

Investigative Report

# Office of the City Manager: Misuse of City Resources

September 2017



We found evidence indicating that Mary Lou Rodriguez, Assistant City Manager's Executive Secretary, Office of the City Manager, misused City resources for her beauty products and jewelry sale business.

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# Contents

Allegation.....	2
Background.....	2
Investigation Results.....	3
Investigation Criteria.....	6
Appendix A - Subject Response.....	7
Appendix B - Office of City Auditor’s Response to Subject Response.....	9
Appendix C - Management Response.....	10
Methodology.....	11
CAIU Investigative Standards.....	11

Cover: Aerial view of downtown Austin,  
iStock.com/RoschetzkyStockPhoto

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# Allegation

In May 2017, the Office of the City Auditor received an allegation against Mary Lou Rodriguez, Assistant City Manager’s Executive Secretary in the Office of the City Manager. It was alleged that she misused City time and resources to operate her secondary employment business. Specifically, the informants alleged the information summarized below:

Misuse of City Resources:

- It was alleged that Mary Lou Rodriguez had a beauty product business and that she is handing out her “business card to several employees at City Hall and other City offices.” It was alleged that Rodriguez delivers these products during her regular work hours, on City time.
- It was also alleged that Rodriguez sells jewelry in City Hall during working hours. She has been “selling from her desk or in the lobby of the City Manager’s Office.” It was alleged that Rodriguez solicited business from City employees.

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# Background

The Office of the City Manager is “responsible for the day-to-day operations of an organization of approximately 12,000” employees. The Office of the City Manager is comprised of the City Manager, five Assistant City Managers, a Chief of Staff and Executive Secretaries.

Mary Lou Rodriguez works as an Assistant City Manager’s Executive Secretary in the Office of the City Manager in City Hall. Rodriguez has been working with the City since 2006. Rodriguez’s responsibilities involve providing administrative support for the Chief of Staff over administrative services in the Office of the City Manager and for the Chief Sustainability Officer. This includes regular communication with City of Austin departments, community leaders, and the public, as well as keeping their calendars and organizing travel plans.

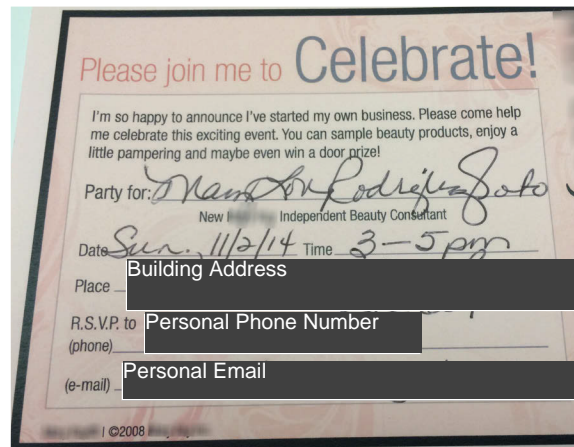
# Investigation Results Summary

We found evidence indicating that Mary Lou Rodriguez, Assistant City Manager’s Executive Secretary in the Office of the City Manager, misused City resources for her beauty products and jewelry sale business. The evidence is summarized below.

## Finding Misuse of City Resources

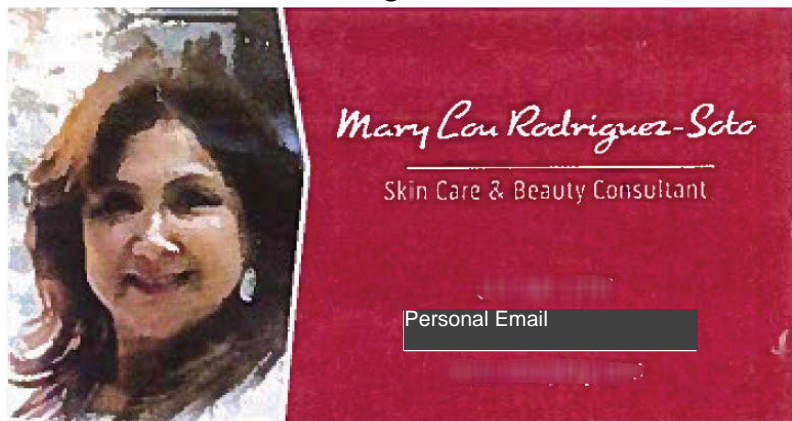
Mary Lou Rodriguez admitted to being an independent beauty consultant who sells branded beauty products as part of her services. Rodriguez admitted that she had been selling beauty products since 2015 and possibly earlier. She also admitted to occasionally selling jewelry. According to her social media business page and a major beauty brand’s database of sellers, Rodriguez is an independent beauty consultant.

