

FINANCIAL STATEMENTS AND
INDEPENDENT AUDITOR'S REPORT

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

DECEMBER 31, 2018

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of
Capital Post-Conviction Project of Louisiana

Report on the Financial Statements

We have audited the accompanying financial statements of Capital Post-Conviction Project of Louisiana (a non-profit organization), which comprise the statement of financial position as of December 31, 2018, and the related statements of activities, changes in net assets, cash flows and functional expenses for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

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 from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Capital Post-Conviction Project of Louisiana as of December 31, 2018, and the changes in its net assets and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note D to the financial Statements, net assets at the beginning of the year have been restated to include the activity of the trial counsel expert witness fund within the operations of Capital Post-Conviction Project of Louisiana. Our opinion is not modified with respect to that matter.

Other Matters

Supplementary Information

Our audit was conducted for the purpose of forming opinions on the financial statements as a whole. The schedule of functional expenses on page 7, and the Schedule of Compensation, Reimbursements, Benefits and Other Payments to Agency Head, Political Subdivision Head, or Chief Executive Officer on page 19, is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued our report dated June 24, 2019, on our consideration of Capital Post-Conviction Project of Louisiana's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely 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 effectiveness of Capital Post-Conviction Project of Louisiana's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Capital Post-Conviction Project of Louisiana's internal control over financial reporting and compliance.

LeBlanc & Associates CPAs, L.L.C.

Metairie, Louisiana
June 24, 2019

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

STATEMENT OF FINANCIAL POSITION

DECEMBER 31, 2018

Assets:

Cash and cash equivalents	\$	400,669
Cash and cash equivalents - restricted for TCEW		300,733
Grants receivable		821,394
Grants receivable - restricted for TCEW		145,833
Due from TCEW restricted fund		89
Property & equipment, net		7,581
Total assets		<u>1,676,299</u>

Liabilities:

Accounts payable		18,935
Accounts payable - restricted for TCEW		89
Deferred revenue		821,394
Total liabilities		<u>840,418</u>

Net assets:

Without donor restrictions		389,205
With donor restrictions		446,676
Total net assets		<u>835,881</u>

Total liabilities and net assets	\$	<u>1,676,299</u>
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See independent auditor's report and notes to financial statements.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

STATEMENT OF ACTIVITIES

FOR THE YEAR ENDED DECEMBER 31, 2018

Changes in net assets without donor restrictions:

Revenues & gains:

Government grants	\$ 1,512,157
Other revenue	71,067
Interest income	<u>275</u>
Total revenue without donor restrictions	<u>1,583,499</u>

Expenses

Program services	1,613,054
Supporting services	<u>130,721</u>
Total expenses without donor restrictions	<u>1,743,775</u>

Increase (decrease) in net assets without donor restrictions (160,276)

Changes in net assets with donor restrictions

Revenues & gains

Government grants - restricted	250,000
Interest income - restricted	<u>199</u>
Total revenues and gains with donor restrictions	<u>250,199</u>

Expenses

Trial counsel expert witness (TCEW) expenses	<u>452,128</u>
Total expenses with donor restrictions	<u>452,128</u>

Increase (decrease) in net assets with donor restrictions (201,929)

Total increase (decrease) in net assets (362,205)

Net assets at beginning of year as originally stated 549,481

Restatement 648,605

Net assets at beginning of year as restated 1,198,086

Net assets at end of year \$ 835,881

See independent auditor's report and notes to financial statements.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

STATEMENT OF CHANGES IN NET ASSETS

DECEMBER 31, 2018

Net assets without donor restrictions:

Total revenues and gains	\$ 1,583,499
Total expenses and losses	<u>(1,743,775)</u>
Increase (decrease) in net assets without donor restrictions	<u>(160,276)</u>
Net assets at beginning of year - without donor restrictions	<u>549,481</u>
Net assets at end of year - without donor restrictions	<u>389,205</u>

Net assets with donor restrictions:

Total revenue and gains	250,199
Total expenses and losses	<u>(452,128)</u>
Increase (decrease) in net assets with donor restrictions	<u>(201,929)</u>
Net assets at the beginning of year, as originally reported - with donor restrictions	-
Restatement	<u>648,605</u>
Net assets at beginning of year, as restated - with donor restrictions	<u>648,605</u>
Net assets at end of year - with donor restrictions	<u>446,676</u>
Net assets at end of year	<u>\$ 835,881</u>

See independent auditor's report and notes to financial statements.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

STATEMENT OF CASH FLOWS

FOR THE YEAR ENDED DECEMBER 31, 2018

Cash flows from operating activities:	
Increase (decrease) in net assets	\$ (362,205)
Adjustments to reconcile increase in net assets to	
Net cash provided by operating activities:	
Depreciation and amortization	4,371
(Increase) decrease in operating assets:	
Grants receivable	(28,055)
Due from others	23
Increase (decrease) in operating liabilities:	
Accounts payable	(6,339)
Accounts payable - restricted TCEW	(23)
Deferred revenue	28,055
Total adjustments	<u>(1,968)</u>
Net cash provided (used) by operating activities	<u>(364,173)</u>
Net increase (decrease) in cash and equivalents	(364,173)
Cash, cash equivalents, and restricted cash at beginning of year	<u>1,065,575</u>
Cash, cash equivalents, and restricted cash at end of year	<u>\$ 701,402</u>
Reconciliation of cash, cash equivalents, and restricted cash at end of year:	
Cash, cash equivalents - not subject to donor restrictions	\$ 400,669
Cash and cash equivalents - restricted for TCEW	<u>300,733</u>
Cash, cash equivalents, and restricted cash at end of year	<u>\$ 701,402</u>

