



The City of New York
Department of Investigation
ROSE GILL HEARN
COMMISSIONER



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DOI INVESTIGATIONS EXPOSE AND STOP UNLAWFUL TAMPERING WITH RESTAURANT INSPECTIONS

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation (“DOI”), announced the arrests of three individuals in two separate cases on charges of manipulating the City Health Department’s restaurant health inspection process through, respectively, forgery and an unsuccessful attempt to bribe a City Health Inspector. Late yesterday, DOI arrested a letter grade expeditor who was charged with distributing fake letter grade cards to nine restaurants in Brooklyn, Manhattan, Queens, and Staten Island. The City Department of Health and Mental Hygiene (“DOHMH”) issues letter grade cards, which reflect a restaurant’s sanitary performance. DOI’s report on this investigation is attached. In a separate case, on Tuesday, DOI arrested two restaurant employees on bribery charges as part of an undercover investigation prompted by a report from a DOHMH inspector. The office of New York County District Attorney Cyrus R. Vance, Jr., is prosecuting each of these cases.

DOI Commissioner Rose Gill Hearn said, “These defendants did not understand the ABC’s of honesty. Using fraud and bribery to circumvent the City’s restaurant health code is not only criminal, it places the public at risk. DOI’s proactive anti-corruption efforts in this area and our partnership with the Health Department have led to measurable results, exposing and stopping the wrongdoing.”

This spring, DOI conducted a proactive sweep of more than 150 restaurants throughout the five boroughs and initially uncovered two fake letter grade cards issued by ANASTASIOS KOUNTIS, the owner of Rapid Consulting, Inc. and an expeditor who represented restaurants appealing DOHMH-issued violations before the Office of Administrative Trials and Hearings (“OATH”). DOI’s continuing investigation found that KOUNTIS, 32, of Staten Island, N.Y., had distributed fraudulent restaurant letter grade cards to seven additional restaurants. DOI confiscated the fake letter grades and DOHMH has re-inspected the nine restaurants and issued authentic letter grade cards. The attached report describes DOI’s investigation into this matter.

Late Wednesday, September 25, 2013, KOUNTIS was charged with Forgery in the Second Degree, Tampering with Public Records in the First Degree, and Criminal Possession of a Forged Instrument in the Second Degree, class D felonies; Falsifying Business Records in the First Degree, Grand Larceny in the Fourth Degree and Scheme to Defraud in the First Degree, class E felonies; and Falsifying Business Records in the Second Degree, a class A misdemeanor. Upon conviction, a class D felony is punishable by up to seven years in prison and a class E felony is punishable by up to four years in prison, and a class A misdemeanor by up to a year’s incarceration.

In a separate investigation, DOI arrested two Manhattan restaurant employees late Tuesday on charges of bribing an undercover DOI investigator posing as a DOHMH inspector. DILBAG SINGH, 27, of Queens, N.Y. and AHILIA NARAYAN, 47, of Columbus, N.J., employees at Masala Junction Restaurant on West 48th Street in Manhattan, were each charged with Bribery in the Third Degree, a class D felony, and Rewarding Official Misconduct in the Second Degree, a class E felony. Upon conviction, a class D felony is punishable by up to seven years in prison and a class E felony by up to four years in prison.

According to the criminal complaint and DOI’s investigation, on August 22, 2013, a DOHMH inspector conducted a health inspection at Masala Junction Restaurant and told NARAYAN the restaurant was going to fail its inspection. NARAYAN asked if there was anything the inspector could do about the failure, and unsuccessfully

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attempted to hand cash to the inspector who declined the money and reported it to DOI. On September 13, 2013, a DOI undercover investigator posing as a DOHMH "inspector" went to the restaurant and told the defendants there were numerous violations. NARAYAN instructed SINGH to get \$100, which SINGH did and handed to the undercover investigator. When the undercover asked what the money was for, NARAYAN stated no violations should be placed in the system.

DOI has long worked with DOHMH to safeguard the restaurant inspection process from corruption vulnerabilities and continued that effort with the establishment of the restaurant letter grade system in July 2010. Since that time, DOI has presented more than 50 lectures that educate DOHMH employees, including inspectors, about their obligation under Executive Order 16 to report corruption to DOI. As a result of this lecture program, DOI has received numerous tips from DOHMH inspectors about instances of bribery involving restaurant inspections resulting in a total of 17 arrests since July 2010, including the arrests of SINGH and NAR. So far, 12 of these arrests have resulted in convictions and five of the cases are pending in court.

Commissioner Gill Hearn thanked New York County District Attorney Cyrus R. Vance, Jr., DOHMH Commissioner Dr. Thomas A. Farley, Chief Administrative Law Judge and OATH Commissioner Suzanne Beddoe, and their staffs, for their cooperation and assistance in these investigations.

These investigations were conducted by DOI's Office of the Inspector General for DOHMH, with the assistance of DOHMH and OATH.

