

OFFICE OF INSPECTOR GENERAL



REPORT OF INVESTIGATION

Title (Name and address): Russo, Joseph A. 732 Federal Street Philadelphia, Pa. 19147		Type of Investigation: Conflict of Interest. Falsification of City and State Ethics Forms. Failure to Cooperate with an Official Investigation. Outside Misconduct.	Type of Report: <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
File Number: 8713		<input checked="" type="checkbox"/> Employee <input type="checkbox"/> Non-employee <input type="checkbox"/> Former Employee	
Payroll: 162718	Date Entered on Duty: 3/7/78	Position: Board Member	
Work Unit & Location: Board Member		Appointing Office: Board of Revision of Taxes (BRT)	
Period of Investigation: 11/5/08 to 5/8/09			

I. INTRODUCTION

JOSEPH RUSSO, a current board member and former Real Property Evaluator for the Bureau of Revision of Taxes (BRT), testified at the federal corruption trial of State Senator VINCENT FUMO. RUSSO was questioned concerning e-mails between FUMO and his son-in-law, CHRISTIAN MARRONE. In those e-mails, FUMO directed MARRONE to use RUSSO, and HARVEY LEVIN (BRT board member), to influence a tax assessment increase in order to force the owner (ALLAN HUNTER) to sell that property to the Citizens Alliance for Better Neighborhoods (CABN). RUSSO testified that he did not recall the situation and that if the situation occurred, he would have remembered it. RUSSO also testified that in addition to his employment with the BRT, he was also a board member for CABN.

Distribution	No.	File Number:	Signature of Investigator Making Report:
Appointing Office - BRT	1	8713	<i>Thomas A. Stiel</i>
Assistant District Attorney		Signature of Person Examining Report:	
Assistant U.S. Attorney		Amy Kurland, Esquire <i>Amy L. Kurland</i>	
Other (Specify): President Judge Pamela P. Dembe Mayor Michael Nutter Managing Director Dr. Camille Barnett Philadelphia Board of Ethics	1 1 1 1	Title: Inspector General	Date of Report:

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As a result of RUSSO'S testimony, the Office of Inspector General (OIG) initiated an investigation. The following violations were found:

- RUSSO had in fact contacted BRT Real Property Examiner ELIZABETH AROS and had requested her to increase the property assessment for 900-918 E. Moyamensing Avenue. Further, RUSSO had given her documents, which included a letter from HARVEY LEVIN, d/b/a Keystone Appraisal Company, to support that the tax assessment was too low.
- RUSSO testified at the FUMO trial that he had no memory of this incident. He also stated that if the request had happened, he thought that he would have remembered it. During her interview with the OIG, AROS directly refuted RUSSO'S testimony. AROS provided the documents that RUSSO had given to her, which she had maintained at her residence for safekeeping due to the highly unusual nature of RUSSO'S request. AROS reported that she then notified EUGENE DAVEY, the Director of Assessments, since it was a violation of the BRT precepts for an employee to ask another evaluator to review an assessment.
- RUSSO failed to disclose his activity from various political campaigns on his City and State Ethics forms. Specifically, he received sizable reimbursements for his work during the political campaigns of VINCENT FUMO, FRANK PALUMBO, and SUSAN SCHULMAN, which should have been reported as income on these forms.
- RUSSO violated the BRT precepts; the conflict of interest statutes; and abused his position as a BRT employee; when he interceded on behalf of the CABN to influence ELIZABETH AROS. RUSSO later violated, or gave the appearance of violating the conflict of interest statute, and abused his position as a BRT board member, when he failed to recuse himself during votes involving the personal residence of VINCENT FUMO. RUSSO clearly had a personal and business relationship with FUMO. More importantly, FUMO was responsible for placing RUSSO on the BRT as a board member.
- RUSSO failed to cooperate with an official OIG investigation. Through his attorney, RUSSO refused an OIG interview. RUSSO cited the potential for criminal exposure despite assurances that he was immunized since his interview was considered a compelled statement.