### Exhibit 1: Rodriguez’s Business Launch Flier



SOURCE: Photograph found saved on Mary Lou Rodriguez’s computer, May 2017

### Exhibit 2: Rodriguez’s Business Card



SOURCE: Photograph found saved on Mary Lou Rodriguez’s computer, May 2017

Additionally, we found evidence that Rodriguez sells jewelry, specifically earrings and necklaces.

Rodriguez admitted to selling beauty products and jewelry to City employees. Rodriguez cooperated with our requests and provided the names of some of her customers. We were able to identify at least 20 employees from roughly ten City departments who have purchased or ordered products from Rodriguez in the last few years. The employees she sold to include administrative staff, executive management, and a Council staff member.

On her City-issued computer, we found roughly 11,000 images and videos, including a significant amount related to her secondary employment. Specifically, we found the following evidence of misuse:

- photographs of handwritten notes of customer names, prices, and confirmations of payment;
- photographs of individuals who appeared to have purchased products from Rodriguez;
- photographs of invoices and customer profiles for City employees who did business with Rodriguez.

A review of Rodriguez's internet browsing history revealed that she accessed product websites while she was at work and during business hours. She also used her City computer to access her online account with the beauty brand she purchased from. From December 2016 to May 2017, we found:

- over 300 hits to her beauty supplier's website and her business related account;
- approximately 30 hits related to the specific jewelry brand she sells; and
- over 700 hits to the email account on her business card, which she confirmed she uses for beauty consulting services.

Rodriguez admitted to purchasing products that she intended to sell using her City computer while at work. We did not find evidence that she misused her City of Austin email to solicit or sell her services and products.

From evidence gathered from her computer, we found photographs indicating that Rodriguez was setting up and taking pictures of beauty products and jewelry in her office space in City Hall. The photographs of products laid out inside City Hall and the photographs of Rodriguez's customers appear to be taken during business hours. When interviewed, Rodriguez admitted that these photographs were taken by her while she was at work. Rodriguez also admitted to delivering purchased beauty products during City time, as well as having people pick the items up from her office. A city employee witnessed the subject delivering products to a customer in the office.

### Exhibit 3: Products Display at Rodriguez's Desk



SOURCE: Photograph found saved on Mary Lou Rodriguez's computer, May 2017

We found evidence that Rodriguez annually attended City ethics training. When interviewed, She recalled watching an ethics scenario involving a City employee that misused City facilities to sell beauty products as part of their secondary employment.

Rodriguez's misuse of City resources for her beauty products and jewelry sale business appears to constitute a violation of the following criteria, as detailed in the Investigation Criteria section:

- City Code § 2-7-62 Standards of Conduct – (J) + (O)
- Administrative Bulletin 98-06: Acceptable Internet Use
- City Personnel Policy – (G) Use of City Resources

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# Investigation Criteria

## City Code § 2-7-62 – STANDARDS OF CONDUCT – (J)

“No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.”

## City Code § 2-7-62 – STANDARDS OF CONDUCT – (O)

“A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (City Auditor).”

## Administrative Bulletin 98-06: Acceptable Internet Use

“The City of Austin computer use, e-mail, and/or Internet access may not be used to: [...] Conduct or promote [...] private/personal business enterprises [...]”

## City Personnel Policy – (G) Use of City Resources

“Employees are prohibited from using City facilities, equipment, supplies, employee time, or any other City resource for personal use, except to the extent that such resources are available to the public. City resources which may not be used by employees for personal use include, but are not limited to, the following: computers, internet accounts, e-mail and voice mail systems, telephones, facsimile machines, copiers, postage machines, vehicles, office space, desks, and filing cabinets. These resources are dedicated to City business, and City Management shall have full access to both the resources and any contents thereof at all times. Employees have no legitimate expectation of privacy when using these resources. Department Directors may allow employees limited use of telephones for local calls while ensuring that the operational needs of the department are being met.”

