

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Vermilion Parish Clerk of Court
Abbeville, Louisiana

December 12, 2004



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Vermilion Parish Clerk of Court

December 12, 2003



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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LEGISLATIVE AUDITOR
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December 12, 2001

HONORABLE TOMM A. DORÉ
VERMILION PARISH CLERK OF COURT
 Abbeville, Louisiana

Transmitted herewith is our investigative report on the Vermilion Parish Clerk of Court. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations, as well as your response. Copies of this report have been delivered to the Honorable Michael Haran, District Attorney for the Fifteenth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

Daniel G. Kyle
 Daniel G. Kyle, CPA, CFE
 Legislative Auditor

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Executive Summary

Investigative Audit Report Vermilion Parish Clerk of Court

Background (See page 5.)

Vermilion Parish is home to 50,574 mostly Acadian descendants. Abbeville has served as the parish seat since 1854. The clerk of court's office is located in Abbeville within the Parish Courthouse.

As provided by Article V, Section 28 of the Louisiana Constitution of 1904, a clerk of court serves as an ex-officio notary public, the recorder of mortgages, mortgages and other acts, and shall have other duties and powers provided by law. The clerk of court is elected for a term of four years.

We received allegations of possible impropriety within the former clerk of court's office. This investigation was conducted to determine the accuracy of the information.

Findings (See pages 7-17.)

Former Clerk of Court Appears to Have Used Employee Pay Raises on Participation in His Re-election Campaign

Mr. Theriot appears to have used pay raises on employee participation in and cash contributions to his re-election campaign.

Former Vermilion Parish Clerk of Court Samuel H. Theriot appears to have solicited campaign contributions from clerk's office employees upon suggestion that their failure to contribute would result in a reduction of their wages. Mr. Theriot did the following:

1. Suggested that certain supervisors solicit contributions from other employees

2. Maintained a list of employees' cash contributions and when participation in his campaign for re-election to keep track of who was loyal to him
3. Gave raises to 17 employees who contributed cash to his campaign while reducing the pay of two employees who did not contribute cash
4. Changed the office's long-standing policy of giving pay raises based on seniority
5. Caused employees to believe that failure to participate in his campaign would adversely affect their compensation
6. Falsely made statements to two supervisors that two employees did not contribute and consequently their pay would be cut

Samuel Theriot Offered to Drop Out of Election in Exchange for \$10,000

On October 23, 1998, Yazdani Parish held its primary election for parish clerk of court. Mr. Samuel Theriot and Mr. Todd Doet qualified for the runoff election, which was held approximately one month later. On two separate occasions after the primary election, Mr. Theriot offered to drop out of the race in exchange for \$10,000.

Farrar Clerk of Court Accepts Free Services and Cash Donations From CPA Firm

From July 1996 to October 1999, Yazdani Parish Clerk of Court Samuel H. Theriot received free or discounted services from Darnall, Silvers, and Bradrick, (DSB) the certified public accounting firm that audited the clerk of court's financial records. DSB provided and Mr. Theriot accepted the following:

1. \$1,095 in personal income tax preparation services at a discounted price of \$100 in violation of the Louisiana Code of Governmental Ethics

Samuel Theriot received free or discounted services from CPA.

2. \$150 Candidate's Report preparation service and a \$200 donation. Although not an official violation for Mr. Theriot or DSP, providing a free service and a cash contribution while making the financial records of the clerk's office may give the appearance of a conflict of interest or lack of independence on the part of DSP.

Mr. Theriot and DSP failed to include DSP's services as an in-kind contribution when submitting a Candidate's Report to the Board of Ethics. The Louisiana Code of Governmental Ethics (R.S. 42:1115) prohibits public servants from receiving gifts from anyone who is doing business with their governmental entity.

Former Clerk of Court Used Public Vehicle for Personal Use and Expended Funds for Non-Business Purposes

From June 1996 through June 2000, former Vermilion Parish Clerk of Court Samuel H. Theriot used public assets for non-public purposes as follows:

1. Drove his public vehicle 1,646 miles for personal use at a cost to his office of \$428.
2. Used clerk's office funds to pay for non-business parties and functions at a cost of \$4,745 - \$574 of which was for alcoholic beverages.