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II. VIOLATIONS

- **The Philadelphia Code: § 20-610. Standards of Conduct and Ethics. Statement of Financial Interests.**
 1. All individuals who are paid an annual salary pursuant to the provisions of Sections 20-303, 20-304 and 20-305 of this Chapter and all members of boards and commissions whether compensated or not shall file a statement of financial interests for the preceding calendar year with the Board of Ethics no later than the first day of May of each year that he holds office and of the year after he leaves such office except that for calendar year 1983 the effective filing date shall be July 1, 1984. All such individuals or members who take office after the effective filing date or less than thirty (30) days before the effective filing date must file a statement of financial interest for the preceding calendar year within thirty (30) days of taking office.37
 2. The statement of financial interests filed pursuant to this Section shall be signed under penalty of perjury and include the following information for the prior calendar year with regard to the individual required to file the statement:
 - (e) The name and address of any person who is the direct or indirect source of income totaling in the aggregate five hundred (\$500) dollars or more. . .
 - (f) The name and address of any person from whom a gift or gifts valued in the aggregate at two hundred (\$200) dollars or more were received, and the value and the circumstances of each gift.
 - (h) Any office, directorship or employment of any nature whatsoever in any business entity.
 - (i) Any financial interest in any legal entity engaged in business for profit.
- **State Ethics Act, Section 1105, 65 Pa.C.S. § 1105**
 - (a) **Form** The statement of financial interests filed pursuant to this chapter shall be on a form prescribed by the (State Ethics Commission) commission. All information requested on the statement shall be provided to the best of the knowledge, information and belief of the person required to file and shall be signed under oath or equivalent affirmation.
- **Philadelphia Ethics Code, Section 20-602 – Representation by City Officers, Employees and Members of Council.**
 - 1(a) No member of the Council nor other City officer or employee shall assist another person by representing him directly or indirectly as his agent or attorney, whether or not for

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compensation, in any transaction involving the City. This section shall not apply to any assistance rendered by any member of Council or other City officer or employee in the course of or incident to his official duties, or to any person who holds any City office or position that is not compensated for his service by the City. Subject to Section 20-602(4).

- **Civil Service Regulation 33.021 – Conflict of Interest.**

No employee shall perform outside work which is incompatible with the proper discharge of his official duties.

- **Philadelphia Home Rule Charter, § 10-107, Political Activities.**

No officer or employee of the City and no officer or employee of any governmental agency whose compensation is paid from the City Treasury shall, from any person, and no officer or member of a committee of any political party or club shall, from any civil service employee, directly or indirectly demand, solicit, collect or receive, or be in any manner concerned in demanding, soliciting, collecting or receiving, any assessment, subscription or contribution, whether voluntary or involuntary, intended for any political purpose whatever. No officer or member of the Philadelphia Police or of the Fire Department shall pay or give any money or valuable thing or make any subscription or contribution, whether voluntary or involuntary, for any political purpose whatever.

- **Philadelphia Home Rule Charter, § 7-302. Duties of City Officers & Employees (1).**

"All officers and employees of the City shall comply with and aid in all proper ways in carrying out the civil service regulations."

- **Philadelphia Home Rule Charter, § 7-401. Contents: Purposes: Subsection (n).**

"Periodic efficiency ratings of performance, to serve as a factor in determining employment status, should be an incentive to employee efficiency and achievement, for good performance will be rewarded while performance not meeting job standards will serve as a basis for demotion, discharge, lay-offs, and reduction of salaries."

- **Philadelphia Home Rule Charter, § 10-108. Unlawful Acts Pertaining to the Civil Service (1).**

"No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under the civil service regulations or in any manner commit or attempt to commit any fraud preventing the impartial execution of such regulations."

- **Philadelphia Home Rule Charter, § 10-108. Unlawful Acts Pertaining to the Civil Service: Purposes.**

"Civil service procedures are protected from fraudulent and dishonest practices by subjecting those who participate in such practices to penalties of fines and imprisonment

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(Section 10-109) and ineligibility for a period of five years for appointment to or employment in any City position."

- **Off-Duty Conduct is Just Cause for Termination of a City Employee**

The Philadelphia Civil Service Commission issued an opinion on April 23, 2009 in *The Appeal of Vincent Mabin*, Case No. 4603, stating that off-duty conduct of an employee establishes just cause for termination if the "conduct demonstrates a lack of judgment which erodes confidence in an employee's character."

The City of Philadelphia Law Department issued an opinion dated June 11, 2008, stating, "Employees may be disciplined for outside conduct where said conduct impacts morale, government efficiency, brings public disrespect upon municipal employees, or impacts public confidence in the operation of government."

