

LASALLE PARISH SHERIFF



COMPLIANCE AUDIT
ISSUED JUNE 29, 2011

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BATON ROUGE, LOUISIANA 70804-9397**

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

June 29, 2011

The Honorable Scott Franklin, Sheriff
LaSalle Parish Sheriff's Office
Post Office Box 70
Jena, Louisiana 71342

Dear Sheriff Franklin:

We have audited certain transactions of the LaSalle Parish Sheriff's Office (Sheriff's Office) for the period January 1, 2008, to February 28, 2011. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required of an audit by *Government Auditing Standards*. The concerns and results of our audit are listed below for your consideration.

Reduced Tax Assessment

According to records obtained from the LaSalle Parish Tax Assessor (Assessor), in 2009, the Assessor assessed and added to the tax rolls an aircraft registered to E & S Investments of LaSalle, LLC (E & S) and a helicopter registered to M&M Maintenance of LaSalle, LLC (M & M). The assessed amounts totaled \$16,275 which included \$8,517 for the aircraft and \$7,758 for the helicopter. These records further indicate that Everett Mayo, Jr., is the managing member for E & S and M & M. On December 30, 2009, E & S issued a check for \$16,275 to Scott Franklin, Sheriff and Ex-Officio Tax Collector (Sheriff), for payment of the taxes but included notice that the taxes were being paid under protest and that it was the intention of E & S to file suit within 30 days to recover the amount of the "excessive" payment.

Louisiana law provides two methods for contesting ad valorem assessments. First, there is the administrative remedy which involves an appearance before a review board of the local authority and culminates in an appearance before the Louisiana Tax Commission, whose decision may then be contested by filing suit in the appropriate district court within 30 days. Second, there is the remedy afforded by Louisiana Revised Statute (R.S.) 47:2134, which involves a payment of assessed taxes under protest, and a direct suit against the taxing authority filed in the appropriate district court within 30 days of the protested payment.

On January 29, 2010, E & S and M & M filed suit in the Twenty-Eighth Judicial District Court against “Scott Franklin, Sheriff and Ex-Officio Tax Collector for LaSalle Parish” to recover the \$16,275 of ad valorem taxes paid under protest. LaSalle Parish Tax Assessor Aron Johnson was also listed in the suit as a party of interest. According to the suit, the Assessor’s office failed to timely mail the notices required by R.S. 47:1987¹ to E & S and M & M and the assessment and collection of the tax was contrary to law. The suit further stated that because the assessment and collection of the tax was patently illegal and inherently defective, the taxes paid should be fully refunded, together with interest. According to the LaSalle Parish Clerk of Court’s records, the Assessor’s Office and Sheriff’s Office were served with the suit on February 4, 2010; however, the Louisiana Tax Commission was not named as a defendant and was not served with a copy of the suit as required by R. S. 47:2134 (C) (3).²

According to Mr. Johnson, Mr. Mayo had never reported the aircraft and helicopter to the Assessor’s Office, so he prepared and sent a tax bill to Mr. Mayo for \$16,275 for the aircraft and helicopter. If taxpayers believe that they have been unfairly taxed based on an improper valuation, failure of legal procedure of other cause, they may pay the taxes under protest and appeal for return of the amount. We asked Mr. Johnson to provide any documentation indicating that his office had mailed the notices required by R.S. 47:1987 to E & S and M & M for the aircraft and helicopter. Mr. Johnson indicated that the notices were mailed sometime around the end of January 2009, but he does not have any documentation, including copies of the notices to confirm this.

Based on advice by legal counsel, on February 23, 2011, the Sheriff entered into a “Receipt and Release” agreement with E & S and M & M to reduce the amount of taxes due to the parish. The Sheriff stated in the agreement that “in his capacity as Ex-officio Tax Collector for LaSalle Parish...he has and does release, acquit, and forever discharge” the taxpayers “from any and all claims for ad valorem taxes due and payable...” Based on this agreement, it appears that the Sheriff, in his capacity as Ex-officio Tax Collector for the parish, unilaterally negotiated and settled property taxes legally due to the parish without the proper notice to the LaSalle Parish Assessor and the Louisiana Tax Commission. It appears the Sheriff did not have the authority to negotiate the reduction of taxes owed to the parish. Therefore, this transaction may not have been legally binding.

