

LEGISLATIVE AUDITOR
STATE OF LOUISIANA



COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA

FINANCIAL STATEMENT AUDIT
ISSUED JANUARY 5, 2005

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
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BATON ROUGE, LOUISIANA 70804-9397**

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Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor and at the office of the parish clerk of court.

This document is produced by the Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Three copies of this public document were produced at an approximate cost of \$8.01. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's Web site at www.la.state.la.us. When contacting the office, you may refer to Agency ID No. 8763 or Report ID No. 04501465 for additional information.

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December 16, 2004

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, 2004, as listed in the foregoing table of contents. These financial statements are the responsibility of management of the Court of Appeal, Fifth Circuit. Our responsibility is to express an opinion on these special purpose 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 discussed in note 1-B to the financial statements, 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. 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 procedures differ from accounting principles generally accepted in the United States of America as described in the notes to the financial statements. Accordingly, the accompanying special purpose financial statements are not intended to and do not present financial position and results of operations in conformity with accounting principles generally accepted in the United States of America.

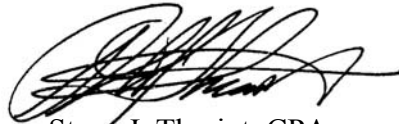
COURT OF APPEAL, FIFTH CIRCUIT

In our opinion, the accompanying special purpose financial statements present fairly, in all material respects, the balances within the appropriated and non-appropriated funds of the Court of Appeal, Fifth Circuit at June 30, 2004, and the transactions of such funds for the year then ended, on the basis of accounting described in note 1-D.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 16, 2004, 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, regulations, contracts, and grant agreements 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 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 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

KL:JR:PEP:ss

[SCCA04]

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

Balance Sheet (Legal Basis), June 30, 2004

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
ASSETS			
Cash and cash equivalents (note 2)	\$13,072	\$399,846	\$412,918
Receivables (note 3)	4,959	42,300	47,259
Due from other fund		551	551
Prepaid items	23,391	2,765	26,156
	<u>23,391</u>	<u>2,765</u>	<u>26,156</u>
TOTAL ASSETS	<u>\$41,422</u>	<u>\$445,462</u>	<u>\$486,884</u>
LIABILITIES AND FUND EQUITY			
Liabilities:			
Accounts payable	\$9,378	\$992	\$10,370
Due to other fund	551		551
Total Liabilities	<u>9,929</u>	<u>992</u>	<u>10,921</u>
Fund Equity - fund balances - reserved (note 8)	<u>31,493</u>	<u>444,470</u>	<u>475,963</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$41,422</u>	<u>\$445,462</u>	<u>\$486,884</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, 2004**

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
REVENUES			
Filing fees		\$360,332	\$360,332
Use of money and property - interest earnings	\$1,513	3,567	5,080
Total revenues	<u>1,513</u>	<u>363,899</u>	<u>365,412</u>
EXPENDITURES			
Appropriated expenditures:			
Personal services	3,210,343		3,210,343
Professional services	62,471		62,471
Travel and conventions	66,054		66,054
Operating supplies and services	266,612		266,612
Supplies	45,954		45,954
Capital outlay	175,466		175,466
Computer supplies and training	6,449		6,449
Computer maintenance and software	101,079		101,079
Non-appropriated expenditures:			
Personal services		153,654	153,654
Travel and conventions		147	147
Association dues		2,095	2,095
Other charges		33	33
Judges' Supplemental Compensation Fund		10,469	10,469
Total expenditures	<u>3,934,428</u>	<u>166,398</u>	<u>4,100,826</u>
EXCESS (Deficiency) OF REVENUES OVER EXPENDITURES	<u>(3,932,915)</u>	<u>197,501</u>	<u>(3,735,414)</u>
OTHER FINANCING SOURCES (Uses)			
Operating transfers in	74,449		74,449
Operating transfers out		(74,449)	(74,449)
Transfers from Supreme Court	3,845,939		3,845,939
Total other financing sources (uses)	<u>3,920,388</u>	<u>(74,449)</u>	<u>3,845,939</u>
EXCESS (Deficiency) OF REVENUES AND OTHER SOURCES OVER EXPENDITURES AND OTHER USES	<u>(12,527)</u>	<u>123,052</u>	<u>110,525</u>
FUND BALANCES AT BEGINNING OF YEAR	<u>44,020</u>	<u>321,418</u>	<u>365,438</u>
FUND BALANCES AT END OF YEAR	<u>\$31,493</u>	<u>\$444,470</u>	<u>\$475,963</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 civil appeals, applications for civil writs, motions filed to dismiss unlogged civil appeals, motions filed to extend the return date for a civil writ, and answers to civil appeals, the court charged an additional fee of \$17.50 from July through December 2003 and \$18.00 from January through June 2004, in compliance with Act 63 of the 1985 Session of the Louisiana Legislature 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 53 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.

The accompanying financial statements represent activity of the court within the judicial branch of state government and, therefore, are a part of the fund structure of the State of Louisiana and its basic financial statements. Annually, the State of Louisiana issues basic financial statements. The 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, and long-term liabilities 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.

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

Revenues

Self-generated revenues are recognized when earned.

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 a certificate of deposit. Under state law, the Court of Appeal, Fifth Circuit 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 the 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, 2004, 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, 2004.

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 54 of 2003 Regular Session of the legislature for the appropriated fund was \$3,845,939. The appropriation act also appropriates to the court any interest that is earned. There were no budget amendments.

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

The clerk of court, the director of central staff, the director of security, and their respective staff members, as well as selected employees of the judges, earn 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 are compensated for unused annual leave up to 300 hours at the employee's hourly rate of pay. Upon retirement, unused annual and sick leave is used to compute retirement benefits for those employees who are members of the Louisiana State Employees Retirement System.

