

DISTRICT ATTORNEY FOR THE 42ND JUDICIAL DISTRICT



INVESTIGATIVE AUDIT
JANUARY 7, 2015

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

January 7, 2015

THE HONORABLE RICHARD Z. JOHNSON, JR.,
DISTRICT ATTORNEY OF THE
42ND JUDICIAL DISTRICT
Mansfield, Louisiana

We have audited certain transactions of the District Attorney of the 42nd Judicial District. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the validity of allegations we received.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*.

The accompanying report presents our findings and recommendations, as well as management's response. This is a public report. Copies of this report have been delivered to the District Attorney for the 42nd Judicial District, the Attorney General of Louisiana, the United States Attorney for the Western District of Louisiana, and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

42DA

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BACKGROUND AND METHODOLOGY

Article V, Section 26 of the Louisiana Constitution of 1974 provides that the District Attorney has charge of every state criminal prosecution in his district, is the representative of the state before the grand jury in the district, and is the legal advisor to the grand jury. The District Attorney also performs other duties, as provided by law, and is elected by the qualified electors of the judicial district for a term of six years. The 42nd Judicial District encompasses the parish of DeSoto.

At the request of the District Attorney, the Mansfield Police Department (MPD) investigated an alleged theft by Ms. Melanie Barber, then a District Attorney employee. The Louisiana Legislative Auditor's Office joined the MPD's investigation and determined the amounts of the alleged theft.

The procedures performed during this audit consisted of:

- (1) interviewing employees of the District Attorney's Office, MPD, and other persons as appropriate;
- (2) examining District Attorney's Office documents and records; and
- (3) reviewing applicable federal and state laws and regulations.

FINDING AND RECOMMENDATIONS

Theft of Money Orders

Ms. Melanie Barber may have violated state and federal law¹ by negotiating \$136,004 of money orders made payable to, or intended for, the District Attorney for the 42nd Judicial District from 2004 to 2014. The money orders were collected by the District Attorney's office for worthless checks and diversion fees but negotiated by Ms. Barber at the DeSoto Parish Sheriff's Office (DPSO) and several local banks and retailers. In a statement to the Mansfield Police Department (MPD), Ms. Barber said she used the money for her own personal use.

Ms. Barber began her employment with the District Attorney for the 42nd Judicial District (42nd DA) in 2002. During her employment, Ms. Barber worked with the worthless check and pre-trial diversion programs; her duties included accepting payments and maintaining case files. Ms. Barber also rotated with other employees to check the DA's mailbox at the post office. At the time of her dismissal from employment in March 2014, she was the Issuing Worthless Checks (IWC) Coordinator/Arrestment Secretary.

After receiving information that Ms. Barber was cashing a large number of money orders, the District Attorney asked the MPD to investigate. Ms. Barber told the MPD that during her employment at the 42nd DA's office, she took money orders payable to the 42nd DA's office. Ms. Barber said that she cashed money orders made payable to the 42nd DA at DPSO and kept the funds for her own personal use. She also said that some money orders had probably been brought in to the 42nd DA's office blank, and she filled out the money order to indicate it was payable to her from her niece.

Based on Ms. Barber's statements, the MPD obtained Ms. Barber's bank statements and the business records and bank statements of local banks and retailers that cash checks or money orders. After an extensive review of these records, it was determined that Ms. Barber had negotiated 580 money orders totaling \$136,004 between 2004 and 2014 that appear to have been the property of the 42nd DA's office.

Money Orders Negotiated by Melanie Barber			
Payable to	Where Negotiated	Amount	Number
42 nd District Attorney	Desoto Parish Sheriff's Office	\$49,733	206
42 nd District Attorney	Local Retailers and Banks	20,426	52
Melanie Barber	Local Retailers and Banks	62,055	310
Others	Local Retailers and Banks	3,790	12
Totals		\$136,004	580

Money Orders Payable to the 42nd District Attorney

From July 2005 through January 2014, Ms. Barber negotiated 206 money orders for cash at the DPSO totaling \$49,733. Witnesses at DPSO stated that Ms. Barber would come in with money orders payable to the 42nd DA claiming that some charges were dismissed or reduced, and that she needed to refund the individual that day and did not have time to go to the bank. Ms. Barber also negotiated an additional 52 money orders made payable to the 42nd DA totaling \$20,426 at several local banks and retailers.