Former Clerk of Court Claimed Use of Public Funds for Campaign Expense

From July 1996 to April 1998, Vermilion Parish Clerk of Court Samuel H. Theriot used \$2,510 of public funds to make donations to various local organizations in violation of Article 7, Section 14 of the Louisiana Constitution. Mr. Theriot then claimed the \$2,510 as campaign expenses on his campaign finance report, which he submitted to the Louisiana Board of Ethics. It is not clear what Mr. Theriot's intent was at the time the \$2,510 in public funds was expended. Since the \$2,510 was public funds, Mr. Theriot's intent should have been to expend the funds for a public purpose and not to fund his personal re-election

campaign. Therefore, claiming the expenditures as a campaign expense on his Candidate's Report may be a violation of R.S. 14:153, "Filing False Public Documents."

Recommendations (See page 19.)

We recommend that the current clerk of court review this report and ensure that policies and procedures are in place to prevent these activities from taking place in the future. This should include policies that:

1. Ensure that compensation is based on performance
2. Prohibit employees from receiving anything of economic value from a vendor of the clerk's office
3. Ensure that public funds are not used to purchase items not related to official business and that office vehicles are not used for personal reasons

In addition, we recommend that the District Attorney for the Fifteenth Judicial District of Louisiana and the Louisiana Board of Ethics review this information and take appropriate legal action, to include seeking restitution. Finally, we recommend that the State Board of Certified Public Accountants review this matter.

Management's Response (See pages 21-22.)

Your office recommended that this clerk of court's office review the report and ensure that policies and procedures are in place to prevent these activities which occurred during the previous administration from taking place in the future.

Please be assured that this office has in place policies and procedures to ensure that (1) employee compensation is based on performance and not politics; (2) employees are deterred from receiving anything of value from a vendor of the clerk's office; and (3) no public funds are used to purchase items not related to official business nor office vehicles used for personal reasons.

Background and Methodology

Vermilion Parish is home to 50,574 mostly Acadian descendants. Abbeville has served as the parish seat since 1834. The clerk of court's office is located in Abbeville within the Parish Courthouse.

As provided by Article V, Section 28 of the Louisiana Constitution of 1974, a clerk of court serves as an ex-officio notary public, the recorder of conveyances, mortgages and other acts, and shall have other duties and powers provided by law. The clerk of court is elected for a term of four years.

We received allegations of possible impropriety within the clerk of court's office. This investigation was conducted to determine the accuracy of the information.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the clerk of court; (2) interviewing other persons as appropriate; (3) examining selected clerk of court records; (4) performing observations and analytical tests; and (5) reviewing applicable state and federal laws and regulations.

The result of our investigation is the findings and recommendations herein.

Findings

Former Clerk of Court Appears to Have Based Employee Pay Raises on Participation in His Re-election Campaign

Mr. Theriot appears to have based pay raises on employee participation in cash contributions to his re-election campaign.

Former Vermilion Parish Clerk of Court Samuel H. Theriot appears to have solicited campaign contributions from clerk's office employees upon suggestion that their failure to contribute would result in a reduction of their wages. Mr. Theriot did the following:

1. Suggested that certain supervisors solicit contributions from other employees
2. Maintained a list of employees' cash contributions and office participation in his campaign for re-election to keep track of who was loyal to him
3. Gave raises to 17 employees who contributed cash to his campaign while reducing the pay of two employees who did not contribute cash
4. Changed the office's long-standing policy of giving pay raises based on seniority
5. Caused employees to believe that failure to participate in his campaign would adversely affect their compensation
6. Purportedly made statements to two supervisors that two employees did not contribute and consequently their pay would be cut

Mr. Theriot was Vermilion Parish Clerk of Court from July 1998 through June 2000. During 1998, Mr. Theriot campaigned for re-election to a second term in office. This election was held during October 1998. During 1998, Mr. Theriot employed 23 deputy clerks. It appears that Mr. Theriot solicited from his staff, their time and

cash contributions under suggestion that failure to contribute would result in loss of income as follows:

Requested That Supervisors Solicit Contributions

According to three supervisors, Mr. Theriot requested that they solicit campaign contributions from the office staff. One of these supervisors, Mr. Brian Bodin, stated that Mr. Theriot explained he could not personally request the contributions, but they, the supervisors, could make the requests. Therefore, the three supervisors solicited contributions from the office staff.