See independent auditor's report and notes to financial statements.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

STATEMENT OF FUNCTIONAL EXPENSES

FOR THE YEAR ENDED DECEMBER 31, 2018

	<u>Total</u>	<u>Program Services</u>	<u>Supporting Services</u>
Salaries & wages	\$ 684,291	\$ 615,862	\$ 68,429
Payroll taxes	55,011	49,510	5,501
Fringe benefits	128,108	115,297	12,811
Grants to others	179,882	179,882	-
Expert witness fees	18,135	18,135	-
Investigator fees	49,274	49,274	-
Case expenses - general	9,989	9,989	-
PC pro bono expert witness fees	331,267	331,267	-
Accounting/audit fees	19,500	-	19,500
Computer consultant	33,858	30,472	3,386
Occupancy	110,378	99,340	11,038
Telephone	12,597	11,337	1,260
Depreciation	4,371	3,934	437
Computer expenses	24,196	21,776	2,420
Office expenses	46,597	41,937	4,660
Publications	8,813	8,813	-
Conferences and meetings	3,895	3,895	-
Continuing education/dues	10,826	10,826	-
Insurance expense:supporting services	<u>12,787</u>	<u>11,508</u>	<u>1,279</u>
 Total expenses	 <u>\$ 1,743,775</u>	 <u>1,613,054</u>	 <u>\$ 130,721</u>
 Percentage of total expenses		 0.93 %	 0.07 %

See independent auditor's report and notes to financial statements.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE A - NATURE OF ACTIVITIES AND SIGNIFICANT ACCOUNTING POLICIES

Nature of Activities

Capital Post-Conviction Project of Louisiana (the organization) is a non-profit corporation organized exclusively for charitable, scientific and educational purposes, including, but not limited to, providing legal representation to indigent persons in Louisiana under the sentence of death, and to providing consultation services, educational materials, and seminars to lawyers who represent indigent persons facing or under a sentence of death.

The organization is supported primarily through government contracts and private grants and does not engage in fundraising activities.

Promises to Give

Contributions are recognized when the donor makes a promise to give to the organization that is, in substance, unconditional. Contributions that are restricted by the donor are reported as increases in net assets without donor restrictions if the restrictions expire in the fiscal year in which the contributions are recognized. All other donor-restricted contributions are reported as increases in net assets with donor restrictions depending on the nature of the restrictions. When a restriction expires, net assets with donor restrictions are reclassified to net assets without donor restrictions.

The organization has adopted FASB ASC No. 958-605-25-2, *Accounting for Contributions Received*. All unconditional contributions are to be measured at fair market value on the date received and be recognized currently as revenue or gains.

Cash Restricted to Trial Counsel Expert Witness Fund (TCEW)

The organization is the fiscal agent for the TCEW funds in behalf of the Louisiana Public Defender Board (LPDB). These are restricted funds to be used exclusively for ancillary service for indigents accused of capital crimes. None of the funds received from the LPDB under this contract can be used by the organization for its operations or for defense of its capital post-conviction cases. Under the terms of the contract, the funds are to be maintained in a separate bank account.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Financial Statement Presentation

Financial statement presentation follows the recommendations of the Financial Accounting Standards Board (FASB) in its Accounting Standards Codification (ASC) 958-205, *Presentation of Financial Statements for Not-for-profit Entities*. During the current year the organization has adopted ASU 2016-14 which is effective for fiscal years beginning after December 15, 2017. Under ASU 2016-14, the

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE A - NATURE OF ACTIVITIES AND SIGNIFICANT ACCOUNTING POLICIES (continued)

organization is required to report information regarding its financial position and activities according to whether the activity is with or without donor restrictions.

The statement of activities presents expenses of the organization's operations functionally between program measurement, and management and general. Those expenses which cannot be functionally categorized are allocated between functions based upon management's estimate of usage applicable to conducting those functions.

Property and Equipment

It is the organization's policy to capitalize property and equipment with an expected life of three or more years and a cost of \$1,500 or more. Capital assets purchased are recorded at cost. Donated assets are recorded at the estimated fair market value as of the date of donation. Such donations are reported as contributions without donor restrictions unless the donor has restricted the donated asset to a specific purpose. Absent donor stipulations regarding how long those donated assets must be maintained, the organization reports expirations of donor restrictions when the donated or acquired assets are placed in service. The organization reclassifies net assets with donor restrictions to net assets without donor restrictions at that time. Property and equipment are depreciated using the straight-line method over a five to ten year depreciable life.