¹ R.S. 47:1987 states, in part, “All assessors shall provide notice to a taxpayer of the amount of the assessment, for both real and personal property in any tax year in which the property is reappraised and valued pursuant to Article VII Section 18(F) of the Louisiana Constitution or when the taxable assessment of the taxpayer’s property for a tax year increases by fifteen percent or more from its assessment in the previous year.”

² R.S. 47:2134 (C) (3) states, “In any such legality challenge suit, service of process upon the officer or officers responsible for collecting the tax, the assessor or assessors for the parish or district, or parishes or districts in which the property is located, and the Louisiana Tax Commission shall be sufficient service, and these parties shall be the sole necessary and proper party defendants in any such suit.”

Recommendation

The Sheriff's Office should obtain an Attorney General opinion to determine the validity of this transaction.

Helicopter Flights

The Sheriff's Office records indicate that from May 2008 to July 13, 2009, M & M was paid \$19,625 for approximately 39.25 hours of helicopter flight time. According to invoices submitted by M & M, the Sheriff's Office reimbursed M & M \$500 per hour for hours of airtime, specific flights, and/or fuel and maintenance. Records indicate that Mr. Mayo is the managing partner for M & M. Mr. Mayo was the pilot and either one or two Sheriff's Office officials would accompany him on the flights. However, there was no written agreement for the use of the helicopter.

According to Sheriff Franklin, Mr. Mayo was commissioned as a deputy on July 14, 2009, so that he and his helicopter could be added to the Sheriff's Office liability insurance. The Sheriff's Office records indicate that from July 14, 2009, to August 18, 2010, M & M and/or Mr. Mayo continued to submit invoices to the Sheriff's Office totaling \$20,131 for 40.26 hours of flight time and/or fuel and maintenance.

Attorney General Opinion 08-0040 states that "A reserve deputy sheriff appointed by the Sheriff enjoys the same authority as a regularly paid deputy, and his position is similarly considered an appointed office." By commissioning Mr. Mayo as a deputy and continuing to pay his company for flight services, the Sheriff's Office may have created an inappropriate relationship in violation of the state's prohibition against public employees contracting with their own agency.³ Although this relationship appears to violate the Louisiana Code of Governmental Ethics, specifically R.S. 42:1112, it is the responsibility of the Louisiana Board of Ethics to make such a determination.

Recommendation

The Sheriff's Office should implement training to ensure that agency officials understand the Louisiana Ethics Code and are aware of the prohibition against public servants contracting with their own agencies and require that all contracts be in writing.

³ R.S. 42:1112 A states, in part, "No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity."

Honorable Scott Franklin, Sheriff
June 29, 2011
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This correspondence represents our findings and recommendations as well as management's response. This is a public report. I trust this information will assist you in the efficient and effective operations of the Sheriff's Office. Should you have any questions, contact me at (225) 339-3839 or Dan Daigle, Director of Compliance Services, at (225) 339-3808.

Sincerely,

A handwritten signature in blue ink that reads "Daryl G. Purpera". The signature is written in a cursive style with a large, stylized initial "D".

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP:AFB:DD:dl

Management's Response

USRY, WEEKS & MATTHEWS

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June 15, 2011

**VIA FACSIMILE (225-533-3987)
AND REGULAR MAIL**

Andrew LeJeune
Office of the Louisiana Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

**Re: Draft Compliance Audit Report Concerning LaSalle Parish Sheriff
Our File Number 11-4444-30**

Dear Mr. LeJeune:

We are counsel for LaSalle Parish Sheriff Scott Franklin. On behalf of Sheriff Franklin, we offer the following response to your request for a response to your draft compliance audit report on the LaSalle Parish Sheriff's Office.

Your draft report consists of two primary findings with which the Sheriff's Office takes issue. These will be addressed in turn.

