

# STATE OF LOUISIANA LEGISLATIVE AUDITOR

Court of Appeal, Fifth Circuit  
State of Louisiana  
Gretna, Louisiana

February 12, 1997



***Financial and Compliance Audit Division***

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

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

**Special Purpose Financial Statements  
and Independent Auditor's Reports  
As of and for the Year Ended June 30, 1996**

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 and New Orleans offices of the Legislative Auditor and at the parish clerk of court.

February 12, 1997

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

Special Purpose Financial Statements  
and Independent Auditor's Reports  
As of and for the Year Ended June 30, 1996

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December 17, 1996

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, 1996, 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 financial statements based on our audit.

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

As described in note 1 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 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 generally accepted accounting principles 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 generally accepted accounting principles.

LEGISLATIVE AUDITOR

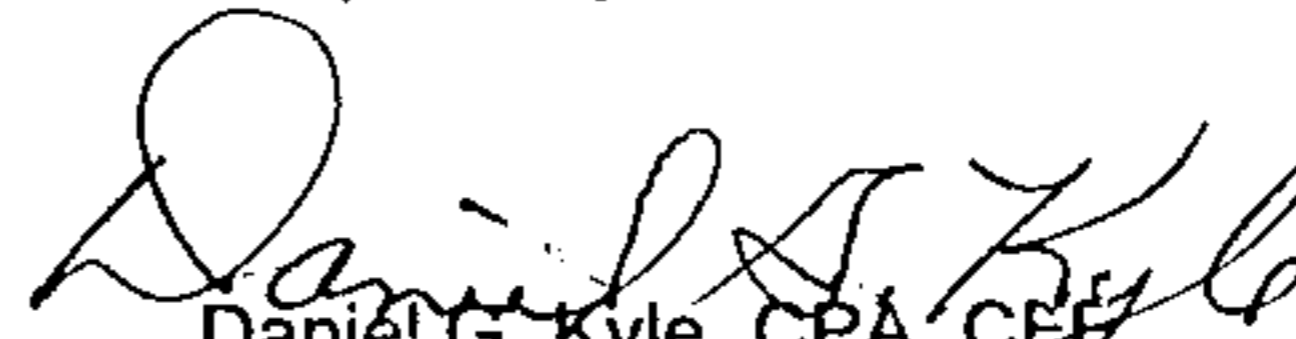
COURT OF APPEAL, FIFTH CIRCUIT  
STATE OF LOUISIANA  
Audit Report, June 30, 1996

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, 1996, 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 a report dated December 17, 1996, on our consideration of the Court of Appeal, Fifth Circuit's internal control structure and a report dated December 17, 1996, on compliance with laws and regulations.

In accordance with Louisiana Revised Statute 24:516, our report is intended for the information and use of the court and its management and should be used solely as intended by the foregoing statute. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

  
Daniel G. Kyle, CPA, CFE  
Legislative Auditor

JMS:THC:dl

[5CRT]

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

Balance Sheet (Legal Basis), June 30, 1996

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
<b>ASSETS</b>			
Cash and cash equivalents (note 1-E)	\$174,688	\$798,201	\$972,889
Receivables (note 2)	20,036	21,246	41,282
Interfund receivable		5,293	5,293
Prepaid expenses	26,223	6,680	32,903
	<u>\$220,947</u>	<u>\$831,420</u>	<u>\$1,052,367</u>
<b>LIABILITIES AND FUND EQUITY</b>			
Liabilities:			
Accounts payable	\$189,431	\$4,595	\$194,026
Interfund payables	5,293		5,293
Total Liabilities	<u>194,724</u>	<u>4,595</u>	<u>199,319</u>
Fund Equity - fund balance - reserved (note 7)	<u>26,223</u>	<u>826,825</u>	<u>853,048</u>
	<u>\$220,947</u>	<u>\$831,420</u>	<u>\$1,052,367</u>

The accompanying notes are an integral part of this statement.

