



The City of New York
Department of Investigation
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COMMISSIONER



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DOI UNCOVERS \$116,000 CHILD CARE AND BENEFIT FRAUD

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation (“DOI”), announced today that a DOI investigation and the attached DOI report found that three individuals, the biological parents and uncle of eight children, stole more than \$116,000 in City-administered child care subsidies, cash assistance, and food stamp benefits, as charged in felony complaints, by falsely claiming that the children’s father and uncle were paid child day care providers and by unlawfully collecting cash and other benefits, purportedly for the children, even though the children were residing elsewhere in City-funded foster care homes. DOI referred its findings to the office of New York County District Attorney Cyrus R. Vance, Jr., whose office is prosecuting the case, and DOI issued the attached report today to the relevant City agencies.

Commissioner Rose Gill Hearn said, “City funds intended for needy children were pocketed by three ineligible adults who did nothing for the money, as charged. Hard working New Yorkers can ill afford that kind of waste and abuse of taxpayer funds. Fortunately, tenacious DOI investigators pursued the facts and exposed the fraud. We are working with the Manhattan DA’s office to hold the charged individuals accountable and are referring our report to the relevant City agencies for their use in administering the benefit programs that were exploited.”

As of late last night, DOI investigators had arrested SHANEL PAYNE (aka SHANEL NADAL), her husband, JOHN PAYNE, and his brother, THOMAS PAYNE, respectively, the biological mother, father, and uncle of eight children, ages two through 12, for whom the benefits were falsely claimed, according to the charges.

In March 2009, the New York City Administration for Children’s Services (“ACS”) placed all of SHANEL NADAL’s and JOHN PAYNE’s then-seven children in foster care. The couple’s eighth child, born in September 2010, was placed in foster care in early 2011. In September 2011, JOHN PAYNE and SHANEL NADAL removed the children from the Forestdale Foster Care Agency without permission. In the ensuing investigation and search for the children, the City’s Human Resources Administration (“HRA”) discovered that City child day care payments were being made to JOHN PAYNE, the children’s father. That discovery led to DOI’s investigation, today’s report, and the arrests and criminal charges against the three defendants.

DOI found that from 2008 through 2011 SHANEL NADAL filed three fraudulent child care enrollment forms with HRA that, as charged, falsely identified JOHN PAYNE as her children’s uncle and paid child care provider, when, in fact, he, as the children’s father, was ineligible to collect City day care subsidies to care for his own children. In addition, in 2008 NADAL fraudulently enrolled the children’s uncle, THOMAS PAYNE, as the purported full-time, paid child care provider for three of the children, when in fact he provided no such care and was employed full-time with the City’s Department of Environmental Protection (“DEP”). JOHN PAYNE and THOMAS PAYNE fraudulently collected, respectively, more than \$44,000 and more than \$29,000 in unearned child care subsidies from ACS, as charged, which included payments during the time when the children were residing in City-funded foster care. Moreover, DOI found that NADAL fraudulently collected more than \$43,000 in Food Stamps and Cash Assistance benefits from HRA by claiming that seven of her children were residing with her when in fact they were in foster care.

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DOI's investigation included an examination of City records, including a comparison of THOMAS PAYNE's DEP timesheets with his claimed hours, reported to ACS, of providing paid, City-subsidized child care services to the Payne children. Investigators also examined bank and financial records and interviewed numerous witnesses.

SHANEL NADAL, 29, of Manhattan, is charged with Welfare Fraud in the Second Degree and Grand Larceny in the Second Degree, class C felonies. JOHN PAYNE, 36, of Manhattan, and THOMAS PAYNE, 46, of Flushing, Queens, are charged with Welfare Fraud in the Third Degree and Grand Larceny in the Third Degree, class D felonies, among other charges. Upon conviction, a class C felony is punishable by up to 15 years in prison and a class D felony is punishable by up to seven years in prison.

THOMAS PAYNE has been employed with DEP since 1988, is currently assigned to a DEP facility in Brooklyn as a Construction Laborer, and in 2012 received \$77,105 in salary.