Maintained List of Employee Loyalty

Mr. Theriot maintained a list of employees who participated in activities associated with his re-election campaign. The list contained the names of employees as well as the activities that the individual employees participated in. These activities included riding in local parades, stuffing envelopes, helping with campaign signs, and giving cash contributions. Mr. Theriot received at least \$2,240 in cash contributions from 17 of his employees for his re-election campaign. According to Mr. Theriot, he kept the list to keep track of who was loyal to him.

Gave Raises to Contributors and Cut the Pay of Two Non-contributors

In addition to his employee participation list, Mr. Theriot also kept a list of employee names with their individual pay rates and adjusted pay rates. It appears that Mr. Theriot gave raises to employees who participated in his campaign and reduced the pay of two employees who did not give cash or otherwise materially participate.

Seventeen of the 23 employees gave cash contributions. All 17 received monthly raises of \$50 to \$350. Of the six remaining employees who did not give cash contributions:

- Two were grandmother and grandfather to Mr. Theriot's children; one received \$50 and the other received \$250 per month raises.

Seventeen of the 23 employees gave cash contributions and received monthly raises of \$50 to \$350.

Both employees participated in some activities associated with Mr. Theriot's re-election campaign.

- The pay of two employees was reduced by \$200 per month. One employee did not participate in any activity, and the other employee participated in one parade. We found no evidence in the personnel file of either employee that would justify these pay cuts.
- The two remaining employees did not receive a pay raise. These employees participated in some campaign activities.

Changed Office Policy

According to office policy on employee compensation, prior to November 1999, salary was based on the number of years of employment. Pay raises of \$50 per month were normally given annually. Mr. Theriot changed this office policy by issuing an internal memorandum ending the practice of seniority ranking for purposes of pay raises effective November 1, 1999.

After ending the practice of seniority ranking, Mr. Theriot then made the pay adjustments previously mentioned. Mr. Theriot increased payroll \$4,700 per month compared to the written pay raise policy of \$1,150 per month. The raises were given the month following the election, November 1999. The payments from November 1999 to the end of Mr. Theriot's term in office (June 2000) increased the clerk's payroll expense by at least \$28,400.

Employees Believed That Failure to Participate Would Adversely Affect Compensation

Mr. Theriot purportedly made statements that caused employees to believe that their failure to participate in his campaign would adversely affect their compensation. According to deputy clerks Brian Bodin and Sidney Conner, Mr. Theriot confided in them separately. Mr. Bodin was told that deputy clerks Luke Lefebvre and Lawrence Meunier were not contributing to his re-election

The increased payments from November 1999 to the end of Mr. Theriot's term in office (June 2000) totaled \$28,400.

Several employees believed that by not participating in Mr. Theriot's re-election campaign they would not receive raises or would receive pay cuts.

campaign and consequently their pay would be cut. Mr. Conner was told that Lawrence Mraz was not contributing to his re-election campaign and his pay would be cut. According to Mr. Conner, Mr. Theriot further stated that it would not be fair to the others who did contribute. Of the 23 employees, 19 stated that they believed that by not participating in Mr. Theriot's re-election campaign they would not have received raises or would have received pay cuts.

Statements of Mr. Theriot

According to Mr. Theriot, he never required employees to contribute to his re-election campaign. Mr. Theriot stated that he kept a list of employee participation in his re-election campaign for the purpose of determining which employees were loyal to him. Later, Mr. Theriot stated that he gave the pay raises to assure that his employees were taken care of in the event that they were terminated when the new clerk took office. He stated that no one was pressured or told verbally that they had to contribute. Mr. Theriot further stated that the pay of the two employees was not cut because of poor job performance or for political reasons. He was trying to bring these two in line with other employees performing at the same responsibility level.

