



05/12/2023

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**GEORGIA MUNICIPAL EMPLOYEES  
BENEFIT SYSTEM,  
Petitioner,**

v.

**STEVIE WILLIAMS,  
Respondent.**

*Renata Bareza*  
Renata Bareza, Executive Legal Assistant

**Docket No.: 2316048  
2316048-OSAH-PRS-GMEBS-126-Walker**

**Agency Reference No.: 2316048**

**FINAL DECISION**

**I. Summary of Proceedings**

The Georgia Municipal Employees Benefit System (“GMEBS”) filed an Amended Complaint seeking a determination of the economic impact of the Respondent’s public employment related crimes pursuant to O.C.G.A. § 47-1-25. An administrative hearing took place on March 20, 2023. Following the administrative hearing, both parties submitted post-hearing briefing.<sup>1</sup> After consideration of the evidence presented, and for the reasons stated below, the undersigned makes the following Findings of Fact and Conclusions of Law.

**II. Findings of Fact**

1.

The Petitioner, GMEBS, is a consolidated pension system providing pension benefits to municipalities. GMEBS administers the City of Griffin’s defined benefit retirement plan (the “Plan”). The Respondent is a vested participant in the Plan. (Testimony of Stephanie Woods; see Petitioner’s Amended Complaint attached to OSAH Form 1.)

2.

The Respondent worked as the City of Griffin’s Maintenance Shop Manager until

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<sup>1</sup> The record closed on April 26, 2023. See Court File.

approximately September 17, 2020. As the Maintenance Shop Manager, he was responsible for hundreds of vehicles and pieces of equipment, such as ATVs and lawn care equipment, owned by the City of Griffin. (Testimony of Todd Howard; Testimony of Michael Yates; Testimony of Stephanie Woods; Stipulation of the Parties.)

3.

Sergeant Todd Howard works for the Griffin Police Department. After receiving information that several vehicles and/or pieces of equipment owned by the City of Griffin were missing from inventory, he began an investigation. (Testimony of Todd Howard.)

4.

During the first few months of the investigation, Sergeant Howard worked “non-stop.” He examined lists of missing vehicles, reviewed the surplus website govdeals.com, assisted with witness interviews, and participated in meetings with the Georgia Bureau of Investigation. As a result of the aforementioned duties, he was unable to pursue other criminal cases. Sergeant Howard’s hourly rate of pay is \$29.35, and he estimates that he spent 100-150 hours investigating the matter. (Testimony of Todd Howard.)

5.

As a member of the investigative team, Griffin Police Chief Michael Yates began an audit of Griffin’s vehicles and equipment. To that end, he reviewed thousands of records, contacted potential witnesses, and collaborated with other members of the police department to locate the equipment. Chief Yates’s hourly rate is approximately \$47.00, and he estimates that he spent at least sixty hours investigating the case. He testified that it was unusual for him to actively participate in an investigation because he primarily works as an administrator. (Testimony of Michael Yates.)

6.

In August of 2020, Jessica O'Connor was Griffin's Deputy City Manager. During the course of the investigation, she researched potential restitution amounts for the missing vehicles. It was not within her job duties to investigate a City of Griffin employee's criminal activities. She estimates that, at a minimum, she worked twenty to forty work hours on the investigation at the rate of \$70.00 per hour. (Testimony of Jessica O'Connor; Exhibit P-2.)

7.

At the time of the investigation, Kelvin Hopper worked as a mechanic for the City of Griffin. He was interviewed by law enforcement agencies, traveled to properties to search for missing vehicles, and conducted research on the govdeals website; these actions were not within the scope of his regular job duties. Mr. Hopper spent approximately forty hours working on the investigative team; ten hours at the rate of \$17.88 per hour and thirty hours at the rate of \$28.00 per hour. (Testimony of Kelvin Hopper.)

8.

In connection with the investigation, City of Griffin technician Neptali Morales was questioned for three hours by Chief Yates and for four hours by the Georgia Bureau of Investigation. Mr. Morales's rate of pay is \$23.00 per hour. (Testimony of Neptali Morales.)

9.

On or about December 14, 2021, the Spalding County District Attorney charged five individuals, including the Respondent, with Theft by Taking and/or Theft by Receiving, in connection with the missing property. See Spalding County Superior Court Criminal Action No.: 21R-470 A,B,C,D,E. On October 5, 2022, the Spalding County District Attorney filed an amended accusation charging the Respondent with two counts of Felony Theft by Taking under O.C.G.A. § 16-

8-2 as follows:

On behalf of the people of the State of Georgia, the undersigned as prosecuting attorney for the county and the state aforesaid, does hereby charge and accuse **STEVIE RAYMOND WILLIAMS**, with the offense of **Theft by Taking** [] that the said accused **STEVIE RAYMOND WILLIAMS** in the County and State aforesaid between the 1st day of November, 2019, and the 30th day of May, 2020, the exact date of the offense being unknown being in lawful possession thereof, [did] unlawfully take [a] 2005 Polaris[,] the property of the City of Griffin, with the intention of depriving said owner of said property, the accused being a fiduciary of the City of Griffin at that time and said property being taken in breach of said fiduciary obligation,[] contrary to the laws of said State, the good order, peace and dignity thereof.