**Statement B**

**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, 1996**

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
<b>REVENUES</b>			
Filing fees		\$204,008	\$204,008
Use of money and property - interest earnings		33,380	33,380
Total revenues	<u>NONE</u>	<u>237,388</u>	<u>237,388</u>
<b>EXPENDITURES</b>			
Appropriated expenditures:			
Personal services	\$1,826,749	4,705	1,831,454
Professional services	19,179	25,221	44,400
Travel and conventions	88,533	21,042	109,575
Operating supplies and services	340,535	5,291	345,826
Maintenance and repair	7,378		7,378
Capital outlay	271,205		271,205
Association dues	9,578	2,400	11,978
Non-appropriated expenditures - Judges'			
Supplemental Compensation Fund		8,371	8,371
Total expenditures	<u>2,563,157</u>	<u>67,030</u>	<u>2,630,187</u>
<b>EXCESS (Deficiency) OF REVENUES OVER EXPENDITURES</b>	<u>(2,563,157)</u>	<u>170,358</u>	<u>(2,392,799)</u>
<b>OTHER FINANCING SOURCES (Uses)</b>			
Operating transfers in		42,531	42,531
Operating transfers out	(42,531)		(42,531)
Transfers from Supreme Court	2,619,110	12,000	2,631,110
Total other financing sources (uses)	<u>2,576,579</u>	<u>54,531</u>	<u>2,631,110</u>
<b>EXCESS OF REVENUES AND OTHER SOURCES OVER EXPENDITURES AND OTHER USES</b>	13,422	224,889	238,311
<b>FUND BALANCES AT BEGINNING OF YEAR</b>	<u>12,801</u>	<u>601,936</u>	<u>614,737</u>
<b>FUND BALANCES AT END OF YEAR</b>	<u>\$26,223</u>	<u>\$826,825</u>	<u>\$853,048</u>

The accompanying notes are an integral part of this statement.



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

Notes to the Financial Statements  
As of and for the Year Ended June 30, 1996

**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 (LSA-R.S.) 13:352. In addition to the fees mandated by LSA-R.S. 13:352 relative to appeals, applications for writs, motions filed on unlogged appeals and answers to appeals, the court, in compliance with Act 63 of the 1985 Session of the Louisiana Legislature and in conformity with the Judges' Supplemental Compensation Fund, charges an additional fee of \$14.50. 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, Louisiana, and has 8 judges and 39 other employees.

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. BASIS OF PRESENTATION**

The Governmental Accounting Standards Board (GASB) promulgates generally accepted accounting principles and reporting standards for state and local government. 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 generally accepted accounting principles 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 considered 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

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

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 and account group structure of the State of Louisiana and its general purpose financial statements. Annually, the State of Louisiana issues general purpose financial statements. The general purpose 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 funds. This differs from the fund accounting of generally accepted accounting principles 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 generally accepted accounting principles.

The funds do not include any noncurrent assets or liabilities. Noncurrent assets, general fixed assets, and long-term liabilities are reflected in the State of Louisiana's general purpose 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 LSA-R.S. 13:352. Expenditures incurred in excess of the amount appropriated by the legislature (General Appropriation Fund) are funded from this account.

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

**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 generally accepted accounting principles in which the measurement focus would be to measure the flow of current resources.

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

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

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

**Revenues**

Self-generated revenues, including interest income on demand deposits and certificates of deposits are recorded 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 are not recognized in the accompanying financial statements.

**Other Financing Sources (Uses)**

Transfers between funds that are not expected to be repaid are accounted for as other financing sources (uses) in the year the court is authorized to receive or make the transfers. In addition, transfers from the Supreme Court are included on the financial statements as other financing sources. The transfer from the

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

Supreme Court is the portion of the Court of Appeal, Fifth Circuit's state General Fund appropriation, which is recognized in the amount appropriated, to the extent withdrawn from the state treasury.

**E. CASH AND CASH EQUIVALENTS**

Cash and cash equivalents are composed of the following:

Petty cash	\$124
Cash in demand accounts	322,765
Certificates of deposit	<u>650,000</u>
Total	<u><u>\$972,889</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 pledging fiscal agent bank in a holding or custodial bank that is mutually acceptable to both parties. The court has deposit balances (collected bank balances) of \$1,110,307 at June 30, 1996, for which the court has control. These deposits are secured from risk by \$200,000 of federal deposit insurance (GASB Risk Category 1) and \$910,307 of pledged securities held by the custodial bank in the name of the fiscal agent bank (GASB Risk Category 3).

**F. PREPAID ITEMS**

The court establishes prepaid expenditures for membership dues, travel advances, and maintenance agreements. Payments made for such items that will benefit periods beyond June 30, 1996, are recorded as prepaid items.