The actions described above may be violations of the following laws:

- R.S. 14:134, "Malfeasance in Office"³
- R.S. 14:135, "Public Salary Extortion"⁴

³ R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

⁴ R.S. 14:135 provides, in part, that (1) solicit or attempt to solicit or receive, either directly or indirectly, the payment of any money or other thing of value from any public officer or public employee or himself as any other person or political organization, through any means or from whomsoever and for any purpose whatsoever, when such payment is obtained or solicited upon suggestion or threat that the failure to make such payment shall result in the loss or impairment of value to such officer or employee of his office or employment, or when such payment shall be a reward or compensation for securing such office or employment, and proof that such payment was collected from or paid by such officers or employees on a uniform or prospective percentage or amount basis, shall be presumptive evidence that payments were made under duress or upon the representations of both false or false.

The actual determination as to whether the individual is subject to formal charge is at the discretion of the district attorney.

Samuel Theriot Offered to Drop Out of Election in Exchange for \$10,000

On October 23, 1999, Vermilion Parish held its primary election for parish clerk of court. Mr. Samuel Theriot and Mr. Todd Dore qualified for the runoff election, which was held approximately one month later. On two separate occasions after the primary election, Mr. Theriot offered to drop out of the race in exchange for \$10,000.

"I can save us time and trouble, you give me \$10,000 and I will withdraw Monday morning. Just give me the money and I'm out."

On October 23, 1999, Mr. Samuel Theriot and Mr. Todd Dore qualified for the runoff in the election for Vermilion Parish Clerk of Court. On October 24, both Mr. Theriot and Mr. Dore were attending an October Festival held at a local school in Kaplan. According to Mr. Dore, he approached Mr. Theriot to congratulate him on the election when Mr. Theriot stated to Mr. Dore, "I can save us time and trouble, you give me \$10,000 and I will withdraw Monday morning. Just give me the money and I'm out." Mr. Dore replied that he would consider the proposition.

On October 26, 1999, Mr. Theriot and Mr. Dore met at the local voting machine warehouse to verify the results of the primary election. According to Mr. Dore, Mr. Theriot repeated his offer to drop out of the election in exchange for \$10,000. Both Mr. Dore and Mr. Daray Rousseau, current chief deputy, were present. According to Mr. Dore and Mr. Rousseau, Mr. Theriot claimed that he borrowed money from his daughter's education fund and needed \$10,000 to repay the fund.

According to three supervisors, Mr. Theriot called a meeting later that week to inform them of the proposition of dropping out of the race in exchange for \$10,000. These supervisors confirmed that Mr. Theriot planned on dropping out of the race in exchange for \$10,000.

Mr. Theriot admitted that he made the offer to drop out of the race in exchange for \$10,000.

Mr. Theriot admitted that he made the offer to Mr. Dore to drop out of the race in exchange for \$10,000. Mr. Theriot further stated that he was asking Mr. Dore to collect the \$10,000 from his supporters. Mr. Theriot considered the payment to be a campaign contribution and within the law.

Offering to accept money in exchange for dropping out of an election may be a violation of R.S. 18:1469, "Bribery of a Candidate."¹

The actual determination as to whether the individual is subject to formal charge is at the discretion of the district attorney.

Vernon Clerk of Court Accepts Free Services and Cash Donation From CPA Firm

*Sammuel Theriot received
free or discounted services
from CPA.*

From July 1996 to October 1999, Vermilion Parish Clerk of Court Samual B. Theriot received free or discounted services from Darnall, Sikes, and Frederick, (DSP) the certified public accounting firm that audited the clerk of court's financial records. DSP provided and Mr. Theriot accepted the following:

1. \$1,895 in personal income tax preparation services at a discounted price of \$109 in violation of the Louisiana Code of Governmental Ethics
2. \$150 Candidate's Report preparation service and a \$280 donation. Although not a violation of the Code of Governmental Ethics for either Mr. Theriot or DSP, providing a free service and cash contribution while auditing the financial records of the clerk's office may give the appearance of a conflict of interest or lack of independence on the part of DSP.