And on behalf of the people of the State of Georgia, the undersigned as prosecuting attorney for the county and the state aforesaid, does hereby charge and accuse **STEVIE RAYMOND WILLIAMS**, with the offense of **Theft by Taking** [] that the said accused **STEVIE RAYMOND WILLIAMS** in the County and State aforesaid between the 1st day of November, 2019, and the 30th day of May, 2020, the exact date of the offense being unknown being in lawful possession thereof, [did] unlawfully take [a] 2002 Polaris[,] the property of the City of Griffin, with the intention of depriving said owner of said property, the accused being a fiduciary of the City of Griffin at that time and said property being taken in breach of said fiduciary obligation,[] contrary to the laws of said State, the good order, peace and dignity thereof.

(Exhibit P-1, Spalding County Superior Court Criminal Action No.: 22R-555, (hereinafter “the accusation”); see OSAH Form 1, Exhibit B.)

10.

On October 5, 2022, in the Superior Court of Spalding County, the Respondent pled guilty to the two felony counts of Theft by Taking listed in the accusation. He was sentenced to probation for a term of five years and ordered to pay a \$5,000 dollar fine and additional court costs. The Superior Court did not order the Respondent to pay restitution. The parties have stipulated that Respondent’s criminal conviction is a final conviction of a public employment related crime within the meaning of O.C.G.A. § 47-1-25. (Exhibit P-1; Stipulation of the Parties.)

11.

Although the charges did not specify the date on which each vehicle was taken, Sergeant

Howard testified that the Respondent confirmed that the thefts took place on specific dates and not over a period of time. (Testimony Todd Howard.)

12.

Stephanie Woods is the City of Griffin's Human Resources Manager. After the Respondent pled guilty, she contacted GMEBS and provided it with documentation of the conviction. She also compiled materials to be submitted with the Amended Complaint filed before the Office of Administrative Hearings, including employee earnings reports. Ms. Woods estimates that she spent approximately twenty work hours on this case. She earns a yearly salary of \$93,000 per year and works a forty-hour work week, which yields an hourly rate of \$44.71 per hour. (Testimony of Stephanie Woods; Exhibit P-4.)

13.

The Respondent resigned from his employment in September 2020. From November 1, 2019, through December 31, 2019, the City of Griffin paid the Respondent gross earnings of \$7,949.00. From January 1, 2020, through the pay period ending September 26, 2020, the City of Griffin paid the Respondent gross earnings of \$43,242.55. The total gross earnings paid to Respondent during these two time periods is \$51,191.55. (Testimony of Stephanie Woods; Exhibit P-4.)

### **III. Conclusions of Law**

1.

The Petitioner bears the burden of proof in this matter. Ga. Comp. R. & Regs. 616-1-2-.07(1). The standard of proof is a preponderance of evidence. Ga. Comp. R. & Regs. 616-1-2-.21(4).

2.

When a contested case is referred to the Office of State Administrative Hearings, the

administrative law judge assigned to the case has “all the powers of the ultimate decision maker in the agency . . . .” O.C.G.A. § 50-13-41(b). The evidentiary hearing is *de novo*, and the administrative law judge “shall make an independent determination on the basis of the competent evidence presented at the hearing.” Ga. Comp. R. & Regs. 616-1-2-.21(1).

3.

The parties agree that the GMEBS pension plan is a public retirement or pension system established by the City of Griffin for its employees, and that the Respondent is a vested participant in the Plan.

4.

The Respondent has been convicted of a crime in his capacity as a public employee. If a public employee is convicted for the commission of a public employment related crime, “upon final conviction such person’s benefits under a public retirement or pension system . . . shall be reduced by an amount equal to three times the economic impact of the crime as determined pursuant to the provisions of Code Section 47-1-25.” O.C.G.A. § 47-1-22(b). See Wilmot v. Contra Costa Cnty. Employees’ Ret. Ass’n, 60 Cal. App. 5th 631, 661-62 (2021) (“[O]ne of the primary objectives in providing pensions for public employees . . . is to induce competent persons to enter and remain in public employment’ during which they will render ‘long-continued and faithful services.’ Withholding that inducement if the employee’s performance is not faithful is an entirely logical response.”).