First, your office questions the authority of the Sheriff's Office to settle a dispute concerning tax liability involving movable property and recommends that the Sheriff's Office seek an opinion of the Louisiana Attorney General as to whether the settlement was a valid exercise of the Sheriff's discretionary authority. We advise that the Sheriff will seek such an opinion.

In the interim, we assert the position that there was nothing improper about the way the Sheriff's Office responded to the subject lawsuit and/or how the lawsuit was settled. As you observe, Mr. Everette Mayo, Jr. is the managing member of E&S Investments of LaSalle, LLC ("E&S") and M&M Maintenance of LaSalle, LLC ("M&M"). E&S owned an airplane, which it kept in LaSalle Parish, and M&M owned a helicopter, which *it* kept in LaSalle Parish. Both the airplane and the helicopter were subject to ad valorem tax assessments made by the LaSalle Parish Tax Assessor, Aaron Johnson. The taxes on these assessments were calculated by the Assessor to be \$8,517 for the airplane and \$7,758 for the helicopter, for a total of \$16,275, which was paid under protest by E&S on behalf of E&S, M&M (together, the "Companies"), and Mr. Mayo.

Pursuant to La. R.S. 47:2134, E&S and M&M filed suit for a full refund of the taxes paid under protest. The companies asserted that because the assessments on the two aircraft were increased by more than fifteen percent in one tax year, the Assessor was required to provide timely notice of the increased assessments to the taxpayers. The Companies alleged that the Assessor failed to give such timely written notice of the increased assessments. In the course of this litigation, it was discovered that the Assessor was unable to produce any objective physical proof of the mailing of the required notices. This discovery significantly reduced the likelihood that the assessments and the resulting tax bills could be successfully defended.

The Sheriff was named the sole party defendant in the lawsuit, but the Assessor was given notice of the filing, according to counsel for the plaintiffs. Brian Eddington, serving as tax counsel for the Sheriff and as general counsel for the Assessor, confirms that the Assessor had received notice of the filing of the lawsuit. Mr. Eddington also confirms that given the issues involved in the lawsuit, not the least of which was the lack of proof of notice of the increased assessments, a compromise of the lawsuit, which included the consensual payment by the Companies of amounts less than the allegedly defective assessments called for in taxes, was the optimal result for the Sheriff, as defendant. The settlement of this litigation included the execution of a standard type of receipt and release by the parties litigant, which included a provision whereby the Sheriff's Office released the plaintiff Companies from any liability for ad valorem taxes on the subject aircraft for the tax year 2009.

We are of the opinion that the Sheriff, as a party defendant in litigation, has the discretion to compromise the claims made on terms that the Sheriff determines to be most advantageous to his office and the public interests concerned. We are aware of no law or regulation that would require either the Assessor or the Tax Commission to approve or disapprove of such a compromise of the claims made solely against the Sheriff. Given the proof issues discussed above, it was determined that the defense of the claim would be untenable and that the receipt of some amount of taxes on the subject suspect assessments without the expenses of protracted litigation that was not favorable to the defense of the assessments would be the best possible outcome. Upon advice of counsel, the Sheriff reached an agreement to settle the lawsuit on the best terms that he determined he could obtain.

We believe that this compromise was well within the authority of the Sheriff as a party litigant and should not result in any adverse finding by your office.

With regard to your second concern, your office raises questions arising out of the commission issued to a Mr. Mayo as a reserve deputy sheriff when said helicopter owner/operator had contracted

with the Sheriff's Office to provide helicopter flight services to the Sheriff's Office in the performance of marijuana interdiction and search and rescue missions. You assert that Mr. Mayo, as an unpaid reserve deputy sheriff, was prohibited from entering into a contract with the Sheriff's Office by the Louisiana Code of Governmental Ethics, particularly La. R.S. 42:1112, which your office asserts as prohibiting public servants from contracting with their own public agency.

R.S. 42:1112 states that

No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest ... [or] in which, to his actual knowledge, any of the following persons has a substantial economic interest: (1) Any member of his immediate family[;] (2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know[;] (3) Any person of which he is an officer, director, trustee, partner, or employee[;] (4) Any person with whom he is negotiating or has an arrangement concerning prospective employment[;] (5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

La. R.S. 42:1112(A) & (B).

