

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA



FINANCIAL STATEMENT AUDIT
FOR THE YEAR ENDED JUNE 30, 2008
ISSUED MARCH 18, 2009

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LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

January 23, 2009

Independent Auditor's Report
on the Financial Statements

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Gretna, Louisiana

We have audited the accompanying special purpose (legal basis) financial statements of the Court of Appeal, Fifth Circuit, a court within Louisiana state government, as of and for the year ended June 30, 2008, as listed in the foregoing table of contents. These financial statements are the responsibility of the Court of Appeal, Fifth Circuit's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1-B, the accompanying special purpose financial statements present only the funds of the Court of Appeal, Fifth Circuit. As such, they present the appropriated and non-appropriated activity of the court that are part of the accounts and fund structure of the State of Louisiana. The General Appropriation Fund reflects appropriated activity of the court that is part of the General Fund of the State of Louisiana. The non-appropriated fund is an individual fund of the State of Louisiana not subject to budgetary control. The financial statements do not purport to, and do not, present fairly the financial position of the State of Louisiana as of June 30, 2008, or the changes in its financial position for the year then ended, in conformity with accounting principles generally accepted in the United States of America. Furthermore, the special purpose financial statements have been prepared on a legal basis of accounting, the purpose of which is to reflect compliance with the annual appropriation act for the appropriated fund and the financial position of the non-appropriated fund. These practices differ from accounting principles generally accepted in the United States of America as described in the notes to the financial statements. The effects on the financial statements of the variances between legal basis accounting practices and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

In our opinion, because of the effects of the matter discussed in the preceding paragraph, the accompanying special purpose financial statements referred to previously do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of each fund of the Court of Appeal, Fifth Circuit, as of June 30, 2008, or changes in financial position thereof for the year then ended. Furthermore, the court has not presented a management's discussion and analysis that accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be, part of the financial statements.

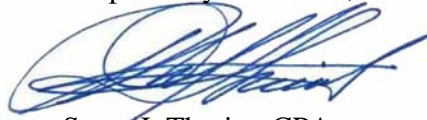
In our opinion, the accompanying special purpose financial statements referred to previously present fairly, in all material respects, the balances within the appropriated and non-appropriated funds of the Court of Appeal, Fifth Circuit as of June 30, 2008, and the transactions of such funds for the year then ended, on the basis of accounting described in note 1-D.

During August and September of 2005, the State of Louisiana suffered considerable damage from two major hurricanes, Katrina and Rita, resulting in the President of the United States declaring Louisiana a major disaster area. Because of the severity of these two separate events and the resulting losses sustained, it is unknown exactly what the economic impact recovery will have on state and local governmental operations in Louisiana. While the Court of Appeal, Fifth Circuit did suffer damage from Hurricane Katrina, the court was able to reopen on September 26, 2005. However, the long-term effects of these events on the Court of Appeal, Fifth Circuit cannot be determined at this time.

In accordance with *Government Auditing Standards*, we have also issued our report dated January 23, 2009, on our consideration of the Court of Appeal, Fifth Circuit's internal control over financial reporting and on our tests of its compliance with certain provisions of laws and regulations and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

This report is intended solely for the information and use of the court and its management, the Supreme Court, and the Louisiana Legislature and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Steve J. Theriot, CPA
Legislative Auditor

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**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
ALL APPROPRIATED AND NON-APPROPRIATED FUNDS**

Balance Sheet (Legal Basis), June 30, 2008

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
ASSETS			
Cash and cash equivalents (note 2)	\$25,672	\$518,186	\$543,858
Receivables - filing fees		22,000	22,000
Due from Supreme Court	3,907		3,907
Prepaid items	16,220	3,094	19,314
	<u>16,220</u>	<u>3,094</u>	<u>19,314</u>
TOTAL ASSETS	<u><u>\$45,799</u></u>	<u><u>\$543,280</u></u>	<u><u>\$589,079</u></u>
LIABILITIES AND FUND EQUITY			
Liabilities - accounts payable	\$12,901	\$3,600	\$16,501
Fund Equity - fund balances - reserved for continuing operations (note 5)	32,898	539,680	572,578
	<u>32,898</u>	<u>539,680</u>	<u>572,578</u>
TOTAL LIABILITIES AND FUND EQUITY	<u><u>\$45,799</u></u>	<u><u>\$543,280</u></u>	<u><u>\$589,079</u></u>

The accompanying notes are an integral part of this statement.