Money Orders Payable to Melanie Barber

From 2004 to 2014, Ms. Barber negotiated 310 money orders made payable to herself in the amount of \$62,055. The DA's office matched 47 of these money orders totaling \$7,856 to the case files at the DA's office based on the information in the "paid from" section of the money orders. In her interview with MPD, Ms. Barber stated that she would fill out blank money orders and make them payable to herself. In addition, a DA's office employee stated Ms. Barber would tell people that went to the DA's office to leave their money orders blank and she would fill them out for them.

The remaining 263 money orders payable to Ms. Barber in the total amount of \$54,199 that were negotiated at local retailers or through Ms. Barber's bank accounts could not be associated with any existing cases in the DA's records. However, based on the MPD's interview with Ms. Barber, as well as interviews with several individuals who allegedly used money orders to pay their outstanding obligations, the money orders were likely intended to pay worthless check payments or diversion fees to the 42nd DA's office. Three people's names (two family members and one friend of Ms. Barber) were written on 206 of the money orders, indicating they were from them. All three people were interviewed by the MPD and stated that they never gave Ms. Barber any money orders. The remaining three people with their name on the "from" portion of 57 money orders were also family or friends of Ms. Barber, but could not be located.

Money Orders Payable to Others

The remaining 12 money orders negotiated by Ms. Barber for cash were payable to a family member (7), a local retailer (2), or were illegible (3). Ms. Barber's family member was

not aware of the seven money orders payable to him. The DA's office was able to match five of the seven to their case files. The remaining five money orders that were payable to the local retailer or illegible were endorsed "42nd Jud. Dist DA by Melanie Barber."

By taking money orders payable to or intended for the District Attorney's office, cashing or depositing them to her personal bank account and using the proceeds for personal expenses, Ms. Barber may have violated state law.¹

Recommendations

We recommend that the District Attorney for the 42nd Judicial District:

- (1) assign responsibility for receiving payments, depositing payments, and recording the receipt of payments to separate employees;
- (2) reconcile the receipts to deposits monthly to ensure all collected funds were deposited;
- (3) identify and resolve past-due worthless check and diversion fees;
- (4) seek legal advice as to the appropriate actions to be taken regarding the recovery of the worthless check and diversion fees; and
- (5) consult with the Attorney General concerning the disposition of the criminal aspect of this matter.

LEGAL PROVISIONS

¹ **Louisiana Revised Statute (La R.S.) 14:67(A)** states “Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.”

La R.S. 14:134 states, in part, “Malfeasance in office is committed when any public officer or public employee shall: (1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or (2) Intentionally perform any such duty in an unlawful manner ...”

18 United States Code Annotated (U.S.C.A) 666 states, in part, “Whoever, if the circumstance described in subsection (b) of this section exists – (1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof – (A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that– (i) is valued at \$5,000 or more, and (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or... shall be fined under this title, imprisoned not more than 10 years, or both. (b) The circumstances referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one-year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance...”

La R.S. 14:230(B) states “It is unlawful for any person knowingly to do any of the following: (1) Conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of the proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law. (2) Give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any criminal activity. (3) Direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of criminal activity. (4) Receive or acquire proceeds derived from any violation of criminal activity, or knowingly or intentionally engage in any transaction that the person knows involves proceeds from any such violations. (5) Acquire or maintain an interest in, receive, conceal, possess, transfer, or transport the proceeds of criminal activity. (6) Invest, expend, or receive, or offer to invest, expend, or receive, the proceeds of criminal activity.”

18 U.S.C.A 1956 states, in part, “(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity– (A)(i) with the intent to promote the carrying on of specified unlawful activity; or ... (B) knowing that the transaction is designed in whole or in part– (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity...”

APPENDIX A

Management's Response



Richard Z. Johnson, Jr.
District Attorney

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December 3, 2014

Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
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Baton Rouge, Louisiana 70804 - 9397

Dear Mr. Purpera:

I have carefully reviewed the investigative audit report on the 42nd Judicial District Attorney's office. In accordance with your recommendations, we are taking or have taken the following actions.

We have assigned responsibility for receiving payment, depositing payments, and recording the receipt of payments to separate employees. We have been , for years, reconciling the receipts to deposits monthly to ensure all collected funds were deposited. We have identified and are resolving past due worthless checks and diversion fees.

We are in the process of seeking legal advice as to the appropriate actions to be taken regarding the recovery of the worthless check and diversion fees. We have maintained consistent contact with the Attorney General concerning the disposition of the criminal aspect of this matter.

If you have any questions, please feel free to call me at either (318) 872-2991, my work number, or (318) 471-1357, my cell number.

With warmest regards,


Richard Z. Johnson, Jr
District Attorney