In addition, Mr. Theriot and DSP failed to include DSP's services as an in-kind contribution when submitting a Candidate's Report to the Board of Ethics. The Louisiana Code of Governmental Ethics (R.S. 42:1115) prohibits public servants from receiving gifts from anyone who is doing business with their governmental entity. R.S. 42:112(3) provides certain exceptions for campaign contributions.

¹ R.S. 18:1469 provides, in part, that bribery of a candidate is the giving, promising or offering to give, directly or indirectly, a campaign contribution to a candidate, political committee, or other person, or the accepting, soliciting, offering to accept, directly or indirectly, a campaign contribution, by a candidate, political committee or other person, with the intention that the candidate will provide an influential position or provide the continuation or creation of a position of public employment, an appointive position, a public contract, or anything of apparent present or prospective value.

Discounted Income Tax Service

Mr. Theriot was the Vermilion Parish Clerk of Court from July 1, 1996, to June 30, 2000. From fiscal years July 1, 1996, to June 30, 1999, Mr. Theriot awarded the contract to audit the clerk of court's financial records to D&P.

Prior to his term in office as clerk of court, Mr. Theriot served as a Louisiana state representative and received free tax preparation work from D&P. According to Mr. Lloyd Dord, an employee of D&P, D&P did personal tax returns and Candidate's Reports free of charge as a service for several public officials.

Mr. Lloyd Dord knows that D&P was performing the audits for the clerk and stated that he knows D&P should charge Mr. Theriot for his personal tax work.

During his first year in office as clerk of court, Mr. Theriot was provided with free tax preparation work by D&P. According to Mr. Dord the free tax preparation work for 1996 was an oversight on D&P's part. However, after Mr. Theriot became clerk of court, Mr. Dord knew that D&P was performing the audits for the clerk and therefore D&P should have charged Mr. Theriot for his personal tax work. In addition, Mr. Dord stated that D&P's annual charge for tax work is \$365, but thereafter D&P discounted its tax services to Mr. Theriot.

According to Mr. Dord and D&P records, Mr. Theriot received \$1,095 in services from D&P and was charged \$100 for those services. Therefore, Mr. Theriot received a discount valued at \$995 from D&P during the time D&P was performing the financial audits of the clerk's office.

Year	Amount	Charged	Discount
1997	365	\$0	365
1998	365	0	365
1999	365	100	265
Total	\$1,095	\$100	\$995

In a letter addressed to the Legislative Auditor's Office dated December 6, 2001, Mr. Larry Sikos, President of D&P, wrote that the Louisiana Board of Ethics recommended D&P not bill Mr. Theriot for the tax preparation service. Enclosed with the letter were copies of two invoices billing Mr. Theriot for the tax service.

However, the charge for the service was \$150 per return, not the normal fee of \$365 that Mr. Dord suggested.

Free Candidate's Report Service and Campaign Donation

An election for clerk of court was held in October 1999. During that year, Mr. Theriot was required to submit several Candidate's Reports to the Louisiana Board of Ethics as required by law. Mr. Theriot submitted eight reports to the Board of Ethics during 1999.

Of the eight reports, Mr. Dord prepared two while D&F was contracted by Mr. Theriot to perform the financial audit of the clerk's office. D&F charged Mr. Theriot \$150 for one report and the second report was free of charge. Therefore, Mr. Theriot received \$150 in free services from D&F. In addition, during the same period of time, D&F donated \$200 to Mr. Theriot's re-election campaign.

According to the Code of Governmental Ethics (R.S. 42:1123 (9)), campaign contributions are an exception to the gift prohibition and therefore Mr. Theriot can accept and D&F can offer the free Candidate's Report preparation service and political donation. However, by offering this service while auditing the clerk's financial records, D&F may give the appearance of a conflict of interest or lack of independence.

Although Mr. Theriot and D&F disclosed the \$150 charge for preparing the first Candidate's Report, they failed to disclose D&F's services as an in-kind contribution after preparing the second Candidate's Report submitted to the Board of Ethics.

Conclusion

Combined, Mr. Theriot received \$1,345 in discounted services and donations. According to Mr. Theriot, Mr. Dord might have considered all of the work a donation to his campaign. He also stated that other public officials receive the same services free of charge. Mr. Theriot further stated that he signed his campaign finance report in good faith and assumed it was accurate.