Contributed Services

No amounts have been reflected in the financial statements for donated services. The organization generally pays for services requiring specific expertise.

Contributions

Contributions received are recorded as net assets with donor restrictions or net assets without donor restrictions depending on the existence or nature of any donor restrictions.

Income Taxes

The organization is a not-for-profit organization that is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code and classified by the Internal Revenue Service as other than a private foundation.

Cash and Cash Equivalents

For purposes of the statement of cash flows, the organization considers all highly liquid investments available for current use with an initial maturity of three months or less to be cash equivalents.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE A - NATURE OF ACTIVITIES AND SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue Recognition

Grants received from the LPDB are considered available for the organization's general programs unless specifically restricted by the state contract. Amounts received that are designated for future periods or restricted by the contract are reported as increases to net assets with donor restrictions and net assets without donor restrictions. Grants received with temporary restrictions that are met in the same reporting period are reported as net assets without donor restrictions. As of December 31, 2018, there were no funds received that temporarily or permanently restricted support.

Grants receivable and deferred revenue in the accompanying statement of financial position consist of balances remaining on State of Louisiana contracts applicable to future periods.

NOTE B - FINANCIAL ASSISTANCE & CONTRACTS

STATE OF LOUISIANA CONTRACTS

The organization has been awarded grants from the Louisiana Public Defenders Board (LPDB) to be used exclusively to defray the expenses of establishing and maintaining a capital post-conviction office, including contract amounts for attorneys, staff, office expenses, overhead and out-of-pocket expenses. The Funds from these grants cannot be used to defray, in whole or in part, the expenses associated with any trial or appeal as of right filed by or on behalf of a defendant who has not been sentenced to death. The scope of the contracts does not include litigation or proceedings arising out of or involving tort or worker's compensation. For the year ended December 31, 2018, the following LPDB agreements are reflected in the financial statements:

Contract for Criminal Defense Services on Behalf of Indigents Seeking Capital Post Conviction Relief:

Contract period July 1, 2017 through June 30, 2018:

The organization received a grant from the LPDB in the amount of \$1,110,009 for post-conviction services on behalf of indigents in Louisiana. The grant was paid through monthly installments of \$92,500.75 from January through June 2018, with an extra payment received in June (in the prior year only 5 payments were received under the contract) for a total received in the amount of \$647,505.25.

Contract period July 1, 2018 through June 30, 2019:

The organization received a grant from the LPDB in the amount of \$1,154,096 for post-conviction services on behalf of indigents in Louisiana. During the year ended December 31, 2018, the contract amount was recorded as income and received in monthly installments of \$92,500.75 in August, and \$92,500.75 from September through December 2018, for a total of \$478,535.39 received. The remaining balance of the award in the amount of \$675,560.61, applicable to 2019, is shown on the Statement of Financial Position as a grant receivable in assets, and as deferred revenue in the liabilities.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE B - FINANCIAL ASSISTANCE & CONTRACTS (continued)

Pro Bono Expert Witness Grant:

The ancillary criminal defense services grants shall be used exclusively by the organization to:

- a) Review and take action upon applications to the LPDB by indigents not represented by the organization for funding of reasonably necessary ancillary services associated with legal representation of indigents seeking post-conviction relief of a capital conviction in Louisiana. The organization, using the *ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003) for evaluation, shall take action upon an application for funding within 30 days of receipt of the application either by approval of the application, denial of the application, or by the request of additional information regarding the application. Should the organization request additional information from the applicant, the organization shall take action by approval or denial of the application within 30 days of the receipt of the additional information requested; and
- b) Provide funding of reasonably necessary services of expert witnesses, costs of specialized scientific testing, and/or other ancillary services associated with legal representation of indigents not represented by the organization seeking post-conviction relief of a capital conviction in Louisiana upon approval of hereinafter mentioned applications.
- c) The organization may apply for reimbursement from the expert witness funds in its own cases up to an aggregate of \$63,750 during the 2017/2018 contract period, and \$93,750 during the 2018/2019 contract period.

The scope of these expert fund grants does not include litigation or proceedings arising out of or involving tort or worker's compensation. The following ancillary services contracts were in effect during the current period:

Contract period July 1, 2017 through June 30, 2018 - contract for ancillary criminal defense services:

The organization received a grant from LPDB in the amount of \$250,000 for the funding of ancillary services such as expert witnesses and specialized scientific testing to represent indigents in Louisiana. During the period January through June of 2018, the balance of this contract was paid in 7 monthly installments of \$20,833.33, for revenue recognized in the amount of \$145,833, with deferred revenue and grant receivable eliminated.

