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STATE OF LOUISIANA LEGISLATIVE AUDITOR

Livingston Parish Clerk of Court
Livingston, Louisiana

January 26, 2000



Investigative Audit

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

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Livingston Parish Clerk of Court

January 26, 2000



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
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January 26, 2000

HONORABLE LUCIUS PATTERSON
LIVINGSTON PARISH CLERK OF COURT
Livingston, Louisiana

Transmitted herewith is our investigative report on the Livingston Parish Clerk of Court. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations as well as management's response. Copies of this report have been delivered to the Honorable Scott M. Perrilloux, District Attorney for the Twenty-First Judicial District of Louisiana, the Honorable L. J. Hymel, Jr., United States Attorney for the Middle District of Louisiana, and others as required by state law.

Respectfully submitted,

A handwritten signature in cursive script that reads "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

AFB/dl

[LIVCC]

Executive Summary

Investigative Audit Report Livingston Parish Clerk of Court

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Services Performed by Two Employees Grossly Inadequate for Compensation Paid by Clerk

(Page 1)

Finding:

The Livingston Parish Clerk of Court, Mr. Lucius Patterson, paid two employees full-time wages though they worked only approximately 160 hours each per year--less than 8% of the time required of other employees. From August 1986 through September 1999, Mr. Patterson paid Mr. Darrell Jarreau and Mr. Glancia Hardy a combined total of \$287,048, including benefits. According to Mr. Jarreau and Mr. Hardy, they primarily worked a few days, or about 40 hours, each election. During the past 13 years, Livingston Parish has held, on average, four elections per year. As a result, the services performed by these two employees were grossly inadequate for the compensation paid by Mr. Patterson.

In addition, though they did not qualify, Mr. Jarreau and Mr. Hardy participated in the retirement and health insurance programs offered to full-time employees of the clerk of court's office. Several of the insurance plans were paid for entirely by the clerk's office. As a result, insurance claims paid on their behalf totaled \$19,471 to which they were not entitled.

Recommendation:

We recommend that if the Livingston Parish Clerk of Court continues the use of employees for outside work pertaining to elections, the compensation paid to those employees be commensurate with work performed. We recommend that the clerk of court comply with retirement and insurance provider requirements and implement controls to prevent ineligible employees from participating in these programs. Furthermore,

we recommend that the District Attorney for the Twenty-First Judicial District of the State of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate action.

Management's Response: Subsequent to providing management a draft of our report, Mr. C. Glenn Westmoreland, legal counsel for Mr. Lucius Patterson, provided a written response as follows: (See Attachment I.)

Mr. Westmoreland stated that the report did not accurately characterize the nature of the work that was performed by Mr. Jarreau and Mr. Hardy. However, Mr. Westmoreland did not provide any further explanation as to the nature of work performed by these individuals. Furthermore, it should be noted that this report specifically describes the duties of these individuals as Mr. Patterson, Mr. Jarreau, and Mr. Hardy explained them to us.

Mr. Westmoreland states that the report misinterprets the availability of a self-insured health plan and fails to acknowledge all portions of the retirement benefit statutes setting forth eligibility. Mr. Westmoreland does not provide any details as to how the report has misinterpreted the clerk's health plan nor does he state which other portions of the retirement benefit statutes he considers relevant. This report specifically mentions the minimum average work hours that must be worked by individuals to be considered eligible for health insurance as stated in the insurer's policies and the Louisiana law as it applies to eligibility for retirement benefits.

Improper Payments to Ex Officio Notaries

(Page 6)

Finding:

During the period of January 1984 to September 1999, Livingston Parish Clerk of Court, Mr. Lucius Patterson, paid \$68,900 to five individuals for performing notary services outside of the clerk's office. However, these individuals either performed no services or performed services grossly inadequate for the compensation paid to them by Mr. Patterson. Clerk of Court records show that from 1979 to 1988, Mr. Patterson paid five other individuals \$18,200 in a similar manner for similar services. In addition, during 1996, Mr. Patterson appointed 43 individuals who were not employees of the clerk of court as ex officio notaries thereby giving them the authority to notarize documents under the clerk's seal. This arrangement provided

little or no benefit to the clerk's office, and some of these individuals used their notary commissions for personal gain.

Recommendation:

We recommend that the Livingston Parish Clerk of Court discontinue its employment and/or appointment of special deputy clerks as notaries outside of the clerk's office. We also recommend that the District Attorney for the Twenty-First Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate action.

Management's Response:

Subsequent to providing management a draft of our report, Mr. C. Glenn Westmoreland, legal counsel for Mr. Lucius Patterson, provided a written response as follows: (See Attachment I.)

Mr. Westmoreland states that the five individuals who serve as ex officio notaries outside of the clerk's office while receiving compensation from the clerk's office performed public functions by notarizing public agency documents such as traffic tickets and arrest warrants. Absent specific details, we can only assume that Mr. Westmoreland is referring to Captain Shumate and Chief Wesley. It should be noted that Chief Wesley, as Chief of Police, is by statute authorized to appoint his officers as ex officio notaries public. Therefore, these individuals do not require such a commission nor compensation by the clerk of court to notarize traffic tickets and arrest warrants. Furthermore, only one of these five individuals could remember notarizing documents for the benefit of the clerk of court.

Mr. Westmoreland states that the implementation of this system was under the recommendation of the Legislative Auditor many years ago. We know of no such recommendation. Furthermore, compensation to any employee of the clerk of court should be commensurate with the services performed.

