



Florida Housing

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Office of Inspector General

Investigative Report

180327-01

March 5, 2019

Chris Hirst, Inspector General

Enhancing Public Trust in Florida's Affordable Housing

**Office of Inspector General
Investigative Report
Case Number 180327-01**

INTRODUCTION

On March 27, 2018, the Florida Housing Finance Corporation (Florida Housing) Office of Inspector General (OIG) received an email from Michael Chaney, Technical Advisor, Florida Housing Coalition, regarding Michael Harper, a Hardest Hit Fund (HHF) Program applicant. Specifically, Mr. Chaney was corresponding with HHF Advising staff member, Debbi Jarrie, Director of Homeownership Center, the Corporation to Develop Communities of Tampa, Inc. (CDC), with details of their concerns listed below:

... We need guidance from Florida Housing about how to proceed with Michael Harper. On the one hand, the most updated documentation shows that the applicant is eligible, so I want to suggest exporting this case to the underwriter. On the other hand, there are several examples of possible fraud, and maybe these should be investigated first. Two stand out:

- Self-made pay stubs from the applicant who is the owner of a business
- A letter from the company he owns to himself explaining the reduced income

Michael Harper is self-employed with an estimate annual income of about \$6,000. He is currently experiencing a hardship compared to his prior income of \$10,065. Mr. Harper's advisor is currently working to update the eligibility computation form from October 2017 to show this income reduction hardship.

According to the records, Mr. Harper applied for HHF Program funds on December 15, 2016. The OIG initiated an investigation based on the allegation provided.

ALLEGATIONS

It is alleged Michael Harper made false statements and provided falsified documents regarding his income in 2016 from Mount Teman Beverages, Inc. (Mount Teman Beverages), on his HHF Program application in order to be found eligible to receive payments from HHF Program funds. If supported, these allegations would constitute a violation of federal and/or state laws, including:

- Title 18, United States Code, §1001, False Statements;
- Section 817.03, Florida Statutes (F.S.), Making false statement to obtain property or credit;
- Section 817.545, F.S., Mortgage Fraud; and/or
- Section 837.06, F.S., False Official Statements.

EXECUTIVE SUMMARY

From March 27, 2018 to May 31, 2018, OIG staff conducted interviews and reviewed significant documentation related to the allegations.

As a result of the investigation, OIG staff determined that the allegation of Mr. Harper making false statements and providing falsified documents regarding his income in 2016 from Mount Teman Beverages, on his HHF Program application in order to be found eligible to receive payments from HHF Program funds was **Supported**.

COMPLAINANT INTERVIEW

On March 29, 2018, OIG staff conducted a recorded telephone interview of Ms. Jarrie, who was the supervisor during Mr. Harper's HHF Program application process. The original HHF Advisor, Katrya Watkins, has been on medical leave since December 2017. During the interview, Ms. Jarrie stated the following (paraphrased):

- Mr. Harper originally applied in June 2016 and reported his hardship as his original salary was reduced from \$1,800 to \$900 due to a decrease in his work hours with Mount Teman Beverages.
- Regarding this employment, Mr. Harper said:
 - He was not self-employed, but was a manager/salaried employee, with Mount Teman Beverages, his primary employer;
 - His hours were reduced due to a decrease in sales;
 - He did not receive unemployment compensation because he was still working; and
 - He was trying to find another part-time job.
- When reviewing the documents Mr. Harper submitted with his HHF Program application, Ms. Jarrie said they had to verify there was a loss of income, what type of income, and they asked him to clarify.
- Ms. Jarrie explained:
 - In several conversations with Mr. Harper, he seemed to be "triggering his questions to see how he should submit his documentation."
 - So, they had to "always clarify" what documentation should be submitted:
 - There was constant correspondence between Mr. Harper and Ms. Watkins or Ms. Jarrie regarding what type of documents he needed to submit.
 - A lot of time was wasted regarding this type of communication.
 - When Mr. Harper submitted his tax returns, his 2015 tax return included a Schedule K:
 - She said a Schedule K corporation filing says, "Ok, there's a corporation."
 - She looked on Sunbiz [the Department of State, Division of Corporation website] and verified that there were several companies, with the same name Mount Teman, with Mr. Harper as the owner of the company.
 - Therefore, they needed to verify whether he was self-employed and when asked, Mr. Harper said, 'No, I work for the company.'
 - He was then asked to provide paystubs, which he provided.
 - After they reviewed the paystubs Ms. Watkins said, 'This doesn't make sense because he did not provide his W2.'
 - Mr. Harper says he does not have a W2. He receives a 1099.
 - Ms. Jarrie said she called Mr. Harper, with details listed below:

I said, "Mr. Harper, those paystubs that you submitted, Who did those paystubs?" He says, 'Oh, that's the woman in the office of Mount Teman. She did the paystubs.' "The paystubs state that you have a gross salary, that you have taxes, social security, and Medicare taken out and that your net income, you know, is definitely different

than what you had stated. We are looking at \$16,000 year to date in 2016. So, I'm confused. I said, "Do you understand, Mr. Harper that submitting falsified documentation could incur a reported investigation of fraud for a government program like this?" So, of course I advised him that that activity seemed to me to be fraudulent. And he said, 'Well, you asked me for paystubs and I gave you paystubs. What do you want now?' "Mr. Harper, it seems to me that you are self-employed." He said, 'No, I work for Mount Teman, I do not have any ownership in the company.'

- When she asked Mr. Harper about the several companies listed on Sunbiz that clearly state he is an officer, president or owner of this company, he said he is not an owner and only works there.
- So, they asked for him to provide a letter from his employer, and he provided the letter below:



- He also provided them with Profit and Loss statements, tax returns, and bank statements.
- According to Ms. Jarrie:

He was working through the system to see how he could show that he had a decrease in income. Now, me, if it were me, it would have been so much easier if he would have submitted a Profit and Loss. Showed a decrease. We would have been happy, on our way, and gone forward, but because of this activity, it raised concerns about possibly fraudulently reporting income. So, we continued to review his process pretty much all the way until 2017 when Katria [Ms. Watkins] said he is not eligible. We were able to get some tax returns from 2015 and 2016. We kept getting missing pages, the first page or the schedule; and we finally gathered enough documentation. When Katria [Ms. Watkins] put the comp sheet together, she did not use the \$900 amount. We received our first Profit and Loss on January 25, 2017, finally after going back and forth with Mr. Harper. . . It showed a net income for January to December which totally conflicts with the paystubs. The paystubs have a year-to-date of \$16,000. His Profit and Loss has a year-to-date of \$10,000, with a total income of \$19,000. So, you have a paystub saying something that we already knew the paystubs were falsified, but you have a Profit and Loss saying that his income in 2016 was \$10,000. What Katria [Watkins] did was she used \$10,000 . . . and on September 20, 2017, we got another Profit and Loss that said he was getting a net of \$4,000. . . he was determined ineligible, but that again was because she [Ms. Watkins] used his two years of tax return figures, not his Profit and Loss. . .

- In October 2017, they determined he was not eligible to receive HHF Program funds and he filed an appeal.
- The last contact they had with Mr. Harper was on December 20, 2017, when she conducted an additional file review and determined he was still ineligible.

Note: Mr. Harper filed a second appeal of this decision, with Mr. Chaney. As reported above, Mr. Chaney contacted OIG staff for assistance due to their concerns over the authenticity of the paystubs provided by Mr. Harper. Mr. Chaney was not interviewed by OIG staff because he was part of the appeals process and did not have direct knowledge of Mr. Harper's HHF Program application process.