Contract period July 1, 2018 through June 30, 2019 - contract for ancillary criminal defense services:

The organization received a grant from LPDB in the amount of \$250,000 for the funding of ancillary services such as expert witnesses and specialized scientific testing to represent indigents in Louisiana. During the period July through December of 2018, incremental payments of \$20,833.33 were made, for revenue recognized in the amount of \$104,167. The remaining balance of the award in the amount of \$145,833, applicable to 2019, is shown on the Statement of Financial Position as a grant receivable in assets, and as deferred revenue in the liabilities.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE B - FINANCIAL ASSISTANCE & CONTRACTS (continued)

Pro Bono Expert Witness Grant (continued):

During the current year ended December 31, 2018, the organization submitted requests for reimbursement to the LPDB, and were authorized to be reimbursed in the amount of \$300,000 for prior years expert witness expenditures under the 2016/2017 amended contract (contract amended from \$170,000 to \$300,000 available to the organization). The organization was also paid \$63,750 for expenditures in the current fiscal year in accordance with the 2017/2018 contract. Other organizations submitted requests and were granted \$265,233 for expert witness expenditures during the year ended December 31, 2018.

Angola 5-DB Contract

The organization has entered into a contract with the Louisiana Public Defenders Board (LPDB) to be used exclusively for the representation of one of the "Angola 5" defendants on direct appeal and in related matters following his conviction and death sentence.

Contract period October 1, 2015 through June 30, 2016 - Angola 5-DB contract

The organization entered into a contract with the LPDB in the amount of \$40,000.00 for the representation of one of the "Angola 5" defendants on direct appeal. There were no payments received on this contract in 2015. The contract is for payment to be made upon services rendered, therefore no receivable has been recorded.

Contract Amendments

Amendment # 1 increased the amount of the contract from \$40,000 to \$125,000 and extended the period of time to December 31, 2016. Amendment # 2 increased the amount of the contract to \$261,112 and the period of time to June 30, 2017. Amendment #3 increased the period of time to June 30, 2018. The total amount paid to the organization under this contract in 2018 was \$136,117, with a remaining balance available under this contract to be used in 2019 in the amount of \$11,525.. The contract is for payment to be made upon services rendered, therefore no receivable has been recorded.

The scope of this Contract does not include representation of the state of any department and/or agency of state government in litigation or proceedings arising out of or involving tort or worker's compensation.

Federal Reimbursements

The organization billed certain amounts to the US District Court for time worked in the federal court system. These amounts are reimbursable upon the Courts being invoiced by the organization. During 2018, the amounts for these reimbursements totaled \$68,504 and is included in other revenue in the Statement of Activities.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE C - CASH AND EQUIVALENTS

At December 31, 2018 the organization had cash and cash equivalents (book balances) totaling \$701,402 in demand deposits, which includes cash with donor restrictions. These deposits are stated at cost, which approximates market. As of December 31, 2018, the organization had \$753,899 in deposits (collected bank balances) of which \$308,928 were funds with donor restrictions. These deposits were secured by \$250,000 in Federal Deposit Insurance and \$503,899 in pledged securities.

NOTE D - RESTATEMENT

Subsequent to the issuance of the 2017 financial statements, it was determined that the trial counsel expert witness funds (TCEW) that were reported as fiduciary funds should have been shown within the operations of the organization. Cash, grants receivable - restricted for TCEW, accounts payable - restricted for TCEW, and net assets have been included in the current year statement of financial position to reflect the activity of the TCEW funds within the operations of the organization. On the statement of activities, the beginning balance for net assets with donor restrictions has been restated to \$648,605 to reflect this change.

NOTE E - PROPERTY AND EQUIPMENT

As of December 31, 2018, the Organization had property, plant, and equipment and depreciation as follows:

Equipment and furniture	\$ 202,094
Accumulated depreciation	<u>(194,513)</u>
Total property and equipment	<u>\$ 7,581</u>
Depreciation expense	<u>\$ 4,371</u>

NOTE F - GRANTS TO OTHERS

During the year ended December 31, 2018, various attorneys have been engaged under contract to work on specific cases. The contracts are for a stated period of time with payment due upon the submission of invoices by the attorney to the organization. Quarterly status reports are to be submitted to the organization within 15 days of the end of each quarter. As of December 31, 2018 there were no outstanding amounts due to attorneys under these contracts.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE G - DESCRIPTION OF LEASING ARRANGEMENTS

UCI Communications

The organization is a party to an agreement with UCI Communications for network services. The term of the lease was for two years, expiring in February, 2006. Upon expiration of the minimum term commitment, the agreement automatically renewed on a month-to-month basis until 30-day notice of termination by either party is given.

Nuvox Communications / Windstream

An amended agreement was entered into with Nuvox Communications (formerly New South Communications), on October 5, 2009, for phone services. This was a three year agreement expiring on December 31, 2012. The agreement states that after the three year agreement expires, the lease will be automatically renewed on a yearly basis unless terminated. The Organization has elected this option, and currently still operating under this lease.

Gulf Coast Office Products

The organization is party to one lease with Gulf Coast Office Products financed through US Bank for the lease of digital copiers/scanners. The term of the lease is for five years, with monthly lease installments of \$778, and was entered into on July 2015. An amendment to this lease agreement was entered into during the current year with a monthly lease amount of \$532, and which expires in December 2024. Upon expiration of the minimum term commitment, the organization will have the option to purchase the equipment at its then fair market value.