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## Appendix A - Subject Response

My name is Mary Lou Rodriguez and I am an employee of the City of Austin with over a decade of service. My current position is that of Executive Secretary to the Chief of Staff and the Chief Sustainability Officer in the office of the City Manager. Ultimately, my role is that of support. Supporting the Chief of Staff and the Chief Sustainability Officer in their roles of leading the Administrative Services and Sustainability Departments. I also support the City Manager's office as we all work as a team under her direction for all city departments. I was notified by the City Auditor's office in early July 2017 that evidence of second employment was found to be held by me and I would like to address this directly.

I have over 41 years of work experience in both the private and public sector and non-profit organizations. During those years I have worked full time and have never had secondary employment. During my service of 11 years with the City of Austin I have never had a second or part time job. I only receive compensation from the City of Austin and have income tax records that reflect that fact. I am a professional working woman, wife, mother and grandmother. The allegation that I have businesses, one of beauty products and another of jewelry, is a misconception.

When I was interviewed by the Auditor's office Investigator, I was forthcoming with answers to her questions. She asked if I was an independent beauty consultant, which can be interpreted as a business owner, to which I explained that I personally use the products and order for myself therefore I am considered personal use by this company. In any event, whether you run a business or just purchase products at a discount you are called an independent beauty consultant. There is a huge difference in the two. I do not work for a beauty company. I do not receive commissions from a beauty company, nor do I recruit others as a form of compensation and I don't earn the use of a free company issued car. All of these aforementioned benefits occur when you have a business. My response to the investigator was that I am very satisfied with these products and use them myself, but I have not and am not currently running a business related to this. It is more of a hobby than anything else; something I enjoy and certainly have shared with others.

The investigator asked if I had a business card and whether I passed it out to other city employees. I answered that I have a genetic card, not a company issued card, with my cell number and personal email address and have given it out at times when I have been asked for my private contact information. Again, a misconception that I have gone around and given a card to everyone I come in contact with in and out of the workplace. I do not solicit, as is perceived by the allegation that was made against me, that is false. In fact, I have been approached by others for items that I personally have at my home. I have brought items to coworkers but I do not set up a store or display items, as also has been alleged. I have also given gifts to many coworkers on special occasions such as birthdays and holidays. So as my hobby and at my own expense, I use it for gift giving to family and friends. I often bring cakes for coworkers birthdays and have given beauty gifts, and other types of gifts along with decorating offices and workspaces. This is always done at my own expense. I enjoy serving others and sharing what I have.

On the jewelry business allegation, I answered that I know someone who sold jewelry at a discount. I admitted that I shared that information with some coworkers who urged me to bring this person with the jewelry so it could be seen. Because I often have lunch at my desk and don't take offsite breaks, it was during those times that jewelry was shown and several women bought jewelry from her. I am not associated with any jewelry company at all and again do not receive compensation for it.

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## Appendix A - Subject Response

On the issue of using my city issued computer I did admit to viewing items online and even going on to the beauty website during business hours which I should not have done because I am aware of the City Ethics Policy. I take responsibility for not following the policy, as stated. I am truly remorseful that this entire situation has gotten to this point because I enjoy my job with the City of Austin and would not want to jeopardize it in any way. I respect my Management Team, my administrative support team and my coworkers throughout the city.

As much as I tried answering the investigator's questions, I believe my responses were interpreted into an admission of guilt simply because her report continually states that I admitted to many allegations. I don't recall it that way. In fact, I did my best to carefully explain to her how this could be perceived as a business but it is not in my case. Yes, women do have businesses from this beauty company but that requires many hours of consistent dedicated work. I do not have the time nor the desire to have a business like this. My life, in and out of the workplace, simply doesn't allow me to do this.

On the allegation of taking pictures of city employees and posting on social media I absolutely have done that but only with the permission of the individual. I have taken many pictures of city employees whether it is their birthday, as a compliment of their attire, a celebration, group events, luncheons, holidays, etc. These employees include the former City Manager to the Executive Team, Secretaries and anyone who would pose to have their picture taken. The fact that pictures were posted on social media proves nothing other than I chose to post only a select few and nothing to do with any type of sales. Yes, photos have been taken during business hours since this is when we come together to celebrate birthdays, etc. It is only a few moments and does not interfere with work time. Never were these photos used to promote myself or a business because no business exists. I am not attempting to make a legitimate case of this situation because I understand the implication of all of it. It is just my own explanation in response to this report.