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

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

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September 26, 2013

Dr. Thomas A. Farley, M.D., M.P.H.
Commissioner
Department of Health and Mental Hygiene
42-09 28th Street
Long Island City, NY 11101

Dear Commissioner Farley:

In May 2012, following our agency's completion of two separate investigations involving restaurant letter grade cards, the Department of Investigation ("DOI") met with representatives of the New York City Department of Health and Mental Hygiene ("DOHMH") to discuss the various policy and procedure recommendations that we made to your agency as a result of those investigations. During the meeting, at which we discussed our recommendations as well as other solutions to address potential corruption risks, DOI and DOHMH agreed that DOHMH should more regularly conduct sweeps on random samplings of restaurants to ensure they are posting the correct letter grade cards.

To supplement those efforts, in April 2013, DOI opened a proactive investigation in order to determine whether any restaurants are displaying non-legitimate letter grade cards. Specifically, over a one week period in early April 2013, 13 DOI investigators conducted random physical examinations on more than 150 restaurants in different neighborhoods across all five boroughs. As a result of these sweeps, DOI identified two restaurants that posted fraudulent letter grade cards: a restaurant in Staten Island named Panini Grill that posted an "A" grade when, in fact, DOHMH records indicated that it actually should have posted a "C" grade; and a restaurant in Queens named Telly's Taverna that posted an "A" grade when, in fact, DOHMH records indicated that it actually should have posted a "B" grade. DOI's subsequent investigation determined that both Panini Grill and Telly's Taverna had hired an individual named Anastasios ("Tommy") Kountis, the owner of Rapid Consulting, Inc., to represent them

before the Health Tribunal at the Office of Administrative Trials and Hearings (“OATH”) for violations that were issued during DOHMH restaurant inspection resulting in the lower grades.¹

DOI’s investigation determined that Kountis represented to the owners of Panini Grill and Telly’s Taverna that he had reduced their violations and provided the owners with what was later determined to be falsely created color photocopies of an actual “A” grade card. The owners of Panini Grill and Telly’s Taverna both provided DOI with text messages that they received from Kountis in which he stated that the restaurants had received “A” grade cards from OATH, and that he would deliver the “A” grade cards to the restaurants.² According to the owner of Panini Grill, Kountis subsequently went to the restaurant in person and posted the grade card in the restaurant’s window himself. Similarly, the owner of Telly’s Taverna stated that Kountis went to the restaurant in person and gave the owner the grade card. Each of the two restaurant owners stated that they paid Kountis \$150 for handling their matter before OATH. DOI’s investigation determined that, in fact, OATH did not issue an “A” grade to either restaurant and Kountis never appeared and therefore failed to submit the proper paperwork about remedial actions taken. Thus, Kountis’ representations to Panini Grill and Telly’s Taverna, respectively, about having secured an “A” grade for them were false.

Further investigation by DOI, along with assistance by staff at OATH and DOHMH, identified seven additional restaurants that posted fraudulent letter grades. DOI’s investigation determined that all seven restaurants had also hired Kountis.³ Specifically, DOI interviewed an owner or representative of each of the seven additional restaurants, all of whom told DOI that Kountis had charged them each at least \$150 to appear on their behalf before OATH.⁴ In all instances, the owners believed that they were entitled to receive an “A” grade card because they had either corrected the violations or they believed that the restaurant was not in violation and DOHMH made a mistake. However, the investigation determined that Kountis either failed to appear at OATH and/or appeared at OATH but did not provide to OATH the paperwork establishing the remedial actions taken by the restaurant which meant that the restaurant could

¹ The owners of Panini Grill and Telly’s Taverna told DOI that all of the issues that resulted in the violations had been addressed, and Kountis was hired to provide to OATH the paperwork establishing the remedial actions taken by the restaurants. Thus, they expected that Kountis could secure a higher grade for them following OATH hearings.

² DOI subpoenaed records for the phone number from which the text messages originated, which show that the phone number belongs to Rapid Consulting.

³ Three of the restaurants are located in Queens, two are located in Brooklyn, and two are located in Manhattan.

⁴ The owner of Panini Grill met Kountis in 2011 when he made an unsolicited appearance at the restaurant and introduced himself as a restaurant consultant. The other eight restaurant owners met Kountis either through: (i) direct mailings to their establishments from Rapid Consulting; (ii) in person visits to their restaurants by Kountis; or (iii) recommendations by other restaurant owners.

not receive an "A" grade card; in all cases Kountis lied to the restaurants about the results of his "OATH appearance" on their behalf.⁵

In furtherance of his illegal conduct, Kountis provided all nine restaurants with a letter "A" grade card that were, according to checks conducted by DOI of DOHMH and OATH records, either fraudulently created or altered. Specifically, seven of the restaurant owners/representatives, including Panini Grill and Telly's Taverna, confirmed that Kountis personally gave them the grade cards at issue, which DOI established were all color photocopies of an actual "A" grade card. DOI confiscated these fraudulent photocopies, all seven of which contained the same serial number.