Minimum lease payments are as follows:

2019	6,384
2020	6,384
2021	6,384
2022	6,384
2023	6,384
Thereafter	6,384
Total	<u>\$ 38,304</u>

Dovie Consulting

A twelve month agreement was entered into with Dovie Consulting, on July 01, 2007 for computer consulting services. After the term of the lease expired, both parties agreed to continue on a month to month basis. Dovie Consulting will provide 24 hour, 7 days per week of computer service at a rate of \$2,550 per month.

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE G - DESCRIPTION OF LEASING ARRANGEMENTS (continued)

Commercial Property Lease

The organization amended (Second Amendment) their lease with REGIS Property Management, LLC in February of 2007 for office space when they moved to a different floor. The terms of the lease have been amended to extend through January 31, 2017. Amendment No. 3 extended the lease term to June 30, 2017, and replaced REGIS Property Management, LLC with Orleans Tower, LLC as the Landlord. Amendment No. 4 extended the term of the lease to June 30, 2018. In 2018, the lease was again amended to reduce the floor space and the monthly rental payment amount.

The monthly base rent is \$5,536. In addition to the base rent, the organization pays \$85 per employee per month for parking and common area charges, both of which could fluctuate from month to month. The current lease agreement expires in December 2021.

Minimum payments for the base rent under the lease are as follows:

2019	66,435
2020	66,435
2021	66,435
2022	-
2023	-
Thereafter	-
Total	<u>\$ 199,305</u>

NOTE H - 401(K) PLAN

The organization became a participant in the ABA Members Retirement Program with an effective date of January 1, 2003. Eligible employees were allowed to make deferred compensation contributions to the plan beginning in 2003, and there were no employer contributions made during the year. All employees who have attained the age of 21 are allowed to participate.

The ABA conducted discrimination testing on the plan, and reported full compliance for the year ended December 31, 2018.

NOTE I - LIQUIDITY AND AVAILABILITY

The following reflects the organization's financial assets as of the balance sheet date, reduced by amounts not available for general use because of contractual or donor-imposed restrictions within one year of the balance sheet date. Amounts not available include cash and accounts receivable with donor restrictions for payments of TCEW funds in accordance with the contract between the organization and the LPDB. The organization has financial assets available within one year of the balance sheet date to meet cash needs for general expenditures in the amount of \$1,222,152, determined as follows:

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

NOTE I - LIQUIDITY AND AVAILABILITY (continued)

Total assets, statement of financial position at December 31, 2018	\$ 1,676,299
Less: cash and cash equivalents restricted for TCEW	(300,733)
net property and equipment	(7,581)
grants receivable restricted for TCEW	<u>(145,833)</u>
Financial Assets Available to Meet Cash Needs for General Expenditures Within One Year, December 31, 2018	<u>\$ 1,222,152</u>

The organization has cash in the amount of \$400,669, grants receivable due on the current contract with the LPDB in the amount of \$821,394, and a receivable of interest income due from the TCEW funds in the amount of \$89 for use to meet the cash needs for general expenditures within one year of the balance sheet date.

NOTE J - CONCENTRATION OF SUPPORT

The organization receives a substantial amount of their revenue from government grants. A significant reduction in the level of this support, if this were to occur, may have an effect on the organization's ability to fulfill their programs. Approximately 96% of the organization's support for the year ended December 31, 2018 came from the LPDB, a Louisiana governmental agency.

NOTE K - SUBSEQUENT EVENTS

FASB Accounting Standards Codification Topic 855, "Subsequent Events" addresses events which occur after the balance sheet date but before the issuance of financial statements. An entity must record the effects of subsequent events that provide evidence about conditions that existed at the balance sheet date and must disclose but not record the effects of subsequent events which provide evidence about conditions that existed after the balance sheet date. Additionally, Topic 855 requires disclosure relative to the date through which subsequent events have been evaluated and whether that is the date on which the financial statements were issued or were available to be issued. Management evaluated the activity of the organization through June 24, 2019, the date the financial statements were issued, and concluded that no subsequent events have occurred that would require recognition or disclosure in the Notes to the Financial Statements as of December 31, 2018.

State of Louisiana Budget Crisis:

As indicated in Note J, the organization's support is primarily from State of Louisiana government grants. The primary source of funding is through the Louisiana Public Defender Board (LPDB). Due to funding reductions to the LPDB by the State of Louisiana over the past few years, the organization has been impacted as well.

The organization's operating budget has changed significantly going from \$2,361,750 in FY15-16 to \$1,166,109 in FY16-17 to \$1,110,000 for FY17-18, and increasing to \$1,154,096 for FY 18-19. The organization's ancillary fund has also declined over the years from \$800,000 for FY15-16 to \$170,000

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

NOTES TO FINANCIAL STATEMENTS

FOR THE YEAR ENDED DECEMBER 31, 2018

State of Louisiana Budget Crisis (continued):

and then increasing to \$250,000 for FY17-18 and FY 18-19 (see Note B for restrictions on the organization's use of these funds.