DOCUMENTATION/RECORDS ANALYSIS

Mr. Harper's HHF Program Application (Exhibit 1)

A review of Mr. Harper's HHF Program application (Exhibit 1), shows he signed the application on December 15, 2016, with details below by related documents, which are listed in bold:

- On the first page of his **HHF Intake Form**, he reported:
 - his primary reason for his hardship and/or loan default as, "Other Involuntary Loss or Reduction in Income"; and
 - his primary employer was:

Primary Employer: Mount Teman Beverages Inc	Position: Manager	Self Employed: No
Net Income: \$ 900.00	Years in Profession: 29	Hire Date: 06/16/2016

- His **Hardship Letter** is listed below:

HARDSHIP LETTER LOAN NUMBER: 9804212091

We have undergone a hardship event that began on 7/1/2016

Explanation of how the Hardship Occurred:

I was making about \$1800 a month since Nov 2015. I work for a small company and we all have to decrease hours until company sales increase. I now make \$900 per month and am working less hours. I have been trying to find a part time job.

Are you unemployed?: YES / NO

Do you or have you received unemployment benefits?: YES / NO

If "NO", please explain:

I am employed but with less hours

Has your pay or hours decreased, or was there a significant loss of business income?: YES / NO

If "YES", please provide an explanation including duration of loss income:

Decrease in hours because of decreased sales.

- On his **Homeowner/Advisement Contract**, some of the terms of service that he agreed to included:
 - I/we will always provide honest and complete information to my/our HHF Advisor, whether verbally or in writing;
 - I/we will contact the HHF Advisor about any changes in my/our situation immediately;
 - I/we understand that breaking this agreement may result in another homeowner being served ahead of me/us; and
 - I/we further authorize Florida Housing & HHF Advisor Agency and/or lender and/or servicer handling my loan to verify employment, income assets in conjunction with qualification for assistance.
- Mr. Harper's **Hardship Affidavit**
 - A portion of Mr. Harper's **Hardship Affidavit** is listed below to show the items he selected to help explained the events of his hardship:

In order to qualify for Florida Hardest Hit Fund assistance, I/we are submitting this form indicating by my/our checkmarks ("✓") the one or more events that explain my/our hardship.

Homeowner		Co-Borrower		
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	My income has been reduced or lost. For example: unemployment, underemployment, reduced job hours, reduced pay, or a decline in self-employed business earnings. I have provided details below under "Explanation."
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	My household financial circumstances have changed, for example: death in family, serious or chronic illness, or permanent or short-term disability. I have provided details below under "Explanation."
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	My expenses have increased. For example: monthly mortgage payment has increased or will increase, or high medical and health-care costs. I have provided details below under "Explanation."
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	My cash reserves are insufficient to maintain the payment on my mortgage loan and cover basic living expenses at the same time. Cash reserves include assets such as cash, savings, money market funds, marketable stocks or bonds (excluding retirement accounts). Cash reserves do not include assets that serve as an emergency fund (generally equal to three months of principal interest or taxes or my principal on my principal residence). I have provided details below under "Explanation."

- In addition, he made certifications to ten items on the **Hardship Affidavit**, with items related to the allegation listed below:
 1. Under penalty of perjury, I/we certify that all of the information in this affidavit is truthful and the event(s) identified above has/have contributed to my/our financial hardship.
 2. I/we understand and acknowledge that FHFC & HHF Advisor and/or its agents may investigate the accuracy of my/our statements, may require me/us to provide supporting documentation, and that knowingly submitting false information may violate Federal and/or state law.
 4. I/we understand that if I/we have intentionally defaulted on my/our existing mortgage, engaged in fraud or misrepresented any facts(s) in connection with this Hardship Affidavit, or if I/we do not provide all of the required documentation, I may not qualify for HHF assistance.
 10. In making this certification, I/we certify under penalty of perjury that all of the information in this document is truthful and that I/we understand that the Servicer, the U.S. Department of Treasury, or their agents may investigate the accuracy of my statements by performing routine background checks, including automated searches of federal, state and county databases, to confirm that I/we have not been convicted of such crimes. I/we also understand that knowingly submitting false information may violate federal law.