**G. GENERAL FIXED ASSETS**

At the present time, the court maintains records only on its movable properties and does not account for land, buildings, and improvements used by the court. At June 30, 1996, the court has stewardship responsibility for \$1,337,753 in governmental movable property, valued at historical cost at the time of acquisition. The movable property is not reflected within the accompanying special purpose financial statements. A summary of changes in movable property follows:

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

	Balance July 1, 1995	Additions	Deletions	Balance June 30, 1996
Furniture and fixtures	\$706,519	\$217,726	\$47,983	\$876,262
Library books	408,012	53,479		461,491
Total	<u>\$1,114,531</u>	<u>\$271,205</u>	<u>\$47,983</u>	<u>\$1,337,753</u>

In accordance with LSA-R.S. 39:321-332, the court has complied with the movable property statutes of the State of Louisiana.

**H. LONG-TERM OBLIGATIONS**

The court is by statute not allowed 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 any other source are not recognized in the accompanying special purpose financial statements.

**I. 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, 1996.

The court has no encumbrances outstanding at June 30, 1996. 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. As provided by Act 1225 of 1995, the Judicial Budgetary Control Board approved an increase of \$263,563 to the original appropriation of \$2,367,547. The appropriation act also appropriates to the court any interest that it earns.

**J. 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.

**K. LEAVE BENEFITS**

Law clerks and secretaries employed by a particular judge are employees of that judge. As such, they are subject to the guidelines set forth by that particular judge. The clerk of court and central staff director are subject to the guidelines of the chief judge.

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

Employees of the clerk of court's office and the central staff are allowed a maximum of 15 sick days per year and 20 days of annual leave per year. Those employees not using their allowable annual and sick leave are permitted to accumulate sick days up to, but not to exceed 30 days. Annual leave does not accumulate.

All employees receive one month with full pay for maternity/family leave, in addition to any other leave.

Upon termination of employment, all unused annual and sick leave is forfeited. There is no liability for unused leave payable at June 30, 1996.

**L. 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. RECEIVABLES**

The following is a summary of receivables at June 30, 1996:

	Appropriated Fund - General Appropriation	Non- Appropriated Fund - Fee Account	Total
Due from judges - reimbursements	\$4,476	\$1,248	\$5,724
Due from judges' associations reimbursements	15,560		15,560
Use of money and property - interest earnings		3,415	3,415
Filing fees		16,583	16,583
	<u>\$20,036</u>	<u>\$21,246</u>	<u>\$41,282</u>
Total			

**3. PENSION PLANS**

Substantially all employees of the court are members of two statewide, public employee retirement systems. The clerk of court, deputy clerk of court, and their secretaries are members of the Louisiana Clerks Retirement and Relief Fund (LCRRF), a cost-sharing, multiple-employer plan. Substantially all other employees and the judges of the Court of Appeal, Fifth Circuit are members of the Louisiana State Employees Retirement System (LASERS), a single-employer, public employee retirement plan. Generally, all full-time

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

employees are eligible to participate in the systems, with employee benefits vesting after 10 years of service.

Contributions to the systems are funded through employee contributions and employer contributions. The employer contributions to LCRRF and LASERS for the year ended June 30, 1996, were \$25,598 and \$156,050, respectively. The total current-year payroll of the court was \$1,585,102, and its current-year payroll covered by the retirement systems was \$1,523,016. Aggregate pension cost for the year paid to LCRRF and LASERS was \$43,961 and \$253,573, respectively.

The employee contribution rate is established by state statute. The legislature annually sets the required employee contribution rate equal to the actuarially required employer contribution, as set forth in LSA-R.S. 11:102. Employees contribute 8.25 percent of covered salaries for the LCRRF and 7.5 percent for the LASERS, and the state is required to contribute 11.5 percent to the LCRRF and 12 percent to the LASERS of covered salaries to the systems. The court's employer contribution is funded by the State of Louisiana through the annual appropriation to the court. Benefits granted by the retirement systems are guaranteed by the State of Louisiana by provisions of the Louisiana Constitution of 1974.

**4. 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 recognized the cost of providing these benefits (court's portion of premiums) as an expenditure when paid during the year, which totaled \$72,427 for the year ended June 30, 1996. The court's cost 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, 1996, the cost of retiree benefits for 12 retirees totaled \$10,377.

**5. 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 the state General Fund 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.

**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Continued)

**6. LEASE OBLIGATIONS**

Capital leases, which under generally accepted accounting principles would be an asset and liability of the court, are not reflected in the accompanying special purpose financial statements.