These reductions are expected to be maintained and repeated in subsequent fiscal years, as the LPDB is now statutorily mandated to re-direct their funding allocation away from 501(c)(3) non-profit capital programs such as the organization's and towards district public defender offices. This mandate was previously enacted under House Bill No. 1137 / Act No. 571 in the 2016 Regular Session, and then incorporated into LA R.S. 15:167, effective May 9, 2018. Per the revised statute, the LPDB must dedicate at least 65% of its annual budgeted funds to the district defender offices throughout the state.

To prepare for the significant reduction in income for the organization, resignations from and layoffs of permanent staff positions have taken place and were finalized on or before June 30, 2016. Some previously vacant staffing positions have been eliminated and the size of the permanent staff has been reduced from 22 to 13 full time staff in 2016, and from 13 to 11 full time staff and 1 part time employee in 2017. The organization has implemented and absorbed the cuts in funding and will continue to evaluate operations to cover the reduced income for the remainder of 2017 / 2018 and into the future.

Expected funding for the budget year 2018 / 2019:

The projected budgets for 2018 / 2019 are expected to remain relatively consistent with the 2017 / 2018 levels. Staffing levels are expected to remain steady in 2018 / 2019. Federal reimbursements are expected to continue to increase due to increased litigation in the federal court system.

SUPPLEMENTARY INFORMATION

**CAPITAL POST-CONVICTION PROJECT OF LOUISIANA
SCHEDULE OF COMPENSATION, REIMBURSEMENTS, BENEFITS
AND OTHER PAYMENTS TO AGENCY HEAD,
POLITICAL SUBDIVISION HEAD OR CHIEF EXECUTIVE OFFICER
FOR THE YEAR ENDED DECEMBER 31, 2018**

AGENCY HEAD NAME: Gary P. Clements, ESQ., Executive Director

PURPOSE		AMOUNT
Salary	\$	105,000
Benefits - insurance		21,184
Dues (bar dues & court admissions)		529
Travel		500

See independent auditor's report and notes to financial statements.

**INDEPENDENT AUDITOR'S 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**

To the Board of Directors
Capital Post-Conviction Project of Louisiana

We have audited, in accordance with the 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, the financial statements of Capital Post-Conviction Project of Louisiana (a nonprofit organization), which comprise the statement of financial position as of December 31, 2018, and the related statements of activities, and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated June 24, 2019.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered Capital Post-Conviction Project of Louisiana's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Capital Post-Conviction Project of Louisiana's internal control. Accordingly, we do not express an opinion on the effectiveness of the Organization's internal control.

A *deficiency in internal control* 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 and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether Capital Post-Conviction Project of Louisiana's financial statements are free from 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*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the organization's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

LeBlanc & Associates CPAs, L.L.C.

Metairie, Louisiana
June 24, 2019

**CAPITAL POST-CONVICTION PROJECT OF LOUISIANA
SCHEDULE OF FINDINGS AND QUESTIONED COSTS
FOR THE YEAR ENDED DECEMBER 31, 2018**

SECTION I –SUMMARY OF AUDITOR’S RESULTS

Financial Statements:

- A. The auditor's report expresses an unmodified opinion on the financial statements of Capital Post-Conviction Project of Louisiana.
- B. There was no material weaknesses and no significant deficiency disclosed during the audit of the financial statements of Capital Post-Conviction Project of Louisiana.
- C. There were no instances of noncompliance material to the financial statements of Capital Post-Conviction Project of Louisiana which would be required to be reported in accordance with Government Auditing Standards.

Federal Awards

- D. The type of report issued on compliance for major programs: N/A.
- E. Any audit findings which are required to be reported under section 510(a) of OMB Circular A-13: N/ A
- F. Major programs: N/A.
- G. Dollar threshold used to distinguish between Type A and Type B programs: N/A.
- H. Auditee qualified as a low-risk auditee under section 530 of OMB Circular A-133: N/A.
- I. A management letter was issued: No

SECTION II – FINANCIAL STATEMENT FINDINGS

None

SECTION III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

Not applicable.

**CAPITAL POST-CONVICTION PROJECT OF LOUISIANA
SCHEDULE OF PRIOR YEAR FINDINGS
FOR THE YEAR ENDED DECEMBER 31, 2018**

NO PRIOR YEAR FINDINGS

CAPITAL POST-CONVICTION PROJECT OF LOUISIANA

**Statewide Agreed-Upon Procedures Report
For the period January 1, 2018 through December 31, 2018**

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES**

For the Period of January 1, 2018 – December 31, 2018

To Gary Clements, Executive Director

and to the Louisiana Legislative Auditor:

We have performed the procedures enumerated below, which were agreed to by the Capital Post Conviction Project of Louisiana (hereafter "CPCPL"), and the Louisiana Legislative Auditor (hereafter "LLA") on the control and compliance (hereafter "C/C") areas identified in the LLA's Statewide Agreed-Upon Procedures (hereafter "SAUPs") for the fiscal period January 1, 2018 thru December 31, 2018. CPCPL's management is responsible for those C/C areas identified in the SAUPs.

