

STATE OF LOUISIANA LEGISLATIVE AUDITOR

City of Ruston
Ruston, Louisiana

February 24, 1997



Investigative Audit

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

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

City of Ruston

February 24, 1997



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

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February 24, 1997

THE HONORABLE HILDA TAYLOR FERRITT,
MAYOR, AND MEMBERS OF THE
BOARD OF ALDERMEN
CITY OF BOSTON
Baton, Louisiana

Transmitted herewith is our investigative report on the City of Boston. 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 finding and recommendation. Copies of this report have been delivered to the Honorable Robert W. Levy, District Attorney for the Third Judicial District of Louisiana, and others as required by state law.

Respectfully submitted,

Daniel G. Kyle, CPA, CFE
Legislative Auditor

APB:ks

2/25

Executive Summary

Investigative Audit Report City of Ruston

The following summarizes the finding and recommendation that resulted from this investigation. Detailed information relating to the finding and recommendation may be found at the page number indicated.

Fire Chief Used City Funds for Personal Purposes

(Page 1)

Finding:	Mr. Van A. McDonald, Fire Chief, admitted that he deposited \$1,800 of City of Ruston funds into his personal bank account to pay for personal expenses.
Recommendation:	The City of Ruston and the District Attorney for the Third Judicial District of Louisiana should review this information and take appropriate action.

Background and Methodology

On October 16, 1990, the Legislative Auditor issued a report on the City of Ruston, which included a finding that the fire chief, Mr. Van A. McDonald, had improperly deposited funds intended for the City of Ruston Ambulance Service Enterprise Fund into the fire department's coin fund. The coin fund is a non-public account funded by profits from the employees' drink machine. The report further stated that Mr. McDonald wrote checks from the fire department coin fund account to himself. Since the date of this previous report, we have performed additional investigative procedures including:

- (1) examining selected City of Ruston records;
- (2) interviewing city employees and other individuals as necessary;
- (3) reviewing Louisiana laws; and
- (4) making inquiries and observations to the extent we considered necessary to achieve our purpose.

Finding and Recommendation

The following finding contains abbreviated references to Louisiana Revised Statutes (LSA-R.S.), which are explained in detail in the Legal Provisions section of this report. (Attachment B).

FIRE CHIEF USED CITY FUNDS FOR PERSONAL PURPOSES

Mr. Van A. McDonald, Fire Chief, admitted that he deposited \$2,800 of City of Baston funds into his personal bank account to pay for personal expenses.

Mr. McDonald intercepted five Grambling State University (GSU) checks totaling \$2,950, which were intended for the City of Baston, and deposited the checks into the fire department's coke fund bank account. Mr. McDonald then wrote three checks, totaling \$2,800, on the coke fund account to himself and deposited the funds into his personal bank account. These funds were then used to cover Mr. McDonald's personal expenses.

On January 27, 1997, Mr. McDonald admitted, in a signed statement, that he deposited the GSU checks into the fire department's coke fund account even though he knew the funds should have been remitted to the city treasurer. He stated that he intercepted the bank statements for the coke fund to conceal the deposits from the fire department's bookkeeper. Mr. McDonald stated that he wrote checks on the coke fund account and deposited the checks into his personal bank account to cover deficits. During our interview, Mr. McDonald gave us \$2,950 cash as reimbursement for the funds he used for personal purposes. These funds have been turned over to the district attorney's office.

By these actions, Mr. McDonald may have violated one or more of the following Louisiana laws:

- R.S. 14:67, "Theft"
- R.S. 14:68, "Unauthorized Use of a Movable"
- R.S. 14:134, "Malfeasance in Office"
- R.S. 42:1461(A), "Obligation Not to Misappropriate"

The City of Baston and the District Attorney for the Third Judicial District of Louisiana should review this information and take appropriate action.

Attachment I
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Finding and Recommendation section of this report:

LSA-R.S. 14:47 provides that 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 is essential.

LSA-R.S. 14:48 provides that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices or representations, but without any intention to deprive the other of the movable permanently.

LSA-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.

LSA-R.S. 42:1461(A) provides that officials, whether elected or appointed and whether compensated or not, and employees of any "public entity," which, for purposes of this Section shall mean and include any department, division, office, board, agency, commission, or other organizational unit of any of the three branches of state government or of any parish, municipality, school board or district, court of limited jurisdiction, or other political subdivision or district, or the office of any sheriff, district attorney, coroner, or clerk of court, by the act of accepting such office or employment assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property, or other thing of value belonging to or under the custody or control of the public entity in which they hold office or are employed. The breach of an obligation established under this Section gives rise to an action in favor of the public entity for the recovery of any such funds, property, or other things of value and for any other damages resulting from the breach.