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STATE OF LOUISIANA LEGISLATIVE AUDITOR

Louisiana State Board of
Private Investigator Examiners
Baton Rouge, Louisiana

July 15, 1998



Investigative Audit

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

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**Louisiana State Board of
Private Investigator Examiners**

July 16, 1998



Investigative Audit
Office of the Legislative Auditor
State of Louisiana

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



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July 14, 1998

**HONORABLE LINDA F. MAGRI, CHAIRPERSON,
AND MEMBERS OF THE LOUISIANA STATE BOARD
OF PRIVATE INVESTIGATOR EXAMINERS**

Baton Rouge, Louisiana

Transmitted herewith is our investigative report on the Louisiana State Board of Private Investigator Examiners. 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. Copies of this report have been delivered to the Honorable Doug Mouton, District Attorney for the Nineteenth Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFF
Legislative Auditor

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Executive Summary

Investigative Audit Report Louisiana State Board of Private Investigator Examiners

The following summarizes the findings and recommendations that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management did not provide a response to this report.

Board Member Received Payments From Contract Investigator

(Page 1)

Finding: Mr. Joseph A. Ostar, board member, recommended and voted to approve a contract with Tony Plakiotis Enterprises, Inc., d.b.a. Attorney's Research and Development (ARD). This contract totaled \$18,198 between May 14, 1996, and February 29, 1997. During this time, Mr. Ostar, in his private business, J.A. Ostar and Company, Inc., received payments from ARD totaling \$6,157.

Recommendation: We recommend that the board ensure that its members and employees do not participate in transactions involving the board which they have a personal substantial economic interest. We further recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the Louisiana Board of Ethics review this information and take appropriate action.

Board Member Received Reimbursement for Expense He May Not Have Incurred

(Page 2)

Finding: Mr. Joseph A. Ostar, board member, submitted travel vouchers to the board claiming reimbursement for 29,813 miles that he may not have traveled. As a result, Mr. Ostar received \$7,245 that he may not have been entitled to receive.

Recommendation:

We recommend that the board require all members to properly complete their travel vouchers including the beginning and ending odometer readings for board related travel. In addition, we recommend that the District Attorney for the Western Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Background and Methodology

The Legislative Auditor performed an audit of the general purpose financial statements of the Louisiana State Board of Private Investigator Examiners, a component unit of the State of Louisiana, for the years ended June 30, 1996 and 1995, and issued a report dated September 17, 1997. During this audit, certain transactions came to our attention that required further examination. These matters, which included the travel expenses of Board Member Joseph A. Ozer and the relationship of Mr. Ozer with the board's contract investigator, Mr. Tony Plakonis, were addressed during this investigative audit.

Our procedures consisted of (1) interviewing employees and officials of the board; (2) examining selected documents and records of the board and other entities as necessary; (3) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (4) reviewing applicable Louisiana and federal laws.

The results of our investigation are the findings and recommendations herein.

Findings and Recommendations

BOARD MEMBER RECEIVED PAYMENTS FROM CONTRACT INVESTIGATOR

Mr. Joseph A. Oster, board member, recommended and voted to approve a contract with Tony Plakiotis Enterprises, Inc., d.b.a. Attorney's Research and Development (ARD). This contract totaled \$19,198 between May 14, 1996, and February 28, 1997. During this time, Mr. Oster, as his private business, J.A. Oster and Company, Inc., received payments from ARD totaling \$6,187.

Mr. Oster was appointed to the Louisiana State Board of Private Investigator Examiners (board) in 1992 as representative from the 5th public service district. In October 1994, Mr. Oster became the board's investigative officer. Among the responsibilities affiliated with this position is the recommendation of contract investigators to the full board. Such investigators are contracted to monitor the conduct of private investigators when the board receives complaints.