D&F donated \$150 in services and \$200 cash to Mr. Theriot's re-election campaign.

Combined, Mr. Theriot received \$1,345 in discounted services and donations.

Offering free or reduced services and political donations to an audit client may give the appearance of a conflict of interest or a lack of independence. The offering by a vendor and the acceptance by the clerk of free or reduced personal tax preparation services may indicate a violation of the following:

- R.S. 41:1115, "Accepting Gifts"⁴
- R.S. 41:1117, "Illegal Payments"⁵

The actual determination as to whether the individual is subject to fiscal change is at the discretion of the district attorney.

Former Clerk of Court Used Public Vehicle for Personal Use and Expended Funds for Non-business Purposes

From July 1996 through June 2000, Fernan Versailles Parish Clerk of Court Samuel H. Theriot used public assets for non-public purposes as follows:

1. Drove his public vehicle 1,646 miles for personal use at a cost to his office of \$438
2. Used clerk's office funds to pay for non-business parties and functions at a cost of \$4,743 - \$574 of which was for alcoholic beverages

Non-business Use of Public Vehicle

Mr. Theriot drove at least 1,646 miles in his office vehicle for personal business. Mr. Theriot drove to Lafayette, Baton Rouge, and New Orleans to attend sporting and theatre events as well as classes at Louisiana State University at a cost of \$438 to the office.

⁴ R.S. 41:1115 provides, in part, that no public servant shall either in person, directly or indirectly, receive or receive, either as a gift or in payment for any person or employee of any person who has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency.

⁵ R.S. 41:1117 provides, in part, that no public servant shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of this Part.

Office Funds Used for Non-Business Functions

The former clerk spent \$4,348 on functions such as office parties and theatre tickets including \$374 for alcoholic beverages.

In addition, Mr. Theriot used \$4,348 of office funds to pay for non-business functions. Mr. Theriot spent \$159 on candy to share from a bin used in local parades. According to the attorney general, this violates the constitutional prohibition against donating public funds (A.C. 98-14). Mr. Theriot also spent \$4,544 on other functions such as office parties and theatre tickets; again, according to the attorney general, this violates the constitutional prohibition against donating public funds (A.C. 98-458). The funds spent on parties included \$374 for alcoholic beverages.

Mr. Theriot stated that he did use the office's vehicle for travel to sporting events on about ten occasions in Lafayette, Baton Rouge, and New Orleans. He invited his employees to ride with him to the events and had office parties as a means of building office morale.

The use of public funds for purposes that have no business relationship to the clerk of court's office and the use of the clerk of court vehicle for personal reasons may indicate a violation of one or more of the following state laws:

- Article 7, Section 14 of the Louisiana Constitution¹
- R.S. 42:1441, "Obligation Not to Misappropriate"²

Former Clerk of Court Claimed Use of Public Funds for Campaign Expense

From July 1996 to April 1998, Verdun Parish Clerk of Court Samuel H. Theriot used \$2,518 of public funds to make donations to various local organizations in violation of Article 7, Section 14 of the Louisiana Constitution. After being advised by Mr. Mike Harson, District Attorney for the Fifthth Judicial District, that the use of these funds was in violation of the Louisiana Constitution,

¹ Article 7, Section 14 of the Louisiana Constitution provides, in part, that, except as otherwise provided by this constitution, the funds, assets, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

² R.S. 42:1441(B) provides, in part, that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

Mr. Theriot agreed to personally reimburse the full amount of the expenditures to the clerk's office.

On July 15, 1998, Mr. Theriot reimbursed the clerk's office the amount of the donated funds. Mr. Theriot then claimed the \$2,510 as campaign expenses on his campaign finance report, which he submitted to the Louisiana Board of Ethics.