Mount Teman Beverages Pay Stubs

As part of his HHF Program application, Mr. Harper provided the following four paystubs for 2016, which show his year to date income was \$16,649.90 as of November 30, 2016:

MOUNT TEMAN BEVERAGES INC.
4648 NW 133rd Street
Miami, FL 33054

Pay Date 10/15/2016

Michael A. Harper
455 NW 214th St. #107
Miami, FL 33169

Social Security No.	Pay Period Start	Pay Period End
[REDACTED]	10/1/2016	10/15/2016

Current	Gross Pay	Final Gross	Taxes	Other	Net Pay	
\$	484.43	\$	484.43	\$ 37.05	\$0.00	\$ 447.38
YTD	\$ 15,196.11	\$	15,196.11	\$ 1,142.59	\$0.00	\$ 14,053.52

Type of Pay	Rate	Hours	Bi-Weekly Gross	Type of Deductions	Bi-Weekly	YTD
Regular	\$ 12.29	40	\$ 484.43	Soc Sec	\$ 30.03	\$ 912.11
				Medicare	\$ 7.02	\$ 220.38
Total Gross			\$ 484.43	Total Deductions	\$ 37.05	\$ 1,142.59

MOUNT TEMAN BEVERAGES INC.
4648 NW 133rd Street
Miami, FL 33054

Pay Date 10/31/2016

Michael A. Harper
455 NW 214th St. #107
Miami, FL 33169

Social Security No.	Pay Period Start	Pay Period End
[REDACTED]	10/16/2016	10/31/2016

Current	Gross Pay	Final Gross	Taxes	Other	Net Pay	
\$	484.43	\$	484.43	\$ 37.05	\$0.00	\$ 447.38
YTD	\$ 15,680.54	\$	15,680.54	\$ 1,179.64	\$0.00	\$ 14,500.90

Type of Pay	Rate	Hours	Bi-Weekly Gross	Type of Deductions	Bi-Weekly	YTD
Regular	\$ 12.29	40	\$ 484.43	Soc Sec	\$ 30.03	\$ 972.24
				Medicare	\$ 7.02	\$ 227.40
Total Gross			\$ 484.43	Total Deductions	\$ 37.05	\$ 1,199.64

MOUNT TEMAN BEVERAGES INC.
4648 NW 133rd Street
Miami, FL 33054

Pay Date 11/15/2016

Michael A. Harper
455 NW 214th St. #107
Miami, FL 33169

Social Security No.	Pay Period Start	Pay Period End
[REDACTED]	11/1/2016	11/15/2016

Current	Gross Pay	Final Gross	Taxes	Other	Net Pay	
\$	484.43	\$	484.43	\$ 37.05	\$0.00	\$ 447.38
YTD	\$ 16,164.97	\$	16,164.97	\$ 1,210.69	\$0.00	\$ 14,954.28

Type of Pay	Rate	Hours	Bi-Weekly Gross	Type of Deductions	Bi-Weekly	YTD
Regular	\$ 12.29	40	\$ 484.43	Soc Sec	\$ 30.03	\$ 1,042.27
				Medicare	\$ 7.02	\$ 234.42
Total Gross			\$ 484.43	Total Deductions	\$ 37.05	\$ 1,276.69

MOUNT TEMAN BEVERAGES INC.
4648 NW 133rd Street
Miami, FL 33054

Pay Date 11/30/2016

Michael A. Harper
455 NW 214th St. #107
Miami, FL 33169

Social Security No.	Pay Period Start	Pay Period End
[REDACTED]	11/16/2016	11/30/2016

Current	Gross Pay	Final Gross	Taxes	Other	Net Pay	
\$	484.43	\$	484.43	\$ 37.05	\$0.00	\$ 447.38
YTD	\$ 16,649.40	\$	16,649.40	\$ 1,247.74	\$0.00	\$ 15,401.66