5.

Pursuant to O.C.G.A. § 47-1-25, GMEBS must initiate administrative proceedings to determine the economic impact of the Respondent’s public employment related crime. A public employment related crime’s economic impact includes both the economic gain to the perpetrator

of the crime and the economic loss to the public entity. O.C.G.A. § 47-1-20(1.2).

6.

The Petitioner asserts that the economic impact of the Respondent's crime includes:

- (a) the entire salary he was paid by the City of Griffin for the period of time during which he was engaged in the criminal activity;
- (b) a portion of the salaries paid to city employees for the periods of time during which they were required to handle tasks relating to Respondent's criminal activity, setting aside all work; and
- (c) the costs of OSAH's adjudication services incurred as a result of this proceeding mandated by statute.<sup>2</sup>

The Petitioner did not offer any evidence as to the value of the two stolen vehicles listed in the accusation. As such, it has declined to seek the inclusion of their value in calculating the economic impact of the Respondent's criminal conduct.<sup>3</sup>

7.

In contrast, the Respondent maintains that the economic impact of the Respondent's crime is the sum total of \$161.00, the amount paid by the City of Griffin to Neptali Morales.

A. Respondent's Salary

8.

The Petitioner argues that the "only evidence in the record that reflects the time-period of Respondent's criminal activity shows the thefts took place after November 1, 2019, and no later

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<sup>2</sup> Petitioner's Proposed Final Decision on Amended Complaint to Determine Economic Impact of Public Employment-Related Crime at 14.

<sup>3</sup> Petitioner's Proposed Final Decision on Amended Complaint to Determine Economic Impact of Public Employment-Related Crime at 14, n.3.

than May 3[0], 2020. According to the City's payroll records, Respondent was paid \$51,191.55<sup>4</sup> in salary during this period of time. Accordingly, this amount shall be included in the calculation of the economic impact of Respondent's public employment related crimes."<sup>5</sup>

9.

Arguing that the thefts were "more comparable to a one off, such as taking funds from a cash drawer," the Respondent maintains the Petitioner failed to produce probative evidence that any portion of his salary should be considered in calculating the economic impact of his crime.<sup>6</sup> Additionally, he notes that the Petitioner did not present evidence that the City of Griffin would have terminated his employment if it had known about the conduct.

10.

The City of Griffin paid the Respondent to provide honest services, and it is undisputed that he engaged in criminal conduct during his employment. For the purposes of this analysis, the amount of the employer's economic loss is equivalent to the employee's gain.

11.

While there is scant evidence in the record about the circumstances of the thefts, Sergeant Howard's testimony suggests it is more likely than not that each theft took place over the course of one day. Additionally, although the specific dates are unknown, both counts in the accusation identify the singular "date" of the offense, instead of using the plural term "dates."

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<sup>4</sup> The Petitioner errs in claiming that the Respondent earned \$51,191.45 between November 1, 2019, and May 30, 2020. The undisputed evidence indicates that he earned \$51,191.45 from November 1, 2019, through the pay period ending September 26, 2020. See Exhibit P-4.

<sup>5</sup> Petitioner's Proposed Final Decision on Amended Complaint to Determine Economic Impact of Public Employment-Related Crime at 15.

<sup>6</sup> Respondent's Proposed Final Decision on Amended Complaint to Determine Economic Impact of Public Employment-Related Crime at 10.



12.

The Petitioner maintains that the assessment of economic impact should include the salary the Respondent earned during the entire time period identified in the accusation, from November 1, 2019, through May 30, 2020. Similarly, the Mandatory Victim Restitution Act of 1996 (MVRA), 18 U.S.C. § 3663 et seq., requires a court to consider the amount of loss sustained by a victim in rendering a criminal judgment. In this context, courts that have considered whether criminals should forfeit the entirety of their compensation to an employer when they provide less than honest services. Such decisions provide useful guidance here.

13.

Although “[t]here is no question that a portion of an individual’s salary can be subject to forfeiture [as restitution] where, as here, an employer pays for honest services but receives something less,” United States v. Bahel, 662 F.3d 610, 649 (2nd Cir. 2011), the majority of courts to examine the issue have concluded that the amount of loss to an employer constitutes the “difference in the value of the services [made in furtherance of criminal conduct] and the value of the services that an honest [employee] would have rendered.” United States v. Sapoznik, 161 F.3d 1117, 1121 (7th Cir. 1998) (rejecting argument that all of defendant’s salary constituted loss for employer); see United States v. Fiorentino, 149 F. Supp. 3d 1352, 1358 (S.D. Fla. 2016) (noting “the fact that it is impossible to quantify precisely how much of Defendants’ efforts were devoted to their criminal scheme, does not mean that [employer] should receive no compensation in restitution for the loss of Defendants’ honest services”); United States v. Skowron, 839 F. Supp. 2d 740, 751 (S.D.N.Y. 2012) (some portion of compensation adequate restitution under MVRA).