It is not clear what Mr. Theriot's intent was at the time the \$2,510 in public funds was expended. Since the \$2,510 was public funds, Mr. Theriot's intent should have been to expend the funds for a public purpose and not to fund his personal re-election campaign. Therefore, claiming the \$2,510 as a campaign expense on his Candidate's Report may be in violation of R.S. 14:133, "Filing False Public Documents."⁴

According to Mr. Theriot, he included the \$2,510 on his Candidate Report after receiving verbal opinions to do so from his accountant, the district attorney, and Attorney General's Office. However, according to Mr. Theriot's accountant, D&F, and the district attorney, they did not advise him to do so. The attorney general does not keep records of verbal opinions. Therefore, we were unable to determine if Mr. Theriot received advice from the attorney general.

⁴ R.S. 14:133 provides, in part, that filing false public records is the filing or depositing, for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, any forged document, any wrongfully altered document, or any document containing a false statement or false representation of a material fact.

Recommendations

We recommend that the current clerk of court review this report and ensure that policies and procedures are in place to prevent these activities from taking place in the future. This should include policies that:

1. Ensure that compensation is based on performance
2. Prohibit employees from receiving anything of economic value from a vendor of the clerk's office
3. Ensure that public funds are not used to purchase items not related to official business and that office vehicles are not used for personal reasons.

In addition, we recommend that the District Attorney for the Fifteenth Judicial District of Louisiana and the Louisiana Board of Ethics review this information and take appropriate legal action, to include seeking restitution. Finally, we recommend that the State Board of Certified Public Accountants review this matter.

Attachment I
Management's Response

Todd A. Starr
Clerk

David J. Bannard
Chief Deputy

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Clerk of Court

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December 4, 2001

State of Louisiana
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Re: Investigative Audit Report - Draft
Vermilion Parish Clerk of Court
File No.: 00-118

Dear Mr. Kyle:

I am in receipt of the preliminary draft of the investigative audit report on the office of the Vermilion Parish Clerk of Court regarding activities which occurred during the term of my predecessor, Sam Theriot.

In the investigative audit report, your office makes the following findings:

1. "Mr. Theriot:
 1. suggested that certain supervisors solicit contributions from other employees;
 2. maintained a list of employees' cash contributions and other participation in his campaign for reelection. According to Mr. Theriot, this list was to keep track of who was loyal to him;
 3. gave raises to 17 employees who contributed cash to his campaign while reducing the pay of two employees who did not contribute cash;
 4. changed the office's long-standing policy of giving pay raises based on seniority;
 5. caused employees to believe that failure to participate in his campaign would adversely affect their compensation; and
 6. purportedly made statements to two supervisors that two employees did not contribute and consequently their pay would be cut."

Furthermore, your office recommended that this clerk of court's office review the report and ensure that policies and procedures are in place to prevent these activities which occurred during the previous administration from taking place in the future. The policies should:

1. Ensure that compensation is based on performance,
2. Prohibit employees from receiving anything of economic value from a vendor of the clerk's office, and
3. Ensure that public funds are not used to purchase items not related to official business and that office vehicles are not to be used for personal reasons.

Please be assured that this office has in place policies and procedures to ensure that employee compensation is based on performance and not politics, forbidding employees from receiving anything of value from a vendor of the clerk's office and to ensure that no public funds are used to purchase items not related to official business nor office vehicles used for personal reasons.

Specifically, my office has a policy of merit-based pay adjustments based on performance evaluations as the budget of the clerk of court's office permits. The decision to award such a merit-based pay adjustment is dependent upon several factors including but not limited to:

- a. Employee's performance;
- b. Employee's attendance and tardiness record;
- c. Employee's attitude on the job; and
- d. Employee's job category.

In addition, your office's recommendations number 2 and 3 deal specifically with activities of the clerk of court himself and not employees of the clerk's office. Notwithstanding this, please be assured that my office, in compliance with state law, does not receive anything of economic value from a vendor nor utilizes public funds to purchase items not related to official business. Furthermore, the clerk of court's office vehicle has not and will not be used for personal reasons. Additionally, it is the policy of this clerk's office that no employee shall receive anything of economic value from a vendor of the clerk's office.

I appreciate your office's professionalism and courtesy in this investigation. Should you have any questions regarding this letter, please do not hesitate to contact my office.

With kindest regards,



Todd A. Hurn

DGL/jkh