During 1996 and 1997, Mr. Oster recommended Mr. Tony Plakiotis to perform various investigations for the board; Mr. Oster also voted to approve the use of Mr. Plakiotis's services at board meetings in 1996 and 1997. Mr. Plakiotis is Mr. Oster's long-time business associate. According to Mr. Plakiotis, he has worked as a subcontractor for Mr. Oster for 20 years performing investigative and polygraph examinations. Mr. Plakiotis also operates Tony Plakiotis Enterprises, Inc., d.b.a. Attorney's Research and Development (ARD). Before forming ARD, Mr. Plakiotis held a private investigator's license under J.A. Oster and Company. According to Mr. Plakiotis, he started ARD because he could not perform investigations for the board under J.A. Oster and Company. During our investigation, we noted that Mr. Plakiotis operates ARD from a building owned by Mr. Oster. This is the same building that housed J.A. Oster and Company in Slidell, Louisiana.

Between May 14, 1996, and February 28, 1997, the board paid ARD \$19,198. Examination of the deposits made to the two ARD bank accounts revealed that from the inception of the bank accounts in April 1996 through February 28, 1997, total deposits were \$28,836. Of this amount, \$19,198 (66%) was derived from the board and \$6,864 (24%) was from Mr. Oster or his company. Combined, the deposits from the board and Mr. Oster or his company totaled \$26,062, or 90% of all ARD deposits made during this time. Although the remaining 10% of the deposits could not be identified from the records provided by Mr. Plakiotis, he informed us that since the inception of ARD, Mr. Oster, through private business or the board, has been ARD's sole source of revenue.

While ARD was receiving payments from the board, ARD also made payments to J.A. Ostar and Company. Based on records provided, between May 15, 1996, and February 20, 1997, ARD paid \$6,157 to J.A. Ostar and Company. According to both Mr. Ostar and Mr. Plakiotis, these payments were for business expenses related to Mr. Plakiotis's use of Mr. Ostar's Slidell office - in particular, rent for office space and the use of Mr. Ostar's phone, computer, and fax machine - and repayments of loans made to Mr. Plakiotis. Mr. Plakiotis was able to provide copies of checks from Mr. Ostar that, according to Mr. Plakiotis, represented loans from Mr. Ostar. However, neither Mr. Plakiotis nor Mr. Ostar could provide supporting documentation for the business expenses relating to the Slidell office. Mr. Plakiotis stated that the payment amounts to Mr. Ostar could not be reconstructed (i.e., no determination could be made of how much of each payment represented rental expense for the Slidell office and how much represented repayment of loans). Mr. Plakiotis further informed us that, at any given time, he does not know the remaining balance of the loans he has with Mr. Ostar. In addition, Mr. Plakiotis stated that Mr. Ostar did not specify the payment amounts; he (Plakiotis) just paid whatever he could afford. It should be noted that these payments by check stopped within one week of the Legislative Auditor's first examination of the board's contract with ARD. Mr. Plakiotis has stated that the Legislative Auditor's examination of ARD's contract work has caused him to make all subsequent payments to Mr. Ostar in cash.

A comparison of ARD invoices, board payments to ARD, and ARD payments to J.A. Ostar and Company revealed that the payments to Mr. Ostar followed a definable pattern. Of the 23 payments made by ARD to Mr. Ostar, 16 could be calculated by totaling one-third of the hourly charges plus other charges such as mileage and phone from the ARD invoices submitted to the board. These 16 payments totaled \$4,995. Fifteen of these 16 payments to Mr. Ostar or his company were made between 7 and 17 days after ARD billed the board, one payment was made three days before the corresponding ARD invoice.

Based on the information above, it appears that Mr. Ostar used his board position to ensure payments to be made to Mr. Plakiotis and a portion of those payments to be retained to himself. These actions indicate that Mr. Ostar and Mr. Plakiotis may have violated one or more of the following laws:

- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:143, "Public Contact Fraud"
- R.S. 14:141, "Prohibited Splitting of Profits"
- R.S. 40:1112, "Prohibited Transactions"

We recommend that the board ensure that its members and employees do not participate in transactions involving the board which they have a personal substantial economic interest. We further recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the Louisiana Board of Ethics review this information and take appropriate action.

**BOARD MEMBER RECEIVED REIMBURSEMENT
FOR EXPENSE HE MAY NOT HAVE INCURRED**

Mr. Joseph A. Oster, board member, submitted travel vouchers to the board claiming reimbursement for 29,813 miles that he may not have traveled. As a result, Mr. Oster received \$7,245 that he may not have been entitled to receive.