14.

The Petitioner did not present probative evidence that the two thefts were part of an ongoing

conspiracy. Cf. United States v. Klein, 476 F.3d 111, 114 (2nd Cir. 2007) (“[C]o-defendants may be proportionally or jointly and severally liable for restitution when they are all culpable”). Accordingly, the undersigned finds that a reasonable estimation of the amount of the economic gain and corresponding economic loss would be two days of the Respondent’s gross salary earned between the dates of November 1, 2019, and May 1, 2020. Based on the evidence presented, a reasonable assessment of this amount would be \$434.00.<sup>7</sup>

B. Employee Salaries

15.

The Petitioner next argues that the City of Griffin’s economic loss includes the salaries paid to its employees assigned to the investigation and subsequent legal proceedings. In response, the Respondent suggests that the City of Griffin suffered no economic impact because the employees acted within their scope of employment.

16.

Under O.C.G.A. § 47-1-20(1.2), the relevant inquiry is not whether the employees were acting within their normal scope of employment, but whether the City of Griffin suffered an economic impact. See O.C.G.A. § 47-1-20(1.2). The Respondent’s criminal conduct caused city employees to spend significant time performing tasks related to the investigation and subsequent legal proceedings, to the exclusion of their duties and responsibilities to the citizens of Griffin. The time spent away from their duties because of the Respondent’s conduct constitutes an economic loss.

17.

Adding the time spent on the investigation and legal proceedings by employees Sergeant Howard, Chief Yates, Jessica O’Connor, Kelvin Hopper, Neptali Morales and Stephanie Woods, the Petitioner

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<sup>7</sup> To arrive at this estimation, the undersigned divided the amount of \$51,191.55 by the number of work days, approximately 236, between November 1, 2019, and September 26, 2020.

calculates \$11,792.90 as the appropriate amount of economic loss. During the hearing some of the employees offered a general time span, such as between twenty and forty hours, that they spent away from their usual duties. In each case, the Petitioner chose to include the highest possible number of hours in its calculations. Given that the employees were unsure of the amount of time, the undersigned finds that the low end of the range to be a more reliable amount of economic loss.

18.

In consideration of time spent by its employees in pursuing this investigation and subsequent legal proceedings, the undersigned finds that the City of Griffin suffered the following economic losses:

Sergeant Howard -	\$4,402.50;
Chief Yates -	\$2,820.00;
Jessica O'Connor -	\$1,400.00;
Kelvin Hopper -	\$715.20;
Neptali Morales -	\$161.00; and
Stephanie Woods -	\$894.20

For a total of \$10,392.90.

C. Adjudication Services Costs

19.

The fees incurred as part of the instant proceedings constitute a reasonably measurable economic loss within the meaning of O.C.G.A. § 47-1-20(1.2) and, as such, are properly included in the economic impact of the Respondent's public employment related crime. The Respondent argues he should not be held responsible for these costs because O.C.G.A. § 47-1-25 mandates that GMEBS initiate this action. However, but for the Respondent's conduct, this proceeding would not have commenced. Thus, all costs associated with this proceeding are part of the


economic impact of Respondent's crime.

#### IV. Decision

The record establishes that the economic impact of the Respondent's public employment related crimes is the sum total of: (a) \$434.00, representing the salary the Respondent received from the City during the period of time he was engaged in criminal activity; (b) \$10,392.90, representing the salaries of Sergeant Howard, Chief Yates, Jessica O'Connor, Kelvin Hopper, Neptali Morales and Stephanie Woods, paid by the City of Griffin for efforts to investigate and uncover the Respondent's criminal activity; and, as of the date of the instant decision, (c) \$3,643.25, representing the costs of utilizing OSAH's adjudication services incurred in connection with the Respondent's criminal activity.<sup>8</sup> Accordingly, the economic impact of the Respondent's public employment related crime is \$14,470.15. The Respondent's benefits under the GMEBS pension plan, including any survivor's benefits if applicable, shall be reduced by an amount equal to three times the economic impact of the crime, or \$43,410.45, in accordance with O.C.G.A. § 47-1-22(b), said reduction to commence at the time such benefits would normally begin to be paid.

**SO ORDERED**, this 12th day of May, 2023.

  
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Ronit Walker  
Administrative Law Judge



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<sup>8</sup> Final adjudication fees and costs will increase due to expenses incurred or billed after the Final Decision is issued; however, the undersigned finds that this is a reasonable assessment.