

October 30, 2007

Hon. Joel I. Klein
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Tyrone Avila
SCI Case #2007-1434

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Tyrone Avila falsified his time records while he was working at a New York City Department of Education (“DOE”) facility through his employer TempForce, an agency that provides temporary workers to the DOE.¹ In addition, we found that Avila forged the signatures of two DOE supervisors.² Moreover, a DOE representative who performed a review of Avila’s fraudulent time records determined that Avila had been paid in excess of \$50,000 for hours which Avila did not work.³

This investigation began in April 2007, when William Wilson, Director of Human Resources for the Division of School Facilities (“DSF”) contacted the Office of the Special Commissioner of Investigation for the New York City School District (“SCI”) and reported an allegation of timecard abuse and theft of service by TempForce worker Tyrone Avila. Thereafter, also in April 2007, Mark David, Director of Finance and Administration for the DSF, notified this office that for a period of at least six months,

¹ Avila was terminated from his temporary position at the DOE. He has not been placed on the DOE’s ineligible list. According TempForce Office Manager Dolores Traegler, Avila has not worked for TempForce since he was terminated by the DOE on April 2, 2007.

² Avila submitted documents with the forged signatures of both Mark David, Director of Finance and Administration for the Division of School Facilities (“DSF”), and Chris D’Alimonte, then Regional Contract Manager for DSF. D’Alimonte is now the Borough Contract Manager for DSF.

³ SCI investigators relied on this calculation.

Avila had submitted fraudulent time reports and had forged the signature of his supervisor on the documents.⁴

William Wilson provided additional details to investigators. According to Wilson, he signed the weekly Temporary Staffing Agency Employee Summary Cover Sheets ("Summary Sheets"), which purportedly reflected the weekly hours worked by the TempForce temporary workers who were employed to work at the DSF. Wilson stated that, in April 2007, while reviewing the weekly Summary Sheet, he noticed what appeared to be "excessive" hours listed for Avila. According to Wilson, he contacted DOE Chief Budget Analyst for the DSF, Stephen Kassan, and requested that Kassan check Avila's timesheet and timecard for the relevant week.⁵ Wilson reported that he learned from Kassan that Avila's submitted timecard and timesheet included hours that Avila had not worked, for example, March 30, 2007, a date when Avila had called in sick.⁶

In an interview with investigators conducted at the SCI offices, Wilson confirmed the information he provided to SCI investigators in his prior interview. Wilson acknowledged that he did not examine the backup documentation attached to the Summary Sheets, which consisted of TempForce timesheets and timecards or photocopies of timecards, when he signed the paperwork. In fact, Wilson admitted that he rarely reviewed the Summary Sheets and merely signed the documents. Wilson stated that his signature authorized the processing of paychecks for the temporary workers.

Wilson was shown the Summary Sheets for the period from October 2005 through March 2007. According to Wilson, his signature was on almost all of the paperwork.⁷ Wilson admitted that he failed to notice that Avila repeatedly was paid in excess of 70 hours for a one week period until the number reached 85 hours for a one week period. Wilson stated that typically Avila was supposed to work 35 to 40 hours per week. When asked how Avila was permitted to get paid up to double the number of hours of a typical temporary worker, Wilson responded that the supervisor approved it. Wilson again admitted that he had not checked the backup paperwork attached to the Summary Sheet and had relied on Freeda Gadsden, a DOE secretary, to examine the documentation. Wilson stated that for some reason he glanced at the information on the Summary Sheet for the week ending April 1, 2007, and noticed that Avila was scheduled to be paid for 85 hours. Wilson stated that he immediately contacted Kassan and learned that Avila was absent one of the days when the temporary worker claimed he had been working. According to Wilson, thereafter, Kassan began to examine Avila's records. Wilson added that Kassan informed him that when David and Kassan confronted Avila about his

⁴ This second complaint was incorporated into the original investigation. The forged signature was that of Chris D'Alimonte.

⁵ Kassan is now the DOE Unit Supervisor of Budget Analysis and Reporting for the Division of School Facilities.

⁶ Avila had actually contacted Kassan reporting that he would be out sick on March 30, 2007.

⁷ A few Summary Sheets were signed by other individuals. Wilson stated that he had given those individuals permission to sign the Summary Sheet in order to have the payroll processed.

timesheets, Avila stated that for the past six months he had been submitting paperwork for overtime hours which he had not worked.

Mark David provided additional details to investigators. David stated that he was contacted by Kassan concerning overtime irregularities relating to Avila. David explained that Avila was a temporary worker who had been hired to work at the DSF through TempForce. According to David, Kassan had reviewed Avila's timesheets and timecards for the week ending April 1, 2007, and discovered that Avila had been paid what Kassan described as an "excessive" amount of overtime. David stated that an examination of relevant documents revealed that Avila's timecards contained handwritten entries and failed to contain the marking of any time clock. Moreover, David found that his signature on over 25 of Avila's timesheets had been forged.⁸ David explained that when he and Kassan confronted Avila regarding the initial discrepancy, David also questioned Avila about other timesheet and timecard irregularities. According to David, Avila admitted that he had inflated the overtime hours that appeared on the documents, that he had not worked the hours that had been listed on the paperwork, and that he had received payment for those hours. David informed investigators that at that time he terminated Avila's employment.