Background and Methodology

Livingston Parish is located in the southeastern part of the state in the Florida Parishes. Established in 1832, Livingston Parish has a population of approximately 70,526. As provided by Article V, Section 28 of the Louisiana Constitution of 1974, the Livingston Parish Clerk of Court serves as the *ex officio* notary public; the recorder of conveyances, mortgages, and other acts; and has other duties and powers provided by law. The clerk of court is elected for a four-year term expiring on June 30. Mr. Lucius Patterson has served as clerk of court since 1975.

The Legislative Auditor received information alleging Mr. Patterson paid individuals for work they did not perform and for services grossly inadequate for the compensation received. This investigation was conducted to determine the accuracy of this information.

Our procedures consisted of (1) interviewing employees and officials of the clerk of court; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the clerk of court; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable state and federal laws.

The result of our investigation is the findings and recommendations presented herein.

Findings and Recommendations

SERVICES PERFORMED BY TWO EMPLOYEES GROSSLY INADEQUATE FOR COMPENSATION PAID BY CLERK

The Livingston Parish Clerk of Court, Mr. Lucius Patterson, paid two employees full-time wages though they worked only approximately 160 hours each per year--less than 8% of the time required of other employees. From August 1986 through September 1999, Mr. Patterson paid Mr. Darrell Jarreau and Mr. Glancia Hardy a combined total of \$287,048, including benefits. According to Mr. Jarreau and Mr. Hardy, they primarily worked a few days or about 40 hours each election. During the past 13 years, Livingston Parish has held, on average, four elections per year. As a result, the services performed by these two employees were grossly inadequate for the compensation paid by Mr. Patterson.

In addition, though they did not qualify, Mr. Jarreau and Mr. Hardy participated in the retirement and health insurance programs offered to full-time employees of the clerk of court's office. Several of the insurance plans were paid for entirely by the clerk's office. As a result, insurance claims paid on their behalf totaled \$19,471 to which they were not entitled.

Mr. Patterson hired Mr. Jarreau and Mr. Hardy during August 1986 and January 1991, respectively. During several interviews, Mr. Patterson provided erroneous and contradicting statements regarding the employment of Mr. Jarreau and Mr. Hardy by (1) sometimes portraying these individuals as full-time employees with full-time duties while at other times describing their responsibility as more occasional, and (2) describing duties not actually performed by these employees.

On September 9, 1999, Mr. Patterson described these men as full-time employees with full-time duties. He stated the following:

- The only employees that do not work within the office buildings are Mr. Darrell Jarreau and Mr. Glancia Hardy. They are full-time salaried workers and they work 40 hours a week. During elections, they work more than 40 hours per week.
- They work at the voting machine warehouse. They report to the voting machine warehouse everyday; that is where they work. During elections, they conduct commissioner schools, seal the machines, answer the phone, follow the voting machines to each precinct, and help resolve problems.
- Mr. Jarreau and Mr. Hardy do not punch a time clock or fill out time sheets. They tell the payroll clerk how many hours that they worked each week.

On September 10, 1999, Mr. Patterson stated that their work is mostly during elections. At one point, he stated that he personally collects their time worked but later stated that he does not keep such records nor does he see the need to do so. He also described their duties to include inspecting precincts and cleaning the voting machine warehouse. He stated the following:

- Mr. Jarreau and Mr. Hardy report directly to him.
- They work mostly during elections. Some days they do not have to work. They may occasionally work only ½ a day. At the end of each week, he goes to the warehouse to collect the time the men worked. Last week, Mr. Hardy worked approximately 4 or 5 hours every day. Mr. Jarreau did not work every day last week.
- He doesn't keep a record of how many hours the men work per week. He just knows they worked. He believes that since the men are salaried employees, it is not necessary to track the hours they work per month. They may work as many as 80 hours a month or as few as 20 hours per month.
- Mr. Jarreau and Mr. Hardy are also responsible for inspecting the precincts, changing light bulbs, and making sure the precincts are in good condition, though he acknowledged that the parish police jury is responsible for taking care of the precincts.
- Part of Mr. Jarreau and Mr. Hardy's duties are to clean up the voting machine warehouse.

On September 21, 1999, Mr. Patterson agreed that the two men primarily work during elections.

- He agreed that Mr. Jarreau and Mr. Hardy primarily worked during elections and commissioner schools.
- The two men also spent time sweeping the voting machine warehouse and inspecting voting precincts.

STATEMENTS OF MR. JARREAU AND MR. HARDY

Mr. Jarreau and Mr. Hardy indicated that their duty is to work during the occasional elections held in Livingston Parish. Mr. Jarreau stated that he was hired to work during election times, and that between elections there is nothing for him to do. Mr. Hardy stated that his only duty is to work during election times. Mr. Hardy stated that, when voting machines are hauled to and from the voting precincts, his job is to show the persons doing the hauling where to deliver the machines. This process normally takes part of one day before and part of one day after each election. On Election Day, Mr. Jarreau and Mr. Hardy are on-call to assist with problems as they may arise. According to Mr. Jarreau and Mr. Hardy, they also assist the clerk with commissioner schools before elections and in certifying the votes after elections. According to Mr. Hardy, since being employed, he has worked approximately 8 days per year.