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**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
ALL APPROPRIATED AND NON-APPROPRIATED FUNDS**

**Statement of Revenues, Expenditures, and
Changes in Fund Balances (Legal Basis)
For the Year Ended June 30, 2008**

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
REVENUES			
Filing fees		\$275,337	\$275,337
Use of money and property - interest earnings	\$14,301	22,137	36,438
Total revenues	<u>14,301</u>	<u>297,474</u>	<u>311,775</u>
EXPENDITURES			
Personal services	4,236,942	272,918	4,509,860
Professional services	92,280		92,280
Travel and conventions	67,315	600	67,915
Operating supplies and services	341,514		341,514
Supplies	58,202		58,202
Capital outlay	255,684		255,684
Computer supplies and training	17,750		17,750
Computer maintenance and software	109,653		109,653
Association dues		3,645	3,645
Judges' Supplemental Compensation Fund		7,782	7,782
Total expenditures	<u>5,179,340</u>	<u>284,945</u>	<u>5,464,285</u>
EXCESS (Deficiency) OF REVENUES OVER EXPENDITURES	<u>(5,165,039)</u>	<u>12,529</u>	<u>(5,152,510)</u>
OTHER FINANCING SOURCES			
Transfer from Supreme Court	5,153,313		5,153,313
Total other financing sources	<u>5,153,313</u>	<u>NONE</u>	<u>5,153,313</u>
EXCESS (Deficiency) OF REVENUES AND OTHER SOURCES OVER EXPENDITURES	(11,726)	12,529	803
FUND BALANCES AT BEGINNING OF YEAR	<u>44,624</u>	<u>527,151</u>	<u>571,775</u>
FUND BALANCES AT END OF YEAR	<u>\$32,898</u>	<u>\$539,680</u>	<u>\$572,578</u>

The accompanying notes are an integral part of this statement.

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INTRODUCTION

The Court of Appeal, Fifth Circuit is a part of the State of Louisiana reporting entity within the judicial branch of government. The court is provided for in Article V, Sections 8 through 13 of the Louisiana Constitution of 1974 and Sections 311 through 392 of Title 13 of the Louisiana Revised Statutes of 1950. The court's operations are funded through an annual lapsing appropriation made by the Louisiana Legislature and from self-generated revenues authorized by Louisiana Revised Statute (R.S.) 13:352. In addition to the fees mandated by R.S. 13:352 relative to appeals, applications for writs, motions filed to dismiss unlogged appeals, motions filed to extend the return date for a writ, and answers to appeals, the court charged an additional fee of \$20, in compliance with R.S. 13:10.3(E) and in conformity with the Judges' Supplemental Compensation Fund. The total amount collected in connection with the Judges' Supplemental Compensation Fund is remitted to the Judicial Administrator's Office of the Supreme Court of Louisiana.

The Court of Appeal, Fifth Circuit has appellate jurisdiction as authorized under Article V, Section 5 of the Louisiana Constitution, which encompasses the parishes of Jefferson, St. Charles, St. James, and St. John the Baptist. The Court of Appeal, Fifth Circuit has supervisory jurisdiction, subject to the general supervisory jurisdiction of the Supreme Court of Louisiana, over all lower courts in all cases in which an appeal would extend to the court of appeal. The Fifth Circuit is domiciled in Gretna and has eight judges and 55 additional employees.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The Governmental Accounting Standards Board (GASB) promulgates accounting principles generally accepted in the United States of America and reporting standards for state and local governments. These principles are found in the *Codification of Governmental Accounting and Financial Reporting Standards*, published by the GASB. However, the accompanying financial statements have been prepared on a legal basis, which differs from accounting principles generally accepted in the United States of America as explained in the following notes.

B. REPORTING ENTITY

GASB Codification Section 2100 has defined the governmental reporting entity to be the State of Louisiana. The court is included within the State of Louisiana reporting entity because the state exercises oversight responsibility and has accountability for fiscal matters as follows: (1) the state has control and exercises authority over budget matters; (2) state appropriations provide the largest percentage of total revenues; and (3) the court primarily serves state residents. The accompanying financial statements present information only as to the transactions of the court.

Annually, the State of Louisiana issues basic financial statements that include the activity contained in the accompanying financial statements. Those basic financial statements are audited by the Louisiana Legislative Auditor.

C. FUND ACCOUNTING

The Court of Appeal, Fifth Circuit uses fund accounting, along appropriation lines, to reflect its compliance with provisions of the annual appropriation act and to reflect the financial position and results of operations of its non-appropriated fund. This differs from the fund accounting of accounting principles generally accepted in the United States of America where the intent is to measure the financial position and results of operations of the governmental reporting entity as a whole. Therefore, the funds within the accompanying financial statements have been divided between appropriated and non-appropriated funds and not by the conventional fund types of accounting principles generally accepted in the United States of America.

The funds do not include any noncurrent assets or liabilities. Noncurrent assets, capital assets, long-term liabilities, pension disclosures, and other postemployment benefits balances and disclosures are reflected in the State of Louisiana's basic financial statements.

The funds presented in the special purpose financial statements are described as follows:

General Appropriation Fund

The General Appropriation Fund provides for the general administrative expenditures of the court.