The court has a capital lease for a telephone system. The following is a schedule of future minimum lease payments under capital leases together with the present value of the net minimum lease payments as of June 30, 1996.

Fiscal year:	
1995-97	\$17,454
1997-98	17,454
1998-99	8,727
Total minimum lease payments	<u>43,635</u>
Less - amount representing executory costs	<u>(3,022)</u>
Net minimum lease payments	40,613
Less - amount representing interest	<u>(7,554)</u>
Present value of net minimum lease payments	<u><u>\$33,059</u></u>

This lease agreement does not have a non-appropriation exculpatory clause that allows for lease cancellation if the Louisiana Legislature does not make an appropriation for their continuation during any future fiscal period. In addition, the court entered into an agreement (operating lease) with the Parish of Jefferson for rental on the fourth floor of the Gretna Courthouse Annex Building and for 40 parking spaces on July 1, 1986. A new lease agreement was entered into on October 12, 1993, and established rental payments at \$183,400 per year, payable by the court to the parish on a quarterly basis. The agreement terminates when the court elects to vacate the premises or when a permanent facility is available.

**7. RESERVED FUND BALANCE**

The Appropriated Fund - General Appropriation has a reserved fund balance totaling \$26,223. These funds are for prepaid expenditures for the 1996-97 fiscal year.

As shown on Statement A, the Non-Appropriated Fund - Fee Account has a reserve for continuing operations totaling \$826,825. These funds may be retained and used to defray the expenditures of the court as prescribed by LSA-R.S. 13:352.

**8. DEFERRED COMPENSATION PLAN**

Certain employees of the court participate in the Louisiana Deferred Compensation Plan adopted under the provisions of Internal Revenue Code Section 457. Complete disclosures relating to this statewide plan are available in the financial statements of the State of Louisiana.



**COURT OF APPEAL, FIFTH CIRCUIT**  
**STATE OF LOUISIANA**  
Notes to the Financial Statements (Concluded)

**9. RELATED PARTY TRANSACTIONS**

Judge Edward Dufresne of the court has a partial interest in the Esperanza Land Company. The court rents office space at a cost of \$500 per month from this company for Judge Dufresne's office in St. Charles Parish. Payments for the office space for the year ending June 30, 1996, totaled \$6,000.

**OTHER REPORTS REQUIRED BY  
GOVERNMENT AUDITING STANDARDS**

The following pages contain reports on internal control structure and compliance with laws and regulations required by *Government Auditing Standards*, issued by the Comptroller General of the United States. The report on internal control structure is based solely on the audit of the financial statements and includes, where appropriate, any reportable conditions and/or material weaknesses. The report on compliance with laws and regulations is, likewise, based solely on the audit of the presented financial statements and presents, where applicable, compliance matters that would be material to the presented financial statements.



OFFICE OF  
LEGISLATIVE AUDITOR  
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December 17, 1996

Independent Auditor's Report on Internal Control Structure Based  
Solely on an Audit of the Special Purpose Financial Statements

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, a court within Louisiana state government, as of and for the year ended June 30, 1996, and have issued our report thereon dated December 17, 1996.

We conducted our audit in accordance with generally accepted auditing standards and *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 special purpose financial statements are free of material misstatement.

Management of the Court of Appeal, Fifth Circuit is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of special purpose financial statements in accordance with legally prescribed procedures. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the special purpose financial statements of the Court of Appeal, Fifth Circuit for the year ended June 30, 1996, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk 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 structure. Accordingly, we do not express such an opinion.