The Pennsylvania Commonwealth Court upheld the dismissal of a Philadelphia employee for outside misconduct and concluded "the conduct of *any* municipal employee could warrant dismissal if it destroyed public respect for municipal employees and confidence in the operation of municipal services." *Civil Service Commission of the City of Philadelphia v. Wiseman*, 501 A.2d 350, 352-53 (Pa. Commw. Ct. 1985).

III. SUMMARY OF EVIDENCE

A. Witnesses

As part of the investigation, the OIG interviewed the following witnesses:

1. **ELIZABETH AROS- Real Property Evaluator**
2. **EUGENE DAVEY, former Director, Assessments for the BRT.**
3. **CHRISTIAN MARRONE, son-in-law of State Senator VINCENT FUMO.**
4. **EVAN MEYER, General Council, Philadelphia Board of Ethics.**

B. Documents

The following documents were collected during the investigation:

1. **BRT Property Card for 900/916 E. Moyamensing Avenue.**
2. **Copy of BRT Annual Precepts.**
3. **Copy of a Keystone Appraisal Company re: 900 East Moyamensing Avenue, dated February 14, 2000 that was signed by HARVEY LEVIN.**
4. **Copy of a Prudential Fox Roach real estate listing for 900 E. Moyamensing**

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Avenue (corner of Moyamensing and Christian Streets).

5. Memorandum (undated), to KATHY CONWAY (realtor) from ALAN HUNTER and SHEILA REYNOLDS.
6. City of Philadelphia, Department of Records, Recorder Index (last screen), dated May 31, 2000, for 900 E. Moyamensing Ave.
7. Copy of Addendum to Appeal re: 900-9116 E. Moyamensing Avenue, which was prepared by ELIZABETH AROS, Evaluator III.0
8. Department of State (Pennsylvania), Campaign Finance Reporting.
9. State of Pennsylvania Ethics Forms of JOSEPH RUSSO for the period 1994 to 2007.
10. City of Philadelphia Ethics of forms of JOSEPH RUSSO for the period 2004 to 2007.
11. Law opinion from EVAN MEYER, General Council, City of Philadelphia Ethics Board.
12. Copy of the trial testimony of JOSEPH RUSSO, dated December 3, 2008, concerning the federal corruption trial of VINCENT FUMO and RUTH ARNAO.
13. Emails written by VINCENT FUMO, received pursuant to a federal court order disclosing material covered by Fed.R.Crim.P.6(e).

IV. ANALYSIS

Tax Assessment for 900-916 E. Moyamensing Avenue

ELIZABETH AROS, Real Property Evaluator, was interviewed and reported that she had been approached by RUSSO about raising the tax assessment for the old St. Philip's School property (900-916 E. Moyamensing Avenue). She definitely recalled the situation since she was upset that RUSSO had approached her, which was contrary to BRT protocol and against the BRT precepts. AROS was so uneasy about the situation that she notified EUGENE DAVEY, then the Director of Assessments for BRT concerning RUSSO'S actions (as required by BRT Precepts). DAVEY instructed AROS to get any valuation information that she could and to continue with her investigation.

A short time later, RUSSO again contacted AROS and gave her a memo from the owner (HUNTER) to the real estate agent KATHY CONWAY, in which the owners themselves valued the property at \$1.3 million. Additionally, RUSSO gave AROS a real estate flyer which showed the listing for the school alone of \$699,000, as well as a letter dated February 14, 2000 from HARVEY LEVIN of Keystone Appraisal Company with an offer on behalf of R (RUTH) ARNAO for \$600,000. RUSSO told AROS that the owner had rejected the \$600,000 offer.

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AROS advised that she conducted her own investigation by reviewing recent sales of properties located near the area in question; a vacant building (Acme Piano Company) that was located at 2nd and Queen Streets; and a condo conversion building that was located nearby at 924-32 Moyamensing Avenue. AROS based the new assessment upon her own research along with the information that RUSSO provided. She then notified DAVEY and he concurred with her decision.

AROS said that she re-assessed the property to \$520,300 from \$200,000. She reported that the owners subsequently appealed her assessment to the board. She then entered into negotiations with the owners and their attorney, MICHAEL MATTIONI. Eventually, they settled the case after she agreed to lower the assessment to \$400,000.