This statute also provides that a public employee "shall disqualify himself from participating in a transaction involving the governmental entity when a violation of this Part would result." La. R.S. 42:1112(C).

For purposes of the Ethics Code, a reserve deputy, paid or unpaid, that has been appointed by the Sheriff is considered to be a "public servant," subject to the provisions of the Code. *See* La. R.S. 42:1102(18) & (19). In response to your draft report, it is important to consider that to "participate" in a transaction "means to take part in or to have or share responsibility for action of a governmental entity or a proceeding, personally, as a public servant of the governmental entity, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty." La. R.S. 42:1102(15). Also, we note that a "transaction" would include a contract with the public entity of the public servant. *See* La. R.S. 42:1102(23).

Under the scenario set forth above, Mr. Mayo cannot be considered to have “participated” as a public servant in the contract to obtain helicopter services for the Sheriff’s Office. Mr. Mayo was only appointed as a reserve deputy sheriff so that as part of the consideration exchanged between the Sheriff’s Office and E&S, Mr. Mayo could be covered under a policy of insurance issued to the Sheriff’s Office to cover deputies. Mr. Mayo had no responsibility with respect to the decision made by the Sheriff’s Office to engage his services as a helicopter owner/operator. We are of the opinion that neither Mr. Mayo’s actions in this regard, nor the Sheriff’s, should be found to have violated R.S. 42:1112.

We further observe that the Ethics Code additionally provides that “[n]o public servant ... or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.” La. R.S. 42:1113(A)(1)(a). We do not believe that the contract for helicopter services would implicate this provision of the Ethics Code either, because the subject agreement for helicopter services was reached prior to Mr. Mayo’s nominal appointment as a reserve deputy sheriff as part of the negotiated exchange of consideration in the subject contract.

Finally, we advise that the agreement for helicopter services has been terminated, with the final invoice for services having been paid in August of 2010. Further, we are advised that Mr. Mayo resigned his reserve deputy commission, effective in January of 2011.

Please let us know if office has any additional questions with which we may be of assistance, or if you need to discuss these matters further.

Very truly yours,



T. Allen Usry

TAU/CEF/es

cc: The Honorable Scott Franklin, Sheriff of LaSalle Parish

LaSalle Parish Assessor's Office

P.O. Box 400
Jena, LA 71342

Aron Johnson, CPA • LaSalle Parish Assessor
E-mail: lasalleassessor@centurytel.net

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June 20, 2011

Mr. Andrew LeJeune
Compliance Auditor
Louisiana Legislative Auditor
1600 North Third Street
P.O. Box 97397
Baton Rouge, LA 70804-9397

Re: Response to "Draft" of Compliance Audit Report
LaSalle Parish Sheriff's Office Reduced Tax Assessment for
Everett Mayo, Jr. dba/ M&M Maintenance of LaSalle, LLC (M&M)
and E&S Investments of LaSalle, LLC (E&S)

Dear Mr. LeJeune:

I am responding to your letter requesting I provide information that shall more fully describe the facts and events that led to LaSalle Parish Sheriff, Scott Franklin, refunding taxes to Mr. Everett Mayo, Jr. on two aircraft.

In the compliance audit report no mention is made that for Year 2009 the LaSalle Parish Assessor's office discovered five (5) aircraft that were located in the parish as of January 1, 2009, these aircraft were owned by four (4) different companies. None of the aircraft had been reported to the LaSalle Parish Assessor's office in tax year 2008 thus each were excluded from LaSalle Parish tax rolls for that year. All these aircraft were discovered by our office in January 2009, discovery and confirmation was made by a couple of methods. The first method being the Federal Aviation Administration (FAA) website, this website lists aircraft registrations and locations. The second method was either visually and/or by direct contact with a company representative to confirm the existence and location of the aircraft. Each company was sent LAT 15 forms to use to report their aircraft on. Our office received information from three (3) of the five (5) companies, which composed three (3) of the five (5) aircraft located in LaSalle Parish. The two (2) companies that failed to respond and report their aircraft were the two (2) companies owned by Everett Mayo, Jr., M&M and E&S.