Commissioner Gill Hearn thanked New York County District Attorney Cyrus R. Vance, Jr., ACS Commissioner Ronald E. Richter, HRA Commissioner Robert Doar, and DEP Commissioner Carter Strickland and their staffs for their cooperation and assistance in this investigation.

Assistant District Attorney Greg LeDonne of the New York County District Attorney's Office is prosecuting the case.

The investigation was conducted by DOI's Office of the Inspector General for HRA and ACS with the assistance of HRA's Bureau of Fraud Investigation.

Criminal charges are accusations. Defendants are presumed innocent until proven guilty.

DOI is one of the oldest law-enforcement agencies in the country. The agency investigates and refers for prosecution City employees and contractors engaged in corrupt or fraudulent activities or unethical conduct. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City.

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April 11, 2013

Commissioner Ronald E. Richter
City of New York
Administration for Children's Services
150 William Street, 18th Floor
New York, New York 10038

Commissioner Robert Doar
City of New York
Human Resources Administration
180 Water Street, 25th Floor
New York, NY 10038

Commissioner Carter Strickland
City of New York
Department of Environmental Protection
59-17 Junction Boulevard
Flushing, NY 11373

Re: John Payne, Shanel Nadal, Thomas Payne

Dear Commissioners:

The New York City Department of Investigation ("DOJ") recently completed an investigation regarding an allegation that biological father John Payne ("J. Payne") fraudulently received from the New York City Administration for Children's Services ("ACS") child care subsidy payments¹ for his eight children² while they were in foster care.³

¹ Child care subsidy payments and checks are processed through YMS, a company under contract with ACS. YMS' offices are located at 160 Broadway, New York, New York 10038.

² The eight Payne Children will be referred to by their first initial and suffix: N. I, N. II, N. III, N. IV, N. V, N. VI, N. VII, and N. VIII.

³ In September 2011, John Payne and the children's biological mother, Shanel Nadal, removed the eight children from Forestdale Foster Care Agency without permission. While the New York City Police Department were searching for the family with the assistance of New York City Human Resources Administration ("HRA"), HRA discovered that child care payments were being paid to the children's father, J. Payne. J. Payne and Shanel Nadal were apprehended in Pennsylvania and were extradited to New York to face criminal charges. On November 23, 2011, both parents pled guilty to *N.Y.S. P.L. §135.45(1) – Custodial Interference in the Second Degree*, and both were sentenced to 60 days of imprisonment split with three years of probation.

DOI's investigation revealed that: (1) in 2008, 2010, and 2011 biological mother Shanel Nadal ("Nadal") falsified child care enrollment forms filed with the New York City Human Resources Administration where she falsely listed J. Payne as the children's uncle and child care provider; (2) in 2008 Nadal also filed another child care enrollment form filed with HRA, listing New York City Department of Environmental Protection ("DEP") Construction Laborer Thomas Payne ("T. Payne"), the brother of J. Payne, as the children's uncle and child care provider while T. Payne was a full-time DEP employee; and (3) as a result of Nadal's filings, J. Payne and T. Payne fraudulently obtained \$73,416.85 in child care subsidies.

Moreover, DOI's investigation determined that Nadal collected Food Stamps and Cash Assistance benefits from HRA on behalf of seven of her children while her children were placed in foster care. From May 2009 to December 2011, Nadal fraudulently received \$21,258 in Food Stamps and \$21,881.82 in Cash Assistance, for a total of \$43,139.82 in benefits.

DOI'S INVESTIGATION

As part of its investigation, DOI obtained and reviewed copies of the ACS child care enrollment forms and child care subsidy payments made payable to J. Payne; subpoenaed New York Community Financial, a check cashing entity where J. Payne cashed the fraudulent child care checks; and subpoenaed the Municipal Credit Union ("MCU") for T. Payne's bank account records in which the child care subsidies were direct-deposited. Additionally, DOI subpoenaed New York City Department of Education ("DOE") for the Payne children's school attendance records. DOI also obtained and reviewed T. Payne's DEP personnel records and time sheets. In addition, DOI conducted interviews of ACS personnel and foster parents A, B, and C.