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, 2004, computed in accordance with the *Codification of Governmental Accounting and Financial Reporting Standards* Section C60.104, is estimated at \$135,622. 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 with the court, all unused annual and sick leave is forfeited; therefore, no liability for these employees exists for unused leave payable at June 30, 2004.

K. TOTAL COLUMNS ON STATEMENTS

The total columns on the statements are captioned Memorandum Only (overview) 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	\$124
Cash in demand accounts	312,794
Certificate of deposit	<u>100,000</u>
Total	<u><u>\$412,918</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. These pledged securities are held in the name of the court in a holding or custodial bank that is mutually acceptable to both parties. The court has deposit balances (collected bank balances) of \$561,700 at June 30, 2004, for which the court has control. These deposits are secured from risk by \$200,000 of federal deposit insurance and \$361,700 of pledged securities held in the name of the court in a federal reserve bank.

3. RECEIVABLES

The following is a summary of receivables at June 30, 2004:

	Appropriated Fund - General Appropriation	Non- Appropriated Fund - Fee Account	Total
Due from Supreme Court of Louisiana	\$4,959		\$4,959
Filing fees		\$42,300	42,300
Total	<u>\$4,959</u>	<u>\$42,300</u>	<u>\$47,259</u>

4. PENSION PLANS

Substantially all employees of the court are members of the Louisiana Clerks Retirement and Relief Fund (LCRRF) or the Louisiana State Employees Retirement System (LASERS). Both plans are cost-sharing, multiple-employer defined benefit pension plans administered by separate boards of trustees. LCRRF and LASERS provide retirement, disability, and survivors' benefits to plan members and beneficiaries. Benefits granted by LASERS are guaranteed by the State of Louisiana by provisions of the Louisiana Constitution of 1974. Generally, all full-time employees are eligible to participate in the systems, with employee benefits vesting after 10 years of service. Article 10, Section 29 of the Louisiana Constitution of 1974 assigns the authority to establish and amend benefit provisions to the state legislature. The systems issue annual publicly available financial reports that include financial statements and required supplementary information for the systems. The reports may be obtained by writing to the Louisiana Clerks Retirement and Relief Fund, 11745 Bricksome Avenue, Suite B1, Baton Rouge, Louisiana 70816, or by calling (225) 293-1162 and the Louisiana State Employees Retirement System, Post Office Box 44213, Baton Rouge, Louisiana 70804, or by calling (225) 922-0600.

The contribution requirements of plan members and the court are established and may be amended by the state legislature. The legislature annually sets the required employer contribution rate equal to the actuarially required employer contribution as set forth in R.S. 11:102. Employees contribute 8.25% (LCRRF) and 7.5% (LASERS) of covered salaries. The court's contribute to LCRRF was 11.5% of annual covered payroll for the fiscal year ended June 30, 2004; 10.0% for the fiscal year ended June 30, 2003; and 10.0% for the year ended June 30, 2002. The contribution rate to LASERS was 15.8% of annual covered payroll for fiscal year June 30, 2004; 14.1% of annual covered payroll for the fiscal year ended June 30, 2003; and 13% for the fiscal year ended June 30, 2002. The court's employer contribution is funded by the State of Louisiana through the annual appropriation to the court. The court's employer

contributions to LCRRF for the years ended June 30, 2004, 2003, and 2002 were \$83,725, \$67,181, and \$63,481, respectively, and to LASERS for the years ended June 30, 2004, 2003, and 2002 were \$265,143, \$215,117, and \$198,621, respectively, equal to the required contribution for each year.

5. POSTEMPLOYMENT HEALTH CARE AND LIFE INSURANCE BENEFITS

The court provides certain continuing health care and life insurance benefits for its retired employees. Substantially all of the court's employees become eligible for these benefits if they reach normal retirement age while working for the court. These benefits for retirees and similar benefits for active employees are provided through an insurance company whose monthly premiums are paid jointly by the employee and the court. The court's costs of providing retiree health care and life insurance benefits are recognized as expenditures when the monthly premiums are paid. For the year ended June 30, 2004, the cost of retiree benefits totaled \$61,235.

6. 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.

7. LEASE OBLIGATIONS

For the fiscal year ending June 30, 2004, the court's rental expenditures amounted to \$28,893 for equipment. The annual rental payments for operating leases for future years are as follows:

Fiscal year:	
2004-2005	\$26,670

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, 2004.

8. FUND BALANCE RESERVED

The Appropriated Fund - General Appropriation has a reserved fund balance totaling \$31,493. These funds include \$23,391 for prepaid expenditures and \$8,102 used to defray the expenditures of the court. These reserved funds may be retained and used by the court as allowed by Act 54 of 2003.

The Non-Appropriated Fund - Fee Account has reserves for continuing operations of \$444,470. These funds may be retained and used to defray expenditures of the court as prescribed by R.S. 13:352.

9. 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.

10. SUPPLEMENTAL INSURANCES

Certain employees of the court have authorized payroll deductions for supplemental insurances through Colonial Life & Accident Insurance Company. These deductions are pre-tax 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 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 reportable conditions and/or material weaknesses in internal control or compliance and other matters that would be material to the presented financial statements.



STEVE J. THERIOT, CPA
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December 16, 2004

Report on Internal Control Over Financial Reporting and on
Compliance and Other Matters Based on an Audit of the 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, 2004, and have issued our report thereon dated December 16, 2004. 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 in order to determine our auditing procedures for the purpose of expressing our opinion on the special purpose financial statements and not to provide an opinion on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the special purpose financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.


Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Court of Appeal, Fifth Circuit's special purpose 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 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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[SCCA04]