Mr. Mayo called the LaSalle Parish Assessor's office to question the purpose of the LAT 15 forms he received by mail. I informed him that aircraft owned and/or used for commercial or

profit making purposes are subject to ad valorem tax. He later came into my office that day to discuss the possible exemption from ad valorem tax on his aircraft. Mr. Mayo informed me he did not use either aircraft for commercial purposes, he stated he merely had each of the aircraft in business name so he would not have to carry liability insurance on either aircraft. I informed him the aircraft are considered business personal property and therefore subject to ad valorem taxes. Mr. Mayo was dissatisfied with the response he received and informed me he would travel to Baton Rouge, LA to speak with Senator Neil Riser about the aircraft being subject to ad valorem tax. Mr. Mayo reappeared in my office a couple days later informing me he had met with Senator Riser in Baton Rouge, LA about property taxes on aircraft. I later had an opportunity to speak with Senator Riser at a later date whereby he confirmed the meeting with Mr. Mayo. Senator Riser informed me he provided Mr. Mayo with a copy of R.S. 47:6001, he also stated; "I told Everett I pay ad valorem taxes on the airplane I have, it is owned by Riser Funeral Home. So about all I advised him of was to pay the tax."

Mr. Mayo appeared in my office again in November 2009, he had received the property tax notices on his two aircraft. He asked how the value of his aircraft was determined. I informed Mr. Mayo it was from the best information available at the time. I told him the value of each aircraft was arrived at using information found over the world-wide web (internet). I told him I looked for and found six sales of aircraft; three sales for each of the same make, model and year as the two he owned. I used an average of the three values found as fair market value, an assessed value was then calculated for each aircraft. I informed Mr. Mayo I would accept information from him that day as to the value of his aircraft should he wish to provide it. He failed to respond to my request. The suit Mr. Mayo's attorney filed on his behalf included a copy of an invoice for the purchase price of the helicopter. The price paid by Mr. Mayo for the helicopter is several thousand dollars more than the value used to calculate ad valorem tax. This is surely one major reason Mr. Mayo did not respond to my offer of accepting information or documentation in November 2009. The 2009 ad valorem taxes for the helicopter are materially understated from what the taxes would have been had Mr. Mayo correctly reported his helicopter as required by law. The document submitted as evidence in the suit for fair market value of the airplane is a promissory note, it is evidence of the amount borrowed, it should not be used as evidence of fair market value, because it is not evidence of fair market value in and of itself.

In the second paragraph of the report you reference the two methods for contesting ad valorem assessments. The report states;

"First is the administrative remedy which involves an appearance before a review board of the local authority and culminates in an appearance before the Louisiana Tax Commission."

The report fails to state the above statement is not a remedy, per R.S. 2329, when a property owner fails to report.

R.S. 2329. Property owner; failure to report; loss of right to question assessment.

"When any property owner fails to make any report required to be made under the provisions of this Act at the time such report becomes due, the property owner shall have no legal right or cause to question or contest the determination of fair market value by the assessor."

Per R.S. 2329 a non-reporting property owner cannot appear before a review board of the local authority or the Louisiana Tax Commission to question or contest the value. The administrative remedy is eliminated and no longer afforded the property owner when he/she fails to report.

The audit report makes reference in the fourth paragraph to R.S. 47:1987, and also in a footnote:

La. R.S. 47:1987 states, in part, that all assessors shall provide notice to a taxpayer of the amount of the assessment, for both real and personal property in any tax year in which the property is reappraised and valued pursuant to article VII Section 18(F) of the Louisiana Constitution or when the taxable assessment of the taxpayer's property for a tax year increases by fifteen percent or more from its assessment in the previous year.