Louisiana law allows members of the board to be reimbursed for actual expenses incurred while attending board meetings or for time spent on behalf of the board. The law states that each member shall be reimbursed when a voucher for all-necessary travel, incidental, and clerical expenses incurred in carrying out board business is approved by the board.

During the period August 22, 1994, to June 24, 1993, Mr. Oster submitted expense vouchers to the board requesting reimbursement for 104,423 miles of travel. As a result, the board paid Mr. Oster \$25,268 for this mileage. Though the travel vouchers submitted by Mr. Oster include a specific place for the traveler to report his/her beginning and ending odometer readings, Mr. Oster reported only his total miles traveled.

According to Mr. Oster, this mileage was incurred using two of his personal vehicles. Mr. Oster stated that he purchased a new 1994 Cadillac Fleetwood in August 1994. Mr. Oster further stated that since he purchased this Cadillac, he has not used any other vehicle for board related business. In a later interview, Mr. Oster stated that in June 1993 he purchased a 1994 Mazda 929 and has driven it approximately 3,080 miles for board related business.

Odometer readings recorded on inspection reports filed with the Department of Public Safety indicate that during the period August 22, 1994, to June 24, 1993, Mr. Oster's Cadillac traveled 71,610 actual miles. Therefore, the actual miles on Mr. Oster's Cadillac combined with the 3,080 miles Mr. Oster claims to have traveled in the Mazda totals only 74,690. Assuming that every mile on Mr. Oster's Cadillac was for board related travel and not for personal travel, Mr. Oster claimed reimbursement for at least 29,813 miles that he may not have traveled. As a result, Mr. Oster received \$7,245 from the board that he may not have been entitled to receive.

These actions indicate possible violations of one or more of the following Louisiana laws:

- R.S. 14:97, "Theft"
- R.S. 14:72, "Fugery"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 42:1403(A), "Obligation Not to Misappropriate"

We recommend that the board require all members to properly complete their travel vouchers including the beginning and ending odometer readings for board related travel. In addition, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

OTHER MATTER

Representatives of the Legislative Auditor have provided numerous opportunities for Mr. Oster to address the findings contained herein. A meeting with members of the board set for April 3, 1998, that was to include Mr. Oster was postponed because Mr. Oster stated he could not attend. Representatives of the Legislative Auditor then met with Mr. Oster and his attorney on May 4 for the purpose of discussing these findings. At this meeting, Mr. Oster's attorney advised him not to answer any questions. The Office of the Legislative Auditor agreed to the request of Mr. Oster's attorney that any written reply Mr. Oster could produce would be forthcoming by May 11. However, the letter received by this office from Mr. Oster's attorney did not address the findings contained in this report. Representatives of the Legislative Auditor subsequently met with the board on May 18. At this meeting, Mr. Oster requested an additional week to provide information and documentation that, according to Mr. Oster, would address the findings. We subsequently received a fax on June 2 from Mr. Oster's attorney that stated Mr. Oster would address the findings only after the Office of the Legislative Auditor made changes in its policies and procedures. The policies and procedures followed by this office have always provided all parties with ample opportunity to present any and all information relevant to the published findings, as evidenced by the numerous opportunities given to Mr. Oster.

Attachment I
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

- **R.S. 14:67** provides that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, promises, or representations.
- **R.S. 14:72** provides that forgery is the false making or altering, with intent to defraud, of any signature to, or any part of, any writing purporting to have legal efficacy.
- **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.
- **R.S. 14:148** provides that public contract fraud is committed when any public officer or employee shall use his power or position as such officer or employee to secure any expenditure of public funds to himself, or in any partnership to which he is a member, or to any corporation of which he is an officer, stockholder, or director.
- **R.S. 14:141** provides that prohibited splitting of profits, fees, or commissions is the giving, offering to give, receiving or offering to receive, directly or indirectly, anything of apparent present or prospective value by or to a public officer or public employee, when such value is derived from any agreement or contract to which the state or any subdivision thereof is a party.
- **R.S. 42:1112** provides that no public servant shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.
- **R.S. 42:1461(A)** provides 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.