Child Care Subsidies, In General

According to ACS executives, ACS subsidizes child care for New York City families who meet certain financial and social eligibility requirements. Individuals who are already receiving Cash Assistance through HRA can apply for child care subsidies at their local HRA Job Center. Low-income families who are engaged in work, approved training, or educational programs, and who are not receiving Cash Assistance, can also apply for subsidized child care at ACS.

When applying for a child care subsidy, the name of the child care provider and his/her relationship to the child must be indicated on the enrollment form. The named child care providers are required to either submit attendance records or call the Interactive Voice Response ("IVR") telephone number for the days that they have provided child care. Child care providers who call the IVR telephone number can enter either their provider identification number or employee identification number to access the system. The child care provider then keys into the IVR data to record the days and times for when child care services were performed.⁴ If the attendance records are submitted by hand or mail, they are delivered to ACS' child care voucher

⁴ All documents submitted to ACS are entered into the Automated Child Care Information System ("ACCIS"), including reports made via IVR. DOI determined that J. Payne and T. Payne's identification numbers were used to record the days and times that child care was provided for the Payne children.

payment unit, located in Manhattan. According to New York State regulations, parents are “not eligible to provide subsidized child care” to their own children.⁵

False Filings Relating to John Payne

On January 10, 2008, Nadal signed and submitted to HRA a child care provider enrollment form enrolling J. Payne as an informal part-time child care provider for the following three children: N. I, N. II, and N. III. Nadal also enrolled J. Payne as a full-time informal child care provider for N. IV. The child care enrollment form incorrectly stated that J. Payne’s relationship to the children was as an uncle. DOI found that child care payments to J. Payne were approved on or about January 28, 2008.

In March 2009, N. I, N. II, N. III, N. IV, N. V, N. VI, and N. VII were removed from the custody of the parents and placed in foster care by ACS.⁶

DOI interviewed foster parent A who stated that from March 2009 to the date of this report, she has been caring for the following five Payne children: N. I, N. II, N. VI, N. VII, and N. IV. Foster parent A stated that she had enrolled N. VI and N. VII into child care from June 2009 to August 2011 with a child care provider through the Forestdale foster care agency. Foster parent A explained since the two boys were not school aged and she worked full time, she needed child care for them. Foster parent A stated that the child care provider that she found provided care for the two boys on weekdays from 8 a.m. to 6 p.m. DOI reviewed records from the DOE which confirmed that N. I, N. II, and N. IV had been enrolled with the New York City school system and were attending school since September 2007.

On April 15, 2010, Nadal signed and submitted a subsequent child care provider enrollment form to HRA enrolling J. Payne as the informal part-time child care provider for N. I, N. II, N. III, N. IV and N. V, and the informal full-time child care provider for N. VI and N. VII. Nadal also indicated on the enrollment form that J. Payne’s relationship to all seven children was as an uncle. However, according to ACS records, all seven Payne children still remained in foster care and were not returned to their parents.

In September 2010, according to ACS records, Nadal gave birth to the eighth Payne child, N. VIII, who was subsequently remanded into ACS custody in January 2011.

DOI spoke with foster parent B, who stated that she provided care for N. VIII from January 2011 to February 2011 and then again from May 2011 until September 2011, when N. VIII was removed, without permission, by her biological parents.⁷ Foster parent B explained that N. VIII was temporarily removed from her care in February 2011 to be placed in kinship foster care with her uncle, T. Payne.⁸ Foster parent B stated that when N. VIII was placed in her custody, she cared for N. VIII and never placed her into day care, nor did she permit Nadal, J. Payne, or T. Payne to care for N. VIII.

DOI also interviewed foster parent C, who stated that she is currently the foster parent for two of the Payne children (N. III and N. V). Foster parent C stated that N. III and N. V were

⁵ See 18 NYCRR 415.1(h); HRA Policy Bulletin #05-145-EMP.

⁶ See criminal complaint, dated April 10, 2013.

⁷ See *supra* fn 1.

⁸ The child was subsequently returned to the care of foster parent B.

school-aged when they were placed with her in May of 2011, and required only after-school care. Foster parent C paid out-of-pocket to place them in an after-school child care program. Foster parent C stated that she has never applied for child care subsidies through ACS because she was informed by the foster care agency that she was ineligible due to her full time employment. The DOE records confirmed that N. V had been attending school in NYC since November 2008, and N. III had been attending school in NYC since September 2007.