Non-Appropriated Fund - Fee Account

The Fee Account is used to account for filing fees and other revenues received by the court, as provided by R.S. 13:352 and 13:10.3. Expenditures incurred in excess of the amount appropriated by the legislature (General Appropriation Fund) are funded from this account.

D. BASIS OF ACCOUNTING

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. The funds in the accompanying financial statements measure the resources provided by the legislature to fund current year expenditures and the use of those resources by the court. This differs from accounting principles generally accepted in the United States of America in which the measurement focus would be to measure the flow of current resources.

Basis of accounting refers to when revenues and expenditures are recognized and reported in the financial statements, regardless of the measurement focus applied. The accompanying financial statements reflect revenues and expenditures in accordance with applicable statutory provisions and regulations of the Judicial Budgetary Control Board. These legal requirements differ from accounting principles generally accepted in the United States of America as follows:

1. Revenues are recognized to the extent that they have been appropriated and not necessarily when measurable and available.
2. Expenditures are recognized to the extent that appropriation authority has been extended to the court and not necessarily when the fund liability has been incurred.

Under the foregoing legal provisions, the court uses the following practices in recognizing revenues and expenditures:

Revenues

Self-generated revenues are recognized when earned. Interest income on time deposits is recorded when the time deposits mature and the interest is available.

Expenditures

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Furthermore, any expenditure of a long-term nature for which funds have not been appropriated during the current year is not recognized in the accompanying financial statements.

Other Financing Sources (Uses)

The transfer from the Supreme Court represents the appropriation from the state General Fund. The transfer is recognized in the amount appropriated, to the extent withdrawn from the state treasury. Operating transfers are recognized when they become measurable and available.

E. CASH AND CASH EQUIVALENTS

Cash and cash equivalents include cash on hand, demand deposits, and certificates of deposit. Under state law, the court may deposit funds within a fiscal agent bank organized under the laws of the State of Louisiana, the laws of any other state in the Union, or the laws of the United States. Furthermore, the court may invest in time certificates of deposit of state banks organized under the laws of the State of Louisiana, national banks having their principal offices in Louisiana, in savings accounts or shares of savings and loan associations and savings banks, and in share accounts and share certificate accounts of federally or state-chartered credit unions.

F. PREPAID ITEMS

The court establishes prepaid expenditures for membership dues, rental agreements, and travel advances. Payments made for such items that will benefit periods beyond June 30, 2008, are recorded as prepaid items.

G. LONG-TERM OBLIGATIONS

The court is not allowed by statute to incur bonded indebtedness and, therefore, no recognition within the accompanying financial statements is necessary. Furthermore, any long-term obligations of the court arising from lease commitments, judgments, compensated absences, or from any other source are not recognized in the accompanying special purpose financial statements.

H. BUDGET PRACTICES

The general appropriation made for the operations of the court is an annual lapsing appropriation. Amounts not expended or encumbered should be returned to the state General Fund on or before September 1, 2008. The general appropriation for fiscal year 2008 was expended or encumbered.

The accompanying financial statements do not present a budgetary comparison because the appropriated fund is budgeted in lump sum and the non-appropriated fund is not subject to budgetary control. The budget authorized by Act 58 of the 2007 Regular Session of the Legislature for the appropriated fund was \$5,153,313. The appropriation act also appropriates to the court any interest that it earns. Budget revisions are granted by the Judicial Budgetary Control Board as provided by the act.

I. JUDGES' SALARIES

The salaries of the judges are paid directly by the Supreme Court of Louisiana with warrants drawn on the state treasury and are not included in the expenditures of the accompanying financial statements.

J. LEAVE BENEFITS

Employees earn and accumulate annual and sick leave at various rates, depending on their years of service. The amount of annual and sick leave that may be accumulated by each employee is unlimited. Upon termination, employees or their heirs are compensated for up to 300 hours of unused annual leave at the employee's hourly rate of pay at the time of termination. Upon retirement, unused annual leave in excess of 300 hours plus unused sick leave are used to compute retirement benefits. Act 343 of 1993 allows members of the Louisiana State Employees Retirement System, upon application for retirement, the option of receiving an actuarially determined lump sum payment for annual and sick leave which would otherwise have been used to compute years of service for retirement.

Some court employees also earn compensatory time at a rate of one and one-half hours per hour worked over 40 hours per week. Employees may not accrue more than 240 hours of compensatory time. Upon termination, employees are compensated for up to 240 hours of unused compensatory leave at the employee’s hourly rate of pay.

The cost of current leave privileges is recognized as current year expenditure in the General Fund - General Appropriation Fund when leave is actually taken. The liability for unused annual and compensatory leave payable at June 30, 2008, computed in accordance with the *Codification of Governmental Accounting and Financial Reporting Standards* Section C60, is estimated to be \$169,591. The leave payable is not recorded in the accompanying financial statements.