AROS reported that there should have been a file for that property, which should have included the following information: photographs; appeal; appeal assessment; notes of her conversations with the owners; the property records; the old and new money sheets; and the board appeal. AROS said that she learned the file was missing when she was recently interviewed by BRT employees JOSEPH ZAMBRANO and BARRY MESCOLOTTO. AROS did not know what happened to the file.

AROS retrieved the documents from her home, which included the Keystone offer sheet and a memo from the owners who thought that the property should be valued at \$1.3 million. (This documentation was furnished to the OIG by Integrity Officer VERONICA DANIEL and is part of this investigative report).

OIG investigators interviewed EUGENE DAVEY, who reported that he had no independent recollection of this situation. He opined that he had no doubt that the situation that AROS reported had occurred, and in all likelihood, he would have told AROS to conduct her own independent investigation and document her results.

OIG investigators reviewed RUSSO'S trial testimony from the federal corruption trial of State Senator VINCENT FUMO. RUSSO testified that he became a board member for the Citizens Alliance for Better Neighborhoods (CABN) around 2000 and subsequently became the President of that organization several years later. He also became a board member for CA Holdings, a subsidiary of CABN.

When questioned about a series of e-mail communications between VINCENT FUMO and CHRISTIAN MARRONE, in which FUMO instructed MARRONE to give RUSSO a Keystone Appraisal Company offer sheet for \$600,000 to be used to justify a tax increase, RUSSO testified that he did not recall the situation. Upon further questioning, RUSSO testified that if such a request had been made, he probably would have remembered it. (MARRONE had previously testified to the contrary that he had in fact conferred with RUSSO and provided him documentation to support a tax increase. E-mail communication between MARRONE and FUMO supported that MARRONE was directed by FUMO to have RUSSO get the tax assessment raised immediately).

→The evidence as outlined above establishes that RUSSO had a conflict of interest; committed

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perjury; abused his position; and demonstrated a "lack of judgment" to the detriment of his character as an employee.

City and State Ethics Forms of JOSEPH RUSSO

The OIG investigators reviewed the 1994 to 2007 State of Pennsylvania, and the 2004 to 2007 City of Philadelphia Ethics forms. RUSSO failed to disclose his association with CABN until he disclosed it on the 2007 forms. Further, RUSSO did not disclose his association with CA Holdings on any on his forms.

According to the State of Pennsylvania Department of State, Campaign Finance records, JOSEPH RUSSO received the following payments:

Filer/Payer – VINCENT FUMO for Senate

Date: 5/15/2003

Description- Election Day Expense

Recipient – JOSEPH RUSSO

Amount: \$5,000

Filer/Payer – FRANK PALUMBO

Date: 5/8/2005

Description- Ballot Distribution

Recipient – JOE RUSSO

Amount: \$1,000

Filer/Payer – FRANK PALUMBO

Date: 5/11/2005

Description – Ballot Distribution

Recipient – JOE RUSSO

Amount: \$1,000

Filer/Payer – Committee to Elect SUSAN SCHULMAN

Date: 5/11/2005

Description – Election Day Ballots

Recipient – JOSEPH RUSSO

Amount: \$3,000

Filer/Payer – Committee to Elect SUSAN SCHULMAN

Date: 5/11/2005

Description – Election Day Ballots

Recipient – JOSEPH RUSSO

Amount: \$3,000

In addition, there were multiple payments to JOSEPH RUSSO from the FUMO for Senate committee for reimbursement of various expenditures for the period 2001 to 2006.

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On May 6, 2009, EVAN MEYER, General Counsel, City of Philadelphia Ethics Board, forwarded an opinion that stated in effect that members of the BRT are subject to the Philadelphia City Charter Section 10-107, which prohibits political activity by City employees.

There was no disclosure of these payments, or activity in these political campaigns on any of the City or State Ethics/Financial Disclosure forms filed by JOSEPH RUSSO.

The above evidence establishes a clear violation of the Philadelphia Home Rule Charter, which prohibits political activity by a City employee.

BRT Votes Involving 2220 Green Street (Residence of VINCENT FUMO).