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and applicable standards of *Government Auditing Standards*. The sufficiency of these procedures is solely the responsibility of the specified users of this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

WRITTEN POLICIES AND PROCEDURES

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

BOARD OR FINANCE COMMITTEE

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

BANK RECONCILIATIONS

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

COLLECTIONS

- 4) Obtain a listing of deposit sites for the fiscal period where deposits for cash/checks/money orders (cash) are prepared and management's representation that the listing is complete. Randomly select 5 deposit sites (or all deposit sites if less than 5).

Results: *Management has represented that there is only one cash deposit site location for CPCPL.*

- 5) For each deposit site selected, obtain a listing of collection locations and management's representation that the listing is complete. Randomly select one collection location for each deposit site (i.e. 5 collection locations for 5 deposit sites), obtain and inspect written policies and procedures relating to employee job duties (if no written policies or procedures, inquire of employees about their job duties) at each collection location, and observe that job duties are properly segregated at each collection location such that:

Results: *Management has represented that there is only one collection location for CPCPL. Written policies and procedures were in place.*

- (a) Employees that are responsible for cash collections do not share cash drawers/registers.
- (b) Each employee responsible for collecting cash is not responsible for preparing/making bank deposits, unless another employee/official is responsible for reconciling collection documentation (e.g. pre-numbered receipts) to the deposit.
- (c) Each employee responsible for collecting cash is not responsible for posting collection entries to the general ledger or subsidiary ledgers, unless another employee/official is responsible for reconciling ledger postings to each other and to the deposit.
- (d) The employee(s) responsible for reconciling cash collections to the general ledger and/or subsidiary ledgers, by revenue source and/or agency fund additions are not responsible for collecting cash, unless another employee verifies the reconciliation.

Results: *(a) This is N/A for CPCPL, there are no cash drawers or registers. Most of the cash collections are direct deposited to the applicable bank accounts from the Louisiana Public Defender Board (LPDB); (b) Due to the small size of the accounting department, the person responsible for preparing/making bank deposits is the same person responsible for collecting cash; (c) & (d) Posting and reconciling the cash collections to the general ledger is the same person responsible for cash collections.*

Most of CPCPL's revenue comes by direct deposit from the state and can be tied directly to the contracts with the Louisiana Public Defender Board (LPDB). Although there is a lack of separation of duties, compensating controls exist; (1) CPCPL's contracts with the LPDB require monthly financial reporting to the LPDB for monitoring; the executive director, who has knowledge of revenue to be received, reviews monthly financial reporting prior to submission to the LPDB, and (2) CPCPL's deputy director who does not have access to the accounting system or records, receives the bank statements and reviews deposits before the bank statements go to the program director for completion of the bank reconciliations.

COLLECTIONS (continued)

- 6) Inquire of management that all employees who have access to cash are covered by a bond or insurance policy for theft.

Results: *We found that employees are not bonded, however, CPCPL has an insurance policy in effect that covers employee theft, forgery and computer crimes.*

- 7) Randomly select two deposit dates for each of the 5 bank accounts selected for procedure #3 under "Bank Reconciliations" above (select the next deposit date chronologically if no deposits were made on the dates randomly selected and randomly select a deposit if multiple deposits are made on the same day). *Alternately, the practitioner may use a source document other than bank statements when selecting the deposit dates for testing, such as a cash collection log, daily revenue report, receipt book, etc.* Obtain supporting documentation for each of the 10 deposits and:
- (a) Observe that receipts are sequentially pre-numbered.
 - (b) Trace sequentially pre-numbered receipts, system reports, and other related collection documentation to the deposit slip.
 - (c) Trace the deposit slip total to the actual deposit per the bank statement.
 - (d) Observe that the deposit was made within one business day of receipt at the collection location (within one week if the depository is more than 10 miles from the collection location or the deposit is less than \$100).
 - (e) Trace the actual deposit per the bank statement to the general ledger.

Results: *As most receipts are electronic transfers from the LPDB, and are monthly deposits to the applicable accounts in accordance with contracts, we focused on the other receipts coming through the mail received at the deposit site / collection location.*

In the period under review, there were 3 receipts from the U.S. Treasury for habeas corpus petitions filed in federal court, performed and invoiced by CPCPL; we reviewed the documentation for all three receipts. Documentation for receipts collected at the collection / deposit site location included (1) invoices prepared by CPCPL, (2) deposit slips, (3) copies of checks received, and (4) bank statements; sequentially pre-numbered receipts are not used by this organization. The check copies agreed to the invoices, deposit slips and bank statements. The bank deposit per the bank statement was traced to the general ledger. No exceptions were noted.

The deposits reviewed had no indication of receipt date; therefore, we could not test if the deposit was made within one day of receipt.

Management's response on procedure 7 (d):

Moving forward Capital Post-Conviction Project of Louisiana will maintain in its' records the received date stamped envelope that the federal habeas check arrives in from the United States Treasury.

NON-PAYROLL DISBURSEMENTS (EXCLUDING CARD PURCHASES/PAYMENTS, TRAVEL REIMBURSEMENTS, AND PETTY CASH PURCHASES)

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

CREDIT CARDS / DEBIT CARDS / FUEL CARDS / P-CARDS

- 11) Obtain from management a listing of all active credit cards, bank debit cards, fuel cards, and P-cards (cards) for the fiscal period, including the card numbers and the names of the persons who maintained possession of the cards. Obtain management's representation that the listing is complete.

