

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Agriculture and Forestry
Baton Rouge, Louisiana

February 4, 2002



Investigative Audit

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

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Department of Agriculture and Forestry

February 4, 2002



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

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February 4, 2002

THE HONORABLE ROBERT F. ODOM, JR.
COMMISSIONER
DEPARTMENT OF AGRICULTURE AND FORESTRY
STATE OF LOUISIANA
Baton Rouge, Louisiana

Transmitted herewith is our investigative report on the Department of Agriculture and Forestry. 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 responses. Copies of this report have been delivered to the Department of Agriculture and Forestry; the Honorable Doug Moreau, District Attorney for the Nineteenth Judicial District of Louisiana; Mr. David R. Dugas, United States Attorney for the Middle District of Louisiana; and others as required by state law.

Respectfully submitted,

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Daniel G. Kyle, CPA, CFE
Legislative Auditor

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[AGFOR02]

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{AGFOR02}

Executive Summary

Investigative Audit Report Department of Agriculture and Forestry

Highlights. . .

Commissioner Odom appointed individuals to high paying positions when these individuals performed services normally assigned to lower paying positions.

Finding (See page 11.)

Employees Paid Excessively for Work Not Performed

Commissioner Odom, in possible violation of law, appointed 14 individuals to high paying, unclassified positions when these individuals did not actually perform the duties of these unclassified positions. Rather, these individuals performed services normally assigned to lower paying classified positions.

1. Commissioner Odom appointed these individuals to their positions when state law does not grant him such authority. The authority rests with the boards or commissions.
2. These 14 appointees did not perform the duties for which they were compensated.
3. Classified positions exist for at least 12 of these appointees that appear to be consistent with the actual job duties performed.
4. Appropriate classified positions call for compensation far less than that paid by Commissioner Odom.
5. Two of the 14 appointees were appointed and have remained as director and assistant director of the Louisiana Pork Promotion Board, which has been inactive for approximately seven years.
6. All 14 appointees worked for the Bob Odom campaign and had these appointees been in classified positions this would have been a violation of state law.

7. Five appointees stated that they volunteered to work on houses for Commissioner Odom's children.
8. Four of the appointees routinely performed or instructed other employees to perform personal errands for Commissioner Odom and his family.

As a result, it appears that from periods as early as 1987 through 2001, the Department spent at least \$1,798,563 in excess salaries for services that were either not rendered or were grossly inadequate for the compensation received. The excessive salaries resulted in an increased actuarial accrued liability to the Louisiana State Employees' Retirement System of \$1,237,560. Therefore, the total combined impact is \$3,036,123.

Finding (See page 23.)

Commissioner Odom Used State Property for Personal Purposes

Commissioner Odom used Department airplanes for personal, political, or campaign related flights.

During the period January 1998 through March 2001, Commissioner Odom used, in possible violation of state law, Department airplanes for at least 321 personal, political, or campaign related flights; failed to reimburse the Department for these costs; and used Department employees, while being paid by the Department, to pilot many of these flights. In addition, Commissioner Odom accepted valuable gifts from entities regulated by the Department.

State law prohibits the use of state property for purely private purposes.

State law prohibits the use of state property for purely private purposes such as these personal, political, and campaign related flights. The value of these 321 flights was approximately \$69,848. Commissioner Odom reimbursed \$11,316 to the Department for 144 of these flights; however, the reimbursements were at a rate significantly lower than fair market value. For the remaining 177 flights, Commissioner Odom did not reimburse any portion of the cost incurred by the Department. In addition, at least 25 of the flights were piloted by Department employees while paid by the Department. Furthermore, during some of these personal

trips, Commissioner Odom went hunting on land owned or leased by entities regulated by the Department. On these trips, Commissioner Odom received lodging, meals, and hunting supplies from these entities.

Finding (See page 37.)

Bid Process Manipulated and Two Warehouse Owners Allege Cash Payments

Bid process appears to have been manipulated resulting in an increased cost to the Department.

The bid process for housing USDA commodities appears to have been manipulated resulting in specific individuals receiving Department contracts at an increased cost to the Department between \$3,792,394 and \$4,300,585 during the period 1997 to 2000.

Warehouse owners stated that they gave cash to Commissioner Odom and contributions to his political campaign.

Two warehouse owners stated that they gave cash directly to Commissioner Odom and contributions to his political campaign. One warehouse owner, Mr. Tommy Roshto, maintains that when he stopped making these payments, Commissioner Odom and other warehouse owners conspired to eliminate his opportunity to receive the Department contract. Commissioner Odom changed the bid specifications thereby allowing four companies controlled or influenced by Mr. Lehman Williamson or Ms. Ann Williamson to manipulate the bid process, thus causing Mr. Roshto's low bids in districts Two and Three to not be accepted by the Department during the 1997 bid.

Documents and interviews indicate the following:

1. Since the Department began administering the food storage program in 1985, essentially the same five warehouse owners have received the contracts to store the food commodities.
2. Prior to the 1997 bid, these five warehouse owners received three-year contracts awarded by individual districts.

3. These warehouse owners met and developed a plan for a single statewide bid that would include four of the warehouse owners and exclude the Baton Rouge warehouse owned by Mr. Roshto.
4. These warehouse owners located a new bidder, Pat Company, Inc., to bid against Mr. Roshto in the Baton Rouge district; however, Pat Company, Inc., did not meet the present space requirements for that district.
5. Pat Company, Inc.'s desire to bid was relayed to the Department, and as a result, the bid space requirements were changed in the Baton Rouge district only.
6. Commissioner Odom instructed Department staff to change the invitation-to-bid to allow a statewide bid only.
7. Warehouse owners received the invitation-to-bid prior to its official release.
8. Ms. Ann Williamson formed a corporation, then she and other warehouse owners met and discussed ways to facilitate a statewide bid without Mr. Roshto.
9. Mr. Roshto protested the lack of allowing individual bids and subsequently the bid specifications were changed to allow for both a statewide bid and individual bids by district.
10. It appears that Mr. Lehman Williamson and Ms. Ann Williamson, having control or influence over at least four of the eight bidders, inflated four bids resulting in the statewide bid being lower than the total for the individuals' bids, thereby ensuring the statewide bid would be awarded the contract and at the same time eliminating Mr. Roshto from the program.

From 1985 to 2000, the warehouse owners who participated in the food storage program contributed \$116,000 to Commissioner Odom's campaign. From 1996 through 2000, Commissioner Odom used \$72,754 from his political campaign fund for purchases that appear to be personal in nature and have no relationship to his campaign.

Finding (See page 55.)

**Work on Commissioner Odom's
Private Property**

Commissioner Odom used public employees, equipment, and materials on his private property and filed an inflated claim with the federal government. Commissioner Odom did the following:

**Public employees,
equipment, and materials
used on Commissioner
Odom's private property.**

1. Instructed Department employees to manage the timber on approximately 960 acres of family owned land
2. Instructed two employees to use Department equipment to assist him in clearing his private property
3. Instructed another employee to transport Department equipment to and from his private property
4. Failed to pay for pine seedlings he obtained from the Department and for labor provided by Department employees
5. Filed an inflated claim with a United States Department of Agriculture reimbursement program thereby obtaining reimbursement for expenses he did not incur

Recommendations (See page 61.)

We recommend the following:

1. The Department should discontinue appointing individuals to unclassified positions for which they perform no services. The Department should implement policies and procedures to prevent employees from performing personal errands for Department officials while on Department payroll.
2. The Department should adhere to Louisiana law by not using state property (airplanes) to conduct personal business. The Commissioner of Agriculture should adhere to Louisiana law and not use state employees to conduct his personal business while on the Department payroll.
3. The Department should reevaluate its bid specifications for the food distribution program and implement changes to the bid specifications that would be fair and equitable to all bidders, increase competition, and lower costs.
4. The Department should enforce its present *collection policies and not allow preferential treatment* for the Commissioner of Agriculture or any other Department official. The Department should also update its policy related to providing forestry services to the public so everyone is treated on a fair and equal basis. Employees should not work on private property or use state equipment on private property in violation of state law.
5. Finally, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate legal action regarding possible violations of state and federal laws, to include seeking restitution.

Management's Response (See pages 69 through 77.)

Mr. Skip Rhorer, assistant commissioner, responded on behalf of the Department. This response is enclosed in its entirety at Attachment II.

Background and Methodology

The Louisiana Department of Agriculture and Forestry (Department) is a department within Louisiana state government. The Department was created in accordance with Title 36, Chapter 14 of the Louisiana Revised Statutes of 1950, as a part of the executive branch of government. The Commissioner of Agriculture and Forestry heads the Department and is charged with all functions relating to promotion, protection, and advancement of agriculture and forestry, except research and educational functions expressly allocated by the constitution or by law to other state agencies within the State of Louisiana. The commissioner is a statewide elected official who serves a four-year term.

The Department consists of seven offices: the Office of Management and Finance, the Office of Marketing, the Office of Agriculture and Environmental Sciences, the Office of Animal Health Services, the Office of Soil and Water Conservation, the Office of Agro-Consumer Services, and the Office of Forestry. The Department has approximately 765 full-time employees with work locations throughout the state. In addition to providing various state-funded agricultural and forestry related programs, the Department also administers various agricultural related programs for the United States Department of Agriculture, the United States Department of Commerce, the United States Environmental Protection Agency, and the United States Department of Health and Human Services. One of these programs is the Food Distribution Program.

Twenty-eight separate boards and commissions fall under the authority of the Department. The purposes of these boards are to research, promote, and regulate agricultural related products. Authorizing legislation for the majority of these boards and commissions provides for the board or commission members to appoint, with the approval of the Commissioner of Agriculture and Forestry, a director and assistant director to serve in an unclassified position. These boards and commissions are assigned to the office within the Department related to their purpose.

The procedures performed during this investigative audit consisted of (1) interviewing current and former employees and officials of the Department; (2) interviewing other persons as appropriate; (3) examining selected records of the Department; (4) examining other records as appropriate; (5) performing observations and analytical tests; and (6) reviewing applicable state and federal laws and regulations.

The result of our investigative audit is the findings and recommendations herein.

Findings

Employees Paid Excessively For Work Not Performed

Commissioner Odom, in possible violation of law, appointed 14 individuals to high paying, unclassified positions when these individuals did not actually perform the duties of these unclassified positions. Rather, these individuals performed services normally assigned to lower paying classified positions.

- 1. Commissioner Odom appointed these individuals to their positions when state law does not grant him such authority. The authority rests with the boards or commissions.**
- 2. These 14 appointees did not perform the duties for which they were compensated.**
- 3. Classified positions exist for at least 12 of these appointees that appear to be consistent with the actual job duties performed.**
- 4. Appropriate classified positions call for compensation far less than that paid by Commissioner Odom.**
- 5. Two of the 14 appointees were appointed and have remained as director and assistant director of the Louisiana Pork Promotion Board, which has been inactive for approximately seven years.**
- 6. All 14 appointees worked for the Bob Odom campaign and had these appointees been in classified positions this would have been a violation of state law.**
- 7. Five appointees stated that they volunteered to work on houses for Commissioner Odom's children.**
- 8. Four of the appointees routinely performed or instructed other employees to perform personal errands for Commissioner Odom and his family.**

As a result, it appears that from periods as early as 1987 through 2001, the Department spent at least \$1,798,563 in excess salaries for services that were either not rendered or were grossly inadequate for the compensation received. The excessive salaries resulted in an increased actuarial accrued liability to the Louisiana State Employees' Retirement System of \$1,237,560. Therefore, the total combined impact is \$3,036,123.

Background

Louisiana law either created or transferred 28 boards and commissions under the authority of the Department with purposes to research, promote, or regulate agricultural related products. Authorizing legislation for the majority of the boards and commissions provides for each

commission or board to appoint, with the approval of the commissioner, a director and an assistant director to serve in an unclassified position.

The Department is made up of seven different divisions, referred to as offices. Each of these offices has a separate function and purpose. The 28 boards and commissions are assigned to the office related to the purpose of the board or commission.

Creation of Unclassified Positions

Permanent unclassified positions in a state agency can be created in two ways. The first method requires statutory authority, provided to each of the boards and commissions by the legislature. The second method requires approval from the Civil Service Commission. To obtain this approval, the state agency must submit a written request justifying the need for the position, and, in some instances,

the reason a classified position will not suffice. After a review by employees and the Director of Civil Service, the Civil Service Commission must vote at a public hearing on whether to establish the unclassified position or not. Once an unclassified position is established, the state agency's department head is authorized and responsible for establishing a pay level. Civil Service establishes pay scales for the classified positions.

Commissioner Odom is responsible for establishing pay levels for unclassified positions in the Department.

Commissioner Odom:

- 1. Appointed 14 individuals to unclassified positions of director and assistant director when state law does not grant him such authority**
- 2. Established their salaries at rates that appear excessive**

In addition, these appointees did not perform the duties for which they were compensated.

The Department's Unclassified Positions

Commissioner Odom appointed 14 individuals to unclassified positions of director and assistant director when state law does not give him such authority. That authority rests with the boards and commissions. These appointees did not perform the duties of director and assistant director for which they were compensated. The Department does not have a description of job duties for any of these unclassified positions.

Commissioner Odom established salaries for each of these appointees that appear

to be excessive. The actual services provided by 12 of these appointees appear to be consistent with Civil Service classified positions to which these individuals should have been placed. We were unable to identify comparable classified positions for the actual services rendered by the remaining two appointees. For the 12 appointees with comparable classified positions, five actually perform receptionist/secretarial work for the executive office and the other seven perform various services throughout the different offices of the Department.

The following chart identifies 12 appointees and the unclassified position into which they were appointed, their actual job title, their actual duties, and their salary and the salary that they should receive.

Comparison of Annual Actual Salaries to Classified Salaries

Appointee	Unclassified Position	Classified Job Title	Job Duties	Actual Salary	Classified Salary
Audrey Pesson*	Assistant Director of the Louisiana State Market Commission	Administrative Specialist 5	Commissioner Odom's Secretary	\$85,280	\$41,463
Melanie Barnett**	Assistant Director of the Louisiana Catfish Promotion and Research Board	Executive Services Assistant	Receptionist/Secretary in Commissioner Odom's Office	73,500	35,811
Michelle Ribera	Assistant Director of the Louisiana Strawberry Marketing Board	Executive Services Assistant	Deputy Commissioner's Secretary	73,500	30,588
Stephanie Levenson	Assistant Director of the Louisiana Soybean and Grain Research and Promotion Board	Administrative Specialist 5	Executive Secretary for the New Orleans Office	76,440	41,463
Deborah Barrilleaux	Director of the Louisiana Catfish Promotion and Research Board	Executive Services Assistant	Receptionist/Secretary in Commissioner Odom's Office	68,250	36,215
Henry Baxter	Assistant Director of the Livestock Brand Commission	Meat Program Administrator	Director of State Meat Inspection	81,900	54,350
John Brown	Director of the Feed Commission****	Facility Maintenance Manager 4	Director of Fleet and Facility Maintenance	77,532	56,458
Michael Buchart	Director of the Louisiana Soybean and Grain Research and Promotion Board	Agriculture Marketing International Specialist	Promotes Forestry Products	77,532	47,471
Wayne Guilbeau	Director of the Louisiana Pork Promotion Board	Agriculture Marketing International Specialist	Promotes Louisiana Agricultural Products	76,440	47,471
Richard Herrin***	Director of the Feed Commission****	Facility Maintenance Manager 4	Director of Fleet and Facility Maintenance	71,004	57,669
Lawrence Michaud	Assistant Director of the Louisiana Pork Promotion Board	Public Information Director 2	Press Secretary	79,716	54,350
Mike St. Romain	Assistant Director of the Feed Commission	Food Distribution Program Administrator	Director of the Food Distribution Program	79,716	58,154

Classified salaries and position were determined based upon years of service, actual job duties performed, and Civil Service guidelines.

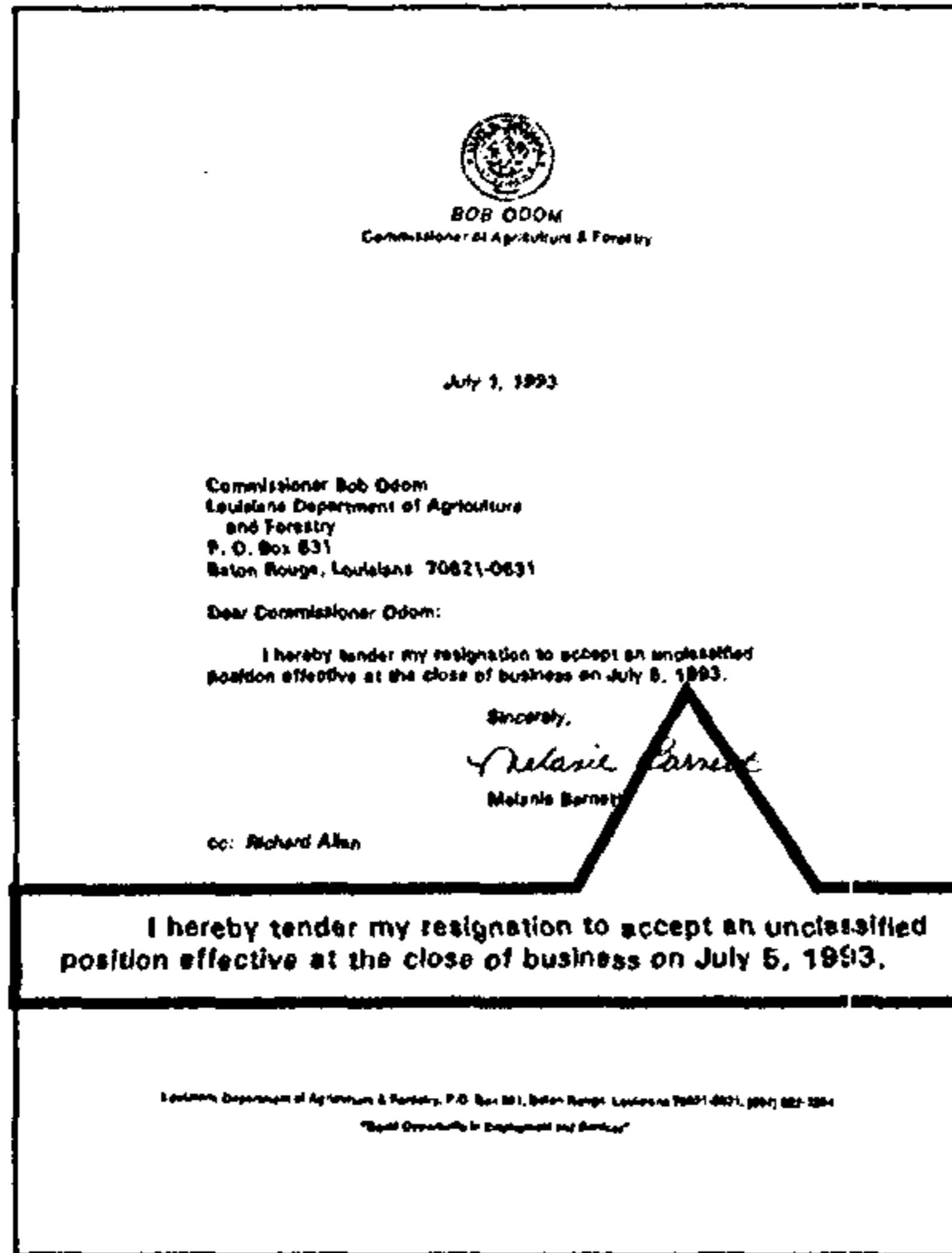
*Salary as of 11/11/01

**Salary as of 12/9/01

***Salary as of 1/21/01

****Mr. Brown and Mr. Herrin served as director of the Feed Commission during different time periods.

For detailed information on each of the above appointees, please refer to the appendix at Attachment 1.



Five Receptionists/Secretaries from the Executive Office

Commissioner Odom appointed five receptionists and/or secretaries from the executive office as director or assistant director of various boards and commissions. These appointees performed or continued to perform job duties ranging from receptionist to executive level secretarial work. These appointees are Ms. Audrey Pesson, Ms. Melanie Barnett, Ms. Michelle Ribera, Ms. Stephanie Levenson, and Ms. Deborah Barrilleaux. These appointees did not perform the duties for which they were compensated. Mr. Richard Allen, former assistant commissioner, stated that Commissioner Odom instructed him to place Ms. Pesson and Ms. Barnett into the unclassified positions of assistant director. Mr. Allen further stated that their job duties did not change after the appointments.

Ms. Barnett submitted a letter of resignation to accept the unclassified position even though her job duties did not change.

According to records from 21 other state agencies, the current average executive-level secretarial salary for both classified and unclassified positions is \$38,857 per year.

However, the annual salaries for these five receptionists and executive level secretaries range from \$68,250 to \$85,280 per year. The average pay for these five individuals is \$75,394. The Department's average salary paid to these executive level secretaries is 94% higher than the average salary of their counterparts in other state agencies.

Average Executive Level Secretarial Salaries

Department of Agriculture and Forestry	\$75,394
Other State Agencies	<u>38,857</u>
 Difference	 <u>\$36,537</u>

Department average is 94% higher.

Seven Appointees From Other Offices Within the Department

Commissioner Odom appointed the following seven individuals to director or assistant director of various boards and commissions: Mr. Henry Baxter, Mr. John Brown, Mr. Michael Buchart, Mr. Wayne Guilbeau, Mr. Richard Herrin, Mr. Lawrence Michaud, and Mr. Mike St. Romain. These seven appointees did not provide the functions for

which they were paid. In addition, Mr. Guilbeau and Mr. Michaud were appointed and have remained director and assistant director of the Louisiana Pork Promotion Board, which has been inactive for approximately seven years.