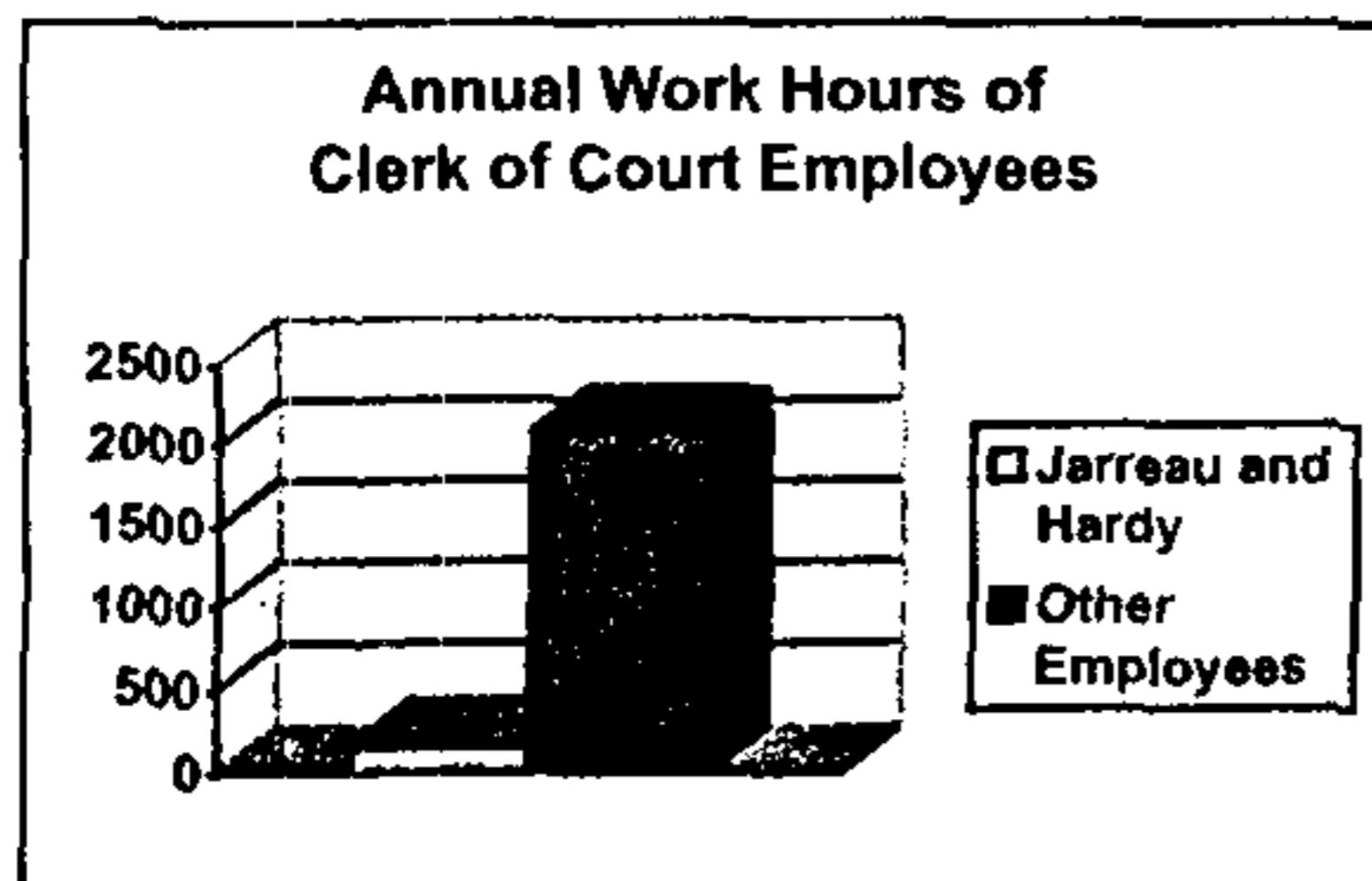
It should be noted that the voting machine warehouses and maintaining the states voting machines are the responsibility of the Louisiana Department of Elections and Registration and that department employs individuals to staff its warehouses and carry out these functions. The Department of Elections also performs the transportation of the voting machines by contracting with independent contractors to haul the state's voting machines to and from the warehouses and voting precincts. Mr. Jarreau and Mr. Hardy have no entry keys to the voting machine warehouse and can only access the warehouses through the Department of Elections' employees. Furthermore, neither individual is trained to work on voting machines, which again is the responsibility of the Department of Elections.

TIME REPORTING SYSTEM

Mr. Jarreau and Mr. Hardy are not required to follow the time reporting procedures required of all other employees. The clerk's office maintains an automated time reporting system that requires employees to report their time in and out each day. All employees of the clerk's office, except Mr. Jarreau and Mr. Hardy, are required to report their work hours in this manner. Mr. Jarreau and Mr. Hardy do not report their actual work hours to the clerk's office. According to Mr. Patterson, he "... doesn't keep a record of how many hours the men work per week. He just knows they worked. . . ." Ms. Barbara Gatlin, chief deputy clerk, stated that neither Mr. Jarreau nor Mr. Hardy work every day. She added that they primarily work during an election and that she could not tell us how many hours the men worked last week or whether they worked at all. Ms. Sherry Hoover, the payroll clerk, stated that Mr. Jarreau and Mr. Hardy never report their work hours to her. In addition, Ms. Hoover stated that all full-time employees except Mr. Jarreau and Mr. Hardy earn and use annual and sick leave. In all cases except for Mr. Jarreau and Mr. Hardy, if an employee does not have the accumulated leave to apply to hours not worked, then that employee's paycheck is adjusted downward to make up for the time not worked.

SERVICES PERFORMED NOT COMMENSURATE WITH COMPENSATION

While Mr. Jarreau and Mr. Hardy work only a fraction of the time worked by other clerk of court employees, they are paid as full-time employees and their compensation is excessive for the services performed. Based on the statements of Mr. Jarreau and Mr. Hardy, we estimate that they may work up to 40 hours each during an election. According to the Louisiana Secretary of



State, Livingston Parish has held 52 elections during the past 13 years--an average of four elections per year. Therefore, Mr. Jarreau and Mr. Hardy may have worked approximately 160 hours each per year while receiving wages as full-time employees. Other employees of the clerk of court are required to work regular 40-hour work weeks totaling 2,080 hours per year. Therefore, Mr. Jarreau and Mr. Hardy work less than 8% of the time required of other employees.