On June 26, 2011, while all eight children were still in foster care, Nadal signed and submitted another child care enrollment form to HRA enrolling J. Payne as the informal child care provider for all eight children. On the enrollment form, Nadal indicated that J. Payne was the children's uncle. DOI determined that child care was approved on June 28, 2011.

From January 2008 to August 2011, J. Payne received thirty-three child care subsidy payments totaling \$44,077.60. DOI determined that the thirty-three checks had been cashed at two locations run by a check cashing entity called New York Community Financial ("NYCF").⁹ During this time, the certification forms signed by Nadal misrepresented J. Payne as an uncle to the children.

False Filings Relating to Thomas Payne

In January 2008, Nadal submitted a partially completed child care enrollment form to HRA enrolling T. Payne as the child care provider for N. IV,¹⁰ N. V, and N. VI. The hours of care listed for the three children was 7:00 a.m. to 6:45 p.m. Monday through Friday, beginning on December 21, 2007.

According to the New York City Payroll Management System, T. Payne has been employed with DEP since May 1988 as a construction laborer. DOI obtained and reviewed T. Payne's DEP time sheet records from 2008 to 2011, which revealed that T. Payne worked Monday through Friday from approximately 7:00 a.m. to 3:30 p.m. In comparing his DEP work schedule and the hours listed on the child care provider form, T. Payne could not have been caring for the three Payne children while he was working full-time at DEP.

From January 2008 to January 2010, T. Payne received \$29,460.80 in child care subsidy payments. DOI subpoenaed and reviewed T. Payne's MCU financial records which revealed that the child care subsidy payments had been directly deposited, monthly, into this account, totaling \$29,339.25.¹¹

Public Assistance Fraud Relating to Shanel Nadal

Through the course of the investigation, DOI determined that Nadal collected Food Stamps and Cash Assistance from HRA on behalf of seven of her children after the children were placed in foster care. HRA's Bureau of Fraud Investigations calculated that from May 2009 to

⁹ The two NYCF locations are 2031 Jerome Avenue, Bronx, NY 10453 and 302 Lenox Avenue, New York, NY 10027.

¹⁰ J. Payne was concurrently receiving child care payments for N. IV during this time period of January 2008 to January 2010.

¹¹ DOI notes that there is a \$121.55 difference between what T. Payne actually received and what he should have received according to records filed with the ACS Voucher and Contracted Child Care Unit.

December 2011, Nadal received \$21,258 in Food Stamps and \$21,881.82 in Cash Assistance, for a grand total of \$43,139.82 in fraudulently obtained funds.

CONCLUSIONS

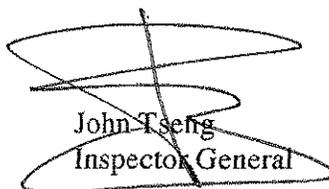
Based on the foregoing, DOI's investigation has determined that Nadal submitted fraudulent child care enrollment forms to HRA in 2008, 2010 and 2011 which enabled J. Payne and T. Payne to fraudulently receive \$73,416.85 in child care subsidy payments. Pursuant to New York State regulations, J. Payne was not eligible to receive subsidized child care payments since he was the biological father of the children. In addition, T. Payne could not have been providing full-time child care to any of three children as he was employed full-time as a Construction Laborer with the DEP.

Furthermore, DOI determined that Nadal fraudulently obtained \$43,139.82 in public assistance benefits in that she continued to list seven of her children as part of her household composition when they had been removed and placed into foster care.

I am referring this matter to your agency for review and any further action you may deem appropriate. However, because Nadal and J. Payne have a history of absconding with the children, DOI request that you notify our agency prior to taking any action. We have also referred our investigative findings to the Office of the New York County District Attorney for criminal prosecution.

If you have any questions or wish to discuss this matter further, please contact me at (212) 825-2890 or Special Investigator Milonie Patel at (212) 825-2840.

Sincerely,



John Tseing
Inspector General

cc: Marcy Chelmow, Esq., Chief of the Public Assistance Fraud Unit, DANY
Debra Herlica, Inspector General, DOI
James Tierney, Inspector General, DOI