Commissioner Odom appointed two individuals to director and assistant director of the Louisiana Pork Promotion Board, which has been inactive for approximately seven years. These two appointees are still in those positions.

Remaining Two Appointees

As stated previously, we were unable to identify comparable classified positions for the services rendered by the remaining two appointees. According to the organizational chart, those two appointees, Mr. Don Hubbard and Mr. George Michael Kovac, are assigned to the executive office. Mr. Hubbard was appointed assistant director of the

Louisiana Dairy Industry Promotion Board on March 11, 1997, and Mr. Kovac was appointed assistant director of the Louisiana Egg Commission on January 6, 1997. We were unable to determine a comparable Civil Service classified position for either Mr. Hubbard or Mr. Kovac because of the lack of documented job duties and an inability to determine the services they actually provided. As of December 31, 2001, Mr Hubbard's annual salary was \$68,796 and Mr. Kovac's annual salary was \$81,900.

The Department's employee roster shows that in addition to being the assistant director of the Louisiana Dairy Industry Promotion Board, Mr. Hubbard is the consumer services coordinator and the minority affairs director. Mr. Hubbard stated that he is not sure what his job title is. He thought it was one of the directors in marketing. Mr. Hubbard stated that his immediate supervisor would be anyone from Baton Rouge that called with a job assignment, and he does not supervise any employees. Mr. Hubbard further stated that he does not have any knowledge of written job duties for his position and characterized his current job duties as the "link to the urban core." Mr. Hubbard stated that he specifically deals with a wide range of agricultural complaints, community groups, and a project to bring agriculture awareness to the Orleans schools.

Mr. Kovac stated that he actually performs the duties of the North Louisiana coordinator and his immediate supervisor is Commissioner Odom. Mr. Kovac stated that his job consists of traveling the state to ensure that Department employees are utilized in an efficient manner. Mr. Kovac stated that he was not aware that he is currently the assistant director of the Louisiana Egg Commission and that he has provided no services to the commission. The Department's organizational chart shows that Mr. Kovac is an assistant director assigned to the executive office.

Both Mr. Hubbard and Mr. Kovac stated that they worked on the Bob Odom campaign soliciting contributions. Mr. Kovac also stated that he worked on a house for Commissioner Odom's daughter.

These 14 appointees were carried on the Department payroll as directors or assistant directors and did not perform the services for which they were paid. In addition, it appears, in most cases, the services actually rendered were grossly inadequate for the compensation received.

Excessive Salaries and Benefits

As stated previously, salaries set by Commissioner Odom for the 12 appointees appear to be excessive. Had these appointees remained or been placed in classified positions at salary ranges set by Civil Service, the Department would not have spent at least \$1,798,563, the difference between classified and unclassified pay. The excessive salaries resulted in an increased actuarial accrued liability to the Louisiana State Employees' Retirement System (LASERS) of \$1,237,560. Therefore, the total combined impact is \$3,036,123.

Excessive Salaries and Benefits

Salaries	\$1,798,563
LASERS liability*	<u>1,237,560</u>
Total Impact	<u>\$3,036,123</u>

*Increased actuarial accrued liability to LASERS.

Excess Unclassified Salaries Paid

Appointee	Projected Period	Excess Salary	Excess Actuarial Accrued Liability	Total Combined Impact
Audrey Pesson*	02/16/92 - 11/11/01	\$288,699	\$56,869	\$345,568
Melanie Barnett	07/19/92 - 12/09/01	185,220	151,436	336,656
Michelle Ribera	01/19/92 - 12/23/01	216,719	45,985	262,704
Stephanie Levenson**	07/05/92 - 12/23/01	182,837	219,666	402,503
Deborah Barrilleaux	09/16/01 - 12/23/01	9,287	188,118	197,405
Henry Baxter	07/12/87 - 12/23/01	150,471	103,478	253,949
John Brown	01/21/01 - 12/23/01	18,142	43,113	61,255
Michael Buchar	02/05/89 - 12/23/01	201,494	103,452	304,946
Wayne Guilbeau	02/05/89 - 12/23/01	176,213	117,784	293,997
Richard Herrin***	07/12/87 - 01/21/01	114,386	35,115	149,501
Lawrence Michaud	07/12/87 - 12/23/01	164,848	98,728	263,576
Mike St. Romain	07/12/87 - 12/23/01	90,247	73,816	164,063
Total Impact		\$1,798,563	\$1,237,560	\$3,036,123

*Audrey Pesson - Deceased and Inactive

**Stephanie Levenson - Currently in DROP (Deferred Retirement Option Plan)

***Richard Herrin - Retired Participant

Projected Period - Differing projection dates are based on appointment date and extent to which records were available. Some of these appointees have been in unclassified positions for more than 20 years. Had records been available for the entire appointment periods, our projections would have been significantly higher.

Excess Salary - Classified salaries and positions were determined based upon years of service, actual job duties performed, and Civil Service guidelines. The classified salary was then compared to the appointee's actual salary.

Actuarial Accrued Liability - As provided, these amounts represent an estimate of the additional actuarial liabilities as of December 31, 2001, under Louisiana State Employees' Retirement System (LASERS) for benefits that result from excess salary amounts. Excess salary is the difference between salary for classified positions and actual salary paid. Liability values are based on actuarial assumptions and methods applied in June 30, 2001, LASERS actuarial valuation report.

Commissioner Odom Exceeded His Authority

Commissioner Odom appointed the 14 directors or assistant directors to nine different boards and commissions. According to Louisiana law, Commissioner Odom did not have the authority to appoint these positions; he merely had the authority to approve any appointments that the boards and commissions may have made. In addition, we interviewed at least one representative of each of these boards and commissions, except for the Louisiana Pork Promotion Board, and were told that they were unaware that these appointees were in the position of director or assistant director. We could not interview any members of the Louisiana Pork Promotion Board because that board has been inactive for approximately seven years.

Commissioner Odom's authority, according to law, is to approve appointments made by the boards or commissions.

Employees Confirmed They Did Not Perform the Duties of Their Positions

Minutes confirmed that the appointees attended few, if any, of the meetings.

We interviewed 11 of the 14 appointees who confirmed that they did little or no work for boards or commissions to which they were appointed. Those 11 appointees were unable to provide us with any explanation as to the job description or duty for the unclassified position that they held. In addition, the minutes of the meetings for the eight active boards and commissions indicated that the 12 appointees attended few, if any, of the meetings. Current and

former employees, as well as board/commission members also confirmed that the 12 appointees performed little or no services for the board or commission to which they were appointed. The remaining two employees performed no services for the inactive Louisiana Pork Promotion Board. The 12 individuals for which we found appropriate classified positions are explained in detail in the appendix at Attachment I.

Personal Errands

At least four of the unclassified appointees performed or instructed other employees to perform various personal errands for Commissioner Odom and his family. Interviews and documentation received indicate that Department employees have performed personal errands for Commissioner Odom and his family members continuously since the 1980s. These personal errands consisted of, at a minimum, managing timber property, piloting Commissioner Odom and family members on personal flights in

Since the 1980s, Department employees have performed personal errands for Commissioner Odom and his family:

- ✓ **Managed timber property (see finding on page 55)**
 - ✓ **Provided personal flights in Department aircraft (see finding on page 23)**
 - ✓ **Cashed allowance checks**
 - ✓ **Picked up laundry**
 - ✓ **Had vehicles repaired**
 - ✓ **Purchased personal items**
 - ✓ **Performed other personal errands**
-

Department aircraft, cashing allowance checks for Commissioner Odom and his wife, picking up laundry, having vehicles repaired, purchasing personal items, and performing other personal errands.

Ms. Pesson and Ms. Barnett both had signature authority on Commissioner Odom's personal bank accounts. There were 2,980 checks issued from Commissioner Odom's personal bank accounts during the period August 8, 1995, to January 5, 2001. The records made available to the Legislative Auditor included 2,650 of these cancelled checks. Only 37 of the 2,650 checks were actually signed by Commissioner Odom or his wife, Mrs. Mildred Odom. Either Ms.

For more than five years, Ms. Pesson and Ms. Barnett prepared and signed 98% of Commissioner Odom's personal checks.

Pesson or Ms. Barnett signed the remaining 2,613 (98%) checks. Ms. Deirdre Earl, former Department employee, stated that Ms. Pesson and Ms. Barnett handled personal banking transactions for Commissioner Odom during their workday at the Department. These transactions included preparing personal checks, reconciling bank accounts, and preparing deposits. In addition, Ms. Pesson and Ms. Barnett were witnesses on numerous personal transactions for Commissioner Odom involving the purchase, sale, and mortgage of property.

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STATE OF LOUISIANA
APPEALS TRIBUNAL
FOR THE
OFFICE OF ADMINISTRATIVE SERVICES
P.O. BOX 9004
BATON ROUGE, LOUISIANA 70804-9004

DECISION OF ADMINISTRATIVE LAW JUDGE

CLAIMANT: DEIRDRE EARL
(APPELLANT) 1737 PORT DR. #3
BATON ROUGE, LA 70820-7303

EMPLOYER: DEPT OF AGRIC. & FORESTRY
LOUISIANA STATE OF SOFA
% EMP. UNITY P O BOX 782
WESTMINISTER, CO 80030-0782

S.S. NUMBER: 435 61 8001

DOCKET NUMBER: 3 0191 BY 94
APPEAL FILED: FEBRUARY 23, 1998
DECISION ENTERED: MARCH 21, 1998

At least 450 of the checks from Commissioner Odom's personal bank accounts were made payable to cash or payable to Department employees. Department employees generally cashed the checks made payable to cash for Commissioner Odom or his wife. The time and date stamped on the checks indicates that most of the checks were negotiated during normal business hours. The employees who either endorsed or negotiated the majority of these checks were Ms. Pesson, Ms. Barnett, Ms. Deirdre Earl, Ms. Kenya Milligan, Mr. Guilbeau, and Mr. David Stilley.

FILE NO. 208 03-12 '98 16-15 11-EMPLOYERS UNITY INC. 04/07/2004 Page 4

DECISION OF ADMINISTRATIVE LAW JUDGE

DEIRDRE EARL
1737 PORT DR. #3
BATON ROUGE, LA 70820-7303

EMPLOYER: DEPT OF AGRIC. & FORESTRY
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The claimant was discharged from her job. There is no evidence of misconduct connected with the employment. Benefits should not be denied.

Deirdre Earl
Ms. Earl began employment with the Department in 1989 as a student worker and was terminated by the Department on January 20, 1998, for excessive absences and tardiness. Ms. Earl was subsequently denied unemployment benefits. As a result, Ms. Earl filed an appeal. The findings of fact by the administrative law judge found that

Her performance suffered only due to the fact that she would frequently be called away from projects so that she could run personal errands or do personal things for the commissioner.

Ms. Earl's "performance suffered only due to the fact that she would frequently be called away from projects so that she could run personal errands or do personal things for the commissioner." The administrative law judge ordered that the disqualification of unemployment benefits be reversed.

Ms. Earl stated that during her nine years at the Department she spent 50% of her time performing personal errands for Commissioner Odom.

Ms. Earl stated that she worked in the executive office the entire time of her employment and spent approximately 50% of every workday performing personal errands for Commissioner Odom.

Ms. Earl stated that Ms. Ribera and Ms. Pesson instructed her to perform personal errands for Commissioner Odom. According to Ms. Earl, the majority of the time she used a Department vehicle to perform the personal errands, although there were instances when she used her own vehicle.

From January 5, 1996, to December 31, 1997, Ms. Earl cashed 76 of Commissioner Odom's personal checks. Notations on many of these checks indicate that the purpose was an allowance for either Commissioner Odom or Mrs. Odom. Ms. Earl stated that she cashed these checks at the direction of Ms. Pesson and handed the cash directly to Commissioner Odom, placed the cash in his coat pocket, or left the cash with Ms. Pesson or Ms. Barnett for Commissioner Odom. Ms. Earl further stated that 80% of the times she cashed allowance checks for Mrs. Odom, she (Earl) took the cash to Mrs. Odom at her home in Zachary, Louisiana. Ms. Earl added that the majority of the time she made these trips to Zachary in a state vehicle during her workday. Ms. Earl also stated that she thinks she cashed allowance checks for Commissioner Odom and Mrs. Odom every two weeks.

Ms. Earl stated that 80% of the times she cashed allowance checks for Mrs. Odom, she (Earl) took the cash to Mrs. Odom in Zachary.

Ms. Earl stated that Commissioner Odom's deposits into his personal bank accounts were hand carried to the bank during the workday by employees and that she carried approximately 90% of these deposits. Ms. Earl stated that Ms. Pesson taught her how to complete the deposits for Commissioner Odom's personal accounts. Records indicate that the personal errands she performed consisted of dropping off and picking up Commissioner Odom's laundry at the dry cleaners, picking up personal gifts, filling Mrs. Odom's vehicle with gasoline, having jewelry engraved, and purchasing paint.

Ms. Earl stated that at some point she asked her supervisor, Ms. Pesson, for a raise. According to Ms. Earl, Ms. Pesson discussed the request with Commissioner Odom and the raise was approved as a promotion. On March 28, 1994, Ms. Earl was promoted from student worker to produce inspector. Ms. Earl stated that she never performed any duties as a produce inspector and remained assigned to the executive office.

Kenya Milligan

Ms. Kenya Milligan, another student worker, appears to have assumed Ms. Earl's duties upon Ms. Earl's termination. Ms. Milligan declined to speak with our office. However, records indicate that Ms. Milligan also performed personal errands for Commissioner Odom. From February 12, 1998, through May 4, 2000, Ms. Milligan cashed over 80 of Commissioner Odom's personal checks, some of which were cash allowances for Commissioner Odom and Mrs. Odom, transported laundry for the commissioner, and performed other personal errands.

Laura Pursnell

Ms. Laura Pursnell has been a student worker at the Department since June 1997. Since the summer of 2001, she has worked in the executive office. According to Ms. Pursnell, she picks up Commissioner Odom's dry cleaning at Wolf's Dry Cleaning on a weekly basis, normally at the direction of Ms. Barnett. Ms. Pursnell stated that she uses Commissioner Odom's state vehicle to pick up his laundry, and she considers these errands part of her normal work duties for the Department.

Wayne Guilbeau

As mentioned previously, Mr. Wayne Guilbeau is currently the director of the inactive Louisiana Pork Promotion Board. From December 21, 1995, through November 22, 2000, Mr. Guilbeau cashed 51 of Commissioner Odom's personal checks. Of the 51 checks, 38 appear to have been cashed during Mr. Guilbeau's normal work hours. Interviews and records obtained indicate that Mr. Guilbeau performed numerous personal errands for Commissioner Odom. These errands consisted of cashing allowance checks for Commissioner Odom and Mrs. Odom, obtaining vehicle inspections, registering Robb Odom's vehicle, repairing and washing Robb Odom's truck, transporting Commissioner Odom's laundry, purchasing medicine, having boots cleaned, having keys made, and performing other personal errands. Mr. Robb Odom is Commissioner Odom's son.

Both Mr. Richard Allen, former assistant commissioner, and Ms. Earl confirmed personal errands performed by Mr. Guilbeau. Mr. Allen further stated that Mr. Guilbeau transported building materials to a home for Commissioner Odom's daughter. When asked whether he performed personal errands during his workday, Mr. Guilbeau responded that he would get back with us later, which he has not.

David Stilley

Mr. David Stilley, agriculture environmental specialist administrative coordinator, is a classified employee who appears to have also performed personal errands for Commissioner Odom. Mr. Stilley cashed 24 of Commissioner Odom's personal checks, of which 13 appear to have been cashed during his normal workday. Records indicate that Mr. Stilley performed the following personal errands: purchased an animal feeder; purchased ammunition and shotgun shells; obtained fishing licenses, hunting licenses, and duck stamps; obtained an inspection sticker; obtained gasoline; purchased scope covers for guns; purchased O-rings for a three-wheeler; purchased molding; and had a

zipper repaired. Mr. Stilley declined to answer any questions regarding his job duties at the Department.

Henry Baxter

Mr. Henry Baxter is currently the assistant director of the Louisiana Brand Commission, although he performs the duties of director of state meat inspection. Mr. Baxter stated that during the past five or six years he has picked up meat processed from animals purchased by private funds. He transported the meat on state time and in a state vehicle to freezers located behind Commissioner Odom's office and to other locations.

Mr. Baxter stated that he has delivered meat in this manner directly to Commissioner Odom's home in Zachary. Mr. Baxter stated that he does not necessarily know who owns the meat. Mr. Baxter does not believe that using a state vehicle, while on state time, to transport privately owned meat is improper.

Mr. Baxter stated that he considers picking up meat and delivering it a part of his job, and he has been doing this since he began employment with the Department.

Summary

Commissioner Odom appointed 14 individuals to unclassified positions of director or assistant director of various boards or commissions in possible violation of law. Commissioner Odom did not have the authority to appoint any of these individuals to the unclassified positions. That authority is statutorily provided by the legislature to the members of the individual boards and commissions. Commissioner Odom's only authority is to approve such appointments. Furthermore, the individuals appointed to the positions of director or assistant director did not perform the duties for which they were compensated. The salaries paid to these appointees in the unclassified positions were established by Commissioner Odom and appear to be excessive. These 14 appointees were carried on the Department payroll as director or assistant director for services they did not render, and it appears, in most cases, the services actually rendered were grossly inadequate for the compensation received. As a result, it appears that for periods as early as 1987 through 2001, the Department spent at least \$1,798,563 in excess salaries for services that were either not rendered or were grossly inadequate for the compensation received. The excessive salaries resulted in an increased actuarial accrued liability to the Louisiana State Employees' Retirement System of \$1,237,560. Therefore, the total combined impact is \$3,036,123.

In addition, all 14 appointees provided services to the Bob Odom campaign. These services consisted of soliciting contributions, writing press releases, and performing other campaign services. At least five of the appointees stated that they voluntarily worked on houses for Commissioner Odom's children. Finally, four of the appointees either performed or instructed other employees to perform personal errands for Commissioner Odom and his family members. These personal errands provided to Commissioner Odom extend back to the 1980s. (See appendix at Attachment I.)

Commissioner Odom and the appointees may have violated one or more of the following state laws:

- R.S. 14:134, "Malfeasance in Office"¹
- R.S. 14:138, "Public Payroll Fraud"²
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"³

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

¹ 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.

² R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

³ R.S. 42:1461(A) 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.

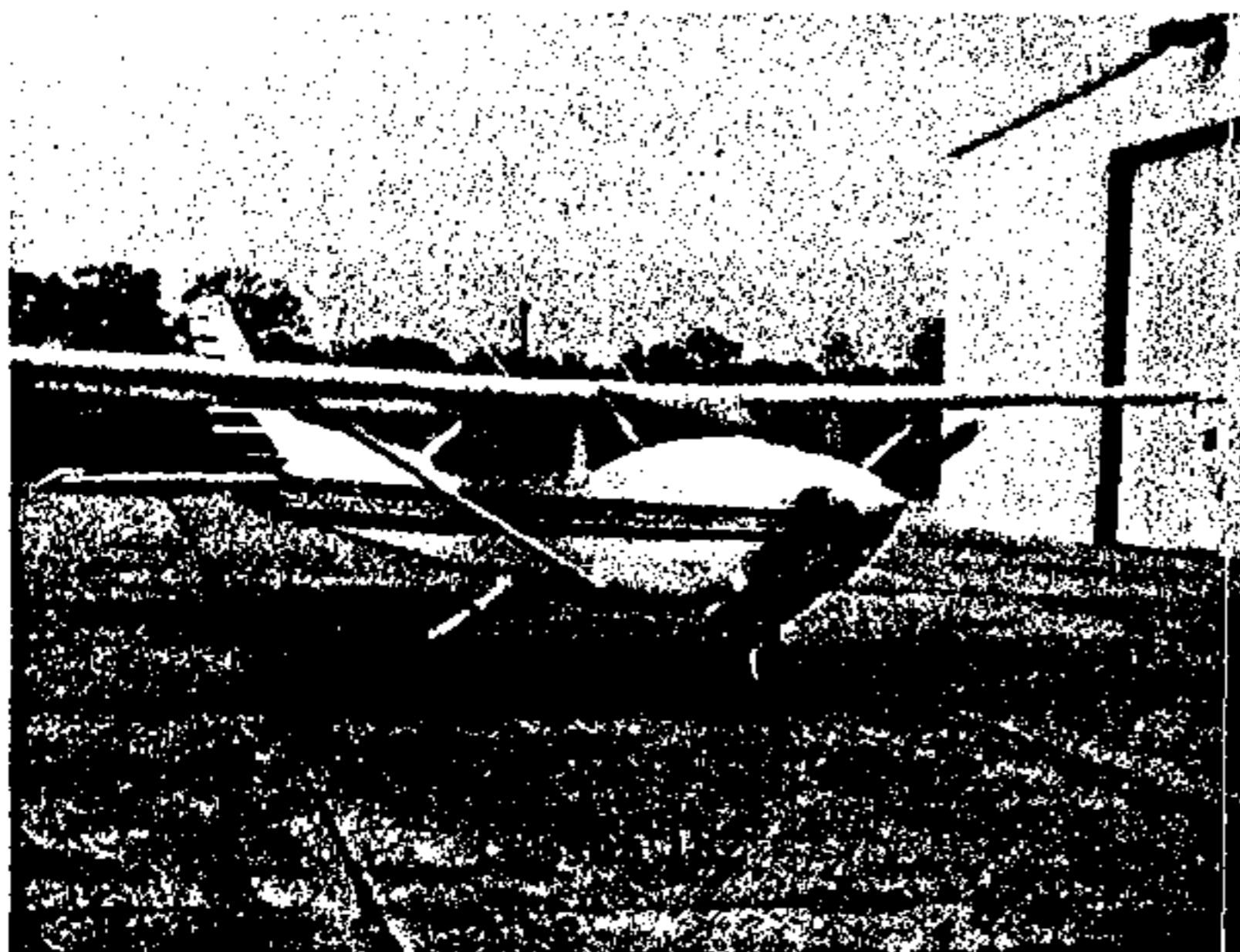
Commissioner Odom Used State Property for Personal Purposes

During the period January 1998 through March 2001, Commissioner Odom used, in possible violation of state law, Department airplanes for at least 321 personal, political, or campaign related flights; failed to reimburse the Department for these costs; and used Department employees, while being paid by the Department, to pilot many of these flights. In addition, Commissioner Odom accepted valuable gifts from entities regulated by the Department.