The two aircraft owned by Mr. Mayo were appraised and listed on LaSalle Parish tax rolls for the first time in Year 2009. Neither of the two aircraft had ever been listed on LaSalle Parish tax rolls in Year 2008, therefore the two aircraft are not subject to the fifteen percent increase notice by mail that R.S. 47:1987 addresses. The refund of taxes made by Sheriff Scott Franklin was not for property being re-appraised or for property that increased by fifteen percent or more from the previous year's assessment. This point is clearly addressed in the second paragraph of this writing.

The fourth paragraph of the compliance report addresses an issue of the assessor's office not having any documentation or copies of the notices to document the mailing of LAT 15 forms to Mr. Mayo. Please know that each assessor's office is responsible for mailing out thousands of LAT forms each year to property owners. Louisiana law does not require assessor's offices to keep copies of each blank form being mailed to property owners. However, we do keep copies of the completed forms once we receive them back from the property owners. My question to this comment in the report is; what purpose would be served by keeping a blank form? The only information it would contain would be the property owners mailing address.

As I informed you in an earlier interview I did meet with Sheriff Franklin in his office on the morning of February 14, 2011. I had discovered the offer being made to Sheriff Franklin by Mr. Mayo's attorney, Joe Wilson. I wanted to express my thoughts to Sheriff Franklin and know I did not approve of the offer. I had been made a similar offer by Mr. Wilson. I did not accept that offer, I felt it was one I could make in good conscience. It was in the best interest of Mr. Mayo

only and would have rewarded him for failure to report. I provided you a copy of that offer in a previous interview. At that time I informed Sheriff Franklin of my opinion that he did not have the authority to refund taxes to a property owner. I told him he needed to let the suit be heard and decided in a Louisiana District Court.

As noted in the compliance report the Louisiana Tax Commission was not named in the suit as required by La. R.S. 47:2134(C)(3).

"In any such legality challenge suit, service of process upon the officer or officers responsible for collecting the tax, the assessor or assessor's for the parish or district, or parishes or districts in which the property is located, and the Louisiana Tax Commission shall be sufficient service, and these parties shall be the sole necessary and proper party defendants in any such suit."

This appears to be an intentional error by Mr. Mayo's attorney, Mr. Joe Wilson. The refund made by Sheriff Scott Franklin to Mr. Mayo, E&S and M&M should be set aside as not legally binding, because Sheriff Franklin does not have authority to refund taxes absent approval from the Louisiana Tax Commission, or a court order from a Louisiana District Court. Formal proceedings should be taken to void the transaction and recover the money Sheriff Scott Franklin refunded Mr. Everett Mayo, Jr. Then Mr. Mayo can file a suit and name the Sheriff and Tax Commission as proper parties as required by law.

Thank you for your time and efforts on this case. I hope you do not take offense to my critique and/or comments on the compliance report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aron Johnson', written in a cursive style.

Aron Johnson, CPA, CLA
LaSalle Parish Assessor

WILSON & WILSON
P. O. Box 1346
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R. JOSEPH WILSON, P.L.C.
DONALD R. WILSON, P.L.C.

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CHASITY B. GARRETT

Physical Address:
1057 Courthouse Street
Jena, Louisiana 71342

June 8, 2011

Louisiana Legislative Auditor
Attn: Mr. Andrew LeJeune
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Mr. LeJeune:

Your letter of May 31, 2011, addressed to Everett Mayo, Jr., has been delivered to me for response. While I believe most of the content of the draft report to be fairly stated, there is some additional information which may clarify the situation.

La. R. S. 47:6001 provides, in part, that no personal property tax should be imposed on any aircraft weighing less than 6,000 pounds which is owned by a private individual and not used for commercial or profit making purposes. Because Mr. Mayo was the sole member of E&S Investments of LaSalle, L.L.C. and M&M Maintenance of LaSalle, L.L.C., each of which owned an aircraft weighing less than 6000 pounds, he believed that the provisions of the referenced statute were applicable and that no tax would be due on either aircraft. As a result, he did not file a personal property report on either aircraft.

His initial notification that the aircraft were to be taxed came in the form of the annual tax bill submitted by the LaSalle Parish Sheriff's Office. Mr. Mayo promptly paid the taxes, under protest, and thereafter filed suit to recover those taxes for the failure of the Assessor to provide the notice required by La. R. S. 47:1987.