According to the minutes of the Special Meeting of the Board of Revision of Taxes for Thursday, October 25, 2007, the following notation was written by JOSEPH RUSSO, Board Secretary:

"Under new business, ROBERT NIX gave out copies of a Preliminary Review, Analysis and Projection memo from the Director of Assessments concerning the BRT# 15-2-0378-10, 2220 Green Street, Phila. PA 19130. ROBERT NIX made a motion, seconded by RUSSELL NIGRO, that the value of this property be raised. After thorough discussion, this motion was defeated by a four to three majority. Voting for the motion were members CHARLESRETTA MEADE, ROBERT NIX and RUSSELL NIGRO. Against were members HARVEY LEVIN, JOSEPH RUSSO, JAMES DINTINO, and ALAN SILBERSTEIN". (According to BRT records, 2220 Green Street is owned by VINCENT J. FUMO).

During March 2008, the BRT raised the value of approximately fifty (50) high end properties to include FUMO'S property at 2220 Green Street. The property value was raised from \$250,000 to \$953,500. JOSEPH RUSSO again voted against raising the assessment. FUMO subsequently appealed this assessment. In January 2009, a vote by the BRT board unanimously voted against FUMO'S appeal. RUSSO and LEVIN were absent from this vote.

RUSSO's failure to recuse himself from these votes clearly was a violation of the conflict of interest statute. This is particularly egregious considering the fact that RUSSO had a direct business relationship with FUMO; was a board member on an organization that FUMO started, owned and controlled (CABN); and the fact that FUMO was responsible for nominating RUSSO to become a board member on the BRT.

RUSSO'S actions and decisions demonstrated a lack of judgment that eroded confidence in his character as employee and board member which, according to the Civil Service Commission, the Law Department and the Pennsylvania Commonwealth Court, establishes just cause for dismissal.

Attempted Interview of JOSEPH RUSSO by the OIG

During the period April 14, 2009 to May 7, 2009, the OIG investigators made several attempts to schedule an interview with RUSSO.

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On May 8, 2009 at approximately 1:00 PM, JOSEPH RUSSO, accompanied by attorney NINO TINARI, arrived at the Office of Inspector General, for a scheduled subject interview. Prior to the commencement of the interview, TINARI said that he recommended to RUSSO not to answer certain questions about which he felt the answers could expose RUSSO to criminal prosecution.

AMY KURLAND, Inspector General, told TINARI that RUSSO would be given Garrity warnings, which would essentially immunize RUSSO criminally from the use of his statements. Additionally, TINARI was informed that failure to answer any and all questions posed during the interview would constitute failure to cooperate with the OIG and was considered a firing offense and that the OIG report would so reflect RUSSO's refusal to cooperate.

TINARI then met alone with RUSSO and returned at approximately 2:00 PM for the interview. Once again, TINARI announced that the interview could begin but that he would advise RUSSO not to answer certain questions. TINARI was then provided a copy of the OIG Advisement of Rights (Garrity warning) and again he held a conference with RUSSO.

At approximately 2:15 PM, TINARI stated that after consultation with RUSSO, it was decided that RUSSO would not submit to the interview.

IV. CONCLUSION

According to Pennsylvania law and City policy, RUSSO's conduct warrants dismissal. RUSSO's actions clearly destroyed the public's trust and confidence in the operations of the BRT and in his ability to be a fair, efficient, and impartial City employee. RUSSO's decision to improperly seek an increase in the assessment of a property solely for the benefit of local politician was a glaring abuse of his office. As a municipal employee, the Charter required RUSSO to uphold the efficient operation of civil service and satisfy the requirements of his position. To the contrary, RUSSO violated the level of performance required by his job standard and impeded the proper execution of his responsibilities which led to inefficiency and abuse within the BRT. Furthermore, RUSSO intentionally made choices that fell so far below the expectations of his position and authority as a board member, that dismissal from the board is also required.

V. RECOMMENDATION

The OIG recommends that RUSSO be terminated immediately from his position as a board member on the BRT.

A copy of this report has been provided to the Philadelphia Board of Ethics to allow for any additional investigation or imposition of sanctions against RUSSO that the Board deems necessary and required.

One of the most sensitive issues a city faces is the taxation of real property owned by citizens, and in that area there is a heightened need for honesty and integrity. Citizens who bear the

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burden of taxes must trust and believe in the honesty of those responsible for tax assessment. When political influence overrides honesty and integrity, that trust is destroyed and confidence in government is lost.

RUSSO'S improper conduct as a BRT board member perpetuates the public's belief that those without political influence are powerless when confronted by the force of government and those with political influence can do as they want. RUSSO'S abuse of the public trust demands his removal from the board.

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