State law prohibits the use of state property for purely private purposes such as these personal, political, and campaign related flights. The value of these 321 flights was approximately \$69,848. Commissioner Odom reimbursed \$11,316 to the Department for 144 of these flights; however, the reimbursements were at a rate significantly lower than fair market value. For the remaining 177 flights, Commissioner Odom did not reimburse any portion of the cost incurred by the Department. In addition, at least 25 of the flights were piloted by Department employees while paid by the Department. Furthermore, during some of these personal trips, Commissioner Odom went hunting on land owned or leased by entities regulated by the Department. On these trips, Commissioner Odom received lodging, meals, and hunting supplies from these entities.

Background

The Department owns a fleet of aircraft, which are used for the detection of forest fires and insect infestations. At least three of these aircraft are used for administrative purposes. The primary administrative aircraft is a Beechcraft 58-Baron (Baron) fixed wing, multi-engine airplane. The other two aircraft used for administrative purposes are Cessna 182 fixed wing, single engine airplanes. Commissioner Odom and Mr. Jesse Kelley are the primary pilots of the administrative aircraft. Mr. Bradley Scott McCullough, former Department employee, was also a primary pilot of the administrative aircraft.



Personal, Political, and Campaign

Use of Department Aircraft

From January 1998 through March 2001, Commissioner Odom used the Department administrative aircraft for 321 personal, political, or campaign related flights.⁴

These flights consisted of hunting trips, attendance at political and social functions, personal events including family vacations and weddings, and campaign related

trips. The nature of these flights appears to be purely for the private and political affairs and benefit of Commissioner Odom. Approximately 24% of all flight hours for the Department Baron during this period were personal, political, or campaign related flights made by Commissioner Odom.

Commissioner Odom used the Department aircraft for hunting trips, political and social functions, family vacations, weddings, and campaign related trips.

The nature of the flights was determined by comparing the Department flight logs with the individual pilots' personal flight logs as well as Commissioner Odom's personal calendar. The Department flight logs provided to the Legislative Auditor did not include the purpose of each flight and the identity of any passengers. Department personnel informed us that Ms. Michelle Ribera, Department secretary, was responsible for preparing and maintaining the flight logs for the period we examined. Ms. Ribera has refused to answer any question asked by the Legislative Auditor.

The fair market rental rate for these 321 flights is approximately \$69,848.

The fair market rental cost of these flights using fair market rates, as suggested by the Attorney General,⁵ for comparable aircraft is \$69,848.⁶ Commissioner Odom's campaign reimbursed the Department \$11,316 for 144 of these flights; however, the rate of reimbursement used by

the campaign was \$85 per hour, which is significantly lower than the fair market rates of \$225 per hour for a Baron and \$120 per hour for a Cessna. In addition, Commissioner Odom has not reimbursed the Department for any portion of the cost or fair market rental rate of the remaining 177 flights. We could not find nor were we provided any explanation as to the public purpose, benefit, or necessity of any of these flights. Therefore, Commissioner Odom received, in possible violation of state law, at least \$69,848 in services that he was not entitled to receive for which he has only reimbursed \$11,316. As a result, Commissioner Odom appears to owe the Department at least \$58,532.

On at least 25 of the 321 personal, political, or campaign related flights, Department employees piloted the aircraft while paid by the Department. In addition, on at least two flights, Commissioner Odom paid the Department pilots for three complete days of service even though they were snow skiing with Commissioner Odom and therefore providing no service to the

⁴ Each leg of travel represents one flight.

⁵ Attorney General Opinion No. 89-369

⁶ Fair market value of flights was calculated as follows: Flight duration was estimated using, distances direct to destination, average cruise speed of appropriate aircraft, plus 12 minutes per flight for ground operations. This methodology was considered reasonable by two Department pilots, Mr. Bradley Scott McCullough and Mr. Jesse Kelly. Flight duration was multiplied by the available rental rate of comparable aircraft--\$225 per hour for a Beechcraft Baron and \$120 per hour for a Cessna 182.

spent three days at the lodge while Commissioner Odom was hunting. A representative of Cotton Mesa stated that Mr. Gary Garr, a Zeneca employee, paid \$8,000 for Commissioner Odom and possibly one other person to hunt with him at Cotton Mesa. According to the representative, the \$8,000 payment included hunting, lodging, licenses, meals, and a guide for three days. Zeneca, now Syngenta, is a chemical company that operates a plant in Louisiana and sells chemical products used for agricultural purposes in Louisiana. In 1999, Zeneca received 78 product licenses from the Department to sell its chemicals in Louisiana. The fair market rental rate for this roundtrip flight is \$1,842.

On October 1, 1998, Commissioner Odom flew the Department Baron to Hondo, Texas, to hunt at Big Tree Ranch in Uvalde, Texas. A representative from BASF stated that BASF maintains a cabin at the ranch and Commissioner Odom was its guest for three days. BASF is a chemical producing company that operates a plant in Louisiana and sells products used for agricultural purposes in Louisiana. In 1998, BASF received 61 product licenses from the Department to sell its chemicals in Louisiana. The fair market rental rate for this roundtrip flight is \$1,154.

The following chart represents flights that were identified as hunting trips.

Dates	Roundtrip Flight Destination	Purpose	Fair Market Flight Cost	Campaign Reimbursement
4/30/98 - 5/4/98	Albany, MO	Turkey Hunting	\$1,609	
10/1/98 - 10/3/98	Hondo, TX	Dove Hunting	1,154	
10/9/98 - 10/13/98	Meeker, CO	Hunting	2,569	\$850
11/7/98 - 11/7/98	Crowley, LA	Hunting	273	113
11/27/98 - 11/27/98	Monroe, LA	Hunting	410	
12/1/98 - 12/2/98	Bunkie, LA	Hunting	264	
12/4/98 - 12/6/98	Belleville, KS	Hunting	1,703	353
12/8/98 - 12/9/98	Wiergate, TX	Deer, Hog, & Quail Hunting	862	
1/4/99 - 1/6/99	Hondo, TX	Hunting	695	
4/13/99 - 4/14/99	Brownwood, TX	Turkey Hunting	1,115	
5/1/99 - 5/3/99	Albany, MO	Turkey Hunting	1,609	
9/19/99 - 9/21/99	Clayton, NM	Elk Hunting	1,842	
11/13/99 - 11/13/99	Jennings, LA	Duck Hunting	293	
11/21/99 - 11/24/99	Tallulah, LA	Hunting at Diamond Island	365	128
12/7/99 - 12/8/99	Wiergate, TX	Deer, Hog, & Quail Hunting	445	
1/7/00 - 1/7/00	Tallulah, LA	Hunting at Diamond Island	365	
4/12/00 - 4/15/00	Sonora, TX	Hunting	1,324	425
11/13/00 - 11/13/00	Monroe, LA	Hunting	410	
11/22/00 - 11/22/00	Tallulah, LA	Hunting at Diamond Island	365	
12/4/00 - 12/6/00	Tallulah, LA	Hunting at Diamond Island	365	170
12/11/00 - 12/12/00	Wiergate, TX	Deer, Hog, & Quail Hunting	753	
12/18/00 - 12/22/00	Tallulah, LA	Hunting at Diamond Island	730	
Total			\$19,520	\$2,039

The above information represents 52 flights. Each leg of travel is considered a flight. The nature of these flights was determined by comparing Department flight logs with the individual pilot's personal flight logs, as well as Commissioner Odom's personal calendar.

Examples of Political and Social Functions

Commissioner Odom made at least 89 flights in Department aircraft to attend political fundraisers, banquets, barbecues, and parties. The following chart lists those flights.

Dates	Flight Destination	Purpose	Fair Market Flight Cost	Campaign Reimbursement
1/15/98	New Orleans, LA	Senator John Breaux Reception	\$254	\$85
3/17/98	Lake Charles, LA	Senator Gerald Theunissen Event	367	128
3/18/98	Crowley, LA	Representative Gil Pinac Dinner	136	51
3/18/98	New Orleans, LA	Pat O'Briens	332	102
3/23/98	Oakdale, LA	Sheriff Turner Fundraiser	292	102
5/9/98	LaPlace, LA	Representative Robert Faucheux	254	
5/23/98	Crowley, LA	Sheriff Kenneth Goss Fundraiser	273	
6/6/98	Lafayette, LA	Louisiana Democratic Party Function	210	
8/20/98	Jeanerette, LA	Representative Troy Hebert Meeting	131	85
10/5/98	Hammond, LA	Representative Henry Powell Function	182	
10/19/98	Oakdale, LA	Representative Herman Hill Fundraiser	292	
10/29/98	Mansfield, LA	Representative Beverly Bruce Kickoff	410	43
3/12/99	Shreveport, LA	Senator Ronald Bean Event	539	
3/18/99	DeRidder, LA	Representative Kay Iles Cocktail Party	378	
3/19/99	Houma, LA	Representative Mitchell Theriot Fundraiser	249	
3/21/99	New Orleans, LA	Representative John Alario Function	254	
3/22/99	Jonesville, LA	Representative Wiggins Event	250	
3/23/99	New Orleans, LA	Senator Francis Heitmeier Cocktail Buffet	254	
3/24/99	Eunice, LA	Representative Gregory Fruge Event	256	
3/25/99	Shreveport, LA	Representative Billy Montgomery Function	539	
4/17/99	New Orleans, LA	Bill Smith Function, Wedding/Reception	254	
8/10/99	Opelousas, LA	Representative Charles Hudson Fundraiser	136	85
8/11/99	Opelousas, LA	Senator Donald Cravins Function	136	85
8/18/99	Tallulah, LA	Diamond Island - Campaign Meeting	351	
8/21/99	Franklinton, LA	Event in Franklinton	232	85
8/24/99	Sulphur, LA	Representative Ronnie Johns Function	386	128
8/25/99	Lafayette, LA	Senator Donald Cravins Reception	105	43
8/31/99	Bogalusa, LA	Representative Ben Nevers Fundraiser	171	85
9/1/99	Metairie, LA	Representative Jennifer Sneed Fundraiser	254	85
9/2/99	New Orleans, LA	Democratic Organization Meeting	399	
9/18/99	Abbeville, LA	Representative Mickey Firth Party	238	

Examples of Political and Social Functions (Cont.)

Dates	Flight Destination	Purpose	Fair Market Flight Cost	Campaign Reimbursement
9/29/99	Natchitoches, LA	Jim Long Function	\$400	\$128
10/4/99	Hammond, LA	Representative Henry Powell Scramble	185	
10/14/99	Fairbanks, LA	Representative Charles McDonald Barbecue	449	
10/18/99	New Iberia, LA	Representative Troy Hebert Meeting	237	57
11/17/99	Monroe, LA	Senator Noble Ellington	410	43
2/18/00	Tallulah, LA	Diamond Island - Campaign Meeting	365	128
6/22/00	Jackson, MS	Commissioner Spells Event	392	85
6/24/00	Hammond, LA	Representative Henry Powell Roast	182	85
8/13/00	New Orleans, LA	National Democratic Convention	321	
9/1/00	Monroe, LA	Legislative Dove Hunt Cocktail Buffet	410	
9/18/00	New Iberia, LA	Senator Craig Romero Fundraiser	211	85
11/2/00	Fairbanks, LA	Representative Charles McDonald Barbecue	464	
1/10/01	New Orleans, LA	Representative Edwin Murray Fundraiser	454	
3/21/01	New Orleans, LA	Representative Steve Scalise	254	
Total			\$13,248	\$1,803

The above information represents 89 flights. Each leg of travel is considered a flight. The nature of these flights was determined by comparing Department flight logs with the individual pilot's personal flight logs, as well as Commissioner Odom's personal calendar.

Examples of Personal Related Events and Travel

Commissioner Odom made 107 flights in Department aircraft to Alabama, Arizona, New Mexico, and locations across Louisiana to attend family events, vacation, and other personal related events.

Commissioner Odom made 107 flights in Department aircraft to Alabama, Arizona, New Mexico, and locations across Louisiana for personal events.

On January 11, 1998, Commissioner Odom and Mr. Kelley flew the Department Baron to Scottsdale, Arizona, to attend flight school. After flight training, on January 12, 1998, Commissioner Odom, Mrs. Mildred Odom, and Mr. Kelley flew from Scottsdale, Arizona, to Flagstaff, Arizona, for a three-day skiing trip. Mr. Kelley was paid by the Department for three 8-hour days while he skied. Commissioner Odom's campaign reimbursed the Department \$85 for the flight and paid Mr. Kelley directly for his personal expenses.

On February 18, 1998, Commissioner Odom flew in a Department owned Cessna to Monroe, Louisiana, for the birth of his grandson. Mr. McCullough piloted the Cessna while paid by the Department.

Commissioner Odom's calendar indicates that he was in Gulf Shores, Alabama, from July 25, 1998, through August 8, 1998. During this period, the flight logs indicate that Mr. McCullough flew the Department Baron to Foley, Alabama, on at least 10 occasions to transport Commissioner Odom to various locations. Mr. McCullough stated that he feels certain Commissioner Odom was on vacation. Mr. McCullough added that he was nothing more than a "cab driver" for Commissioner Odom flying the Department Baron as instructed. The fair market cost of these trips to and from Foley is \$5,761.

On February 28, 1999, Commissioner Odom and Mr. McCullough flew the Baron to Scottsdale, Arizona, to attend flight school. After flight training, on March 2, 1999, Commissioner Odom, Mrs. Odom, and Mr. McCullough flew to Angel Fire, New Mexico, for a five-day skiing trip. After arriving in Angel Fire, Mr. McCullough flew to Albuquerque, New Mexico, to pick up and return Mr. and Mrs. Lonny Myles, Commissioner Odom's guests, to Angel Fire. According to Mr. McCullough, this was at Commissioner Odom's instructions. While in Angel Fire, the



Odoms, the Myles, and Mr. McCullough stayed in a lodge owned by Kennedy Rice Dryers, Inc. The Department regulates Kennedy Rice Dryers, Inc., which is located in Mer Rouge, Louisiana. This regulation consists of inspections and licensing as an agricultural and commodity dealer. Mr. Elton Kennedy is the president of Kennedy Rice Dryers, Inc. The Odoms, the Myles, and Mr. McCullough returned to Baton Rouge in the Department Baron on March 6, 1999. Mr. Myles confirmed the above trip. Department records show that

Mr. McCullough was paid for at least three 8-hour days while in Angel Fire. Mr. McCullough stated that he was on the Department payroll during this skiing trip because Commissioner Odom instructed him to be there and to make the flights.

Mrs. Odom flew with the Department pilot from Baton Rouge to Monroe to attend her granddaughter's dance recital.

dropping Commissioner Odom off in Monroe, he flew the Department Baron to Baton Rouge to pick up Mrs. Odom and then returned to Monroe. Mr. McCullough stated that after the dance recital, he and the Odoms returned to Baton Rouge.

On December 20, 2000, Mr. Kelley flew the Department Baron from Baton Rouge to Tallulah to Monroe to Tallulah and back to Baton Rouge. According to Mr. Kelley, he and Mrs. Odom flew to Tallulah to pick up Commissioner Odom and then flew to Monroe for their granddaughter's Christmas party. Mr. Kelley

On May 26, 2000, Mr. McCullough flew the Department Baron to Memphis, Tennessee, to pick up Commissioner Odom. Mr. McCullough then flew Commissioner Odom to Monroe, Louisiana, to attend a dance recital for Commissioner Odom's granddaughter. According to Mr. McCullough, after

Commissioner Odom and Mrs. Odom flew with a Department pilot to Monroe to attend their granddaughter's Christmas party.

stated that after the party he dropped off Commissioner Odom in Tallulah and then returned Mrs. Odom to Baton Rouge.

Mr. Kelley stated that he could remember two occasions where Ms. Ashley Odom Thompson, Commissioner Odom's daughter, was the only passenger in the Department aircraft. According to Mr. Kelley, on one occasion he was instructed to fly Ms. Thompson from Baton Rouge to Rayville late at night because she needed to get home. Mr. Kelley stated that, on the second occasion, he flew Ms. Thompson home after a funeral. When asked if he knew the agricultural purpose of these flights, Mr. Kelley responded, "I don't have a clue. I was just told to do it, and I did it."

The following chart represents flights that were identified as personal trips.

Dates	Flight Destination	Purpose	Fair Market Flight Cost	Campaign Reimbursement
1/12/98	Flagstaff, AZ	Skiing Trip	\$160	\$85
2/5/98	Homer, LA	Tree Planting - Odom's Farm	1,011	
2/7/98	Homer, LA	Tree Planting - Odom's Farm	505	
2/8/98	Homer, LA	Tree Planting - Odom's Farm	505	
2/18/98	Monroe, LA	Grandson's Birth	276	
3/21/98	Lake Charles, LA	Waiter for Charity at Quota Club	367	
4/20/98	Minden, LA	Funeral	512	
7/2/98	Alexandria, LA	Pentecostal Church Function	307	
7/27/98	Foley, AL	Vacation	536	
7/29/98	Foley, AL	Vacation	536	
7/30/98	Foley, AL	Vacation	1,072	
7/31/98	Foley, AL	Vacation	1,130	
8/1/98	Foley, AL	Vacation	536	
8/5/98	Foley, AL	Vacation	536	
8/6/98	Foley, AL	Vacation	365	
8/7/98	Foley, AL	Vacation	1,050	
11/23/98	Tallulah, LA	Diamond Island Meeting	244	353
1/30/99	Monroe, LA	Wedding - Elton Kennedy's Daughter	410	
3/2/99	Angel Fire, NM	Skiing Trip	859	
3/17/99	Alexandria, LA	Pentecostal Church Function	307	
4/3/99	Monroe, LA	Transport Crawfish Purchased by Campaign	410	
4/11/99	Jena, LA	Everett Mayo's Father's Anniversary	218	
4/18/99	Monroe, LA	Hold Plane for Millie Odom	410	
5/14/99	New Orleans, LA	Representative John Alario Dedication	254	

Personal Trips (Cont.)

Dates	Flight Destination	Purpose	Fair Market Flight Cost	Campaign Reimbursement
5/30/99	Foley, AL	Memorial Day Weekend	\$536	
5/31/99	Pensacola, FL	Memorial Day	605	
8/21/99	Tallulah, LA	Diamond Island - Meeting	365	
8/25/99	New Roads, LA	Funeral - Bill Beatty	166	
9/7/99	Tallulah, LA	Dinner with Todd Kennedy	365	\$170
9/13/99	Monroe, LA	Diamond Island Hunting Club Meeting	446	
9/23/99	Monroe, LA	Meeting with Kevin Hopper	272	
10/14/99	Tallulah, LA	Meeting with Ashley Odom Thompson	182	
10/16/99	New Iberia, LA	Funeral - Bo Ackal	106	28
10/16/99	Tallulah, LA	Meeting at Kevin Hopper's Camp	410	57
10/18/99	Tallulah, LA	Diamond Island	365	85
11/11/99	Tallulah, LA	Diamond Island	182	
12/15/99	Tallulah, LA	Dinner at Kevin Hopper's Camp	365	213
1/8/00	Lafayette, LA	Wedding	210	
4/8/00	Alexandria, LA	Pentecostal Church Function	307	
5/12/00	Monroe, LA	Ball Game	410	113
5/26/00	Monroe, LA	Granddaughter's Dance Recital	890	
6/23/00	Lafayette, LA	Wedding	210	85
6/26/00	Monroe, LA	Ashley Odom Thompson's House Closing with Lonny Myles in Zachary	410	113
6/29/00	Natchitoches, LA	Anniversary Party	400	
7/16/00	Monroe, LA	Diamond Island Hunting Club Meeting	410	
9/9/00	Natchitoches, LA	Wedding - Terrell Delphin's Daughter	400	
9/14/00	Monroe, LA	Diamond Island Hunting Club Meeting	410	
11/30/00	Monroe, LA	Holiday Auction	410	85
12/20/00	Monroe, LA	Granddaughter's Christmas Party	586	
1/7/01	Tallulah, LA	Diamond Island	365	
2/6/01	Jennings, LA	Meeting at Doug's Hunting Lodge	293	
Total			\$22,592	\$1,387

The above information represents 107 flights. Each leg of travel is considered a flight. The nature of these flights was determined by comparing Department flight logs with the individual pilot's personal flight logs, as well as Commissioner Odom's personal calendar.

Campaign Related Trips

Commissioner Odom made the following 73 flights in Department aircraft. Because flight records did not contain any explanations thus concealing the purpose of each flight and the identity of any passengers, we were unable to determine the purpose of the following flights; however, the flights appear to be campaign related since the campaign reimbursed the Department for a portion of the flight.

