



JOSEPH D. PLATANIA
COMMONWEALTH'S ATTORNEY

ARESHINI PATHER
DEPUTY COMMONWEALTH'S
ATTORNEY

NINA-ALICE ANTONY
SENIOR ASSISTANT
COMMONWEALTH'S ATTORNEY

OFFICE OF THE
COMMONWEALTH'S ATTORNEY
City of Charlottesville

P.O. Box 911 • CHARLOTTESVILLE, VIRGINIA 22902
TEL (434) 970-3176 • FAX (434) 971-8202

ANDREW L. WILDER
AMANDA L. GALLOWAY
R. COOPER VAUGHAN
ASSISTANT COMMONWEALTH'S
ATTORNEYS

PAT O'DONNELL
VICTIM WITNESS
COORDINATOR

February 22, 2021

Chip Boyles
City Manager
City of Charlottesville
Via e-mail and Hand Delivery

Mr. Boyles,

Recently, the use and potential misuse of City issued credit cards was brought to my attention. This issue has generated widespread media attention and has been the subject of numerous social media posts and discussions. I would like to take this opportunity to directly address the use of City issued credit cards so that there will be no confusion going forward as to the position of this office. I would also like to formally and in writing document the recommendations this office has made in the past, and continues to make, to City leadership.

The lack of consistency and clarity surrounding the City's credit card policy goes back to at least 2019. A city employee pled guilty to embezzlement in July of that year. The employee admitted that she had kept her City issued iPhone and Apple watch after she had left employment, that she had not paid for either, and that she had lied about having them when the City asked that they be returned. During the course of that criminal investigation, several small but questionable credit card charges were discovered. All appeared to have been approved by individuals with direct oversight of the purchases. To my knowledge, no steps had been taken prior to the criminal investigation to counsel the employee that those purchases may not have been authorized. Additionally, it does not appear that the individual was ever asked for clarification about her purchases pursuant to the structure outlined in the City Credit Card Policy.

In any criminal prosecution for embezzlement, the intent to steal and defraud must be present. There must be proof beyond a reasonable doubt of a **knowing** misuse or misappropriation of public funds. In the case described above, the investigation revealed that every purchase had been reported by the employee, approved at the appropriate level of

supervision in the Department of Finance, and there was no notice to the employee that any of her purchases may have been inappropriate. This was not a situation in which the employee had attempted to conceal or misidentify purchases. Nor was there any attempt by the individual to circumvent the credit card approval process. I determined that in that case, there was potential mismanagement within the City, but certainly no conduct indicating the requisite intent for criminal prosecution.

However, I was extremely concerned about the lack of consistency and clarity surrounding the City's credit card policy and verbally shared those concerns at a LEAD Team meeting during the Summer of 2019. Specifically, I recall stating that the enforcement and oversight of the use of City issued credit cards seemed quite lax. Because any successful criminal prosecution would require proof beyond a reasonable doubt of a knowing misuse or misappropriation of public funds, I expressed that our office would not prosecute any violations of the current credit card policy unless and until the City rewrote, clarified and then retrained employees as to the proper usage of credit cards. I, perhaps naively, thought that the issue would be addressed immediately and took no further action.

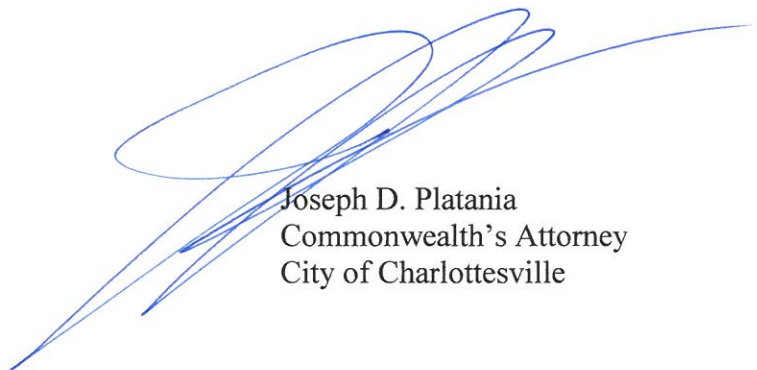
Additional instances of potential credit card misuse were brought to my attention in late 2020. I inquired if the City had followed up on my verbal request from 2019 to rewrite, clarify and then retrain employees as to the proper usage of credit cards. I was told that the City had not. I was informed that in order to address my expressed concerns, John Blair in his capacity as City Attorney had rewritten the credit card policy in 2019 but that as of the writing of this letter, that policy has yet to be formally approved. I reiterated that our office would not prosecute any violations of the current credit card policy unless and until the City rewrote, clarified and then retrained employees as to the proper usage of credit cards. City Attorney Lisa Robertson suggested to me that an internal legal memorandum to City Council addressing the standard for purchases using City credit cards might be helpful and could serve as a conversation starter. She felt it would put members on notice that even though these purchases had been approved in the past, they may not be appropriate and should not continue. The thought was that this could be used as an opportunity to refocus energy into clarifying and formalizing the City policy. Since the City Attorney is the appropriate legal advisor to Council, I felt her recommended course of action was responsible, sound and appropriate and I agreed that it would be beneficial for her to draft that memo.

Ms. Robertson drafted her memorandum during the first week of February 2021. Rather than serving its intended purpose of educating and starting an internal conversation about the need for a more robust credit card policy, the document was shared publicly. As a result, our office has received multiple inquiries into whether a criminal investigation was or is underway. These inquiries led me to conclude that I needed to engage with this issue in a more official, and documented way. I am the City's Elected Prosecutor, not its compliance manager. Unless and until this issue is formally dealt with by City Leadership, we will continue to read Editorials like the one published in the February 16, 2021 edition of the *Daily Progress* calling for the City to "solve its credit card problems."

I am aware that this is your second week on the job. I am also aware that you have many responsibilities and demands on your time. But our community is ready for and deserves to have

this issue dealt with, clearly and promptly. I am writing to reiterate, now for a third time, my position that our office will not prosecute any violations of the current credit card policy or the expenditure of City funds unless and until the City rewrites, clarifies and then retrains employees as to the proper usage of said cards and funds. If on one day card usage or an expenditure is approved and then on the next, without any notice or training, that same usage or expenditure is considered potentially criminal, individuals will rightly complain that the policy is being unfairly monitored and enforced. To be clear, this office has not in the past, and will not in the future, hesitate to investigate and prosecute any individual **knowingly** misusing or misappropriating public funds. However, when there has been no clear education or training on what constitutes misuse or misappropriation, despite repeated requests, this office will not allow itself to be involved with sorting out what appears to be mismanagement and disorganization within City government.

It is possible that I have incomplete or inaccurate information, and if so, please do not hesitate to contact me directly to correct the record. I am appreciative of your service to the City and am confident that going forward there will be no more confusion surrounding credit card usage or the expenditure of City funds.



Joseph D. Platania
Commonwealth's Attorney
City of Charlottesville

cc: Lisa Robertson