Type of Pay	Rate	Hours	Bi-Weekly Gross	Type of Deductions	Bi-Weekly	YTD
Regular	\$ 12.29	40	\$ 484.43	Soc Sec	\$ 30.03	\$ 1,072.30
				Medicare	\$ 7.02	\$ 241.44
Total Gross			\$ 484.43	Total Deductions	\$ 37.05	\$ 1,313.74

Florida Department of State Business Registration:

In order to verify whether Mr. Harper's association with Mount Teman Beverages or any other active business, searches were conducted of the Florida Department of Revenue, Division of Corporations (Sunbiz <http://dos.myflorida.com/sunbiz/>), with details listed below:

	Business Name	Title	FEIN	FL Corp No.	Status	Date Filed
1	ETHIOPIA AFRICA BLACK INTERNATIONAL CONGRESS MIAMI, INC	Registered Agent / VP	26-4490764	N09000002186	Active	3/4/2009
2	MOUNT TEMAN BEVERAGES, INC. (Mt. Teman Beverages, Inc.)	In 2017 - Registered Agent /Treasurer; Prior - PRINCIPAL / Manager	20-2413114	P05000029556	Active	2/25/2005
3	MOUNT TEMAN ENTERPRISES CORP.	Registered Agent / D	N/A	P92000001186	Inactive	8/23/1996
4	MOUNT TEMAN INTERNATIONAL, INC.	PS	65-0075355	M96645	Inactive	8/13/1993
5	MOUNT TEMAN MANUFACTURER INC.	Registered Agent / BM	65-0936820	P99000065450	Inactive	9/19/2003
6	RESOURCE MARKETING AND DISTRIBUTORS, INC.	Registered Agent	None	L80197	Inactive	10/11/1991

Information Regarding Mount Teman Beverages

In comparison, with Mr. Harper's information, searches of the Internet provided the following details about Mount Teman Brewery:

Mt Teman Beverages Inc

Directions Website

Address: 618 N 24th Ave, Hollywood, FL 33020

Phone: (786) 419-2346

Suggest an edit

mounttemanbrewery Follow

163 posts 914 followers 1,451 following

Mount Teman Roots & Beverages™ THE ORIGINAL ROOTS DRINK EST.1987

Give us a call:(954) 822 1222 email: mounttemanroots@gmail.com hashtag #rootsalchemist

www.mounttemanroots.com

General Information: info@mounttemanroots.com

Sales: sales@mounttemanroots.com

Office: 305-769-0808

Sales (Toll Free): 1-877-360-7785

HHF Intake Form

Date: 12/15/2016

Name: First Michael v. A Last Harper

Address: 455 NW 214th Street #107 City Miami State FL

Phone # (786) 419-2646 Phone #2 Social Security Number

Note: The phone number Mr. Harper listed as his contact phone number is the same phone number listed as associated with Mount Teman Beverages – as circled above. In addition, on June 2018, OIG staff attempted to contact Mount Teman Beverages, in order to determine the authenticity of the letter. To date, a response has not been received by OIG staff.

Request for Assistance to the Florida Department of Revenue

In order to verify whether Mount Teman Beverages reported any income for Mr. Harper in 2016, the Florida Department of Revenue (DOR) was contacted. In a letter dated April 5, 2018, a revenue specialist stated, "With the information provide, we are unable to locate wage information for the above referenced individual. . ."

SUBJECT INTERVIEWS AND EMAILS

On May 3, 2018, OIG staff and Nicole Gibson, Assistant Director Homeownership Programs conducted a recorded telephone interview with Mr. Harper, who stated the following (paraphrased):

- When asked to explain the filing of his tax return in 2016, Mr. Harper said he did not have that information in front of him.
- Regarding Mr. Harper's 2016 paystubs from Mount Teman Beverages Ms. Gibson asked him:

How did the income the paystubs get reported on your taxes returns? . . For 2016, I don't see any income at all. It is just showing business income or loss; and I cannot follow, because the last paystub that you supplied for 2016 showed that there was \$16,000 year-to-date received with Medicare and Social Security taken out and I cannot follow that path on to your tax returns. So, I don't believe that it is part of the business Profit and Loss from the business. You had other income including federal, state or gas fuel tax refund reported, but not any other income that seems to match-up with the \$16,000."