Dates	Flight Destination	Fair Market Flight Cost	Campaign Reimbursement
3/22/98	Rayville, LA	\$790	\$221
10/16/98	New Orleans, LA	254	128
11/8/98	Woodworth, LA	188	40
12/11/98	Beloit, KS	1,532	553
6/7/99	Unknown	300	213
7/9/99	Unknown	156	113
8/30/99	Monroe, LA	276	170
9/30/99	Tallulah, LA	365	85
10/12/99	Shreveport, LA	368	230
10/15/99	Unknown	300	213
10/18/99	New Orleans, LA	529	170
10/19/99	Lake Charles, LA	175	153
10/19/99	New Iberia, LA	312	383
10/21/99	Unknown	120	85
11/19/99	Unknown	180	128
11/25/99	Tallulah, LA	365	128
12/14/99	Shreveport, LA	539	213
2/2/00	Monroe, LA	410	113
2/6/00	Monroe, LA	410	113
2/12/00	Monroe, LA	410	113
2/19/00	Monroe, LA	410	128
5/4/00	Sonora, TX	1,324	425
5/15/00	Tallulah, LA	365	113
6/16/00	Monroe, LA	410	113
6/25/00	Monroe, LA	410	85
7/13/00	Monroe, LA	410	170
7/26/00	Unknown	240	170
7/28/00	Monroe, LA	276	170
8/7/00	Monroe, LA	276	170
9/18/00	Monroe, LA	276	128
9/22/00	Monroe, LA	410	128
9/29/00	Unknown	312	226
10/6/00	Monroe, LA	410	113
10/12/00	Mansfield, LA	500	43
10/25/00	Unknown	480	340
Total		\$14,488	\$6,087

The above information represents 73 flights. Each leg of travel is considered a flight. The nature of these flights was determined by comparing Department flight logs with the individual pilot's personal flight logs, as well as Commissioner Odom's personal calendar.

This is not the first time that Commissioner Odom's use of state aircraft has been questioned. In 1988, the Inspector General for the State of Louisiana issued a report indicating that Commissioner Odom used Department aircraft for a personal flight. The report further indicated that Commissioner Odom flew his daughter and her friend from Monroe to Lake Charles to attend a college football game. Commissioner Odom responded to this report by stating that he did not consider this flight as personal use because he is on call 24 hours a day.

In 1988, the Inspector General questioned Commissioner Odom's personal use of Department aircraft to fly his daughter and a friend to a football game.

The Law

The Louisiana Constitution, state law, and the Louisiana Administrative Code have prescribed the proper use of state owned property. In addition, the Attorney General has answered many questions involving personal and political use of state-owned property.

Louisiana Constitution

The constitution⁸ prohibits the donation of state property to any individual. The lack of a legal obligation to incur the debt constitutes a donation. Because the Department has no legal obligation to provide for the non-business or purely private transportation of Commissioner Odom, the payment of these travel costs would constitute a donation, which has no public purpose and no public benefit commensurate with the cost incurred.

Louisiana Civil Law

Louisiana civil law (R.S. 39:231.B) provides, in part, that each statewide elected official may use, at public expense, any state aircraft for any purpose which such official deems necessary in performing the duties of his office.

Louisiana Administrative Code

The Louisiana Administrative Code⁹ provides that state officers may use state-owned aircraft for official state business. State-owned aircraft shall not be utilized to transport state officers to any event, meeting, function or other occasion that is primarily political in nature, or for any other political purpose. Any statewide elected official who determines, under the authority of R. S. 39:231.B that personal or political usage is necessary in performing the duties of his office and should, therefore, be conducted at public expense, is exempted from the provisions of the code pertaining to personal responsibility of costs of such flights and prohibited political usage. It appears to be incumbent on the public official to fully explain the exemption.

⁸ Article VII, Section 14

⁹ Fiscal Policy and Procedure Memorandum No. 67

Attorney General

In 1989, the Attorney General for the State of Louisiana opined,¹⁰ at the request of Commissioner Odom and the Inspector General, that Louisiana law¹¹ prohibits the use of state property for a purely private purpose. The Attorney General's opinion provides that:

1. The public official must make the initial determination as to whether the travel is for a public purpose.
2. The public official's determination is subject to review.
3. The public official has a responsibility to resolve any doubts in a way that will protect the taxpayers, because public officials are deemed to have assumed a fiduciary role with respect to public property.
4. In a circumstance where a violation of such a prohibition exists "the State should be reimbursed for all substantial costs incurred as a result of the travel that is not for a public purpose" and "a fair cost of reimbursement would be the rental cost of a similar type of aircraft."

The Attorney General has acknowledged that public officials have a responsibility to determine whether their travel is for a public purpose. In addition, the Attorney General recognized (Opinion No. 90-519) that no public entity may donate a state-owned vehicle to an official for unrestricted personal use. The opinion stated that all public vehicles must be used for a public purpose subject to the fiduciary duty of the operator. Personal use is permissible only when it is minimal, reasonably necessary, and incidental to the authorized use. Misuse is a breach of fiduciary duty as set forth by R.S. 42:1461, "Misuse of Public Funds." In this opinion, the Attorney General stated that to allow unrestricted expenditure of public funds as long as the public official can imagine some species of public good or public benefit resulting therefrom, would be to authorize a fragmentation and incoherence in fiscal policy at all levels of state government.

In summary, the use of public property for private purposes is prohibited by the state constitution (Article VII, Section 14). The donation of the Department's assets, in this case the value of the aircraft and its operating costs, to any individual is not allowed. State law clearly prohibits the use of state-owned property, such as the Department's aircraft, for purely private purposes. The Louisiana Administrative Code, which is based on the state constitution and law, while giving the commissioner the authority to make an initial determination, also requires that the use of public property be for purposes necessary in the performance of official public duties. And the Attorney General has opined that public property may not be used for purely personal

**The state constitution
and state law prohibit
the use of public
property for purely
private purposes.**

¹⁰ Attorney General Opinion No. 89-369

¹¹ R.S. 42:1461 (A) 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.

purposes rather public property must be used for public purposes--any doubts must be resolved to protect the public and public funds.

Commissioner Odom's Response

On October 26, 2001, the Legislative Auditor requested in writing that Commissioner Odom provide an explanation as to the public purpose, if any, for all 321 flights. Attached to this letter was a copy of the Department flight log identifying each of these questioned flights.

In a response dated November 9, 2001, Mr. Skip Rhorer, assistant commissioner of the Department, stated that "all use of all aircraft of the Department is for public purposes." Mr. Rhorer further explains that the cost of some flights or portions of flights are "voluntarily" paid to the state "because it has been the practice to do so where it is believed that there may have been some incidental use or other purpose in addition to the public purpose of the flight or portion of flight."

The Department's response is that all use of all aircraft of the Department is for public purposes.

In an interview on November 19, 2001, Mr. Rhorer stated that as a group effort he, Commissioner Odom, Mr. Randall Johnson, deputy commissioner, and Mr. Jim Gelpi, attorney representing the Department, composed the November 9, 2001, response to the Legislative Auditor. Mr. Rhorer further stated that he was not shown the list of flights in question and his statements in the response were based on his understanding that any use of Department equipment for non-public purposes is wrong.

To this date, Commissioner Odom has not provided an explanation as to how any of the 321 flights served a public purpose, benefited the public, or were necessary in the performance of his duties as the Commissioner of Agriculture and Forestry. In addition, Commissioner Odom did not define his understanding of incidental use.

Summary

Though it was brought to his attention at least 10 years earlier, Commissioner Odom continued to use Department aircraft for what appears to be purely personal purposes. Approximately 24% of all flight hours for the Department Baron were used by Commissioner Odom for personal, political, or campaign related purposes. In addition, Commissioner Odom allowed Department employees to be paid while piloting aircraft during these personal flights. Furthermore, Commissioner Odom received gifts and things of economic value from entities involved in industries regulated by the Department. These actions indicate possible violation of one or more of the following laws:

- R.S. 14:67, "Theft"¹²
- R.S. 14:68, "Unauthorized Use of a Movable"¹³
- R.S. 14:134, "Malfeasance in Office"¹⁴
- R.S. 14:138, "Public Payroll Fraud"¹⁵
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"¹⁶
- 18 U.S.C. §666, "Theft Concerning Programs Receiving Federal Funds"¹⁷

The actual determination as to whether any individual is subject to formal charge is at the discretion and determination of the district attorney or United States Attorney.

¹² R.S. 14:67 provides, in part, 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, practices, or representations.

¹³ R.S. 14:68 provides, in part, that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

¹⁴ 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.

¹⁵ R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

¹⁶ R.S. 42:1461(A) 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.

¹⁷ 18 U.S.C. §666 provides, in part, that theft concerning programs receiving federal funds occurs when an agent of an organization, state, local, or Indian tribal government or any agency thereof embezzles, steals, obtains by fraud, or otherwise intentionally misapplies property that is valued at \$5,000 or more and is owned by or under control of such organization, state, or agency when the organization, state, or agency receives in any one year period, benefits in excess of \$10,000 under a federal program involving a grant contract, or other form of federal assistance.

Bid Process Manipulated and Two Warehouse Owners Allege Cash Payments

The bid process for housing USDA commodities appears to have been manipulated resulting in specific individuals receiving Department contracts at an increased cost to the Department between \$3,792,394 and \$4,300,585 during the period 1997 to 2000.

Two warehouse owners stated that they gave cash directly to Commissioner Odom and contributions to his political campaign. One warehouse owner, Mr. Tommy Roshto, maintains that when he stopped making these payments, Commissioner Odom and other warehouse owners conspired to eliminate his opportunity to receive the Department contract. Commissioner Odom changed the bid specifications thereby allowing four companies controlled or influenced by Mr. Lehman Williamson or Ms. Ann Williamson to manipulate the bid process, thus causing Mr. Roshto's low bids in districts Two and Three to not be accepted by the Department during the 1997 bid process.

Documents and interviews indicate the following:

- 1. Since the Department began administering the food storage program in 1985, essentially the same five warehouse owners have received the contracts to store the food commodities.**
- 2. Prior to the 1997 bid, these five warehouse owners received three-year contracts awarded by individual districts.**
- 3. These warehouse owners met and developed a plan for a single statewide bid that would include four of the warehouse owners and exclude the Baton Rouge warehouse owned by Mr. Roshto.**
- 4. These warehouse owners located a new bidder, Pat Company, Inc., to bid against Mr. Roshto in the Baton Rouge district; however, Pat Company, Inc., did not meet the present space requirements for that district.**
- 5. Pat Company, Inc.'s desire to bid was relayed to the Department, and as a result, the bid space requirements were changed in the Baton Rouge district only.**
- 6. Commissioner Odom instructed Department staff to change the invitation-to-bid to allow a statewide bid only.**
- 7. Warehouse owners received the invitation-to-bid prior to its official release.**
- 8. Ms. Ann Williamson formed a corporation, then she and other warehouse owners met and discussed ways to facilitate a statewide bid without Mr. Roshto.**
- 9. Mr. Roshto protested the lack of allowing individual bids and subsequently the bid specifications were changed to allow for both a statewide bid and individual bids by district.**

10. It appears that Mr. Lehman Williamson and Ms. Ann Williamson, having control or influence over at least four of the eight bidders, inflated four bids resulting in the statewide bid being lower than the total for the individuals' bids, thereby ensuring the statewide bid would be awarded the contract and at the same time eliminating Mr. Roshto from the program.

From 1985 to 2000, the warehouse owners who participated in the food storage program contributed \$116,000 to Commissioner Odom's campaign. From 1996 through 2000, Commissioner Odom used \$72,754 from his political campaign fund for purchases that appear to be personal in nature and have no relationship to his campaign.

Background

The Department has administered the USDA Commodity Food Distribution Program (food distribution program) since 1985. This program provides surplus agricultural products to schools and charitable organizations. The Department contracts with warehouse companies throughout the state to store commodities for the program. Commodities consist of dry, refrigerated, and frozen goods. From July 1997 to June 2000, the contract years included in the statewide bid, the Department paid the warehouse companies a combined total of \$12,131,877 to store USDA commodities.

Prior to 1997, only five warehouse companies were successful bidders for the food distribution program contracts. Those five warehouse companies were Alexandria Ice & Cold Storage, Inc.; International Refrigerated Facilities, Inc.; Rice City Warehousing, Inc.; Shreveport Warehouse Services, Inc.; and Warehouse Storage, Inc.

Bid Process

The contracts to store food are awarded through a bid process administered by the Office of State Purchasing (State Purchasing). The food distribution program contracts are let for bid by State Purchasing every three years. The Department is responsible for creating the technical aspects of the bid specifications related to the

food distribution program. Although the Department has administered the program since 1985, State Purchasing only has bid records available from 1991 to the present. Since 1991, the food distribution program contracts were let for bids in 1991, 1994, 1997, and 2000. The Department does not have any way of knowing what commodities will be received each year; therefore,

actual bids are based on per case fees multiplied by year-end inventories from the prior year.

Food distribution program contracts are bid on a 3-year basis and prior to 1997 were awarded by individual districts.

Prior to the 1997 bid, the contracts were bid on the basis of individual districts only; however, in 1997, the bid specifications were modified to allow a statewide bid as well as on an individual district basis. Since the Department began administering the program in 1985, the same five warehouse companies were awarded the contracts until the change in 1997.

The Department is the technical expert and initiates changes to the bid specifications.

The statewide bid implemented in the 1997 bid specifications required the same charges, i.e., per case fees, be applied consistently to each district, whereas the per case fee in the individual bids would vary by storage company and district. The 1997 bid specifications provided that the low bids for individual districts would be combined and compared to the lowest statewide bid. The bid specifications provide that in order for an individual bid to be declared the low bidder for a particular district, the sum total of all individual bids had to be lower than the total of the statewide bid.

In 1997, the bid specifications were changed to allow a statewide bid.

Though State Purchasing was involved, the Department, with input from certain bidders, created the bid specifications for the food distribution program. According to Ms. Denise Lea, Director of State Purchasing, the role of State Purchasing is merely to ensure that the bid process is conducted fairly. Ms. Lea stated that the Department initiates any changes in the bid specifications because the Department is the technical expert. These changes have included alterations of space requirements, revisions of district boundaries, and the move to a statewide bid.

Payments to Commissioner Odom

Two warehouse owners, Mr. Tommy Roshto and Mr. Robert Moore, stated that they gave cash to Commissioner Odom and contributions to his political campaign.

Indirect Payments From Mr. Roshto

Warehouse Storage, Inc., represented by Mr. Tommy Roshto, had the food distribution program contract from 1985 to 1997 for the Baton Rouge district. According to Mr. Roshto, prior to his father's death in 1991, his father made monthly payments of \$1,000 to a mutual friend of his and Commissioner Odom. Mr. Roshto's understanding was that the mutual friend cashed the checks and passed the cash on to Commissioner Odom. Mr. Roshto stated that this arrangement stopped in approximately 1989 when the mutual friend passed away. Mr. Roshto stated that in 1991 Mr. Lehman Williamson, owner of Shreveport Warehouse Services, Inc., approached him and stated that he needed to get his business straight with Commissioner Odom.

Mr. Roshto stated that prior to 1991 his father made monthly payments of \$1,000 to a mutual friend who passed the cash on to Commissioner Odom.

Mr. Roshto stated that he gave Mr. Williamson \$1,000 to \$2,000 per month to take care of Commissioner Odom and anyone else who needed "taking care of."

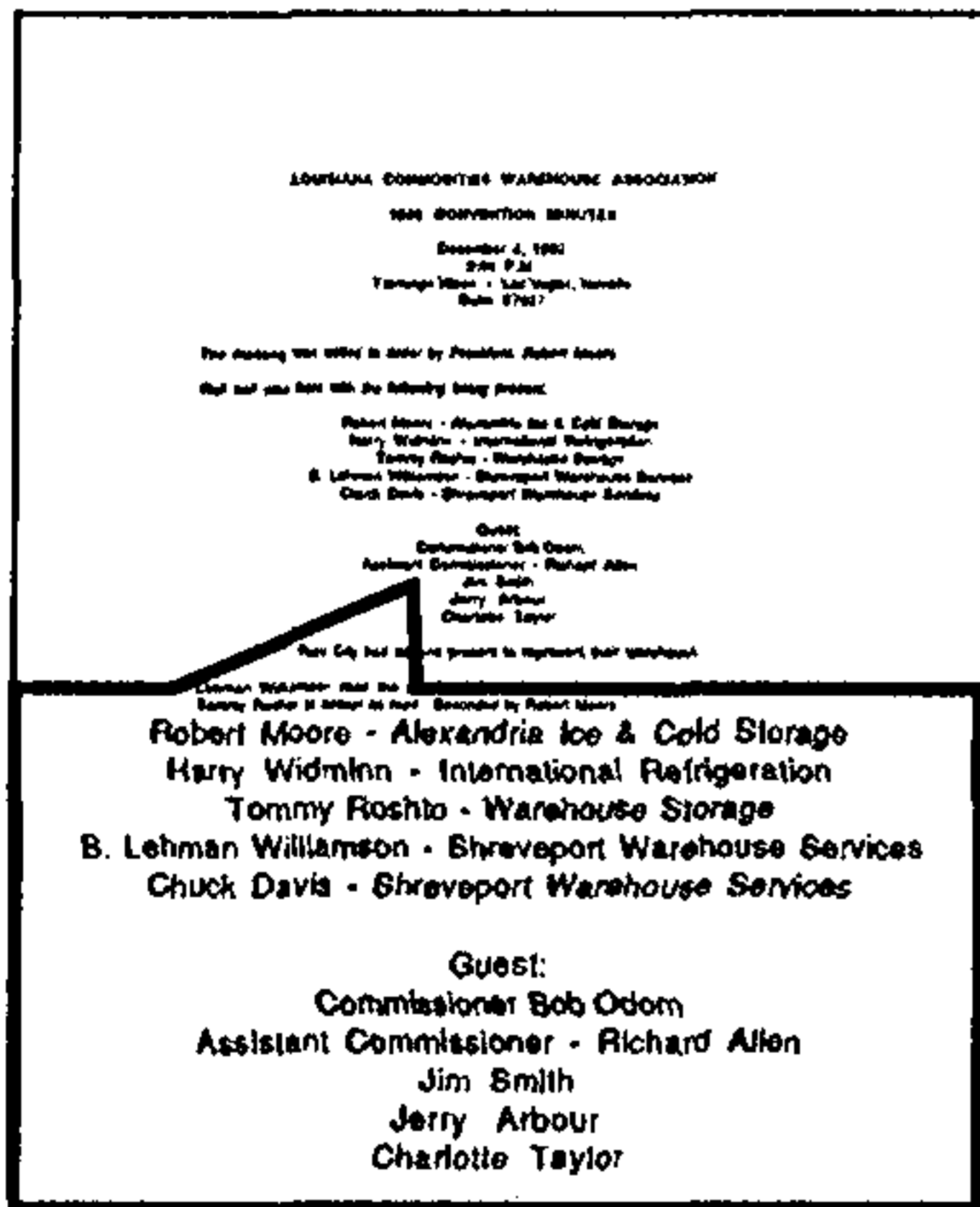
Mr. Roshto stated that he agreed to pay Mr. Williamson \$1,000 to \$2,000 a month to take care of Commissioner Odom and anyone else who needed "taking care of." Mr. Roshto stated that Mr. Williamson suggested that they refer to these payments as lobbying fees although the payments were not for any legitimate lobbying. Invoices obtained from Mr. Williamson indicate that these payments were billed to Mr. Roshto as a retainer.

According to Mr. Roshto, the majority of these payments were to be passed on to Commissioner Odom.

Direct Payments from Mr. Roshto and Mr. Moore to Commissioner Odom in Las Vegas

Mr. Roshto stated that in November or December 1992, at a meeting of the warehouse owners, Mr. Williamson told him that he needed to give \$5,000 in cash to Commissioner Odom and a \$5,000 check to the Bob Odom campaign at an upcoming meeting in Las Vegas, Nevada. According to Mr. Roshto, his understanding was that Mr. Williamson discussed separately with other warehouse owners these same payments to Commissioner Odom.

Mr. Roshto stated that he gave Commissioner Odom cash of \$5,000 and a \$2,500 check for his campaign while at a meeting in Las Vegas.



Records obtained for the Louisiana Commodities Warehousing Association, Inc. (LCWA), a non-profit organization consisting of the warehouse owners, shows that a meeting was held in Las Vegas from December 4, 1992, to December 6, 1992. Mr. Roshto stated that during this meeting he went to Commissioner Odom's hotel room and gave Commissioner Odom \$5,000 cash and a check for \$2,500. Mr. Roshto added that he agreed to give Commissioner Odom another check for \$2,500 at a later date. According to Mr. Roshto, each warehouse owner had an appointed time to visit Commissioner Odom's room for this purpose.

relationship with Mr. Roshto. In an April 19, 2001, article, the *Times Picayune* reported the following: "As for the allegation that he took a bribe in Las Vegas, Odom said he met Roshto only once, at the state Capitol about 10 years ago." However, minutes of the LCWA meetings in Las Vegas show that both Commissioner Odom and Mr. Roshto attended meetings on December 4, 1992, and December 5, 1992 (see minutes above).

As for the allegation that he took a bribe in Las Vegas, Odom said he met Roshto only once, at the state Capitol about 10 years ago.

Times Picayune - April 19, 2001

Mr. Moore stated that he gave Commissioner Odom \$3,000 cash while in Las Vegas.

