was \$43.94 an hour during that time period; Cruz Diaz was issued checks totaling \$4,878.07 when she was not working for the DOE, but her per session activity timecard was punched out.² Cruz Diaz was paid \$19,494.74 in gross earnings for per session hours reported between March 2010 and March 2011. Cruz Diaz negotiated 16 of the 21 checks for a total amount of \$11,544.72 in net earnings during that period.

Since 2008, when Carey began punching out for Cruz Diaz, the principal claimed to have worked more than 900 per session activity hours and earned more than \$40,000 in gross per session pay.

It is the recommendation of this office that Liza Cruz Diaz's employment be terminated, that she be made ineligible for work with the DOE, and that this matter be considered should she apply for any position in the New York City school system, with one of its vendors, or in one of its facilities, in the future.

² This total included checks which Cruz Diaz did not negotiate.

It is the recommendation of this office that appropriate disciplinary action be taken against Melissa Carey.

We note that some of the conduct described here may violate the conflicts of interest provisions of the New York City Charter which is administered by the New York City Conflicts of Interest Board.

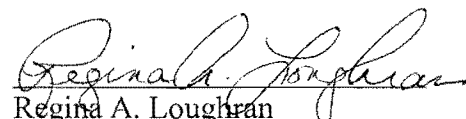
We are referring our findings to Bronx County District Attorney Robert T. Johnson for whatever action he deems appropriate.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We also are sending our findings to the New York State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify First Deputy Commissioner Loughran within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding Liza Cruz Diaz and Melissa Carey. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By:


Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Michael Best, Esq.
Theresa Europe, Esq.