- Mr. Harper said:

Ok, you know like I said, this work is a contract work, and uhm, with this work, and it's uhm, the problem that we were having at this job, it uhm. It's a natural beverage that is produced. I am the master brewer there. It's a very small company, and umh, because of the fermentation process, the problem that the company was having, they had to get a license. A license to produce alcoholic beverages, which is a natural fermentation. There's no alcohol that's added or anything, because sugar and molasses are put in the beverage, which is herbs and roots combined together – it created alcohol. So, the company had to get an alcohol license to manufacture. That put a damper on the business and my employment periodically with the company.

- Ms. Gibson said, "Ok, and I read that in your file and it is unfortunate that occurred, but again, I can't follow. We are going to need an explanation on how the pay, the paystubs, the employee paystubs [sic]. So, were you a 1099 employee there?"
- Mr. Harper said, "Yes, 1099. Yes, contractor, yes."
- Ms. Gibson said she:
 - needed to see how that income was reported on his 2016 tax returns, where it was provided and said that she may not have all of the "whole set of tax returns"; and
 - she could not find how the \$16,000 was included in the \$11,000 of the business income that he reported.

- Mr. Harper said, “Ok, so what would you like for me to provide for the file? What do I need to do?”
- Ms. Gibson explained that Mr. Harper’s tax records showed he had a 1099 for 2015, which “walked through” to his tax return in 2015, with the amount listed on the 1099 equaling the amount listed on his 2015 tax return; however, she stated:

I need the 1099 [for 2016] and I don’t know if there’s something from your accountant because it looks like you were using a tax service. To just show us how this income was reported in your return. Where was it, because I don’t have [sic] again I don’t see that. I don’t see the walk through for only 2016. I don’t have the 1099 Miscellaneous income. . .

- Mr. Harper said he would contact his tax preparer, who was his expert.
- Ms. Gibson said:
 - Since he had provided these tax records to the CDC as part of his HHF Program application, so he could explain to his tax preparer what is needed to have them explain or show where the \$16,000 is listed.
 - Or, if she was missing pages from the return, then provide the whole return to show flow of the 1099 on to the tax return.
- Mr. Harper stated, “Ok. So, you just want to see how the \$16,000 was applied to the tax return in 2016?”
- Ms. Gibson explained, “Because I only see \$11,000. I don’t see \$16,000.”
- Mr. Harper again said, “Ok. Then I will get in touch with them and ask. . . Basically what I need to do is get some information to provide an explanation about the \$16,000 in 2016.”
- He said he would work on it and provide it as soon as possible.
- He was also directed to provide the update via email to Mr. Chaney and Ms. Jarrie.

On May 10, 2018, Mr. Harper called OIG staff and provided the following explanation about the paystubs from Mount Teman Beverages:

. . . So, I called the company and asked them whether they could provide me with any check stubs, and that’s what they provided me with. But, I don’t get check stubs, I just get checks. And I told her, but she said that I, you know, I work for the company and get check stubs. And I told her [sic], stated that I am self-employed as a contract worker, which you know. So, the information they asked me for and I tried to comply by asking the company president if they could, you know, provide me with any kind of a check stub, so I could you know. That’s the reason [sic], but I did supply them with the checks after that. So, that should be like void, but it really was not necessary that they had asked me for that because I am a contract worker and do not need, you know, check stubs. I do not get check stubs.

During the conversation, Mr. Harper was asked whether he had a 1099 from Mount Teman Beverages for 2016 due to his explanation that he is a contract employee. He said yes, he would contact his tax preparer and provide a copy.