From August 1986 through September 1999, Mr. Patterson paid Mr. Jarreau salary payments totaling \$159,700. Based on the estimates of actual hours worked, Mr. Jarreau was paid approximately \$77 per hour. From January 1991 through September 1999, Mr. Patterson paid Mr. Hardy salary payments totaling \$82,735, and based on the estimates of work hours, this would have amounted to approximately \$59 per hour.

RETIREMENT, HEALTH, AND LIFE INSURANCE BENEFITS

In addition, Mr. Jarreau and Mr. Hardy improperly participated in the retirement plan and the group health and life insurance programs offered to employees of the clerk of court's office. To

R.S. 11:1511 provides that the clerk, and the employees of such clerks, shall be a member of the retirement system.

be eligible for participation in the retirement program, the Louisiana Clerks' of Court Retirement and Relief Fund required, as of August 1991, that the employee work a minimum

number of hours per week in accordance with state law. State law provides that all employees of the clerk shall be members of the retirement system. State law further defines employee, for purposes of eligibility, as an employee who works more than an average of 20 hours per week. Therefore, only employees of the clerk of court who work more than an average of 20 hours per week may belong to the clerk's retirement system.

R.S. 11:1503 provides the definition of employee as "...any deputy clerk, minute clerk, stenographer, reporter, or other regular employee of a clerk . . . who works more than an average of twenty hours per week.

The health and life insurance carriers each required that to be eligible, employees had to be classified as full-time. In each case, full-time was more specifically defined as an employee who normally works at least 30 hours per week. Mr. Jarreau and Mr. Hardy worked far less than the number of hours to be eligible for these benefits. During an interview with Mr. Patterson, he acknowledged his awareness that there are minimum work hour requirements for retirement and insurance participation. In the same interview, Mr. Patterson stated that Mr. Jarreau and Mr. Hardy work for him because of the insurance and retirement benefits, not the money, and said, "You cannot run them off. They know that they have a good thing here."

MR. JARREAU'S BENEFITS

From August 1986 through September 1999, Mr. Patterson contributed \$13,817 toward Mr. Jarreau's retirement plan and paid group insurance premiums totaling \$15,158 on Mr. Jarreau's behalf. Mr. Jarreau participates in three group insurance plans as follows:

- Major medical, which includes a \$75,000 cash value life policy and dependent coverage, 86% of which is paid for by the clerk's office.
- Dental and vision insurance including dependent coverage, 100% of which is paid for by the clerk's office.
- Term life of \$25,000 and accidental death and dismemberment of \$25,000, 100% of which is paid for by the clerk's office.

Several of the applications for these insurance programs required that Mr. Jarreau provide the number of hours that he works, for the clerk of court, each week. On two of these applications, Mr. Jarreau falsely indicated that he worked 40 hours per week (see Attachment III for examples). During this period, these insurance providers paid claims on Mr. Jarreau's behalf totaling \$18,509 though he was not eligible for the benefits.

MR. HARDY'S BENEFITS

From January 1991 through September 1999, Mr. Patterson contributed \$7,597 to Mr. Hardy's retirement account and paid \$8,041 toward Mr. Hardy's group health insurance plan. During this period, these group health insurance providers paid \$962 in claims on Mr. Hardy's behalf though he was not eligible for the benefits. Mr. Hardy currently participates in life insurance and an accidental death and dismemberment policy, 100% of which is paid for by the clerk's office.

In summary, Mr. Jarreau received \$188,675 while Mr. Hardy received \$98,373 in salary and benefits. Combined, Mr. Jarreau and Mr. Hardy's total compensation from the clerk's office totaled \$287,048. During their employment, insurance claims paid on their behalf totaled an additional \$19,471.

MANAGEMENT'S WRITTEN RESPONSE

Subsequent to providing management a draft of our report, Mr. C. Glenn Westmoreland, legal counsel for Mr. Lucius Patterson, provided a written response as follows: (See Attachment I.)

Mr. Westmoreland stated that the report did not accurately characterize the nature of the work that was performed by Mr. Jarreau and Mr. Hardy. However, Mr. Westmoreland did not provide any further explanation as to the nature of work performed by these individuals. Furthermore, it should be noted that this report specifically describes the duties of these individuals as Mr. Patterson, Mr. Jarreau, and Mr. Hardy explained them to us.

Mr. Westmoreland states that the report misinterprets the availability of a self-insured health plan and fails to acknowledge all portions of the retirement benefit statutes setting forth eligibility. Mr. Westmoreland does not provide any details as to how the report has misinterpreted the clerk's health plan nor does he state which other portions of the retirement benefit statutes he considers relevant. This report specifically mentions the minimum average work hours that must be worked by individuals to be considered eligible for health insurance as stated in the insurer's policies and the Louisiana law as it applies to eligibility for retirement benefits.

CONCLUSION

Mr. Patterson employed Mr. Jarreau and Mr. Hardy and compensated them in amounts grossly in excess of that commensurate with the value of the services they performed for the clerk of court's office. In addition, though he acknowledges that minimum eligibility requirements exist and, in fact, these requirements were not met, Mr. Patterson allowed Mr. Jarreau and Mr. Hardy

to be carried on the clerk of court's retirement and health and life insurance programs in violation of the providers' requirements. As a result, Mr. Patterson, Mr. Jarreau, and Mr. Hardy may have violated one or more of the following state and federal laws:

- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Payroll Fraud"
- R.S. 22:1243, "Prohibited Activities and Sanctions"
- R.S. 42:1461, "Obligation Not to Misuse Public Funds"
- 18 U.S.C. §666, "Theft Concerning Programs Receiving Federal Funds"

We recommend that if the Livingston Parish Clerk of Court continues the use of employees for outside work pertaining to elections, the compensation paid to those employees be commensurate with work performed. We recommend that the clerk of court comply with retirement and insurance provider requirements and implement controls to prevent ineligible employees from participating in these programs. Furthermore, we recommend that the District Attorney for the Twenty-First Judicial District of the State of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate action.