In response to the allegation of delivery of product to a city employee witnessed by another city employee I question how this person could know or be absolutely sure a sales transaction was occurring? There is no evidence that I have been made aware of so I consider that hearsay. Someone's word against my own. Many folks come in and out of our office throughout the day. They also leave for lunch, breaks and other appointments. Perhaps it was during one of those times that someone came by and saw me for work purposes. It is really hard to determine because of the high traffic in and around our office. Folks stop to talk and visit with one another all the time.

This experience has certainly taught me a lesson. There is a time and place for everything. The public puts their trust in us to deliver our city services to them. I will continue to do just that by never mixing personal issues of any sort with coworkers. My time here is to do my job and I appreciate the opportunity to do so at the City of Austin.

Thank you for the opportunity to give my response to this report. I trust you will give it consideration in whatever decision is made.



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## Appendix B - Office of City Auditor's Response to Subject Response

We have reviewed the Subject Reponse. We believe our findings stand, and offer the following clarification:

The Subject Response contains the following statements:

*"My response to the investigator was that I am very satisfied with these products and use them myself, but I have not and am not currently running a business related to this. It is more of a hobby than anything else; something I enjoy and certainly have shared with others."*

Regarding the term business, we have included pictures of Mary Lou Rodriguez's business launch flyer and her business card.

Additional statement in the Subject Response:

*"I have brought items to coworkers but I do not set up a store or display items, as also has been alleged."*

To address the above statement, we have included one of the pictures found on Rodriguez's city computer, which appears to display beauty products in Rodriguez's office cube.

# Appendix C - Management Response



## City of Austin

### City Manager's Office

P.O. Box 1088, Austin, TX 78767  
(512) 974-2200, Fax (512) 974-2833

## MEMORANDUM

**TO:** Nathan Wiebe, Chief of Investigations, and Office of the City Auditor

**FROM:** Ray Baray, Chief of Staff

A handwritten signature in black ink, appearing to read "RB", with a horizontal line underneath.

**DATE:** September 15, 2017

**SUBJECT:** Draft Investigation Report (IN 17008) Re: Mary Lou Rodriguez

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The City Manager's Office (CMO) is in receipt of the draft investigation report regarding allegations against Mary Lou Rodriguez, Executive Secretary to the Chief of Staff, for the misuse of City time and resources in operating a secondary business, some of which occurred at City of Austin facilities. Our office will work with Corporate Human Resources to review the report and findings to determine the appropriate next steps in this matter.

Rest assured, our response will include a comprehensive review of City policies and procedures related to Secondary Employment and Misuse of City Resources. CMO Management will communicate expectations regarding adherence with these policies/procedures to all CMO employees. At the same time, we will assess the need for strengthening controls to ensure full departmental compliance.

Should you have any questions or need additional information, please feel free to contact me. Thanks!

cc: Elaine Hart, City Manager  
Corrie Stokes, City Auditor  
Assistant City Manager Mark Washington  
Joya Hayes, Human Resources Director  
Jason Hadavi, Deputy City Auditor

*The City of Austin is committed to compliance with the American with Disabilities Act.  
Reasonable modifications and equal access to communications will be provided upon request.*

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## Methodology

To accomplish our investigative objectives, we performed the following steps:

- reviewed applicable City Code and policy;
- conducted background research;
- analyzed City email data using keyword searches;
- conducted a forensic review of subject's computer files and internet usage;
- interviewed City staff in the Office of City Manager; and
- interviewed the subject.

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## CAIU Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to quality standards established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Quality Standards for Investigations, and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

In order to ensure our report is fair, complete, and objective, we requested responses from both the subject and the Department Director on the results of this investigation. Please find attached these responses in Appendix A and C.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve city services. We conduct investigations of allegations of fraud, waste, or abuse by City employees or contractors.

**City Auditor**

Corrie Stokes

**Deputy City Auditor**

Jason Hadavi

**Chief of Investigations**

Nathan Wiebe

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*Alternate formats available upon request*