In an email dated May 31, 2018, Mr. Harper provided his 2016 1099 from Mount Teman Beverages, Inc. – see next page:



The email and 1099 from Mr. Harper were forwarded to Mr. Chaney, Ms. Jarrie, and Ms. Gibson for further review. Ms. Gibson's response to this information is listed below in the next section.

HHF PROGRAM MANAGEMENT REVIEW

As reported above, Ms. Gibson participated in the recorded interview of Mr. Harper on May 3, 2018. Prior to the interview, Ms. Gibson was provided with a copy of Mr. Harper's HHF Application, along with the other related documents such as the paystubs, and the tax returns he provided to his HHF Advisor. Based on the review of this information and on the 2016 1099 provided by Mr. Harper on May 31, 2018, Ms. Gibson provided the following response and screen shot of a portion of one of Mr. Harper's tax returns in an email dated June 1, 2018:

So, he has provided a 1099 for \$14,505 which totals the amount reported on 2016 taxes Schedule C under gross income except that the 2016 paystubs had a YTD of \$16,649.90 and showed taxes taken out in the amount of \$1,273.74. This still doesn't add up.

Part I		Income	Yes	No
1	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked	1	3,300	
2	Returns and allowances	2	0	
3	Subtract line 2 from line 1	3	3,300	
4	Cost of goods sold (from line 42)	4		
5	Gross profit. Subtract line 4 from line 3	5	3,300	
6	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	11,205	
7	Gross income. Add lines 5 and 6	7	14,505	

INFORMATION FROM THE INTERNAL REVENUE SERVICE (IRS)

According to searches of the IRS website (<https://www.irs.gov>), some of the differences between an independent contractor or an employee are as follows:

Independent Contractor *or* Employee

Which are you?

For federal tax purposes, this is an important distinction. Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for social security and Medicare benefits, employer provided benefits and your tax responsibilities. If you aren't sure of your work status, you should find out now. This brochure can help you.

When You Are an Independent Contractor...

- The business may be required to give you Form 1099-MISC, Miscellaneous Income, to report what it has paid to you.
- You are responsible for paying your own income tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities.
- You may deduct business expenses on Schedule C of your income tax return.

When You Are an Employee...

- Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay.
- You may deduct unreimbursed employee business expenses on Schedule A of your income tax return, but only if you itemize deductions and they total more than two percent of your adjusted gross income.

Regarding Form 1099-MISC, the IRS website¹ provided the following explanation:

If payment for services you provided is listed in box 7 of [Form 1099-MISC, Miscellaneous Income](#), the payer is treating you as a self-employed worker, also referred to as an independent contractor.

- You don't necessarily have to have a business for payments for your services to be reported on Form 1099-MISC. You may simply perform services as a non-employee.
- The payer has determined that an employer-employee relationship doesn't exist in your case.

If you weren't an employee of the payer, where you report the income depends on whether your activity is a trade or business. You're in a self-employed trade or business if your primary purpose is to make a profit and your activity is regular and continuous.

- If you're in a self-employed trade or business, you must include payments for your services on [Schedule C \(Form 1040\), Profit or Loss From Business \(Sole Proprietorship\)](#), or [Schedule C-EZ \(Form 1040\), Net Profit From Business \(Sole Proprietorship\)](#).
- If you're self-employed, you'll also need to complete [Schedule SE \(Form 1040\), Self-Employment Tax](#), and pay self-employment tax on your net earnings from self-employment of \$400 or more.
- There's no withholding of tax from self-employment income. As a self-employed individual, you may need to make estimated tax payments during the year to cover your tax liabilities.
- If you're not an employee of the payer, and you're not in a self-employed trade or business, you should report the income on line 21 of [Form 1040, U.S. Individual Income Tax Return](#), and any expenses on [Schedule A \(Form 1040\), Itemized Deductions](#).