Payments from Mr. Moore

Mr. Robert Moore, owner of Alexandria Ice & Cold Storage, Inc., also stated that he gave cash and contributions to Commissioner Odom. Mr. Moore stated that he attended the meeting in Las Vegas along with the

other warehouse owners. Mr. Moore further stated that he personally gave Commissioner Odom \$3,000 cash in Commissioner Odom's hotel room. According to Mr. Moore, Mr. Williamson informed him and the other warehouse owners about the money to be given to Commissioner Odom.

Mr. Moore also stated that he was notified on occasion by Mr. Williamson that it was time for a political fundraiser for Commissioner Odom. According to Mr. Moore, Mr. Williamson would tell him whether the payment should be in the form of cash or check. Mr. Moore stated that on five to seven occasions he gave Commissioner Odom envelopes of cash in the Commissioner's office. Mr. Moore added that Mr. Williamson would notify him a day in advance that he needed to meet with Commissioner Odom. Mr. Moore stated that on these occasions the envelopes of cash that he gave Commissioner Odom contained from \$1,500 to \$3,000. Mr. Moore further stated that on two or three of these occasions he was accompanied by Mr. Williamson who also gave an envelope to Commissioner Odom. Commissioner Odom's personal calendar indicates that during the period January 1998 through January 2000, Commissioner Odom met with Mr. Moore on at least four occasions.

Mr. Moore stated that, on occasion, he gave Commissioner Odom envelopes containing \$1,500 to \$3,000 cash. Mr. Moore added that on two or three occasions Mr. Lehman Williamson was also present and gave Commissioner Odom envelopes.

Based on the statements and records provided by Mr. Roshto and Mr. Moore, it appears that Mr. Roshto may have given cash and campaign contributions to Commissioner Odom totaling \$56,500, and Mr. Moore may have given cash and campaign contributions of \$20,700 to Commissioner Odom. The amount from Mr. Moore only includes cash of \$3,000 given to Commissioner Odom in Las Vegas and does not include any cash that Mr. Moore may have given Commissioner Odom in the Commissioner's office.

Roshto Stops Making Payments to Commissioner Odom

Mr. Roshto, along with the other warehouse owners, had won the three-year contract awarded by individual districts beginning in 1994. The next three-year contract was not up for bid again until 1997. Records indicate that some time after the Las Vegas payment to Commissioner Odom, Mr. Roshto quit making any payments to either Mr. Williamson or Commissioner Odom. Business records obtained from Mr. Williamson indicate that he continued to bill Mr. Roshto for a monthly retainer until March 1994. Mr. Roshto stated that on many occasions after he stopped making payments, he was approached separately by both Mr. Williamson and Mr. Moore and told that he needed to get his business straight with Commissioner Odom.

Mr. Roshto stated that he quit making payments to Commissioner Odom and was then approached by Mr. Lehman Williamson and Mr. Moore who told him he needed to get his business straight with Commissioner Odom.

Mr. Roshto claims that the move to the statewide bid in 1997 was designed to eliminate him from the food storage contract because he quit making payments to Commissioner Odom. According to Mr. Richard Allen, former assistant commissioner of the Department, the other warehouse owners felt threatened by Mr. Roshto because he was not a "team player." Mr. Allen stated that his understanding was that the other warehouse owners approached Commissioner Odom about getting rid of Mr. Roshto. Mr. Roshto stated that, just prior to the 1997 bid process, he was shown the revised bid specifications.

Warehouse Owners Conspire to Eliminate Roshto

Mr. Moore stated that he and the other warehouse owners discussed several ways to get Mr. Roshto out of the food storage business. Mr. Moore stated that they finally came upon the idea of a statewide bid. Mr. Moore further stated that one of the LCWA members discussed this

Mr. Moore stated that he and the other warehouse owners discussed several ways to get Mr. Roshto out of the food storage business.

with Commissioner Odom. As previously mentioned, Mr. Allen stated that he understood that the warehouse owners approached Commissioner Odom about getting Mr. Roshto out of the food storage business. According to Mr. Allen, he was directed by Commissioner Odom to change the bid specifications for the 1997 bid to allow only a statewide bid. Mr. Mike St. Romain, director of the food distribution program, confirmed that Commissioner Odom made the decision to move to a statewide bid in 1997.

The following events took place prior to the 1997 bid:

Bid Specifications Given to Warehouse Companies Early

It appears that certain warehouse owners were given the bid specifications prior to the official release of the invitation-to-bid and were allowed to suggest alterations, sometimes favoring their companies and potentially excluding others. In addition, Mr. Allen stated that the bid specifications required that excessive space be available, thereby possibly excluding potential bidders who possessed less but sufficient space to meet the needs of the Department.

The same warehouse companies were awarded the contract time after time. According to Mr. Allen, whenever bid specifications were changed, he would speak with the warehouse owners to make sure that there were no problems. LCWA minutes indicate that drafts of the bid specifications were provided to the warehouse owners.

Mr. Lehman Williamson and Mr. Moore Receive Draft of 1997 Bid Specifications
Records obtained from Shreveport Warehouse Services, Inc., indicate that Mr. Lehman Williamson and Mr. Moore were provided with a January 9, 1997, draft copy of the revised version of the 1997 bid specifications. Written at the top of page 14 of the revised specifications is a suggestion to revise the

Mr. Lehman Williamson and Mr. Moore had a draft copy of the bid specifications dated January 9, 1997, with a handwritten suggestion to allow only a statewide bid.

wording to allow only a statewide bid. This revised version of the 1997 bid specifications was faxed from Mr. Moore's company to Mr. Williamson on January 12, 1997.

Louisiana Agri-Business Services

Mr. Williamson's business records indicate that as early as January 12, 1997, the warehouse owners that subsequently contracted with AMW Management Services, Inc., first intended to form a single corporation named "Louisiana Agri-Business Services" to submit a statewide bid. These documents indicate that Louisiana Agri-Business Services was going to have the following locations:

- | | |
|---|--|
| 1. Pat Company
6001 Neosho Avenue
Baton Rouge, Louisiana | 2. Rice City Warehousing
3710 Lee Street
St. Martinville, Louisiana
1718 North Avenue B
Crowley, Louisiana |
| 3. International Refrigeration
700 Edwards Street
Harahan, Louisiana | 4. Shreveport Warehouse
Services, Inc.
1135 Burt Street
Shreveport, Louisiana |
| 5. Alexandria Ice & Cold Storage, Inc.
528 Monroe Street and
3710 Lee Street
Alexandria, Louisiana | 6. The Carolina Investment
Group, Inc.
2887 Highway 150
Ruston, Louisiana |

Mr. Roshto's company was not included in this proposed business arrangement. Other than the records obtained from Mr. Lehman Williamson, we could find no other evidence of the existence of this company.

**Proposed Bid Specification Change to
Require Warehouse Certification**

Records obtained from Mr. Lehman Williamson indicate that he discovered that Louisiana law required that warehouses, in order to operate as a public warehouse, be certified by a district court. In a fax dated March 14, 1997, from Carolina Investment Group, Inc., to Mr. Allen, Mr. Williamson suggested to the Department that this requirement be added to the bid specifications. This suggested change required that each bidder be certified and the penalty for non-certification would be rejection of the owner's bid. In addition, the records indicate that Mr. Williamson informed the other warehouse owners of this requirement, but he did not notify Mr. Roshto of this potentially disqualifying addition.

On March 18, 1997, in a fax to Rice City Warehousing, Inc., Mr. Lehman Williamson sent the certification document and instructed the owner of Rice City Warehousing to keep the information confidential. Mr. Williamson's fax contained the following: "This should be kept confidential. Who knows what or who may be listening."

Space Requirements for Baton Rouge District Altered for Pat Company

The 1997 bid specifications were further changed to alter the space requirement for the Baton Rouge district warehouse. According to Mr. Allen, Mr. Williamson told him that he had a company that could bid less than Mr. Roshto. Mr. Allen stated that Mr. Williamson said Pat Company was interested in bidding on the food storage contract in the Baton Rouge district. Mr. Allen stated that he and


Mr. St. Romain measured Pat Company's warehouse and the warehouse did not meet the space requirements for that district. Therefore, Mr. Allen stated that he changed the space requirements prior to sending the bid specifications to State Purchasing, thus allowing Pat Company to meet the requirements of the bid specifications.

Mr. Allen Sends a Letter to State Purchasing Discussing Single Statewide Bid

Mr. Allen stated that he does not believe the statewide bid would increase competition.

On April 10, 1997, Mr. Allen sent a letter to State Purchasing which indicates that the Department was seeking bid proposals based on a single statewide bid. This letter also stated that a warehouse owner was protesting the move to a statewide bid only. Mr. Allen stated that he was directed by Commissioner Odom to sign and send this letter prepared by Mr. James Gelpi, contract attorney for the Department, to State Purchasing justifying the change to a statewide bid on the basis of increased competition. Mr. Allen further stated that he does not agree with the letter's claim that a statewide bid would increase competition.

Mr. Roshto stated that he protested to State Purchasing when he discovered that the bid specifications requested statewide bids only. After this protest by Mr. Roshto, the Department decided to allow both individual and statewide bids for the food storage contract.

 <p>THE CAROLINA INVESTMENT GROUP, INC.</p> <p>Executive Office 1938 Wooddale Blvd. Baton Rouge, Louisiana 70806 Telephone (504) 825-0530 FAX: (504) 827-9915</p> <p>D. Lehman Williamson, President Ken M. Williamson, Sr., VP & General Mr. Stephen Van Pelt, Director & Manager</p> <p>NOTES:</p> <p>Attached is a copy of the suggested form for obtaining Court approval to operate a warehouse. Pass this by Mr. Privat and see what he says. Let me know.</p> <p>This should be kept confidential. Who knows what or who may be listening.</p>	<p>DATE: 3/18/97</p> <p>TO: Kermit Hilo</p> <p>COMPANY: Rice City Warehousing</p> <p>FAX NUMBER: 318 783-7169</p> <p>FROM: The Carolina Investment Group,</p> <p>NUMBER OF PAGES (INCLUDING THIS COVER SHEET): 4</p>
	<p>3/18/97</p> <p>Attached is a copy of the suggested form for obtaining Court approval to operate a warehouse. Pass this by Mr. Privat and see what he says. Let me know.</p> <p>This should be kept confidential. Who knows what or who may be listening.</p>

1997 Bid Specifications Changed to Allow Multiple Warehouses in Single District

Mr. Allen stated that he changed the 1997 bid specifications to allow multiple warehouses in a single district. According to Mr. Allen, Commissioner Odom said that Rice City Warehousing, Inc., a warehouse located in Crowley, could then use the Department's old crawfish plant in St. Martinville to meet its space requirements. The old crawfish plant in St. Martinville is owned by the Department but was leased to Southwest Commodities, Inc., in 1995. The majority owners of Southwest Commodities are Mr. Williamson and Mr. Moore. Subsequently, Southwest Commodities purchased Rice City.

Prior to the 1997 bid, Rice City Warehousing, Inc., subcontracted with Pat Company in Baton Rouge for the storage of frozen goods. It appears that since Pat Company was bidding on the Baton Rouge district and could therefore no longer provide frozen storage for Rice City, Rice City no longer met the space requirements in its contract thus requiring a change in the bid specifications to allow multiple warehouses in a single district.

Creation of AMW Management Services, Inc.

Ms. Ann Williamson formed a corporation, then she and several warehouse owners manipulated its ownership to facilitate a statewide bid for the Department's food storage contract. AMW Management Services, Inc., (AMW) was incorporated by Mr. Lehman Williamson's daughter, Ms. Ann Marie Williamson, on May 3, 1996. At the time AMW was created, Ms. Ann Williamson was a 10% owner of Shreveport Warehouse Services, Inc., and Carolina Investment Group, Inc., both of which are owned by her father, Mr. Lehman Williamson, and have contracts with the Department to warehouse commodities. Minutes for an AMW meeting indicate that on April 17, 1997, in order to position AMW to submit a statewide bid, Ms. Ann Williamson resigned any rights that she had to AMW, and the corporation agreed to issue shares of stock to the following companies:

Ms. Ann Williamson formed a corporation, then she and several warehouse owners manipulated its ownership to facilitate a statewide bid.

<u>Company</u>	<u>Representative(s)</u>
1. Shreveport Warehouse Services, Inc.	Lehman Williamson Ann Williamson
2. Carolina Investment Group, Inc.	Lehman Williamson Ann Williamson
3. Alexandria Ice & Cold Storage, Inc.	Robert Moore
4. Rice City Warehousing, Inc.	Kermit Helo
5. Pat Company, Inc.	Edgar Levy
6. International Refrigerated Facilities, Inc.	Harry Widmann James Longo Robert Bridgewater

Minutes to an AMW meeting on May 29, 1997, indicate that the owners of the above warehouses were meeting to discuss lawful means by which to propose a statewide bid for the food storage contract. Excluded from this meeting were Warehouse Storage, Inc., and its owner Mr. Roshto. According to the minutes, Mr. Herschel Adcock, attorney for Mr. Lehman Williamson, informed the warehouse owners that "group bidding" would not be permitted, and to avoid being classified as group bidders, the individual companies should not have ownership in AMW. According to the minutes, the warehouse owners relinquished their rights to the AMW stock.

**AMW MANAGEMENT SERVICES
MINUTES OF MEETING
MAY 29, 1997 - 12:00 PM
1938 WOODDALE BOULEVARD
BATON ROUGE, LOUISIANA 70806**

Present at this meeting were:
B. Lehman Williamson
Ann M. Williamson
Robert Moore
Kermit Heio
Edgar Levy
Harry Widmann
James Longo
Robert Bridgewater
Herschel Adcock

The purpose of this meeting was to discuss lawful means by which to propose a statewide bid for the RFB No. D21193T of the Department of Agriculture, Warehousing and Storage. The reading of the previous minutes were read and unanimously adopted.

Mr. Adcock was informed that on April 17, 1997, Ann M. Williamson resigned any rights she may have had to the corporation AMW Management Services, Inc., (hereinafter referred to as the "Corporation") and at that time the Corporation agreed to issue shares of stock to the following companies: Shreveport Warehouse Services, Inc., Carolina Investment Group, Inc., Alexandria Ice & Cold Storage, Inc., Rice City Warehousing, Inc., Pat Company, Inc. and International Refrigeration, Inc. Ms. Williamson, Incorporator, reported that although the stock certificates had been drawn up in the name of each company, there had been no consideration for such at that meeting or at any time since.

Mr. Adcock informed that the RFB indicated "group bidding" would not be permitted, and to avoid being classified as group bidders, the individual companies listed herein above should not have ownership in the Corporation. Those present unanimously agreed to relinquish their rights to stock in the Corporation and asked Ann M. Williamson to prepare the necessary documents. Those present also agreed to resign as Directors and/or Officers of the Corporation. Ms. Williamson offered to prepare those documents as well.

Mr. Adcock discussed with the group a lawful method by which a bid could be made on a statewide basis. He indicated that a third party could propose a statewide bid as long as that person (1) acquired space (via a lease agreement with an existing facility) in each of the applicable districts, (2) did not own any interest in the companies from which they were to lease space, (3) contacted each individual facility and proposed an amount to lease the space for purposes of the RFB, (4) did not discuss with any of those facilities whether they planned to make an individual bid for their district or what numbers their individual bid would reflect.

Minutes of AMW Meeting - page 1

Ann M. Williamson offered to relinquish all ownership rights in Shreveport Warehouse Services, Inc. and Carolina Investment Group, Inc.; to purchase stock in the Corporation; and to follow the plan described herein by Mr. Adcock. All members present agreed to negotiate with Ms. Williamson to provide the necessary space, via a lease agreement, on the condition that the Corporation was awarded the bid.

Mr. Widmann indicated that the surety bond application, on behalf of the Corporation, had been signed by the corporate stockholders. Ms. Williamson agreed to hold harmless all former shareholders for any activity they may have taken in anticipation of being stockholders of the Corporation. Likewise, those present unanimously agreed to hold harmless Ms. Williamson for any activity she may have taken as Incorporator of the Corporation.

Upon motion duly made, seconded and unanimously carried, it was:

RESOLVED Ann M. Williamson complete all necessary paperwork to accomplish the items agreed to hereinabove.

There being no further business, the meeting was adjourned.

CERTIFICATE

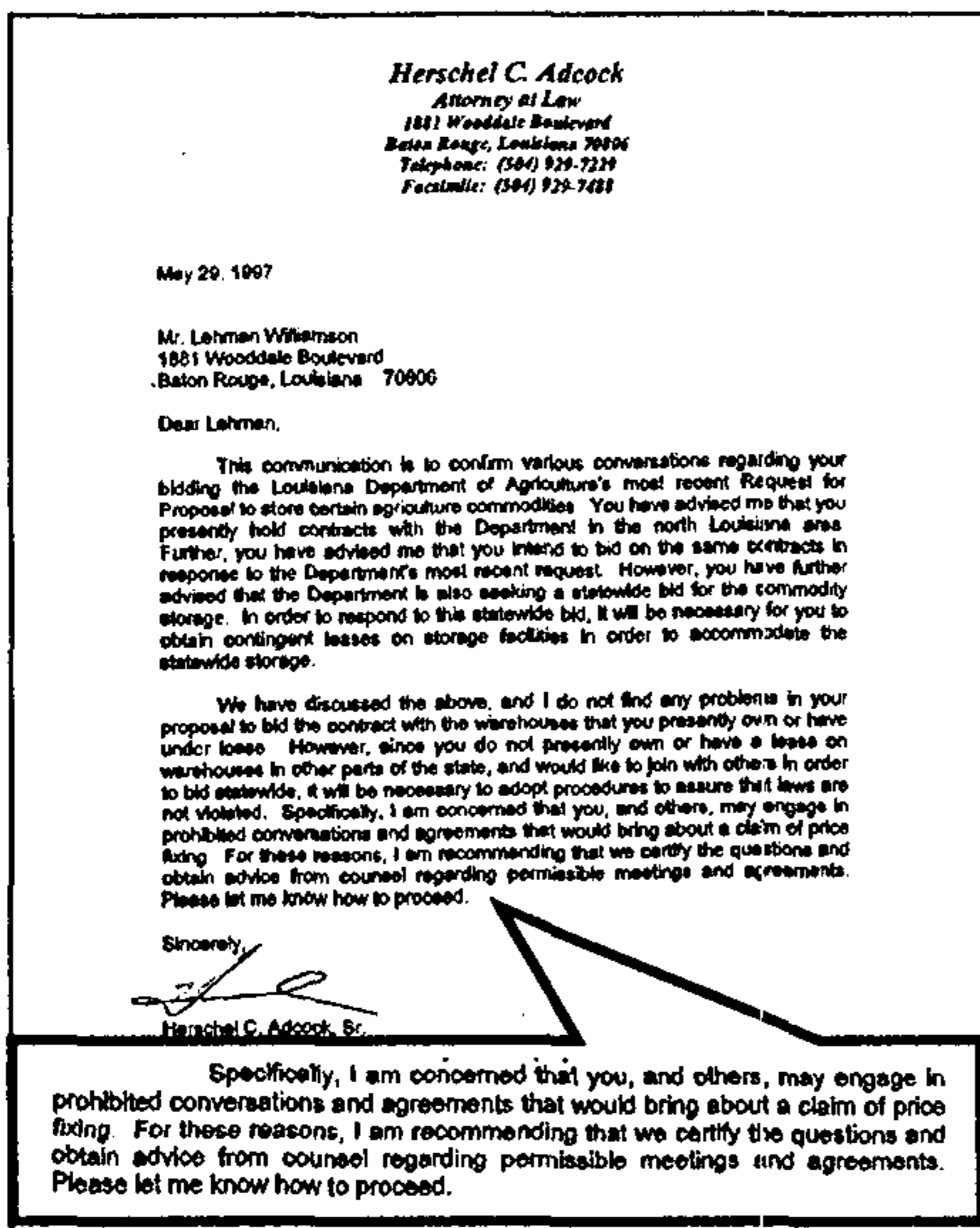
The undersigned, Secretary to the corporation, certified that the above and foregoing are the true and correct minutes of the meeting of the Board of Directors held on the _____ day of May, 1997, at 12:00 pm, at which all directors having waived notice, consented to the action taken therein.

B. Lehman Williamson, Secretary/Treasurer

Minutes of AMW Meeting - page 2

The minutes indicate that Attorney Adcock stated that a third party could propose a statewide bid as long as that person (1) acquired space via a lease agreement in each of the districts, (2) did not own any interest in the companies which they were to lease space, (3) contacted each individual facility and proposed an amount to lease the space, and (4) did not discuss with any of those facilities whether they planned to make an individual bid for their district or what numbers their individual bid would reflect. In a letter dated May 29, 1997,

Attorney Adcock advised Mr. Lehman Williamson that "since you do not presently own or have a lease on warehouses in other parts of the state, and would like to join with others in order to bid statewide, it will be necessary to adopt procedures to assure that laws are not violated. Specifically, I am concerned that you, and others, may engage in



prohibited conversations and agreements that would bring about a claim of price fixing.” Attorney Adcock further advised Mr. Lehman Williamson to obtain advice from counsel regarding permissible meetings and agreements.

Although the minutes indicate that Ms. Ann Williamson offered to relinquish all ownership rights in Shreveport Warehouse Services, Inc. and Carolina Investment Group, Inc., and to follow the plan outlined above by Mr. Adcock, the federal corporate tax returns for both companies indicate that Ms. Ann Williamson failed to relinquish ownership. The tax returns show that Ms. Ann Williamson maintained 10% interest in both companies for at least 1997,

Ms. Williamson failed to relinquish ownership in Shreveport Warehouse Services, Inc., and Carolina Investment Group, Inc.