IMPROPER PAYMENTS TO EX OFFICIO NOTARIES

During the period of January 1984 to September 1999, Livingston Parish Clerk of Court, Mr. Lucius Patterson, paid \$68,900 to five individuals for performing notary services outside of the clerk's office. However, these individuals either performed no services or performed services grossly inadequate for the compensation paid to them by Mr. Patterson. In addition, clerk of court records show that from 1979 to 1988, Mr. Patterson paid five other individuals \$18,200 in a similar manner for similar services. Also, during 1996, Mr. Patterson appointed 43 individuals who were not employees of the clerk of court as ex officio notaries thereby giving them the authority to notarize documents under the clerk's seal. Though this arrangement provided little or no benefit to the clerk's office, some of these individuals used their notary commissions for personal gain.

Louisiana law provides that the clerks of court are ex officio notary publics of their parishes. In addition, state law provides that each clerk of court may appoint deputy clerks who possess all of the powers and authority of the clerk including notary authority. The law further provides that *notary fees charged by the clerk are public funds and are to be deposited and accounted for in the clerk's Salary Fund.* In addition, state law requires the clerk to keep an accurate set of books in connection with the salary fund showing all receipts, including notary fees.

During the period of January 1979 through September 1999, Mr. Patterson paid \$87,100 to ten (five current and five former) special deputy clerks who were employed to work in an unsupervised capacity as ex officio notary publics outside of the clerk's office. Records indicate that the special deputy clerks were paid \$100 per month and issued W-2 wage and tax statements. In 1998, these individuals were reclassified as contract services and W-2 statements were no longer issued.

During several interviews, Mr. Patterson stated that he had no knowledge of how many special deputies he commissioned to perform notary work outside of the clerk's office. Furthermore, he has no records to indicate fees collected or notary services provided by these individuals. He further stated that he is not sure if a special deputy's services are needed for any particular year. According to Mr. Patterson, his only requirement of the special deputies is that they are not to charge for their services.

Mr. Patterson currently employs five special deputy clerks who serve as ex officio notaries outside of the clerk's office. From January 1984 to September 1999, Mr. Patterson paid these individuals \$68,900; however, they either performed no services or services grossly inadequate for the compensation they received.

MS. OUIDA BROWN

From January 1984 through September 1999, Mr. Patterson paid Ms. Brown \$18,900. Ms. Brown, a former justice of the peace, stated that she was commissioned as special deputy clerk in 1982. Ms. Brown stated that her acceptance of the commission did not include a salary though she began receiving \$100 per month and was told the payments were for serving as notary public for the clerk. Ms. Brown estimates that she notarizes from three to five documents for the clerk each week; however, she could not provide records to substantiate her claim.

MR. CLYDE HENDERSON

Mr. Patterson paid Mr. Henderson, owner of Henderson Truck and Equipment Wholesaler, Inc., \$17,700 (\$100 per month) from January 1984 to September 1999 as special deputy clerk. Mr. Henderson stated that he uses the clerk's notary seal to notarize documents associated with vehicles sold through his company and occasionally notarizes documents for friends. When asked whether he notarizes documents related to the clerk of court, Mr. Henderson stated that he is not sure whether the clerk sends people to him.

MR. JOE SHUMATE

Mr. Patterson paid Captain Joe Shumate, Denham Springs Police Department, \$18,600 from April 1984 through September 1999, as a special deputy clerk. According to Captain Shumate, he uses the clerk's commission strictly to notarize documents related to the police department. Captain Shumate stated that when he started receiving the \$100 payments in the mail, he had no idea why he was receiving the payments. He further stated that he did not contact the clerk to inquire about the payments. In addition, Captain Shumate stated that he does not know of any benefit his notary commission provides to the clerk.

Mr. Jeffrey Wesley

Mr. Patterson paid Mr. Wesley, the Chief of Police for the City of Denham Springs, \$10,500 as special deputy clerk from January 1991 through September 1999. Chief Wesley told us that he only uses the clerk's notary commission to notarize department-related documents. He stated that he does not know of any benefit his commission has to the clerk's office.

Ms. Ann Wimberly

Mr. Patterson paid Ms. Wimberly \$3,200 as special deputy clerk from February 1997 through September 1999. When asked how did the clerk's office benefit from her commission, she stated, ". . . that's something you would need to speak with him (Patterson) about, I don't know. . ." Ms. Wimberly is a state commissioned notary public, a justice of peace, and an ex officio notary for the clerk of court. When asked how she decides which notary commission to use, she replied that 99.9% of the time she used her state commission because it provided income, where as if she used the clerk's commission, she could not charge for the service. Ms. Wimberly could not recall notarizing any documents as ex officio notary for the clerk. However, she stated that having the special deputy commission benefited the clerk's office because she was accessible to notarize documents for the clerk after hours and weekends. Though she stated she has never notarized documents for the clerk after hours or on weekends, she believed that if she had to do so only once every ten years, it would, in her opinion, be worth it (to the clerk's office).

Mr. Patterson also paid \$18,200 to five former special deputy clerks in a similar manner and according to Mr. Patterson, supposedly for similar services, thereby indicating that these individuals may also have been paid for services that they did not perform or for services grossly inadequate for the compensation received.