Note: The table below lists details from some of the tax related documents Mr. Harper provided during his HHF Program application process:

Document	Details	Compensation
2015 Form 1099-MISC Miscellaneous Income	(He provided this during his HHF Program application process.)	Listed "nonemployee compensation \$12,600."
Paystubs from Mount Teman Beverages from 10/1/16-11/30/16	Showed his rate of pay, hours worked, deductions for taxes, Medicare and social security	Gross Pay YTD [year-to-date] \$16,649.90.
2016 Form 1099-MISC Miscellaneous Income	(He provided on May 31, 2018.)	Listed "nonemployee compensation \$14,505."

¹ IRS website: (<https://www.irs.gov/faqs/interest-dividends-other-types-of-income/1099-misc-independent-contractors-and-self-employed/1099-misc-independent-contractors-and-self-employed-1>)

Based on the information listed above, it appears that Mr. Harper was an independent contractor in 2015 based on the 1099 he provided. However, it is inconsistent that he provided paystubs and later a 1099 for 2016. In addition, gross pay YTD listed on the final paystub and 1099 compensation amounts do not match for 2016.

FINDINGS/CONCLUSIONS

It is alleged Michael Harper made false statements and provided falsified documents regarding his in support of his HHF Program application in order to be found eligible to receive payments from HHF Program funds.

This allegation was **Supported** by:

- The statements and documents provided by Mr. Harper.
- Mr. Chaney, Ms. Jarrie, and Ms. Gibson's review and confirmation that the documents Mr. Harper provided appear to have been created in order for him to be found eligible to receive HHF Program funds.
- Information from the IRS regarding the difference between independent contractors or employees.

In accordance with §20.055(7)(c), F.S, on June 27, 2018, this investigation was coordinated with the Office of the Special Inspector General for the Trouble Asset Relief Program (SIGTARP) for possible violations of federal and/or state laws, including:

- Title 18, United States Code, §1001, False Statements;
- Section 817.03, Florida Statutes (F.S.), Making false statement to obtain property or credit;
- Section 817.545, F.S., Mortgage Fraud; and/or
- Section 837.06, F.S., False Official Statements.

On September 28, 2018, SIGTARP advised that they would not initiate a criminal investigation due to "lack of evidence."

Note: On October 1, 2018, Mr. Chaney and Ms. Gibson were notified of the response from SIGTARP. Since then, the processing of Mr. Harper's appeal was resumed, which included new requests for Mr. Harper to provide documentation showing he had a new hardship in 2017. In an email dated February 21, 2019, Ms. Gibson provided the following update:

As of February 4th, we asked the advisor for this information:

Lynn Brady - Monday 4 February 2019 9:25:43

Sorry for the delay. There is missing documentation that needs to be submitted before a decision can be made.

1. The initial file Tax return was dated 5/30/2018 but according to IRS it was not filed then. 2017 is the pre-hardship year. We need the Tax Return Transcript in order to finalize the file or the finalized letter from IRS where they show what income they are using. based on the date of the initial letter from IRS, this should have been received. The Wage and Income statement was requested for 2017 but not addressed.

2. We need a letter from the bank that he has never been an owner on the account listed on the tax return.

3. You need to submit separate P&Ls for lawn service and brewing. The lawn service needs to be specific as to when it started and if this is ongoing. He says the brewing hardship started 4/2018. I asked for clarification of this.


To date, Mr. Harper has not responded to provide this documentation.

INSPECTOR GENERAL COMMENTS

The Office of Inspector General is closing this file. However, if additional information is received from program staff indicating Mr. Harper has made false statements and/or provided falsified documents regarding his income in 2017 on his HHF Program application in order to be found eligible to receive payments from HHF Program funds, then this will be reviewed for action deemed appropriate.

CERTIFICATIONS

The investigation was completed in accordance with accreditation standards established by The Commission for Florida Law Enforcement Accreditation and has been conducted in compliance with the "Quality Standards for Investigations" found within the *Principles and Standards for the Office of Inspector General*.



Name, Title, Office of Inspector General

APPROVALS



Melanie Yopp
Investigator

3/4/19

Date



Chris Hirst
Inspector General

3/4/19

Date