The remaining two restaurant owners/representatives (Bistro 237 and New Punjab Restaurant and Grill) also confirmed that Kountis personally gave them the "A" grade cards at issue, which DOI established were altered versions of actual grade cards. Specifically, Kountis provided Bistro 237 with a legitimate "A" grade card but it was from an establishment called Red Mist, also a Rapid Consulting client. Upon confiscating and reviewing this card, DOI determined that the information on it had been altered, changing it from Red Mist to Bistro 237. Similarly, Kountis provided New Punjab Restaurant and Grill with a falsely altered grade card that was previously and legitimately issued in the name of another Rapid Consulting client, Iqra Food Inc., a restaurant located in Queens that had closed down since receiving its "A" grade.

DOI interviewed the owner of Red Mist, who likewise stated that he paid Kountis \$150 to represent his establishment before the Health Tribunal at OATH in connection with violations issued during a January 2013 inspection. The owner of Red Mist stated, however, that he never received the "A" grade card from Kountis. DOI later obtained and reviewed OATH records indicating that Kountis went to OATH on January 30, 2013 where he personally picked up Red Mist's "A" grade card. Kountis appears to have used this card as a key part of his scheme by removing all references to Red Mist on the "A" grade card, then making a color photocopy of it and distributing it to several restaurants.

None of the nine restaurant owners/representatives (including Panini Grill and Telly's Taverna) appeared to know that their letter grade cards were fraudulently created or altered. In sum, Kountis defrauded all nine restaurants out of \$1,400 – specifically, \$150 each for eight of the restaurants, and \$200 for the ninth (Grand Canyon Restaurant in Brooklyn). Perhaps more importantly, Kountis's actions resulted in the public being substantially misled into believing that restaurants they might wish to patronize had received higher sanitary grades than they merited.⁶

⁵ OATH records confirm that in all cases, an "A" grade card was not issued.

⁶ Since this investigation, each of the nine restaurants is now posting the correct letter grade. Specifically, five of the restaurants have "A" letter grades, three have "B" letter grades, and one has a "Grade Pending."

Kountis also provided two of the nine restaurants in question (Bistro 237 and Atlantic Diner) with a fraudulent OATH decision indicating that Kountis had succeeded in reducing their violations when, in fact, no appearance was made on their respective behalf.⁷ DOI confiscated the fraudulent OATH decisions that Kountis provided to both of these restaurants.

DOI interviewed Kountis, who denied these allegations. Kountis claimed that Rapid Consulting stopped doing business in November 2012, and he specifically denied providing any restaurants with fraudulent documents. When DOI showed Kountis copies of text messages that the restaurant owners from Panini Grill and Telly's Taverna had received from Kountis in which he indicated that was going to deliver their "A" grade cards to them, Kountis denied sending the messages, even though they came from the phone number he had provided to the restaurant owners. He speculated that a particular former employee of Rapid Consulting may have been using Kountis's identity to commit these frauds against the restaurants. Contrary to Kountis's explanation, however, the restaurant owners/representatives specifically told DOI that Kountis, and not the former employee, had agreed to represent them and then physically gave them the fraudulent "A" grade cards. The owners/representatives all provided DOI with physical descriptions that matched that of Kountis and not the former employee. (DOI also interviewed the former employee, who credibly denied being involved in any of the above-described wrongdoing.)

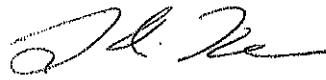
Kountis was arrested on September 25, 2013 and the New York County District Attorney's Office charged him with Forgery in the Second Degree, a class D felony; Tampering with Public Records in the First Degree, a class D felony; Criminal Possession of a Forged Instrument in the Second Degree, a class D felony; Grand Larceny in the Fourth Degree, a class E felony; Falsifying Business Records in the First Degree, a class E felony; Scheme to Defraud in the First Degree, a class E felony; and Falsifying Business Records in the Second Degree, a class A misdemeanor. Additionally, DOI has recommended to OATH that it disallow Tommy Kountis and his father, George Kountis (who co-owns Rapid Consulting with Tommy), from appearing at any OATH hearings.

We refer these findings to you for your information and whatever action you deem necessary. If you have any questions or concerns, please call me at (212) 825-5904. Furthermore, I would appreciate if you would send me any statistics that your office maintains

⁷ Kountis's failure to appear before the Health Tribunal resulted in default judgments. These default judgments were subsequently mailed out to the restaurants by OATH.

on restaurant sweeps, including how often they were conducted over the past year, how many restaurants were visited, and what the results were.

Very truly yours,

A handwritten signature in cursive script, appearing to read "L. D. Kutlin".

Lisa D. Kutlin
Inspector General

cc: Honorable Suzanne Beddoe, Chief Administrative Law Judge and OATH Commissioner
Deputy Commissioner Daniel Kass, DOHMH