In addition, Mr. Patterson appointed many other individuals as ex officio notaries who were not employed or otherwise compensated by the clerk of court. Records indicate that in 1996, Mr. Patterson commissioned 43 special deputy clerks that did not receive compensation from the clerk of court. Chief Deputy Clerk Barbara Gatlin confirmed that these were notaries commissioned by the clerk who were issued the clerk's seal to perform notary service in the community. She stated that each of the notaries was informed not to charge a fee for the service they provided. The seals were purchased through the clerk's office at cost of approximately \$1,053. The following are statements from three of the 43 special deputies:

- Mr. John Ainsworth, John Ainsworth Used Cars, stated he received a commission from Mr. Patterson about five years ago. Mr. Patterson commissioned him on a friendship basis to help him with his automobile business. He stated that he mainly uses the clerk notary seal to notarize title transactions of vehicles sold by his business.
- Mr. Calvin McMickens, Time Saver Notary Public Services, stated that he became a notary for the clerk five or six years ago. He uses the clerk's seal to do notary work for his business (Time Saver) and his son's automobile dealership

(Autos Unlimited). According to Mr. McMickens, he charges a \$10 fee for the first document and \$5 for each additional document he notarizes.

- Mr. Ronny Hart, Hart Trailer Sales, stated that it was a hassle to drive to a notary office to get a trailer sale transaction notarized, so he went to Mr. Patterson and asked to become a notary. He stated that he uses his commission to notarize only documents related to trailers sold through his business.

The services performed by these three individuals provide no benefit to the Livingston Parish Clerk of Court. However, it does appear that many of the individuals that Mr. Patterson appointed as ex officio notaries use the clerk's seal for purposes not related to the clerk of court and/or for their personal gain.

For September 1999, the Louisiana Department of Public Safety, Office of Motor Vehicles records show that at least 92 vehicle/trailer title transactions were notarized under the clerk's seal. It should be noted that at least three of the special deputy clerks own or operate a business. The transactions are as follows:

- 39 transactions - Mr. Ronny Hart (Hart Trailer Sales & Service)
- 18 transactions - Mr. Calvin McMickens (Autos Unlimited)
- 8 transactions - Mr. John Ainsworth (John Ainsworth Used Cars)

MANAGEMENT'S WRITTEN RESPONSE

Subsequent to providing management a draft of our report, Mr. C. Glenn Westmoreland, legal counsel for Mr. Lucius Patterson, provided a written response as follows: (see Attachment I)

Mr. Westmoreland states that the five individuals who serve as ex officio notaries outside of the clerk's office while receiving compensation from the clerk's office performed public functions by notarizing public agency documents such as traffic tickets and arrest warrants. Absent specific details, we can only assume that Mr. Westmoreland is referring to Captain Shumate and Chief Wesley. It should be noted that Chief Wesley, as Chief of Police, is by statute authorized to appoint his officers as ex officio notaries public. Therefore, these individuals do not require such a commission nor compensation by the clerk of court to notarize traffic tickets and arrest warrants. Furthermore, as stated previously, only one of these five individuals could remember notarizing documents for the benefit of the clerk of court.

Mr. Westmoreland states that the implementation of this system was under the recommendation of the Legislative Auditor many years ago. We know of no such recommendation. Furthermore, compensation to any employee of the clerk of court should be commensurate with the services performed.

By paying \$87,100 to individuals when no services were performed or for services grossly inadequate for the compensation received and by appointing individuals who are not employees of the clerk of court as ex-officio notaries, Mr. Patterson and those individuals who received the compensation may be in violation of one or more of the following state and federal laws:

- R.S. 14:134, "Malfeasance in Office"
- R.S. 14:138, "Public Payroll Fraud"
- R.S. 42:1461(A), "Obligation Not to Misuse Public Funds"
- Title 18, U.S.C., §666, "Theft From Federal Programs"
- Article 7, Section 14 of the Louisiana Constitution, "Donation of Public Property"

We recommend that the Livingston Parish Clerk of Court discontinue its employment and/or appointment of special deputy clerks as notaries outside of the clerk's office. We also recommend that the District Attorney for the Twenty-First Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate action.

Attachment I

Management's Response

ROME & WESTMORELAND
ATTORNEYS AT LAW

A. GREGORY ROME
C. GLENN WESTMORELAND

January 13, 2000

Office of the Legislative Auditor
ATTN: Dan Daigle and Daryl Purpera
P. O. Box 94397
Baton Rouge, LA 70804-9397

Re: Lucius Patterson
Clerk of Court of Livingston Parish
Our file no.: 99-225

Dear Sir:

Please accept this letter as a formal response to the legislative audit report that was given to us on December 29, 1999.

RESPONSE TO FINDING # 1:

These findings are disputed by the Clerk of Court, Mr. Lucius Patterson. The findings of the report did not accurately characterize the nature of the work that was performed by Mr. Darrell Jarreau and Mr. Glancia Hardy, nor did it include the history of these positions in Livingston Parish. The audit further, and as a matter of fact, misinterprets the availability of a self insured health plan to employees and fails to acknowledge all portions of the retirement benefit statutes setting forth eligibility for benefits available for employees of the Clerk of Courts office.

The Clerk of Court, Mr. Lucius Patterson, is and has always been open to improvement of the procedures and business operations of his office, but disputes the insinuation raised by the audit that this conduct is criminal.