EXHIBIT A

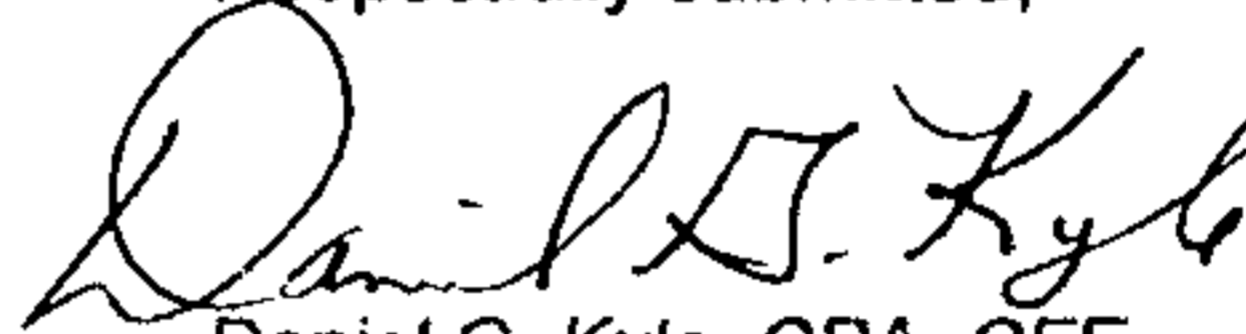
LEGISLATIVE AUDITOR

COURT OF APPEAL, FIFTH CIRCUIT  
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Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under standards established by the American Institute of Certified Public Accountants. A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities 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 structure and its operations that we consider to be material weaknesses as defined above.

This report is intended for the information and use of the court and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE  
Legislative Auditor

JMS:THC:dl

{SCRT}

OFFICE OF  
**LEGISLATIVE AUDITOR**  
STATE OF LOUISIANA  
BATON ROUGE, LOUISIANA 70804-9397

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December 17, 1996

Independent Auditor's Report on Compliance With Laws and  
Regulations Material to the Special Purpose Financial Statements

**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, a court within Louisiana state government, as of and for the year ended June 30, 1996, and have issued our report thereon dated December 17, 1996.

We conducted our audit in accordance with generally accepted auditing standards and *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.

Compliance with laws, regulations, and contracts applicable to the Court of Appeal, Fifth Circuit is the responsibility of the court's management. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the court's compliance with certain provisions of laws, regulations, and contracts. However, our objective of our audit of the special purpose financial statements was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion.

The results of our tests disclosed the following instance of noncompliance that, although not material to the financial statements, is required to be reported herein under *Government Auditing Standards*.

**Donation of Public Funds**

The Court of Appeal, Fifth Circuit used public funds to pay for a retirement dinner for the retiring chief judge of the court. The Louisiana Constitution of 1974, Article VII, Section 14(A) states in part that the funds, credit, property, or things of value of the state shall not be loaned, pledged, donated to or for any person, association, or corporation, public or private. In our opinion, the payment for a retirement dinner constitutes a donation of public funds.

**EXHIBIT B**

LEGISLATIVE AUDITOR

COURT OF APPEAL, FIFTH CIRCUIT

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On December 12, 1995, the judges of the Court of Appeal, Fifth Circuit created the Fifth Circuit Court of Appeal Judges Association (Association). Association membership consists solely of the eight elected judges serving on the Fifth Circuit Court of Appeal. The Association is funded from annual dues of \$300 for each member. These dues, totaling \$2,400, were paid from the court's Nonappropriated Fund - Fee Account, which is used to account for filing fees and other revenues received by the court as provided by statute (public funds). According to the minutes of the December 12, 1995, Association meeting, the judges decided that the cost of a retirement dinner for the retiring chief judge of the court, totaling \$862, should be paid by the Association. Because the Association is funded solely with public funds, the use of these funds to pay for a retirement dinner would be prohibited by Article VII, Section 14(A) of the Louisiana Constitution of 1974.

The Court of Appeal, Fifth Circuit should ensure that public funds are not used for purposes prohibited by Article VII, Section 14(A) of the Louisiana Constitution of 1974. In a letter dated January 21, 1997, Mr. Peter J. Fitzgerald, Clerk of Court, stated that "the judges of this Court remain of the opinion that the dinner for a retiring Chief Judge, held in lieu of a normal in-court retirement program, was an authorized expenditure of non-appropriated, self-generated funds incurred in the operation of the court."

**Additional Comments:** Although payment for the retirement dinner, held in lieu of an in-court retirement program, was authorized by the court, the funds used were provided through the court's Nonappropriated Fund - Fee Account, which is a public source. Therefore, the use of these public funds to pay for a retirement dinner, whether in-court or out-of-court, is a violation of Article VII, Section 14(A) of the Louisiana Constitution of 1974.

We considered this instance of noncompliance in forming our opinion on whether the Court of Appeal, Fifth Circuit's 1996 special purpose financial statements are presented fairly, in all material respects, in conformity with the legal basis of accounting described in the notes to the financial statements, and this report does not affect our report dated December 17, 1996, on those special purpose financial statements.

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This report is intended for the information and use of the court and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE  
Legislative Auditor

JMS:THC:dl

(SCRT)