1998, and 1999. In addition, Ms. Ann Williamson remained executive vice-president and legal counsel for Carolina Investment Group, and she is the registered agent for Shreveport Warehouse Services. Ms. Ann Williamson also retained 100% ownership and control of AMW.

The minutes of the May 29, 1997, meeting, which was prior to the 1997 bid opening, indicate that all of the warehouse owners present agreed to negotiate with Ms. Ann Williamson to provide necessary space, via a lease agreement, on the condition that AMW was awarded the statewide bid. As stated above, Mr. Roshto and his company, Warehouse Storage, Inc., were not present for this meeting or the negotiations for a statewide bid.

AMW's Bid Proposal

On June 2, 1997, three days after the agreement to provide a statewide bid and three days before the bid opening, AMW entered into separate lease agreements with all of the previous warehouse contractors with the exception of Mr. Roshto's Warehouse Storage, Inc. AMW's lease agreement for the Baton Rouge district was with Pat Company, Inc., which took the place of Warehouse Storage, Inc.

According to the Department's invitation-to-bid, in order for an individual bid to be declared the low bidder, the sum total of all individual bids had to be lower than the total of the statewide bid. As a result, through collusion, the individual warehouses could submit inflated individual bids in order to cause the total of individual bids to be excessively high, thereby allowing the statewide bid to be lower, but still excessive, and receive the contract.

In order for an individual bid to be declared the low bidder, the sum total of all individual bids had to be lower than the total of the statewide bid.

During the 1997 bid process, eight warehouses submitted individual bids and AMW submitted the only statewide bid. Of the six warehouses that contracted with AMW, four of the individual bids were either controlled by or possibly influenced by Mr. Lehman Williamson and/or Ms. Ann Williamson. The individual bids submitted by International Refrigerated Facilities, Inc., and Pat Company, Inc., do not appear to have been controlled or influenced by either Mr. Lehman Williamson or Ms. Ann Williamson. As

previously stated, Shreveport Warehouse Services and Carolina Investment Group were owned by Mr. Lehman Williamson and Ms. Ann Williamson.

Ms. Ann Williamson also served as Executive Vice-President and Legal Counsel for Carolina Investment Group, as well as registered agent for Shreveport Warehouse Services. Rice City, Inc., was purchased shortly after the bid opening by Mr. Williamson and his business partner Mr. Moore. Mr. Moore also owned Alexandria Ice & Cold Storage. The corporation that purchased Rice City, Inc., is Southwest Commodities Storage, Inc. Ms. Ann Williamson is the registered agent and incorporator of this corporation.

Four of the individual bids were either controlled by or possibly influenced by Mr. Lehman and/or Ms. Ann Williamson.

Each proposal included unit prices for four categories: dry goods, refrigerated goods, frozen goods, and handling. The bids for the four warehouses owned or influenced by Mr. Lehman and Ms. Ann Williamson were grossly excessive when compared to the two companies that they did not control. For example, International

The bids for the four warehouses owned or influenced by Mr. Lehman and Ms. Ann Williamson were grossly excessive when compared to the two companies they did not control.

Refrigerated proposed a price of \$.30 per case for dry goods while these four companies proposed prices from \$.89 to \$1.05 per case. Pat Company, Inc., proposed a price of \$.85 per case of frozen goods while these four companies bid prices ranging from \$1.56 to \$1.82 per case.

The inflated individual bids by these four companies had the effect of inflating the cumulative total of all eight individual bids to an amount that could easily exceed AMW's statewide bid, even if it were also excessive.

Per Case Bid Prices for Companies Included in the Statewide Contract

Warehouses	Dry	Refrigerated	Frozen	Handling
International Refrigerated Facilities, Inc.	\$.30	\$.50	\$1.25	\$.30
Pat Company, Inc.	.65	.75	.85	.35
*Rice City Warehousing, Inc.	.89	1.38	1.56	1.03
*Alexandria Ice & Cold Storage, Inc.	1.04	1.56	1.67	1.15
*Shreveport Warehouse Services, Inc.	.99	1.51	1.72	1.04
*Carolina Investment Group, Inc.	1.05	1.56	1.82	1.04

*Companies controlled or possibly influenced by Mr. Lehman and Ms. Ann Williamson.

Actual Bids

District	Individual Low Bids	Statewide Bid by AMW
1	\$483,484	\$774,345
2	429,235	631,984
3	368,613	460,982
4	767,545	476,526
5	408,908	262,519
6	457,105	294,250
Total	\$2,914,890	\$2,900,606

AMW's statewide bid was declared the lowest bid at \$2,900,606, just \$14,284 less than the sum total of the lowest six individual district bids. Mr. Roshto bid on districts Two and Three and was lower than the individual bids submitted by the warehouse companies that contracted with AMW for those districts; however, Mr. Roshto was not awarded the contracts because the statewide bid was lower than the sum total of the individual districts. As mentioned before, although they entered into contracts with AMW, it does not appear that International Refrigerated Facilities, Inc., and Pat Company, Inc., were

controlled or influenced by Mr. Lehman Williamson or Ms. Ann Williamson, and their individual bids were significantly lower than the bids submitted by the four companies controlled or influenced by Mr. Lehman Williamson and/or Ms. Ann Williamson. Had the four warehouse companies controlled or influenced by Mr. Lehman Williamson and/or Ms. Ann Williamson not inflated their individual bids but rather submitted a bid within the range of the two companies that they did not control, the statewide bid would have failed and Mr. Roshto's company would have been the successful low bidder in both districts Two and Three. This would have resulted in total actual savings to the Department between \$3,792,394 and \$4,300,585 during the three years of the contract.

**Comparison of Uncontrolled Low and High Rate to
Statewide Rate Based on Actual Volume for 1997 to 2000**

District	Actual Uncontrolled Low	Actual Uncontrolled High	Actual Statewide	Difference Low	Difference High
1	\$2,156,248	\$2,156,248	\$3,599,960	\$1,443,712	\$1,443,712
2	1,665,647	1,665,647	2,703,368	1,037,721	1,037,721
3	1,416,982	1,416,982	1,860,127	443,145	443,145
4	1,205,048	1,466,243	1,917,960	712,912	451,717
5	632,669	825,436	1,100,092	467,423	274,656
6	474,363	528,592	670,035	195,672	141,443
Total	\$7,550,957	\$8,059,148	\$11,851,542	\$4,300,585	\$3,792,394

Districts 4, 5, and 6 low rate is based on the bid provided by International Refrigerated Facilities, Inc. Districts 4, 5, and 6 high rate is based on the bid provided by Pat Company, Inc. International Refrigerated Facilities, Inc., and Pat Company, Inc., bids were used because there does not appear to be any control or influence of their individual bids by Mr. Lehman or Ms. Ann Williamson.

Further Preference Shown to Current Warehouse Owners

In addition, Mr. Allen stated that competition could have been increased by lowering the space requirements in each district. Mr. Allen added that the space requirements in the Baton Rouge district could have been cut in half and still would

Mr. Allen stated that he asked Commissioner Odom about the space requirements and was told by Commissioner Odom not to change the space requirements because that is what he (Commissioner Odom) wanted.

have been sufficient. Mr. Allen stated that he asked Mr. St. Romain why the bid specifications required excessive capacity. According to Mr. Allen, Mr. St. Romain stated that the space requirements were based on the amount of space each warehouse had available. Mr. Allen stated that he asked Commissioner Odom about the space requirements and was told by Commissioner Odom not to change the space requirements because that is what he (Commissioner Odom) wanted.

Mr. Lehman Williamson's History

This is not the first time that Mr. Williamson has come under question regarding the food storage contracts and the influence of public officials. On December 8, 1991, the Baton Rouge *Sunday Advocate* reported information related to Mr. Williamson's contracts with the Department of Education; at that time the Department of Education administered the food storage program. The article reports that "Their story, outlined in six weeks of trial testimony, sworn statements taken in preparation for trial and other court documents, describes a web of political deals and payoffs in

Mr. Williamson said, "officials could favor particular bidders by altering the requirements of the contracts. Specifications on the size of the facility sought could be changed. . . ."

Sunday Advocate 12/8/91

a quest for state contracts.” The article quotes Mr. Williamson as stating, “officials could favor particular bidders by altering the requirements of the contracts. Specifications on the size of the

Mr. Williamson said, “I was giving Mr. Roux money, and he was going to influence Mr. Knotts (then a public official). Whether it was corrupt, I don’t know.”

Sunday Advocate 12/8/91

facility sought could be changed, or a person without a warehouse could be allowed to bid for the contract on the promise to build one.” The article discusses a series of payments of about \$132,000, mostly in checks to Mr. John Roux (Williamson’s business partner) from Williamson and Williamson’s other companies. The article further quoted Williamson as saying, “I thought that I was giving Mr. Roux money, and he was going to influence Mr. Knotts (then a public official). Whether it was corrupt, I don’t know.”

Campaign Donations

From 1985 to 2000, the warehouse companies under contract with the Department, the owners of the warehouses, and the LCWA’s political action committee contributed approximately \$116,000 to the Bob Odom campaign. Mr. Lehman Williamson and warehouse companies owned by him and Ms. Ann Williamson contributed approximately \$52,900 of the \$116,000. These amounts are in addition to cash that Mr. Roshto and Mr. Moore claim to have given Commissioner Odom as mentioned before.

Mr. Allen stated that he collected campaign contributions from the warehouse owners when directed by Commissioner Odom or Mr. William “Bud” Courson, former deputy commissioner. Mr. Allen stated that he typically collected from the warehouse owners during election years and usually at least once during the remainder of Commissioner Odom’s term. Mr. Allen stated that he would tell the warehouse owners, “we would like to have a campaign contribution from you.” According to Mr. Allen, he was generally instructed to ask for a combined total of \$20,000 to \$25,000 from the warehouse owners during these fundraisers.

Personal Use of Campaign Funds

During the period 1996 through 2000, Commissioner Odom appears to have used at least \$72,754 of his campaign funds for expenses that are personal in nature and do not appear to have any relationship to his campaign. These expenses include \$35,048 for hunting club expenses, \$13,000 on a truck for his son, \$9,306 for day care services for his grandchildren, \$3,426 for personal use of Department aircraft, \$1,500 to plant pine trees on his farm, and at least \$10,474 on other personal expenses.

\$35,048 for Hunting Club Expenses

On September 9, 1999, the campaign purchased a new Fleetwood mobile home for \$32,000. This mobile home is currently located at the Diamond Island Hunting Club, which is leased from International Paper by the Diamond Island Conservation Association, Inc. The members of the board of directors for Diamond Island Conservation Association, Inc., are Commissioner Odom, Robb Odom, Kevin Hopper, John Hopper, Representative Francis Thompson, David Thompson, and Mr. Courson. The remaining hunting club expenses include \$440 for electrical connection, \$693 for satellite television services, \$1,670 in utilities, and \$245 for lawn maintenance.

\$13,000 on Truck for Commissioner Odom's Son

In November 1998, the campaign entered into a lease/purchase agreement for a truck from Gerry Lane Chevrolet. In November 1999, Commissioner Odom's son, Mr. Robb Odom, purchased the truck for \$13,000 less than the fair market value. The contract between Mr. Robb Odom and Gerry Lane shows a selling price of \$20,000 with a credit of \$13,000. According to Mr. Gerry Lane, the \$13,000 was a credit to the purchase price based on lease payments previously made by the campaign. According to Mr. Lane, the Bob Odom campaign owned the vehicle. Mr. Lane stated that the Bob Odom campaign basically sold the vehicle to Mr. Robb Odom and Gerry Lane Enterprises just handled the paperwork. In effect, Mr. Robb Odom received a \$13,000 donation from the campaign for the value previously paid on the vehicle by the campaign.

\$9,306 for Day Care Services for Commissioner Odom's Grandchildren

Between November 1995 and December 1998, the campaign loaned \$624,000 to the First Baptist Church of Zachary. Interest earnings on these loans totaled \$96,206; however, \$9,306 of the interest due the campaign was apparently diverted for personal use. On two occasions during 1998, checks totaling \$9,306 were made payable to the First United Methodist Early Learning Center from the First Baptist Church of Zachary.

Documentation from the First Baptist Church of Zachary indicates that the checks were for tuition for Commissioner Odom's grandchildren. In a Baton Rouge Advocate article dated April 25, 2001, Commissioner Odom is quoted as saying, "if a payment was made, it was made by the church-not by me or the campaign." Ms. Brenda Welch, finance secretary of the First Baptist Church of Zachary, stated that she attended a meeting with the church pastor, Rev. Wayne Barnes, and Commissioner Odom. According to Ms. Welch, Rev. Barnes gave her handwritten instructions as to where Commissioner Odom wanted the interest earnings diverted.

\$3,426 for Personal Use of Department Aircraft

Commissioner Odom used Department owned aircraft for personal use and then reimbursed the Department with \$3,426 of campaign funds for a selected number of these flights. This personal use of Department aircraft included \$2,039 for personal hunting trips and \$1,387 for other personal flights. (*Refer to the finding on personal use of Department aircraft on page 23.*)

\$1,500 to Plant Pine Trees on Commissioner Odom's Farm

Commissioner Odom planted pine tree seedlings on his farm located in Claiborne Parish. Campaign funds in the amount of \$1,500 were used to pay a \$2,400 tree planting invoice. Mr. Stan Sweeney, a tree planting vendor, reduced the invoice by \$900 and accepted the \$1,500 campaign check as payment in full. (*Refer to the finding on pine trees on page 55.*)

\$10,474 on Other Personal Expenses

Campaign funds of at least \$10,474 were used for purposes that appear personal in nature. In 1996, at which time Commissioner Odom's son's home was under construction, campaign funds were used to purchase \$8,198 in power tools. In addition, campaign funds were used to purchase two mattresses and box springs for \$817, a pair of

Justin boots for \$395, hunting/fishing licenses and two federal duck stamps for \$65, Christmas presents for family members for \$298, and animal feed for \$701.

Summary

Commissioner Odom and several of the warehouse owners who participated in the food distribution program appear to have changed the specifications of the 1997 bid which effectively ensured that AMW's statewide bid would be awarded the contract for commodity storage and eliminated Mr. Roshto's warehouse company thereby restricting competition and resulting in increased cost to the Department. The change in bid specifications resulted in political supporters of Commissioner Odom receiving favorable contracts with the Department at an increased cost between \$3,792,394 and \$4,300,585 in three years. Commissioner Odom appears to have directed Department employees to solicit and accept campaign contributions from political supporters that benefited from the change in bid specifications. In turn, Commissioner Odom has used campaign contributions on numerous occasions for his personal benefit. In addition, according to two of the warehouse owners, Commissioner Odom may have accepted cash payments from at least two companies that had contracts with the Department.

These actions by Commissioner Odom, Ms. Ann Williamson, Mr. Lehman Williamson, and others may be in violation of one or more of the following laws:

- R.S. 14:118, "Public Bribery"¹⁸
- R.S. 14:134, "Malfeasance in Office"¹⁹
- R.S. 14:230, "Money Laundering"²⁰
- R.S. 51:122, "Contracts, Combinations and Conspiracies in Restraint of Trade"²¹

¹⁸ R.S. 14:118 provides, in part, that public bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any person who has been elected or appointed to public office, whether or not said person has assumed the title or duties of such office, with the intent to influence his conduct in relation to his position, employment, or duty. The acceptance or the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any of the above named persons, shall also constitute public bribery.

¹⁹ 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.

²⁰ R.S. 14:230 provides, in part, that it is unlawful for any person knowingly to conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

²¹ R.S. 51:122 provides, in part, that every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce in this state is illegal.

- R.S. 51:123, "Monopolizing Trade or Commerce Prohibited"²²
- R.S. 51:125, "Corporations, Transactions Lessening Competition"²³

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

²² R.S. 51:123 provides, in part, that no person shall monopolize, or attempt to monopolize, or combine, or conspire with any other person to monopolize any part of the trade or commerce within this state.

²³ R.S. 51:125 provides, in part, that no corporation shall acquire the whole or any part of the shares of another corporation, engaged in the same line of commerce, where the effect is to substantially lessen competition, to restrain commerce, or to create a monopoly in any line of commerce.

Work on Commissioner Odom's Private Property

Commissioner Odom used public employees, equipment, and materials on his private property and filed an inflated claim with the federal government. Commissioner Odom did the following:

1. Instructed Department employees to manage the timber on approximately 960 acres of family owned land
2. Instructed two employees to use Department equipment to assist him in clearing his private property
3. Instructed another employee to transport Department equipment to and from his private property
4. Failed to pay for pine seedlings he obtained from the Department and for labor provided by Department employees
5. Filed an inflated claim with a United States Department of Agriculture reimbursement program, thereby obtaining reimbursement for expenses he did not incur

Since at least 1989, the Department has provided forest management services in violation of Department policy for approximately 960 acres of private timberland in Claiborne Parish owned by Commissioner Odom and his family. These services, which are typically provided by private forestry consultants, included timber cruises, marking timber, solicitation of bids, and other forestry services. In addition, in 1997, Commissioner Odom used, at the Department's expense of \$1,702, three employees, a bulldozer, and a chopper to

clear approximately 60 acres of his private property in order to plant pine tree seedlings. Also provided to Commissioner Odom were controlled burn services and pine seedlings for which the Department charged Commissioner Odom on two separate invoices totaling \$2,878. Although Commissioner Odom was made aware of these charges by his staff on several occasions, the invoices remained unpaid for four years. The invoices were paid on August 17, 2001, two days after the Legislative Auditor discovered the delinquency. Furthermore, Commissioner Odom filed an inflated claim with a United States Department of Agriculture reimbursement program, thereby obtaining reimbursement for expenses he did not incur.

Commissioner Odom used Department employees and property to plant his property in pine trees and did not pay two invoices he owed the Department for four years.

Equipment & Employees	\$1,702
Unpaid Invoices	<u>2,878</u>
Total Cost to Department	<u>\$4,580</u>

Forest Management Services

The Department provided forest management services for Commissioner Odom in violation of Department policy. Mr. Alan Randall Waller, a former Department employee who served as a unit forester for Claiborne Parish, stated that he was instructed by Commissioner Odom in the

late 1980s to manage the 960 acres owned by Commissioner Odom and his family in Claiborne Parish. According to Mr. Waller, he advised Commissioner Odom to hire a private forester for the management services. Mr. Waller stated that he managed the property for Commissioner Odom until his retirement from the Department in 1998. Mr. Waller stated that the management services provided to Commissioner Odom included timber cruises, which are professional estimates of timber quality, quantity, and value; timber marking; solicitation of bids for timber sales; and any other necessary forestry services.

The Department provided forest management services for approximately 960 acres owned by Commissioner Odom and his family.

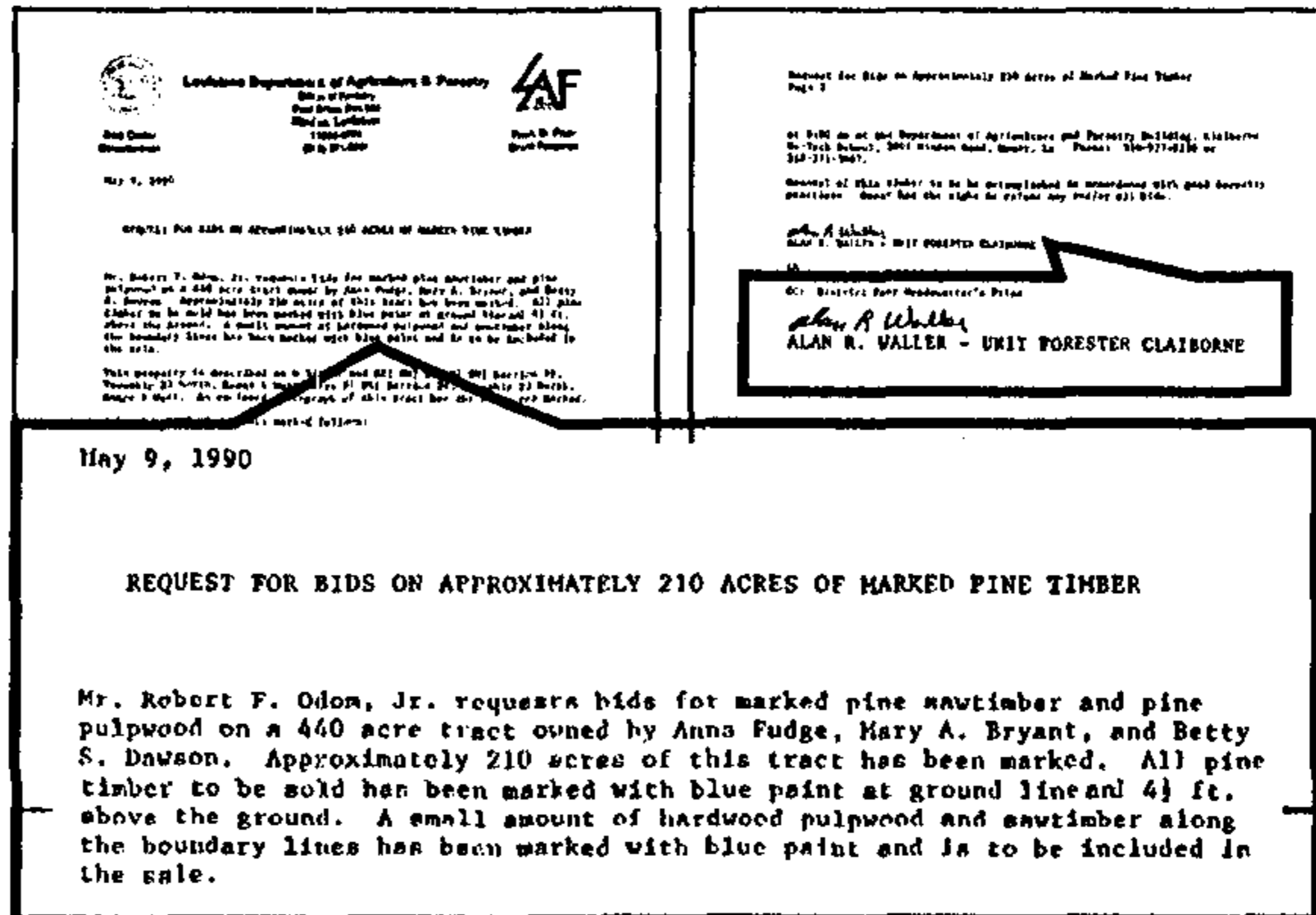
Department policy provides limitations on services provided by the Department to landowners. This policy states that all large landowners should be automatically referred to consultants once broad, generalized examinations and recommendations have been made for their land. Mr. Paul Frey, state forester, stated that he considers 200 or more acres of forestland to be a large landowner. We reviewed approximately 638 files of Claiborne Parish landowners, including Commissioner Odom. These files included documentation of services provided from the 1970s through 2000. There appeared to be no violation of this policy except for Commissioner Odom and his family.