Other law clerks and secretaries employed by particular judges are employees of those judges. As such, they are subject to the guidelines set by the judge. There is no set policy for these employees. With respect to these employees of the judges, upon termination of employment, all unused annual and sick leave is forfeited; therefore, no liability for these employees exists for unused leave payable at June 30, 2008.

K. TOTAL COLUMNS ON STATEMENTS

The total columns on the statements are captioned “Total (Memorandum Only)” to indicate that they are presented only to facilitate financial analysis. Data in these columns do not present financial position or results of operations. Neither is such data comparable to a consolidation.

2. CASH AND CASH EQUIVALENTS

Cash and cash equivalents (book balances) are composed of the following:

Cash on hand	\$200
Cash in demand accounts	143,658
Certificates of deposit	<u>400,000</u>
Total	<u><u>\$543,858</u></u>

Cash and cash equivalents are stated at cost, which approximates market. Under state law, these deposits must be secured by federal deposit insurance or the pledge of securities owned by the fiscal agent bank. The market value of the pledged securities plus the federal deposit insurance must at all times equal the amount on deposit with the fiscal agent. The court has deposit balances (collected bank balances) of \$759,209 at June 30, 2008, for which the court has control. These deposits are secured from risk by \$100,000 of federal deposit insurance and \$659,209 of pledged securities held in the name of the court in a federal reserve bank.

3. JUDGMENTS, CLAIMS, AND SIMILAR CONTINGENCIES

Obligations and losses arising from judgments, claims, and similar contingencies are paid through the state's self-insurance fund or by General Fund appropriation and are not reflected in the accompanying special purpose financial statements. The self-insurance fund is operated by the Office of Risk Management, the state agency responsible for the state's self-insurance program.

4. LEASE AND RENTAL COMMITMENTS

For the fiscal year ended June 30, 2008, the court's rental expenditures amounted to \$28,474 for equipment. The annual rental payments for equipment during the next three years are as follows: 2009 - \$17,152; 2010 - \$11,142; and 2011 - \$4,022.

All lease agreements have non-appropriation exculpatory clauses that allow for lease cancellation if the Louisiana Legislature does not make an appropriation for their continuation during any future fiscal period.

The court has no capital lease agreements for the fiscal year ended June 30, 2008.

5. FUND BALANCES RESERVED

The Appropriated Fund - General Appropriation has a reserved fund balance totaling \$32,898. These reserved funds may be retained and used to defray the expenditures of the court as allowed by Act 58 of 2007.

The Non-Appropriated Fund - Fee Account has reserves for continuing operations of \$539,680. These funds may be retained and used to defray expenditures of the court as prescribed by R.S. 13:352.

6. DEFERRED COMPENSATION PLAN

Certain employees of the court participate in the Louisiana Public Employees Deferred Compensation Plan adopted under the provisions of the Internal Revenue Code Section 457. Complete disclosures relating to the Plan are included in the separately issued audit report for the Plan, available from the Louisiana Legislative Auditor, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397.

7. SUPPLEMENTAL INSURANCE

Certain employees of the court have authorized payroll deductions for supplemental insurance through Colonial Life & Accident Insurance Company. These deductions are pre-taxed and are handled through the guidelines of the Flexible Benefits Plan under Section 125 of the Internal Revenue Code.

OTHER REPORT REQUIRED BY
GOVERNMENT AUDITING STANDARDS

The following pages contain a report on internal control over financial reporting and on compliance with laws and regulations and other matters required by *Government Auditing Standards*, issued by the Comptroller General of the United States. The report is based on the audit of the financial statements and includes, where appropriate, any significant deficiencies and/or material weaknesses in internal control or compliance and other matters that would be material to the presented financial statements.



LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

January 23, 2009

Report on Internal Control Over Financial Reporting and on
Compliance and Other Matters Based on an Audit of Financial Statements
Performed in Accordance With *Government Auditing Standards*

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA**
Gretna, Louisiana

We have audited the special purpose (legal basis) financial statements of the Court of Appeal, Fifth Circuit, as of and for the year ended June 30, 2008, and have issued our report thereon dated January 23, 2009. Our report was modified to indicate that the financial statements present fairly the financial position and changes in financial position of the court on a legal basis rather than in conformity with accounting principles generally accepted in the United States of America and an emphasis of a matter related to hurricanes Katrina and Rita. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Court of Appeal, Fifth Circuit's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements but not for the purpose of expressing an opinion on the effectiveness of the Court of Appeal, Fifth Circuit's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Court of Appeal, Fifth Circuit's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the legal basis of accounting as described in our Independent Auditor's Report on the financial statements dated January 23, 2009, such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Court of Appeal, Fifth Circuit's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the court and its management, the Supreme Court, and the Louisiana Legislature and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Steve J. Theriot, CPA
Legislative Auditor

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