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TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.  
EXECUTIVE COMMISSIONER

July 28, 2014

Via Overnight Delivery, U.S. Mail, First Class,  
and Certified Mail Return Receipt Requested #7011 1150 0000 0704 7455

Brad Nelson  
[Redacted]  
[Redacted]

RE: Final Notification of Disciplinary Action

Dear Mr. Nelson:

The basis for your dismissal was your violation of Health and Human Services (HHS) work rules and policy set out in the Human Resources (HR) Manual applicable to all HHS agency employees.

On July 11, 2012, Narlen Baker sent you a sample for review on an investigation into Trueblood Dental Associates. On July 12, 2012, you sent him an email approving the sample for stage 2 records collection/review. On October 31, 2012, you approved the extrapolation for this same case. This case was later transferred to the Sanctions division, which sent that extrapolation tool to the provider in the regular course of the case. This case is now slated for a hearing; in the review process, it was discovered that the seed value in that tool actually did not generate the stratified sample embedded in that tool. Also, it was discovered that a hidden sheet with macros was embedded in the tool to over-write the "incorrect sample" that would have been generated by the incorrect seed value stated in that tool. It was also discovered that another text sheet was created in the same tool to indicate that the original sample was created in the SAO Toolbox.

On July 23, 2014, Sive Kode, Mr. Baker and I met with you in my office about the changes we noticed to the tool. During our meeting, you took no responsibility for the modifications to the tool. You made statements alleging the discrepancies within the sampling tool and other files attached were created by an unknown source or other staff possibly corrupting the files. You accused Mr. Baker, and co-worker Patricia Nascimento, of corrupting and/or improperly handling the data. Mr. Baker, who created that sample, denied that either he or Ms. Nascimento interfered with the data.

On July 24, 2014, Jack Stick, Cody Cazares, Mr. Baker and I met with you about these same discrepancies. During this meeting, you admitted to Mr. Stick that you falsified the sample.

You also finally admitted that you had not reviewed the sample before sending it, despite telling Mr. Baker the opposite in your July 12, 2012 email. You also admitted to copying Trueblood-related files containing sensitive client data onto your personal computer. You gave us permission to analyze your personal computer and erase any sensitive information found.

Your behavior in falsifying sample data, and lying to co-workers and supervisors was deceitful, unethical and violated HHS policy; it also jeopardized this case and potentially others, which could result in a loss of millions of dollars in restitution from providers. Finally, you copied sensitive client data on your personal computer, in violation of the HHS Computer Use Agreement.

On Friday, July 25, 2014 at 2:25 PM, I called you into my office and formally told you that, as a result of your actions on the Trueblood case, your employment with the Health and Human Service Commission's Office of the Inspector General was terminated effective 5:00 PM that day. I escorted you out of the building at 2:27PM; you were given the remainder of the day (about 1.5 hours) as paid emergency leave.

In addition to violating the HHS Computer Use Agreement, your behavior violates HHS work rules, set forth in Chapter 4, Section B of the HHS HR Manual. That section states employees who violate work rules may be subject to disciplinary action, up to and including dismissal, and specifies HHS employees must:

1. be familiar with and follow all HHS policies and procedures relating to job performance and work rules;
2. perform their job duties, meet HHS standards for job performance, and follow job-related instructions from HHS supervisors;
3. avoid, during assigned work hours, doing personal work or personal reading, using the telephone excessively for personal reasons, or behaving in a way that distracts other employees or disrupts the workplace;
6. exhibit courtesy and respect in all interactions with clients, peers, coworkers, vendors, contractors, and any other people the employee meets in the course of their job;
9. not steal, sell, willfully or negligently damage, destroy, misuse, lose, or have unauthorized possession of owned or leased state property or use any HHS property, services, or information in an unauthorized manner or for monetary gain (including vehicles, long distance telephone services, and HHS computer systems);
11. protect state information and property;
12. not destroy, falsify, or cause another to falsify, remove, steal, conceal, or otherwise misuse state information (including documents and oral information) or property;
20. keep all HHS information and all information obtained as an HHS employee confidential, except as otherwise required by law, e.g., the Public Information Act, Texas Government Code, Chapter 552 (client-related information may be released only in accordance with sound professional practices, state and federal regulations, and HHS policies and procedures);

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- 28. not act in a manner that interferes with the proper performance of duties, office operations, or HHS agency and program goals and objectives, or act in a manner that violates HHS agency or program rules, regulations, or policies.

Your actions also violate the HHS Ethics Policy, which is intended to ensure that HHS agency personnel maintain the highest standards of conduct in the performance of their duties while serving our clients and the taxpayers of Texas.

As public servants, HHS employees should act fairly and honestly, avoiding even the appearance of impropriety. All HHS employees must become familiar with this Ethics Policy and comply with it.

**Public Service is a Public Trust**

HHS employees are obliged to conduct themselves in a responsible and judicious manner. It is a fundamental principle that Texas public employees occupy positions of public trust for all the people of this State. This means that the people have a right to expect public employees to act fairly and honestly and to be good stewards of public funds. HHS employees must remember their ultimate accountability to the public and perform their duties in a manner that merits and maintains the trust and confidence of the people of the State of Texas.

**The Importance of Personal Commitment**

Every HHS employee must make a personal commitment to abide by these ethical laws and principles. Each HHS employee must make the decision to understand and follow the ethical standards that govern official conduct as well as to help co-workers understand and comply with them. An HHS employee must report any conduct or activity that the employee believes to be in violation of the HHS Ethics Policy to the employee's supervisor or second level supervisor. The supervisor who receives the report must consult with the agency's Office of General Counsel for direction.

**Policy Highlights**

The HHS Ethics Policy strives to ensure that HHS employees maintain the highest standards of conduct in accomplishing their duties while serving our customers, including the taxpayers of Texas. HHS Ethics Policy encourages all employees to model their conduct on principles that exceed legal minimums. As public servants, HHS employees must act fairly and honestly, avoiding even the appearance of impropriety.

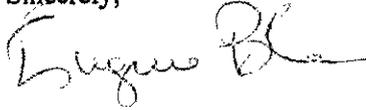
An HHS employee who violates this Ethics Policy is subject to possible disciplinary action, up to and including dismissal.

Pursuant to HHS policy found in the HR Manual, Chapters 4 and 11, the Ethics Policy, and the HHS Computer Use Agreement, your behavior constituted grounds for dismissal for cause; therefore, your employment was terminated effective at 5:00 pm, July 25, 2014.

Attached is a copy of the HHS Grievance Resolution Process, as set forth in Chapter 13 of the HHS HR Manual. Should you choose to file a Grievance, please direct it to: Chief Counsel, HHSC, 4900 N. Lamar Blvd., BH-1100, Austin, Texas 78751, Fax No. (512) 424-6669.

A copy of this final notification of disciplinary action has been sent to HR for filing in your master personnel file. Should you have any further questions regarding your benefits, please contact the Employee's Retirement System at 1-877-275-4377.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eugene Ble".

Eugene Ble

**Attachments:**

Chapter 13, Grievances, HHS HR Manual  
HR1301

cc: Master Personnel File  
Juanita Henry, Deputy Inspector General