In addition, documents obtained from Commissioner Odom's file indicate that the Department solicited bids on behalf of Commissioner Odom for the sale of timber (*see letter below*). These bid solicitations were typed on Department letterhead and sent to various timber companies. Mr. Waller stated that he performed these services at the instruction of Commissioner Odom and that Commissioner Odom was the only large landowner for whom he solicited bids.

Tree Planting

Commissioner Odom used two Department employees and equipment to assist him in clearing his private property and another employee to transport Department equipment to and from his private property. In addition, Commissioner Odom failed to pay for pine seedlings he obtained from the Department and for labor provided by Department employees.

Mr. Rickey Bearden and Mr. Robert Goss, Department employees, stated that during



Anna Fudge, Mary Bryant, and Betty Dawson are three of Commissioner Odom's sisters.

August 1997, they were instructed to take a Department bulldozer to Commissioner Odom's property in Claiborne Parish. In addition, Mr. Ronald Stokes, a Department employee, stated that he was instructed to transport a Department chopper to and from Commissioner Odom's property. According to Mr. Bearden and Mr. Goss, Commissioner Odom used a larger bulldozer and the chopper to clear a portion of his private land that was later planted with pine seedlings. Mr. Bearden and Mr. Goss stated that the Department bulldozer was used to push Commissioner Odom's bulldozer when it became stuck. The total cost to the Department for providing the employees and equipment to Commissioner Odom was approximately \$1,702. Commissioner Odom has yet to reimburse the Department for this expense.

On August 7, 1997, Commissioner Odom ordered 42,000 pine seedlings from a Department nursery. This order was increased on August 19, 1997, to 49,000 seedlings at a total cost of \$2,058. Although Department policy requires that seedling orders be paid at the time of the order, Commissioner Odom did not pay for the seedlings. Instead, the words "order gratis per Paul Frey" were written on the invoice (see invoice at right). Mr. Frey, state forester, stated that he does not remember stating that the order was gratis; however, Mr. Frey added that had he told someone the order was gratis it was merely to process the order until the account was settled. The invoice for these seedlings was changed from gratis to regular charge on December 16, 1997.

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY BAYON BOULEVARD, BAYON, LOUISIANA 70801-1420 TEL: 824-2114		PLEASE RETURN TO THE DIRECTOR OF ALL UNPAID INVOICES TO THE OFFICE	
SEEDLING ORDER		No. 26599	
TO: BOB ODOM P.O. BOX 831 BAYON ROUGE, LA 70821-0831		Pick up location: OBERLIN NURSERY Addressed nursery: OBERLIN	
AMOUNT DUE	AMOUNT PAID	BALANCE DUE	REMARKS
\$ 0.00	\$ 0.00	\$ 0.00	
<i>This bill acknowledges receipt of your seedling application and your check as shown.</i>			
Species	Quantity	Total amount	
ADVIGER LOBLOLLY PINE	42,000		
Order gratis as per Paul Frey - 8-15-97.			
To be delivered upon request.			
<i>Invoice to 49,000 as per Randy W. [unclear] 8-19-97</i>			
TOTAL		\$ 0.00	
TELEPHONE: 2-1234			
PURCHASE ORDER:			
COST SHARE PROGRAM:			
PRINTED:			
* Order gratis as per Paul Frey - 8-15-97.			

On August 29, 1997, the Department provided a controlled burn for Commissioner Odom in order to prepare his land to be planted with pine seedlings.

This is a service the Department offers to landowners for a fee. On September 2, 1997, the Department submitted an invoice for \$820 to Commissioner Odom for the controlled burn.

Although he was notified on numerous occasions, Commissioner Odom did not pay the delinquent invoices for four years.

Although he was notified of the delinquencies on numerous occasions, Commissioner Odom failed to pay the \$2,058 seedling invoice and the \$820 invoice for the controlled burn. Ms. Linda Chaney, fiscal director for the Department and Commissioner Odom's sister-in-law, stated that she notified Commissioner Odom directly on two occasions within the past two years that these invoices had not been paid. According to Ms. Chaney,

Commissioner Odom did not respond. Mr. Cyril LeJeune, assistant state forester, stated that he brought both invoices to Commissioner Odom's attention on two or three occasions. According to Mr. LeJeune, he did this by notifying Commissioner Odom directly on one occasion and notifying Commissioner Odom's secretaries on the other occasions. As previously stated in other findings, Commissioner Odom's secretaries, Ms. Barnett and Ms. Pesson, were both involved in the handling of Commissioner Odom's personal financial accounts and records.

Despite being notified on numerous occasions that the invoices had not been paid, Commissioner Odom failed to pay the delinquent amounts owed to the Department for approximately four years. On August 17, 2001, two days after the Legislative Auditor inquired about the delinquent invoices, Commissioner Odom paid the delinquent invoices.

Commissioner Odom paid the delinquent invoices two days after the Legislative Auditor questioned Department employees.

Department policy provides that all accounts in excess of \$200 and more than 60 days past due should be forwarded to the Department's general counsel for collection. According to Mr. Skip Rhorer, assistant commissioner, and Mr. Marvin Montgomery, general counsel, there are no exceptions for this policy. Mr. Montgomery further stated that there is no exception to this policy for Commissioner Odom. Mr. Montgomery added that Commissioner Odom's accounts were never brought to his attention. In addition, in order to prevent further losses, the Forestry Division maintains a list of individuals and companies that have not paid their invoices for seedlings. Commissioner Odom's name did not appear on this list.

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
OFFICE OF FORESTRY
P. O. BOX 631
BATON ROUGE, LOUISIANA 70821-0631
PHONE: 822-1234
FAX: 822-1234

SEEDLING ORDER

PLEASE REFER TO THIS NUMBER IN ALL REQUESTS CONCERNING THIS ORDER.
No. **26909**

TO: BOB ODOM
P.O. BOX 631
BATON ROUGE, LA 70821-0631

Pick up location:
OBERLIN NURSERY
Assigned nursery:
OBERLIN

AMOUNT DUE \$ 2,068.00	AMOUNT PAID \$ 0.00	BALANCE DUE \$ 2,068.00	REMARKS DUE	REMARKS CHECK RECEIPT
---------------------------	------------------------	----------------------------	-------------	-----------------------

This will acknowledge receipt of your seedling application and your check as shown.

Species	Quantity	Total amount
ADV/GEN LOBLOLLY PINE	49,000	2,068.00

Order increased 8-19-97.
To be delivered upon request.

Handwritten: PD 8-17-01 CK # 2449

TOTAL \$ 2,068.00

TELEPHONE: 822-1234
PURCHASE ORDER:
COST SHARE PROGRAM:
PARISH PLANTED:

State of Louisiana
Department of Agriculture & Forestry
P. O. Box #1081
Baton Rouge, LA 70821-0801

Bob Odom
Commissioner

Invoice No. 47-086-004

INVOICE TO: Commissioner Bob Odom Dept. of Ag. & Forestry P. O. Box 631 Baton Rouge, LA 70821-0631	SHIP TO: SAME	
INVOICE DATE: 08/02/97	ACCOUNT NO.	YOUR ORDER NO. OR DATE
DATE: 08/25/97	DESCRIPTION OF SERVICE: 70 acres @ 1000/acre 2 Hours @ \$80/hour Sec. 21 & 22, T28N, R9W Calbone Parish	AMOUNT: \$700.00 \$120.00 TOTAL AMOUNT DUE \$820.00

RECEIVED
2001 AUG 17 PM 1:37
LDAF-REVENUE SECTION

Vertical stamp: RECEIVED
AUG 17 PM 1:37
LDAF-REVENUE SECTION

This bill is payable upon receipt. Please make payment to the LOUISIANA DEPARTMENT OF AGRICULTURE AND FORESTRY and mail your payment to the address indicated above with a copy of this invoice.

For Office Use Only: P.Y. # _____ Check Date _____ Total \$ _____
 Cash _____ Check # _____ \$148 Check Date _____ P.Y. # _____ Amount _____
 Rev. Dept. _____ 80-17 _____ a.s. Check _____ 1785 _____ Old Due _____ Payment Due _____ 1088

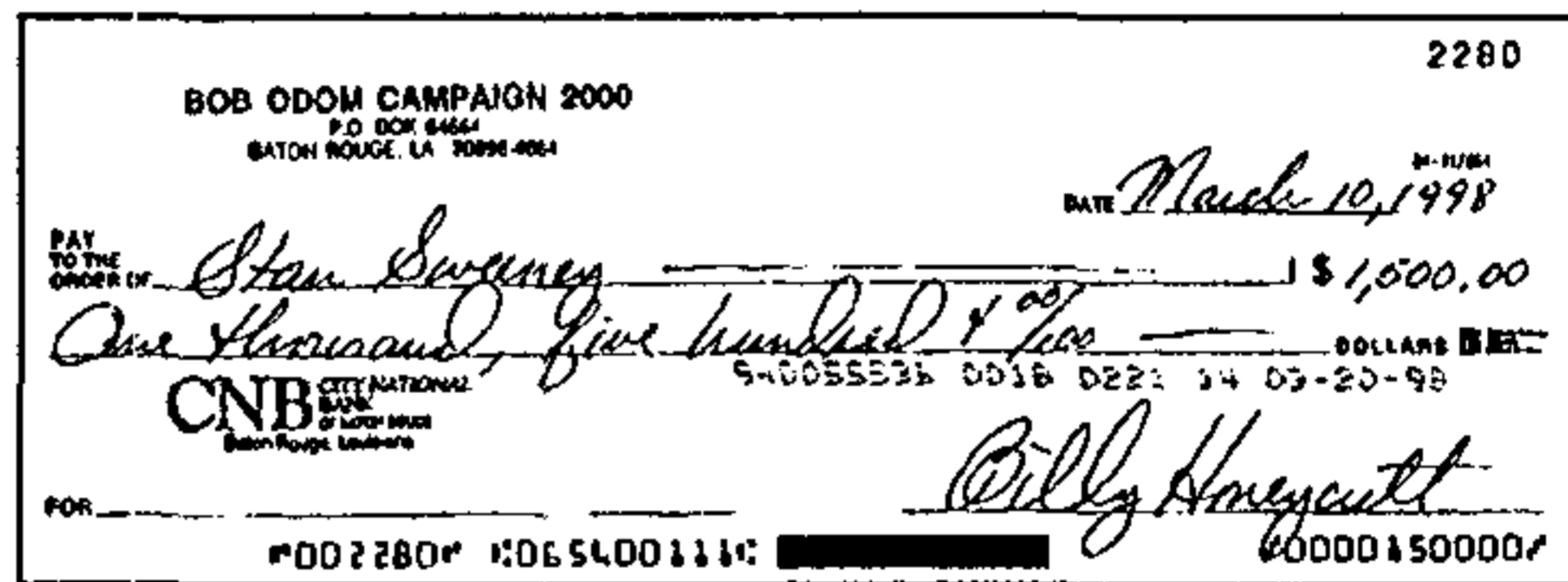
Claim Submitted to Federal Program

Commissioner Odom filed an inflated claim with a United States Department of Agriculture reimbursement program, thereby obtaining reimbursement for expenses he did not incur. The federal program, administered by the United States Department of Agriculture (USDA), reimburses qualified landowners for approximately 50% of the actual costs incurred to plant pine

trees on farmland. Commissioner Odom submitted an application to the USDA claiming reimbursement of expenses for site preparation, pine seedlings, and tree planting.

It appears that Commissioner Odom submitted the \$2,058 Department seedling invoice, a \$2,400 invoice from Mr. Stan Sweeney for planting the seedlings, and \$5,700 for site preparation with his application, which totals \$10,158. The \$5,700 appears to have included a second Department invoice of \$820 for a control burn. On March 13, 1998, Commissioner Odom received \$4,740 from the federal program.

At the time of application and as discussed previously, Commissioner Odom had not paid the two Department invoices. Although this invoice was reduced to \$1,500 by Mr. Sweeney, Commissioner Odom claimed the entire \$2,400 as an actual expense. In addition, Commissioner Odom used \$1,500 in campaign funds to pay Mr. Sweeney (*see check below*). Also as discussed previously, Commissioner Odom used public employees and equipment at a total cost to the Department of approximately \$1,702 to prepare his land for planting. The \$1,702 may have been included in the site preparation costs submitted to the USDA. Therefore, Commissioner Odom submitted a claim to the USDA for at least \$4,458 of the \$10,158 in claimed expenses that he had not personally incurred and/or paid.



Based on these actions, it appears that Commissioner Odom may have used his influence and public assets for personal gain. As a result, Commissioner Odom may have violated one or more of the following laws:

- R.S. 14:67, "Theft"²⁴
- R.S. 14:68, "Unauthorized Use of a Movable"²⁵
- R.S. 14:134, "Malfeasance in Office"²⁶

²⁴ R.S. 14:67 provides, in part, 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, practices, or representations.

²⁵ R.S. 14:68 provides, in part, that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

²⁶ 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. 14:138, "Payroll Fraud"²⁷
- 18 U.S.C. §1001, "False, Fictitious, or Fraudulent Statements"²⁸

The actual determination as to whether any individual is subject to formal charge is at the discretion and determination of the district attorney or United States Attorney.

²⁷ R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

²⁸ 18 U.S.C. §1001 provides, in part, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of government of the United States, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title or imprisoned not more than 5 years or both.

Recommendations

We recommend the following:

1. The Department should discontinue appointing individuals to unclassified positions for which they perform no services. The Department should implement policies and procedures to prevent employees from performing personal errands for Department officials while on Department payroll.
2. The Department should adhere to Louisiana law by not using state property (airplanes) to conduct personal business. The Commissioner of Agriculture should adhere to Louisiana law and not use state employees to conduct his personal business while on the Department payroll.
3. The Department should reevaluate its bid specifications for the food distribution program and implement changes to the bid specifications that would be fair and equitable to all bidders, increase competition, and lower costs.
4. The Department should enforce its present collection policies and not allow preferential treatment for the Commissioner of Agriculture or any other Department official. The Department should also update its policy related to providing forestry services to the public so everyone is treated on a fair and equal basis. Employees should not work on private property or use state equipment on private property in violation of state law.
5. Finally, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate legal action regarding possible violations of state and federal laws, to include seeking restitution.

Attachment I

Appendix

Appendix

The following individuals were appointed by Commissioner Odom to unclassified positions of director or assistant director though their actual duties performed appear to be consistent with classified positions.

Audrey Pesson - \$85,280 - Annual Unclassified Salary as of 11/11/01

On March 10, 1980, Ms. Audrey Pesson was promoted to the classified position of administrative assistant, then appointed assistant director of the Horticulture Commission of Louisiana on December 5, 1980. On June 21, 1982, Ms. Pesson was appointed assistant director of the Pesticide Commission and, finally, assistant director of the Louisiana State Market Commission (Market Commission) on February 13, 1984. Ms. Pesson held this position for approximately 17 years. Former assistant commissioner, Mr. Richard Allen stated that Ms. Pesson was Commissioner Odom's personal secretary and that her job duties did not change with any of these appointments.

Minutes for the meetings of the Market Commission indicate that Ms. Pesson did not attend any of the 29 meetings held during the period 1989 to 2001. Based on interviews with Department employees and Market Commission members, Ms. Pesson does not appear to have provided any services to the Market Commission. The Civil Service classified position that appears consistent with Mr. Pesson's actual duties and responsibilities is administrative specialist 5.

Records of the Bob Odom campaign indicate that Ms. Pesson provided services to the campaign. We were unable to speak to Ms. Pesson because of illness and her subsequent death.

Melanie Barnett - \$73,500 - Annual Unclassified Salary as of 12/9/01

Ms. Melanie Barnett was temporarily appointed to the unclassified position of assistant director of the Louisiana Catfish Promotion and Research Board (Catfish Board) in July 1992. Prior to this time, Ms. Barnett served in the classified position of executive services assistant. On July 1, 1993, Ms. Barnett submitted a letter resigning her position as executive services assistant to accept an unclassified position. At this time, she was appointed to the permanent unclassified position of assistant director of the Catfish Board. According to former assistant commissioner, Mr. Richard Allen, Ms. Barnett's job duties remained the same after her appointment to the unclassified position. Former deputy commissioner, Mr. William "Bud" Courson, stated that Ms. Barnett's job duties were answering phones, getting mail, handling the Commissioner's correspondence, and greeting people. Ms. Barnett remained the assistant director of the Catfish Board for over nine years even though she was performing the duties of secretary/receptionist. The Civil Service classified position that appears consistent with Ms. Barnett's actual duties and responsibilities is executive services assistant.

From February 1993 to December 2000, the Catfish Board held 26 meetings. According to the minutes of those meetings, Ms. Barnett was not present. The Department's organizational chart shows that Ms. Barnett is an assistant director assigned to the executive office; however, the

Catfish Board is assigned to the Office of Marketing, a completely different office on the organizational chart.

Since August 23, 2001, we have been unsuccessful in our attempts to talk to Ms. Barnett regarding her job duties. Numerous Department employees have indicated that Ms. Barnett was involved with the Bob Odom campaign.

Michelle Ribera - \$73,500 - Annual Unclassified Salary as of 12/31/01

Ms. Michelle Ribera was appointed assistant director of the Louisiana Strawberry Marketing Board (Strawberry Board) on January 6, 1992. Prior to this appointment, Ms. Ribera was in a classified position as a secretary 2. The Department's organizational chart indicates that Ms. Ribera is an executive secretary assigned to the executive office as the deputy commissioner's secretary and that she supervises a student worker. Minutes of the Strawberry Board show that the board met 18 times between January 1991 and March 6, 2001. The minutes further indicate that Ms. Ribera called the roll at a meeting on February 22, 1999, and attended another meeting on February 6, 2001, where she was listed as a guest. The Civil Service classified position that appears consistent with Ms. Ribera's actual duties and responsibilities is executive services assistant.

The chairman of the Strawberry Board and two Department employees stated that Ms. Ribera is responsible for preparing the minutes and other paperwork for the Strawberry Board. Employees have also indicated that Ms. Ribera provided services to the Bob Odom campaign.

Ms. Ribera has refused to answer any questions asked by the Legislative Auditor.

Stephanie Levenson - \$76,440 - Annual Unclassified Salary as of 12/31/01

Ms. Stephanie Levenson was appointed assistant director of the Louisiana Soybean and Grain Research and Promotion Board (Soybean Board) on July 1, 1992, and has remained in this position until the present. Prior to that appointment, Ms. Levenson was in the classified position of executive secretary. Ms. Levenson stated that she has served as the grant coordinator and district office coordinator for the New Orleans Office since 1982. According to Ms. Levenson, her job duties have basically remained the same since she began employment with the Department; however, she has been given more responsibility over time. The Civil Service classified position that appears consistent with Ms. Levenson's actual duties and responsibilities is administrative specialist 5.

Ms. Levenson stated that she has never performed any work for the Soybean Board. Ms. Levenson further stated that she worked for the Bob Odom campaign collecting contributions and that she also worked on Robb Odom's house.

Deborah Barrilleaux - \$68,250 - Annual Unclassified Salary as of 12/31/01

Ms. Deborah Barrilleaux was appointed director of the Catfish Board on September 6, 2001. She began her employment with the Department in 1986 as an account clerk 3 and held various accounting, secretarial, and agriculture specialist positions. Prior to becoming the director, she occupied the classified position of agricultural program specialist II in the Office of Forestry. At the time of her appointment as director, Ms. Barrilleaux became the receptionist/secretary for the

executive office. Ms. Barrilleaux described her new job duties as a receptionist/secretary, answering the telephone, giving information to the public, and preparing Commissioner Odom's calendar, among other duties. The Civil Service classified position that appears consistent with Ms. Barrilleaux's actual duties and responsibilities is executive services assistant.

Prior to her appointment as director, Ms. Barrilleaux's salary was \$2,958 per month. As director, performing only the duties of a receptionist/secretary, Ms. Barrilleaux's salary increased by \$2,459 per month to a total monthly salary of \$5,417, which is an 83% increase in pay. On November 12, 2001, her salary increased again to \$5,687 per month, a 92% increase in four months. Ms. Barrilleaux stated that she does not know any of the board members, how many times the board meets in a year, the purpose of the board, or what her duties are as the director of the Catfish Board.

Ms. Barrilleaux stated that since becoming an unclassified employee she has voluntarily worked for the Bob Odom campaign.