Investigators spoke with Stephen Kassan who confirmed that in April 2007, at Wilson's request, he reviewed Avila's timesheet and timecard for the week of March 26, 2007, through April 1, 2007. Kassan stated while conducting his examination of the records he discovered that Avila claimed to have worked on March 30, 2007, a date when Avila had called in sick to Kassan. According to Kassan, he reported this fact to Wilson.

Kassan continued that he reviewed Avila's time records for the period from October 2005 to April 2007. Kassan then informed investigators that his preliminary review revealed that Avila's timesheets and timecards purported that the temp worker had completed excessive overtime hours which included weekend and holiday hours. In addition, Kassan advised investigators that the documents which he reviewed contained the forged signatures of Mark David and Chris D'Alimonte.⁹ Kassan stated that he had frequently personally observed Avila leaving work at 4 p.m. over the past year. According to Kassan, on April 2, 2007, along with David, he confronted Avila about the forged timesheets and timecards to which Avila admitted that he had submitted false time records but claimed that he had "only been doing it for the last three months."

Investigators contacted TempForce Office Manager Dolores Traegler who stated that on April 2, 2007, Kassan informed her that Avila's employment had been terminated by the DOE. Traegler stated that she was not told any reason for Avila's termination.

⁸ Mark David examined Avila's timesheets for the period from June 2005 to November 2005. David reported that all but one of the documents bearing his name were forgeries. David stated he did not give anyone permission to sign his name to Avila timesheets.

⁹ According to Kassan, he had shown D'Alimonte a number of Avila's TempForce timesheets and had been advised by D'Alimonte that the signature was not his.

Investigators spoke to Freeda Gadsden who stated that she created the Summary Sheets relating to the TempForce workers and provided the paperwork to Wilson for his approval and signature. Gadsden stated that she forwarded the approved documents and the backup paperwork to TempForce. Gadsden informed investigators that on occasion she had questioned Avila about the handwritten entries on his timecard and he informed her that he had started and ended in the field. Gadsden stated that because Avila's timesheets and timecards contained the apparent signature of the same supervisor, she did not question the handwritten entries further.

Investigators received a spreadsheet completed by Kassan. Based on his review of documents for the period from October 2005 through March 2007, Kassan determined that Avila had been wrongly paid in excess of \$50,000 for hours which Avila had not worked but for which Avila had submitted fraudulent paperwork to the DOE. According to Kassan, he based his calculation on a 37.5 hours work week.¹⁰ Kassan noted for investigators that his analysis included overtime rates paid to Avila, but did not include the cost the DOE paid to TempForce related to this improper payment.¹¹

In an interview with investigators conducted at the SCI offices, Kassan confirmed the information he had provided to investigators in a prior interview. Kassan stated that after Avila had been terminated, Avila contacted him by telephone and again acknowledged that he had submitted fraudulent paperwork.

Investigators spoke to Chris D'Alimonte who stated that Kassan showed him Avila's timesheet and timecard for the week of March 26, 2007 through April 1, 2007, which purportedly contained D'Alimonte's signature. According to D'Alimonte, the signature on the document was not his. D'Alimonte was also shown the timecard that covered that same period and he informed investigators that he had never signed a timecard for Avila. D'Alimonte recalled that the last time he signed a timesheet for Avila was more than six months earlier. Investigators showed D'Alimonte Avila's timesheets for the period from October 2005 through March 2007. D'Alimonte stated that a few of the signatures were his, but that the majority had been forged.

In an interview conducted at the SCI offices, D'Alimonte confirmed the information he had provided to SCI investigators in his prior interviews. D'Alimonte was again shown all of Avila's TempForce timesheets which listed D'Alimonte's name.¹²

¹⁰ According to Kassan, Avila was supposed to work from 9 a.m. to 5 p.m. with a one half hour unpaid lunch. In his calculation, Kassan used assumptions which included the following: if the timecard had handwritten times for the start time, he used a start time of 9 a.m. and if the timecard had handwritten times for the end time, he used 5 p.m.

¹¹ The DOE paid TempForce an hourly fee for Avila and other temp workers.

¹² D'Alimonte was shown forms for the period from October 2005 through March 2007.

D'Alimonte stated that a large number of the documents contained D'Alimonte's forged signature but after re-reviewing the documents, he realized that he had previously failed to acknowledge that a few of the signatures were authentic. D'Alimonte added that he was not Avila's supervisor, but occasionally would sign Avila's timesheet when Avila's supervisors were not available or were not present at the office. D'Alimonte stated that Avila did not have permission to sign D'Alimonte's name.