RESPONSE TO FINDING # 2:

Title 13:783 of the Louisiana Revised Statutes authorizes the Clerk of Court to employ all necessary deputies and assistants and to fix their salaries. The five individuals referred to in the audit performed public functions by notarizing public agency documents such as traffic tickets and arrest warrants. In fact, the implementation of this system was under the recommendations

29877 S. MAGNOLIA STREET, P. O. BOX 519 • LIVINGSTON, LA • 70754
PHONE: (225) 686 9800 • FAX: (225) 686 9805
827 ST. LOUIS STREET • BATON ROUGE, LA • 70802
PHONE: (225) 334-9300 FAX (225) 334-9301

Office of the Legislative Auditor
January 13, 2000
Page Two

of the Legislative Auditors Office many years ago.

The appointment of special deputies Clerk of Court, without pay, has been a historic tradition in the Parish for decades. They are instructed that the appointment is a courtesy and within the power confirmed by Louisiana Law on the Clerk of Court. The suggestion that this practice is criminal, as suggested by the report, is absurd.

I understand that we will get together in approximately three working days to receive a final copy of the Legislative Auditor's Report. I will await your telephone call for this meeting.

If you have any questions or comments, please feel free to contact me at your convenience.

With kindest regards, I remain

Very truly yours,

ROME & WESTMORELAND



C. Glenn Westmoreland

CGW:amc
cc: Mr. Laches Patterson, Clerk of Court
Enclosures: None

Attachment II
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:134 provides, in part, that 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; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 14:138 provides, in part, that payroll fraud is committed when any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

R.S. 22:1243(A)(1) provides, in part, that any person who, with the intent to injure, defraud, or deceive any insurance company, or any insured or other party in interest, or any third party claimant, presents or causes to be presented any written or oral statement including computer-generated documents as part of or in support of or denial of a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete, or fraudulent information concerning any fact or thing material to such claim.

R.S. 42:1461(A) provides, in part, that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

18 U.S.C. §666 provides, in part, that theft concerning programs receiving federal funds occurs when an agent of an organization, state, local, or Indian tribal government or any agency thereof embezzles, steals, obtains by fraud, or otherwise intentionally misapplies property that is valued at \$5,000 or more and is owned by or under control of such organization, state, or agency when the organization, state, or agency receives in any one year period, benefits in excess of \$10,000 under a federal program involving a grant contract, or other form of federal assistance.

Article 7, Section 14 of the Louisiana Constitution provides, in part, that except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

Attachment III

Examples of Insurance Applications

Examples of Insurance Applications

DARRELL JARREAU APPLICATION WITH AMERITAS LIFE INSURANCE CORPORATION

Group Enrollment / Change or Waiver Form

START HERE PLEASE PRINT IN BLACK INK

POLICY AND DIV. # 010-

CERT.#

NAME AND ADDRESS OF EMPLOYER (Policyholder) Livingston Parish Clerk of Court

CELEBRA if the individual is a continuee:

Qualifying Event _____

Date Of Event _____

5900 O STREET, LINCOLN, NE 68510

MAILING ADDRESS:

PO BOX 81889, LINCOLN, NE 68581

800-859-2223 / FAX: (402) 467-7983



TO ENROLL

EMPLOYEE INFORMATION

SOCIAL SECURITY NUMBER _____

DEPT.#

EMPLOYEE'S LAST NAME, FIRST, MI Jarreau Darrell

DATE OF BIRTH _____

MALE FEMALE

40 hours worked each week

FULL TIME DATE OF HIRE 8/86

REHIRE

OCCUPATION clerk

HOURS WORKED EACH WEEK 40

ARE YOUR EAR...

STREET ADDRESS PO Box 71

CITY Livingston STATE LA ZIP 70786

CHECK HERE IF THIS IS A NEW ADDRESS

TYPE OF COVERAGE DESIRED: DENTAL VISION

*ARE YOU COVERED FOR DENTAL INSURANCE UNDER ANOTHER PLAN? EMPLOYEE: YES NO DEPENDENT(S): YES NO

*ARE YOU COVERED FOR VISION INSURANCE UNDER ANOTHER PLAN? EMPLOYEE: YES NO DEPENDENT(S): YES NO

MARITAL STATUS SINGLE MARRIED

DEPENDENTS TO BE INSURED: (E) NONE (S) SPOUSE ONLY (F) SPOUSE & CHILDREN (C) CHILD(REN) ONLY- # OF CHILDREN: _____

DEPENDENT COVERAGE INFORMATION (Employee must be enrolled to cover dependents)

LIST ALL ELIGIBLE DEPENDENTS TO BE: ADDED DELETED

PRINT FULL LEGAL NAME (LAST, FIRST, MI)

LIST ALL COVERED DEPENDENTS)

ADD

DROP

RELATIONSHIP

SEX

DATE OF BIRTH

SOCIAL SECURITY NUMBER

	ADD	DROP	RELATIONSHIP	SEX	DATE OF BIRTH	SOCIAL SECURITY NUMBER
1						
2						
3						
4						

PLEASE SIGN (EMPLOYEE / POLICYHOLDER SIGNATURES)

I hereby apply for, or waive (if indicated), group insurance, for which I am eligible or may become eligible. If contributions are required, I authorize my employer to deduct premiums from my salary. The date of employment, job title, hours worked and salary information are verified as being correct according to the Policyholder's records. THE FOLLOWING APPLIES ONLY TO SECTION 125 FLEXIBLE BENEFITS PLANS: I am signing up for coverage until the next enrollment period except in the case of a change in family status. This information was explained in the plan's solicitation materials which I have read and understand.

X Darrell Jarreau Date 7/24/99 Policyholder Signature

Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

DO NOT COMPLETE AREAS BELOW

EMPLOYEE LATE ENTRANT DATE	Rec. Code	Effective Date	Class	Dep. Code
	A			

CS 878 Rev. 6-97

TO CHANGE

NAME CHANGE

NEW NAME

OLD NAME

REASON

EFFECTIVE DATE:

ADD DEPENDENT COVERAGE

IF DUE TO MARRIAGE, WHAT IS THE DATE OF MARRIAGE?