Henry Baxter - \$81,900 – Annual Unclassified Salary as of 12/31/01

Mr. Henry Baxter was appointed director of the Soybean Board in December 1980, then transferred to pesticide enforcement inspector in March 1982, and, finally, appointed assistant director of the Livestock Brand Commission in February 1984. Mr. Baxter still holds the position of assistant director of the Livestock Brand Commission. However, according to Mr. Baxter, he has been the director of state meat inspection for the past 20 years. He also stated that he may have attended a couple of meetings of the Livestock Brand Commission, but he does not know anyone on the commission and has never performed any specific task for the commission. The Department's organizational chart shows that Mr. Baxter is the assistant director of meat inspection. The Civil Service classified position that appears consistent with Mr. Baxter's actual duties and responsibilities is meat program administrator.

Mr. Baxter stated that he has voluntarily worked for the Bob Odom campaign soliciting contributions from the meat industry. Mr. Baxter also stated that he and his wife voluntarily worked on the construction of a home for Commissioner Odom's son, Robb Odom.

John Brown - \$77,532 – Annual Unclassified Salary as of 12/31/01

Mr. John Brown was appointed as director of the Feed Commission in January 2001. Prior to becoming director, Mr. Brown was in the classified position of facility maintenance manager 3 and was responsible for the Department's facilities. Mr. Brown stated that since this appointment his actual duties have been as the director of fleet and facility maintenance. According to Mr. Brown, his only increase in duties has been the addition of new construction and fleet services. Mr. Brown stated that he has not performed any work as the director of the Feed Commission and did not know the purpose of the commission. The Civil Service classified position that appears consistent with Mr. Brown's actual duties and responsibilities is facility maintenance manager 4.

Mr. Brown worked as an electrical contractor for approximately 10 years prior to his employment at the Department. Mr. Brown stated that he voluntarily worked on the Bob Odom campaign soliciting contributions. Mr. Brown further stated that he and his son voluntarily

provided the electrical services for Robb Odom's house at the request of Commissioner Odom. Mr. Brown stated that he obtained the electrical permit for Robb Odom's house and provided some electrical work on Ms. Ashley Odom Thompson's house.

Michael Buchart \$77,532 – Annual Unclassified Salary as of 12/31/01

Mr. Michael Buchart was appointed director of the Soybean Board on September 16, 1986. Prior to this appointment, Mr. Buchart was in the classified position of forest resource manager 3. According to Mr. Buchart, he is the head of forest product marketing, utilization, and development and his job is to facilitate development of timber industries. Mr. Buchart stated that he attends trade shows, does resource support, and generally promotes the timber industry. Mr. Buchart stated that he does not work for the Soybean Board, although he is aware of his title as director. Mr. Buchart further stated that he attended one meeting of the board many years ago but does not perform any services for the board. The Civil Service classified position that appears consistent with Mr. Buchart's actual duties and responsibilities is agricultural international marketing specialist.

Mr. Buchart stated that he worked on the Bob Odom campaign and collected contributions that he gave to either Ms. Michelle Ribera or Ms. Linda Chaney, Department employees.

Stephen Wayne Guilbeau \$76,440 – Annual Unclassified Salary as of 12/31/01

Mr. Stephen Wayne Guilbeau was appointed director of the Louisiana Pork Promotion Board (Pork Board) on February 9, 1987. Although the Pork Board ceased to exist in approximately 1994, Mr. Guilbeau is still currently in the position of director of that board. Mr. Guilbeau stated that he is aware that he is the director of the Pork Board and that the board has been inactive for a number of years. Mr. Guilbeau stated that this is nothing more than a title and he has never performed any work for the Pork Board.

Mr. Guilbeau stated that his actual duties are as the director of protocol and his responsibilities consist of the certified logo program, attending trade shows, talking with corporations, and traveling to places such as Japan, Texas, and Chicago. Mr. Guilbeau's supervisor, Mr. Roy Johnson, confirmed that Mr. Guilbeau operates the certified logo program and attends a couple of trade shows each year, the largest of which is in Chicago. The Civil Service classified position that appears consistent with Mr. Guilbeau's actual duties and responsibilities is agricultural international marketing specialist.

Mr. Guilbeau stated that he worked on the Bob Odom campaign soliciting contributions. Department employees stated that Mr. Guilbeau worked on a house for Commissioner Odom's son. Mr. Guilbeau confirmed that he worked on the house.

Richard Herrin - \$71,004 – Annual Unclassified Salary as of 1/21/01

Mr. Richard Herrin was appointed director of the Feed Commission in July 1985. He remained in this position until his retirement in January 2001. Mr. Herrin stated that he actually performed the duties of director of fleet and facility maintenance and was in that position for 15 years. Mr. Herrin stated that his job duties consisted of taking care of the buildings and grounds and the mechanic shops and doing construction work for the Department. Mr. Herrin stated that he has never performed any services for the Feed Commission. The Civil Service classified position

that appears consistent with Mr. Herrin's actual duties and responsibilities is facility maintenance manager 4.

Mr. Herrin stated that he worked on the Bob Odom campaign soliciting contributions. Mr. Herrin stated that he also worked on Robb Odom's house.

Lawrence Michaud - \$79,716 - Annual Unclassified Salary as of 12/31/01

Mr. Lawrence Michaud was appointed assistant director of the Pork Board on January 1, 1983. Mr. Michaud originally began employment with the Department on May 18, 1981, in the classified position of departmental informational representative IV. Although the Pork Board ceased to exist in approximately 1994, Mr. Michaud has remained in the position of assistant director of that board. However, Mr. Michaud stated that he actually performs the duties of press secretary for the Department, which includes writing press releases, policy papers, five radio shows per week, recorded television shows, and press conferences. Mr. Michaud further stated that he has written press releases on pork and on the policies for the Pork Board. Mr. Michaud stated that he is aware the Pork Board is inactive. Mr. Michaud added that he was placed in an unclassified position because there is no position in state government for a press secretary. The Civil Service classified position that appears consistent with Mr. Michaud's actual duties and responsibilities is public information director 2 created on October 23, 2000. According to Civil Service, this position replaced the classified position of communications director 2, which was established on June 29, 1987.

The job description for a public information director 2 provides, in part, that the employee serves as the spokesperson for a large agency or elected official with complex duties such as broadcast, publication production, international or multi-lingual communications duties, crisis management responsibilities, agency webmaster responsibilities, and/or electronic commerce administrator responsibilities.

Mr. Michaud stated that he has performed non-compensated work for the Bob Odom campaign writing press releases and handling media relations. Mr. Michaud added that he performs these duties on his own time and that he does not raise money for the campaign.

Mike St. Romain - \$79,716 - Annual Unclassified Salary as of 12/31/01

Mr. Mike St. Romain was appointed assistant director of the Feed Commission in June 1987. He began employment with the Department in August 1985 when the food distribution program was transferred to the Department. Since that time, Mr. St. Romain has performed the duties associated with the director of the food distribution program. Mr. St. Romain described his job duties as overseeing the food distribution program and dealing with the USDA, school districts, warehouses, food banks, and child care centers. Mr. St. Romain stated that he has never worked or performed any task for the Feed Commission, although he is aware he is the assistant director of the Feed Commission. The Civil Service classified position that appears consistent with Mr. St. Romain's actual duties and responsibilities is food distribution program administrator.

Mr. St. Romain stated that he has worked on the Bob Odom campaign soliciting contributions from the food brokers he knows. Mr. St. Romain stated that, on occasion, he has given Ms. Chaney and Ms. Ribera these contributions.

Attachment II

Management's Response



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY

BOB ODOM, COMMISSIONER

W.G. "BUD" COURSON, DEPUTY COMMISSIONER



RECEIVED LEGISLATIVE AUDITOR 2002 JAN 30 PM 3:07

January 30, 2002

ASSISTANT COMMISSIONERS

Agricultural & Environmental Sciences Matthew Keppinger, III P.O. Box 3596 Baton Rouge, LA 70821 (225) 925-3770 Fax: 925-3760

Agro-Consumer Services Manning Broussard P.O. Box 3098 Baton Rouge, LA 70821 (225) 922-1341 Fax: 922-0477

Animal Health Services Terrel Delphin P.O. Box 1954 Baton Rouge, LA 70821 (225) 925-3962 Fax: 925-4103

Forestry Paul D. Frey P.O. Box 1628 Baton Rouge, LA 70821 (225) 925-4500 Fax: 922-1356

Management & Finance Skip Rhore P.O. Box 3481 Baton Rouge, LA 70821 (225) 922-1255 Fax: 925-6012

Marketing Bryce Malone P.O. Box 3334 Baton Rouge, LA 70821 (225) 922-1277 Fax: 922-1289

Soil & Water Conservation Bradley E. Spicer P.O. Box 3554 Baton Rouge, LA 70821 (225) 922-1269 Fax: 922-2577

Dr. Daniel G. Kyle Legislative Auditor Post Office Box 94397 Baton Rouge, LA 70804-9397

Dear Dr. Kyle:

Following is the Department's response to the investigative report on the Department of Agriculture and Forestry. This response is presented to be a part of the investigative report without any deletions or modifications.

MANAGEMENT'S RESPONSE

Preamble

The Department and Commissioner fully support the audit process as originally intended by and expressed in the constitution of this State.

This will acknowledge that the Department of Agriculture and Forestry (Department) has received the fifth audit report from this legislative auditor¹ concluded in the last twelve months and the thirteenth audit since the Fall of 1999, an unprecedented number of audits for the Department. The audit is unprofessional, grossly inaccurate and written in an unworthy style.

This government, like all governments, is made up of people and, accordingly, errors by governmental officials will always be present. There will never be a need or a worthwhile purpose for exaggerating human errors or of inciting excessive publicity about them.

In a democracy such as ours, one of the greatest internal threats to our democracy is the growing apathy of the citizens toward their government. That apathy is fueled by cynicism, and the use of unnecessarily defamatory criticism, exaggerated truths and negative falsehoods about public institutions and officials unfairly and unwisely fuel the cynicism. There certainly is no public purpose in so

¹ For purposes of simplicity this term and its derivatives and the pronouns he, him, and his are used to refer variously to the legislative auditor, the office of the legislative auditor or representatives thereof.

Dr. Kyle
January 30, 2002
Page 2

doing and indeed, to do so, is harmful. This audit report is a disservice and harmful because it invents then exaggerates the perceived errors and does so with a destructive style normally confined to sensational tabloids.

With regard to the conduct of the audit:

AUDITING STANDARDS WERE NOT MET BY AUDITOR

There are standards auditors and audits are called upon to meet. Those standards are the Government Auditing Standards, the External Audit Standards and the Internal Audit Standards. The auditor and this audit fail to meet those standards in, at least, the following respects.

Independence and Objectivity Standard Not Met

In carrying out their profession, auditors are called upon to follow standards of conduct. One of those standards is maintaining objectivity and independence. According to one of the bodies of standards, the Governmental Auditing Standards, "... in all matters relating to the audit work, the audit organization and the individual auditors, whether government or public, should be free from personal and external impairments to independence, should be organizationally independent, and should maintain an independent attitude and appearance."

A simple reading of this audit report should leave no doubt that the auditor has not exhibited the appearance of an independent attitude and that the audit is, in fact, not objective. This observation is further supported by numerous statements made during the conduct of this audit by auditors to interviewees, which included the statement that the auditors would get Commissioner Odom.

The standards of independence and objectivity have not been met.

Fieldwork Standards Not Met

Auditors are called upon to follow prescribed fieldwork standards. These standards apply to evidence gathered during the course and scope of the audit. The American Institute of Certified Public Accountants Standards state that: "Sufficient competent evidential matter is to be obtained through inspection, observations, inquiries and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit."

The fieldwork standards have not been met in reaching most if not all of the opinions contained in the audit report. The standards also call upon the auditor to be very prudent when interpreting applicable legal provisions with respect to audit findings.

Dependence on legal judgment simply means that the illegality of specific acts is normally beyond the scope of an independent auditor's professional competence. Auditors are proficient in accounting and auditing, not law.... [D]etermining legality should generally be left to attorneys and, in the U.S., to due process of law (emphasis added). (Ricchiute Auditing & Assurance Services, 1998).

The unnecessary implications of criminal conduct contained in the report are inappropriate under any circumstances but under the circumstances of this audit, where hearsay, assumptions, half truths, speculation, and illogic are routinely utilized to reach conclusions, are inexcusable and reckless. The auditor is supposed to be a reporter of the facts and the report of the "facts" should be sent to the appropriate law enforcement agencies for their expert review, as the law requires the auditor to do. Under no circumstances, and certainly not under these, should the auditor imply or opine the existence of criminal conduct. There are officials charged with that considerably serious responsibility that have the education, experience and training to handle such matters and to do so with no or minimum harm to the innocent and to our governmental system. The auditor is not charged with that responsibility and should not carelessly assume it for the auditor does not have the education, experience and training to do so as this audit and the manner in which it was conducted so clearly demonstrate. The auditor's conduct has done harm to the innocent and to our governmental system. The auditor should be fully accountable, especially for unnecessary and wanton harmful acts.

Due Professional Care

Governmental Auditing Standards call upon auditors to work with due professional care. "Due care imposes a responsibility upon each auditor within the audit organization to observe generally accepted government auditing standards."

According to the Standards, exercising due professional care means using sound judgment in establishing the scope, selecting the methodology, and choosing

tests and procedures for the audit. "The same sound judgment should be applied in conducting the tests and procedures and in evaluating and reporting the audit results (emphasis added)."

Internal Audit Standards and External Audit Standards also call upon the exercise of due professional care. According to the American Institute of Certified Public Accountants, "due professional care is to be exercised in the planning and performance of the audit and in the preparation of the report (emphasis added)."

For the reasons stated in this response, this report is, in a number of aspects, deficient, false and harmful. Be so notified.

Disclosure and Disposition of Any Conflict of Interest

In the Fall of 1999, shortly after representatives of private contractors gave the Department an unsuccessful ultimatum to stop carrying out public work projects utilizing public employees of the Department during their seasonal down times, the private contractors filed suit against the Department to stop the public work projects. That suit and related documents were obtained by the legislative auditor who then started taking harsh and publicly critical positions of the Department's activities especially with reference to those public work projects. The auditor's criticisms were similar to those of the private contractors. However, the Department's public work projects have been openly and publicly carried out for years, were publicly approved by other public bodies and were or should have been well known to this legislative auditor who audits the Department at least annually. But, these public works were never previously the subject of any criticism or of any finding by the auditor, until after the Fall of 1999.

Auditors are required to maintain independence. Therefore, under the general standards of fairness and the specific mandates of objectivity that apply to auditors it would seem to be incumbent upon the legislative auditor to disclose the existence of any conflict of interest which has been present in these many proceedings conducted by this legislative auditor, especially since the Fall of 1999, from which time the auditor has audited this Department thirteen times. The auditor is requested to otherwise deal with conflict, political or otherwise, in a manner consistent with principles of fairness and the professional standards applicable to the auditor's profession.

Auditing Abuses Were Experienced by the Department

During the course of audits, but especially the thirteen audits since the Fall of 1999, unprecedented reports of objectionable conduct were received from audit participants which the Department considers extraordinary abuses by this legislative auditor which include: possible violations of the state and federal constitution, mismanagement of records, unnecessarily negative innuendo, invasions of privacy without probable cause, unnecessarily defamatory statements, false statements, half truths, discourteous conduct, acts of attempted intimidation, the rendering of opinions outside of the legislative auditor's education, training and experience, the conduct of investigations without authority, exhibiting disregard for the Department's mission, illogic and the inclusion of irrelevant matters.

Apparent Duplicity Regarding the Nature of the Audit

The auditor has indicated or implied that he is conducting this audit in conjunction with the district attorney. Contradictorily, the auditor has indicated or implied that he is not conducting this audit in conjunction with the district attorney.

Whether or not the auditor is conducting this audit in conjunction with the district attorney is important to the Department, its employees and to the manner of responding, particularly as that information relates to the Department knowing whether it is responding to a civil audit, a criminal audit or a hybrid created by the auditor. This needs to be disclosed without ambiguity to avoid abuse to the rights of individual employees of the Department.

Thus, the Department specifically requests that the auditor disclose the nature of the relationship, if any, of the district attorney's investigation and this investigatory audit and that disclosure be made in writing and thereafter that writing be a public record. Further, if there be a relationship between the district attorney's investigation and this audit, the auditor should also disclose whether, under those circumstances, the required objectivity for auditing has been lost, and if not lost, how not. And, if there is a relationship between the district attorney's investigation and this audit disclose whether legal authority exists for such an audit and whether such activity on the part of the legislative auditor constitutes a violation of the Constitution, including Article 2, Section 2 of the State's Constitution relative to the Separation of Powers Doctrine.

The Auditor's Unfair Deletion Policy

The Department notes that the legislative auditor has performed audits of the Department annually for several decades and has completed thirteen audits of this Department just since the Fall of 1999. Responses to those audits by the Department have revealed deficiencies in those audits. However, the degree and number of deficiencies of this audit are unprecedented and thus this response may be of unprecedented length for this Department. On the 14th day of January 2002, this legislative auditor provided the Department with this audit and informed the Department that the response of the Department was due on January 28th², and that it is the policy of this legislative auditor to delete, at his discretion, any part of the Department's response should this legislative auditor find the response, in his opinion, too lengthy. Despite several requests by this Department this legislative auditor refused to indicate what length, in this instance, this legislative auditor might feel was too lengthy a response. This deletion policy of the legislative auditor is patently unfair to the Department, to other auditees, the public and the legislature. *The Department requests that the auditor modify this deletion policy so as to eliminate the inherent unfairness and objects to the utilization of such a policy as a basis for the auditor to remove any part of this response.*

With regard to the subjects of the audit report:

The Department's Employees Are Properly Employed

The legislative auditor's position regarding the Department's unclassified employees is incorrect, ignores history and ignores express law. The auditor's rationale for this erroneous opinion on policy such as salary amounts, a subject not assigned to him, reveals the auditor's overly bureaucratic approach, which relies on false assumptions, false logic and incomplete information.

Errands Are Important to Productivity

The valued services of the Chief Executive Officer, the Commissioner, are enhanced by assigning some of the ministerial and manual personal duties of the Chief Executive Officer to others. When some of the duties which will interfere with

² This due date was extended at the Department's request two days or to January 30th. Thus, the Department was given eleven working days to respond to the audit.

or interrupt the job are assigned to others, it is a *quid pro quo* exchange or trade off for additional executive work product from the Chief Executive Officer.

Copilots Are Sometimes Necessary

On those occasions where the presence of an additional pilot or copilot is beneficial to the safety of the occupants and the aircraft, an additional pilot is appropriately used. The legislative auditor has made no showing otherwise. Further, in any such instance there is the possibility that the pilot, any pilot, will have down time and it is immaterial during that down time what activity the pilot engages in to occupy himself or herself after all necessary duties are completed so long as the activity is a wholesome one.

Forestry Services Were Handled in Accordance With Policy

The Commissioner was qualified for and received the free services normally provided without charge to all qualified citizens. The Commissioner paid for those services for which a charge is normally assessed.

Airplane Use Was for Public Purpose and in Accordance With Policy

The Department's airplane was not used unless there was a public purpose. All Department aircraft were used in accordance with applicable laws, policies and guidelines that pertain to their use. When reimbursement was required from the Commissioner for authorized incidental non-public use, reimbursement was made for the additional cost. Cost is the correct standard for reimbursement for these aircraft, not "market value" as proposed by the auditor.

Meetings With Social or Recreational Activity Included

All meetings referenced by the audit report had a significant public purpose and sometimes included social or recreational activity for the participants like so many meetings do. These meetings include and promote extensive exchanges of information on important subjects. Typical subjects included in such meetings are the U.S. farm bill, crop production practices, crop disease and treatments, effects of weather on crops, regulatory matters, further processing of agricultural commodities and other economic development, new products, research and development and product education.

The Warehouse Bidding Was Normal and Saved State Money

The statewide bid procedure was designed to and did eliminate the handling fees and receiving fees that the individual warehouses were charging the State when products moved from one warehouse to another. The purpose of the statewide bid was to save money and it did.

It appears clear from a reading of the audit report that the author intended the reader of the report to conclude that there was something wrong with this bid process. But this is the State's bid process, there is nothing wrong with it; the low bidder got the business, and the State is saving money.

The auditor's baseless theory of some type of untoward manipulation is, on analysis, just an observation of a normal public bidding process by competitors in a free market.

Campaign Funds Were Handled Properly

Those matters pertaining to the Commissioner's campaign funds do not appear to be within the scope of the Department's activities. Nevertheless, upon information the Department responds as follows. The raising of campaign funds by public officials is an ordinary part of the political landscape and a necessary part of our democratic process. It is not only necessary, but also legal. At the time of this reply, all of the questioned expenditures discussed in the audit appear to have been expended in accordance with law. The Department is informed that all expenditures discussed in the audit are being reviewed, and if in the final analysis any expenditure was not to have been made, reimbursement from the appropriate source will follow.

Dr. Kyle
January 30, 2002
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The USDA Tree Planting Reimbursement Was For the Proper Amount

The presenting of a claim by the Commissioner relating to his personal property does not appear to be within the scope of the Department's activities. Nevertheless, upon information the Department responds as follows. The auditor's accusation that Commissioner Odom obtained "reimbursements for expenses he did not incur" is erroneous. Trees were planted in accordance with the reimbursement program and the amount of reimbursement made was the precise amount due under the reimbursement program.

Respectfully submitted,



Skip Rhorer
Assistant Commissioner

SR:sw

cc: Commissioner Bob Odom