Results: We obtained a list of all credit cards including the card numbers and the persons who had possession of the cards from management, and management's representation that the listing is complete. CPCPL does not maintain debit cards, fuel cards or P-cards.

- 12) Using the listing prepared by management, randomly select 5 cards (or all cards if less than 5) that were used during the fiscal period. Randomly select one monthly statement or combined statement for each card (for a debit card, randomly select one monthly bank statement), obtain supporting documentation, and:
- (a) Observe that there is evidence that the monthly statement or combined statement and supporting documentation (e.g., original receipts for credit/debit card purchases, exception reports for excessive fuel card usage) was reviewed and approved, in writing, by someone other than the authorized card holder. [Note: Requiring such approval may constrain the legal authority of certain public officials (e.g., mayor of a Lawrason Act municipality); these instances should not be reported.]
 - (b) Observe that finance charges and late fees were not assessed on the selected statements.

Results: (a) It was determined that there are 2 active credit cards. We selected all credit cards to perform procedures. We randomly selected one combined statement to review. We found that the credit card statement and supporting documentation was reviewed by someone other than the authorized card holder; (b) A finance charge was assessed on the credit card statement reviewed.

Management's response on procedure 12(b):

Moving forward CPCPL will pay credit card balance while disputing charges to avoid interest charges on account balance.

- 13) Using the monthly statements or combined statements selected under #12 above, excluding fuel cards, randomly select 10 transactions (or all transactions if less than 10) from each statement, and obtain supporting documentation for the transactions (i.e. each card should have 10 transactions subject to testing).

CREDIT CARDS / DEBIT CARDS / FUEL CARDS / P-CARDS (continued)

- (a) For each transaction, observe that it is supported by:
- ◆ An original itemized receipt that identifies precisely what was purchased.
 - ◆ Written documentation of the business/public purpose.
 - ◆ Documentation of the individuals participating in meals (for meal charges only).

Results: For the 16 transactions reviewed, all transactions are supported by documentation of business purpose and individuals participating in meals (if applicable). We found two transactions that were not supported by an original itemized receipt.

Management's response on procedure 13a:

CPCPL's federal express billing account is tied directly to its' office credit card for packages. Moving forward CPCPL will request a print out of airbill invoices from FedEx monthly to be attached to CPCPL's credit card statement.

TRAVEL AND TRAVEL-RELATED EXPENSE REIMBURSEMENTS (EXCLUDING CARD TRANSACTIONS)

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

CONTRACTS

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

PAYROLL AND PERSONNEL

CPCPL did not have any exceptions in this category when applying the agreed-upon procedures during year 1, therefore this category is excluded from testing in year 2.

ETHICS (EXCLUDING NON-PROFITS)

- 20) Using the 5 randomly selected employees/officials from procedure #16 under "Payroll and Personnel" above, obtain ethics documentation from management, and:
- (a) Observe that the documentation demonstrates each employee/official completed one hour of ethics training during the fiscal period.
 - (b) Observe that the documentation demonstrates each employee/official attested through signature verification that he or she has read the entity's ethics policy during the fiscal period.

Results: CPCPL is a nonprofit organization; therefore, this section is not applicable.

DEBT SERVICE (EXCLUDING NONPROFITS)

- 21) Obtain a listing of bonds/notes issued during the fiscal period and management's representation that the listing is complete. Select all bonds/notes on the listing, obtain supporting documentation, and observe that State Bond Commission approval was obtained for each bond/note issued.
- 22) Obtain a listing of bonds/notes outstanding at the end of the fiscal period and management's representation that the listing is complete. Randomly select one bond/note, inspect debt covenants, obtain supporting documentation for the reserve balance and payments, and agree actual reserve balances and payments to those required by debt covenants.

Results: CPCPL has no debt and is a nonprofit; therefore, this section is not applicable.

OTHER

- 23) Obtain a listing of misappropriations of public funds and assets during the fiscal period and management's representation that the listing is complete. Select all misappropriations on the listing, obtain supporting documentation, and observe that the entity reported the misappropriation(s) to the legislative auditor and the district attorney of the parish in which the entity is domiciled.

Results: Per our discussion with management, there were no misappropriations of public funds or assets during the fiscal period.

- 24) Observe that the entity has posted on its premises and website, the notice required by R.S. 24:523.1. concerning the reporting of misappropriation, fraud, waste, or abuse of public funds.

Results: We observed that the entity has posted the required fraud poster as required by R.S. 24:523.1.

CONCLUSION

We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on those C/C areas identified in the SAUPs. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The purpose of this report is solely to describe the scope of testing performed on those C/C areas identified in the SAUPs, and the result of that testing, and not to provide an opinion on control or compliance. Accordingly, this report is not suitable for any other purpose. Under Louisiana Revised Statute 24:513, this report is distributed by the LLA as a public document.

LeBlanc & Associates CPAs, L.L.C.

Metairie, Louisiana
June 20, 2019