The draft report makes reference to La. R.S. 47:2134 as the "remedy" involving payment of assessed taxes under protest and a direct suit against the taxing authority filed in the District Court. The suit which was filed did, in fact, name both the LaSalle Parish Sheriff and the LaSalle Parish Assessor as defendants and service of process was properly effected on both of these officials. However, the Louisiana Tax Commission was not named as a defendant, based upon my reading of Section B and Section B(2)(b) which seem to indicate that the Louisiana Tax Commission would be involved only if the suit were challenging the correctness of an assessment under La. R.S. 47:1856, 47:1857 or 47:1998. Each of these statutes refers to a prior review or determination by the Louisiana Tax Commission and insofar as that agency was not

involved in this process it was not named as a defendant.

If the omission of the Louisiana Tax Commission was in error, then this was my mistake based upon my reading and interpretation of La. R.S. 47:2134 and should not be imputed to Sheriff Franklin.

As you are aware, the suit was eventually settled. This basis for the settlement is mentioned in your draft report. Mr. Johnson has been unable to document the mailing of the notices required by La. R.S. 47:1987 because no such notices were given. Rather than being critical of Sheriff Franklin for entering into the settlement, it seems that you should commend him for recovering one-half of the amount in dispute when the full amount would have been refunded to Mr. Mayo if the matter went to trial.

In addition, at Page 2 of the draft report, it is stated that the Sheriff settled the claim asserted by Mr. Mayo without proper notice to the LaSalle Parish Assessor and the Louisiana Tax Commission. Again, for the reasons set forth above, it was my belief and opinion that the Louisiana Tax Commission should not be a party to this proceeding and this is my error rather than the Sheriff's. With respect to the LaSalle Parish Assessor, I would call to your attention that both the Assessor and the Sheriff were represented by the same attorney.

As a result, all communication with that attorney and all discussions regarding settlement constitute notice to the Assessor through his attorney of record. While Mr. Johnson may contend that he did not receive notice, he is absolutely wrong since his attorney of record participated in and approved the settlement agreement.

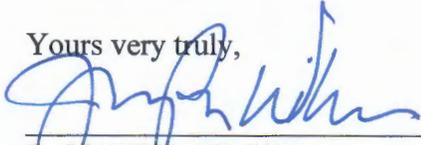
Finally, there is an implication in the draft report that the cost incurred by the LaSalle Parish Sheriff's Office for use of the helicopter was excessive. The numbers shown in the report are similar to the cost analysis previously provided by the LaSalle Parish Assessor to the LaSalle Parish Police Jury, sitting as a Board of Review.

I would refer you to the home page for Robinson Helicopter Company, which manufactures the R44 Raven II Helicopter which was owned by Mr. Mayo and used by the LaSalle Parish Sheriff's Office. The estimated operating costs show a fixed cost of \$22.08 per hour, an overhaul reserve cost of \$80.83 per hour and a direct cost per flight hour of \$82.19, bringing the total operating cost per hour to \$185.10. That calculation is based upon a commercial use. For example, the fixed cost per flight hour is based on 500 hours per year. Mr. Mayo's actual flight time is somewhere between 50 and 100 hours a year, which results in an increased fixed cost of five or ten times the amount stated in the draft report. Similar adjustments would need to be made for annual inspections, maintenance and fuel cost. While this may not be critical to your audit, I did want to call it to your attention that the charges which were paid by the LaSalle Parish Sheriff's Office were far less than the actual cost of operating the aircraft, so there was no impropriety. While Mr. Mayo was commissioned as a deputy, he received no salary for service in this position. He was commissioned solely to allow insurance to cover the use of the helicopter by the Sheriff in the performance of his duties.

If I can provide any additional information, do not hesitate to call on me as Mr. Mayo and I will both be happy to cooperate with you in whatever regard you consider appropriate.

With kind regards, I remain,

Yours very truly,



R. JOSEPH WILSON
RJW/rlf