In attempts to interview Tyrone Avila, investigators left a business card at Avila's residence. A person identifying himself as Avila telephoned the assigned investigator at the SCI offices and stated that he was at fault for misusing his timesheet and wanted to pay back the DOE. The caller agreed to be interviewed in person. In June 2007, Avila appeared at the SCI offices and agreed to an audio-tape recorded interview with investigators. Avila stated that in 2001 he started working at the DOE through TempForce.¹³ Avila admitted that he started falsifying his TempForce timesheet and timecard in October 2006.¹⁴ Avila confirmed that he was supposed to work 40 hours per week, but explained that he sporadically altered his time records adding approximately 15 hours per week between the period from October 2006 through January 2007. Avila said that he had the timesheets signed by a supervisor, but did not total the daily hours listed for fear that it would "ring a bell" meaning that someone might realize that there were too many hours listed. Avila claimed that during that period he would come in on Saturdays but he would not work the number of hours that he indicated on his time records. Avila acknowledged that he had not been authorized by anyone to work on Saturdays or extra daily hours.¹⁵ He stated that no one questioned him about his timecards or timesheets.¹⁶

Avila continued that in January 2007, "it really got out of control." Avila explained that between January 2007 and April 2007, when he "got caught," he falsified approximately 30 hours per week on his time records. Avila stated that starting in January 2007, he falsified his timecards by hand writing the times and initialing the card for his supervisor, Chris D'Alimonte. Avila acknowledged that he signed Chris D'Alimonte's name to both the timesheet and the timecards. According to Avila, he started signing his supervisor's name when he thought that he was not going to get away with falsifying his records. Avila maintained that he signed only Chris D'Alimonte's name and that he never signed the name of any other supervisor. Avila estimated that from January 2007 to March 2007, he was improperly paid approximately \$9,600.¹⁷

¹³ When Avila began at the DOE, it was called the New York City Board of Education.

¹⁴ Avila claimed that in September 2006, his mother-in-law went insane and she needed a lot of help, that Avila was on the verge of getting evicted, and that he was backed up financially with problems.

¹⁵ At some point during the interview, Avila claimed that he had worked some of the unapproved hours listed on his timesheet for which he ultimately received payment.

¹⁶ Avila stated that he did not recall being questioned by Gadsden.

¹⁷ DOE representatives estimated that the amount Avila was wrongly paid for the period October 2005 through March 2007 was in excess of \$50,000.

Avila asserted that there was a huge internal control problem at the DSF and that he took advantage of it.¹⁸ Avila added that there was no excuse for what he did.

Avila claimed that he worked and was paid for only legitimate hours in 2005 and he did not begin falsifying his time records until September 2006.¹⁹ Investigators showed a number of time related documents to Avila and asked him to indicate which forms he had signed. When Avila reviewed the timesheet for the week of August 28, 2006, he acknowledged that the hours listed were incorrect and that he did not work all the hours listed.²⁰ Referring to the timesheet for the week ending September 1, 2006, Avila estimated that he added 12 hours that he did not work for which he was paid, but was uncertain if he signed the supervisor's name that appeared on the document. Avila also admitted that he had not worked all the hours listed on the timesheet for September 12, 2006.²¹ Avila acknowledged that on some Saturdays he would not work at all, but claimed that some Saturdays he would work about two hours.²² When shown the timesheet for the week ending September 25, 2006, Avila stated that he signed the name of Chris D'Alimonte and had not worked all the hours shown. Referring to the timesheets for the weeks ending September 29, 2006, October 6, 2006, October 23, 2006, December 22, 2006, and December 29, 2006, Avila reported that he signed the name of D'Alimonte and that he had not worked all the hours listed. Avila acknowledged that starting in January 2007 he signed his supervisor's signature, Chris D'Alimonte, all the time and falsified his work hours.²³ Avila admitted that from January 2007, to the time he got caught in April 2007, he signed Chris D'Alimonte's name on his timecards and timesheets and that he wrote the work hours shown which were not accurate. Avila asserted that what he did was wrong and that he wanted to pay back the DOE.

It is the recommendation of this office that the DOE examine the time records of other temporary workers and ensure the accuracy of the payment to those individuals.

It is the recommendation of this office that Tyrone Avila be placed on the DOE's ineligible list and that this matter be considered should he ever seek employment directly with the DOE or through a DOE vendor.

We have referred this matter to Queens County District Attorney Richard A. Brown for whatever action he deems appropriate.

¹⁸ According to Avila, he could have gone to a number of different supervisors to have his time paperwork approved.

¹⁹ Later in his interview with investigators, Avila stated he may have begun falsifying his time records in the summer of 2006.

²⁰ He estimated that he did not work approximately 12 hours he was paid for that week.

²¹ He estimated that he did not work approximately 15 hours he was paid for that week.

²² He claimed he worked about two Saturdays per month.

²³ Avila denied forging Mark David's signature.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. Should you have any inquiries regarding the above, please contact Eileen C. Daly, the attorney assigned to this case. She may be reached at (212) 510-1407. Please notify Ms. Daly within 30 days of the receipt of this letter of what, if any, action has been taken or is contemplated in regards to Tyrone Avila. 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:ECD:gm

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