WAS SPOUSE COVERED FOR DENTAL AT HIS / HER PLACE OF EMPLOYMENT PRIOR TO REQUEST TO BE ADDED? YES NO
IF "YES," THE FOLLOWING INFORMATION IS NEEDED. LENGTH OF TIME SPOUSE WAS INSURED UNDER HIS / HER EMPLOYER'S COVERAGE:

REASON COVERAGE STOPPED:

DATE COVERAGE STOPPED:

DROP DEPENDENT COVERAGE

NAME OF DEPENDENT:

REASON: DIVORCE DEATH COVERAGE ELSEWHERE*

ANNUAL ELECTION PERIOD OTHER:

EFFECTIVE DATE:

NUMBER OF DEPENDENTS STILL COVERED:

*NAME OF DEPENDENT'S INSURANCE COMPANY

*NAME OF DEPENDENT'S EMPLOYER

TERMINATION EFFECTIVE DATE

TO WAIVE

IF YOU DO NOT WANT COVERAGE, COMPLETE THE WAIVER SECTION. THE WAIVER MAY NOT BE ALLOWED FOR THIS PLAN, CHECK WITH YOUR EMPLOYER.

I have been given an opportunity to apply for Group Insurance offered by my employer, and have decided not to accept the offer for:

myself (does not apply to TRUST policies) spouse only
 child(ren) only spouse and child(ren)

because

Name of Insurance Co. & Employer of Dependent _____

Should I desire to apply for dental insurance in the future, I realize that "late entrant" penalty may be applied.

DARRELL JARREAU APPLICATION WITH JEFFERSON-PILOT LIFE INSURANCE COMPANY

Jefferson-Pilot Life Insurance Company
Group Administration Division - 5800
PO Box 20727
Greensboro, NC 27420-0727



Enrollment or Change For

40 hours per week

New Change (Example: Birth, Death, Marriage, Name Change, Change of Coverage) Cancellation

Indicate Reason for Change: _____ Home Office Eff. Date of Change _____

Date of Change: _____ Evid. App'd By: _____

Employee's Name (Last) (First) (Middle Initial) Hours Worked Per Week Group Policy Number
Jarreau Darrell B 40

Home Address (Number) (Street) (City) (State) (Zip Code)
P.O. 71 Watson La 70786

Name of Employer: Clerk of Court Division, Branch, Office and/or Section Date Employed Certificate No.
Mo 8 Day 1 Y88

Marital Status Legally Separated Hourly Single Married Divorced Separated Salaried Current COBRA Participant?
Occupation or Position: Warehouse Man Yes No Employee Dependent

Basic Earnings: Hourly Weekly Monthly Annually Class Branch Section Certificate Date
\$12,000

Name of Beneficiary (May E. Doe, not Mrs. John Doe) Relationship to Employee
Marilyn G. Jarreau Wife

Coverage Status Employee Only Full Family Child(ren) Only Spouse Only Child(ren) (Spouse Waived for Other Coverage)

Eligibility: This section must be completed.

Employee Name	Date of Birth	Sex	Social Security No.	Indicate below the address of any dependent whose address is different from the address indicated above.

If you or your dependents have been covered by another group health plan in the past 12 months or are currently covered by another group health plan (including Medicare or COBRA Coverage), provide the following information:

Effective date of other group health plan: _____
Name of individual(s) covered by group plan: _____
Is other group health coverage still in effect? Yes No
If Yes, name of other carrier: _____
If No, when did other coverage end and on whom did it end? _____
If No, reason other coverage ended and on whom did it end? _____

... I declare that these statements are true and correct ...

Special Enrollment Options

Employee Coverage	Yes	No	Employee Coverage	Yes	No	Dependent Life	Yes	No
Basic Life	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Medical	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Medical	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Basic AD&D	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dental	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dental	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Supplemental Life	<input type="checkbox"/>	<input type="checkbox"/>	Vision	<input type="checkbox"/>	<input type="checkbox"/>	Vision	<input type="checkbox"/>	<input type="checkbox"/>
Supplemental AD&D	<input type="checkbox"/>	<input type="checkbox"/>	PCS	<input type="checkbox"/>	<input type="checkbox"/>	PCS	<input type="checkbox"/>	<input type="checkbox"/>
Weekly Benefits	<input type="checkbox"/>	<input type="checkbox"/>	Other	<input type="checkbox"/>	<input type="checkbox"/>	Other	<input type="checkbox"/>	<input type="checkbox"/>
LTD	<input type="checkbox"/>	<input type="checkbox"/>						

I hereby request insurance under the Group Policy(ies) issued by Jefferson-Pilot Life covering certain employees of my employer and authorize my employer to deduct from my earnings any required contributions. I declare that all of the statements made in this enrollment form are true and correct to the best of my knowledge and belief and that no material information has been omitted concerning the past or present state of health of me or my dependents. I understand that any misstatement or omission or dishonest or fraudulent answer may void this insurance. I understand that if my enrollment is accepted and insurance becomes effective, the insurance will be subject to all of the terms, limitations and exclusions of the Group Policy(ies). I authorize my physician, medical practitioner, hospital, clinic or other medical or medically related facility, insurance company or other organization, institution or person, that has any records or knowledge of me or my health, or my dependents or their health, to give to Jefferson-Pilot Life any such information. I know that a photocopied copy of this authorization shall be as valid as the original and that this authorization shall be valid for two years from the date shown below.

Signature: Darrell Jarreau Date: 11-12-98