

August 4, 2011

Suzanne J. Thomas
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104

RE: Port of Kennewick

Dear Ms. Thomas:

I was retained by Foster Pepper PLLC and subsequently by your firm, K&L Gates, LLP, to conduct an investigation of expense reimbursements paid to Port of Kennewick Commissioner David Hanson in connection with a citizen complaint.

Financial Allegation

The objective of the investigation was to determine whether Commissioner Hanson profited from expense reimbursements received (i.e., whether payments received exceeded his actual expenses) from Benton PUD ("Benton"), Public Utility District No. 1 of Chelan County ("Chelan"), Washington Public Utility Districts Association ("WA PUDA"), and Port of Kennewick ("POK").

The scope of my investigation was limited as follows:

- Documentation pertaining to Benton, Chelan, WA PUDA, and POK were obtained by counsel through public records requests and other inquiries, and provided to me.
- Documents examined pertained to the period from January 2006 through December 2010.
- Rates paid for mileage, per diem meals and other allowances were assumed to be in accordance with the respective agency policies; no verification of such rates was made to the agency's policies.
- Mileage distances were checked for reasonableness using Mapquest driving distances at www.mapquest.com.
- The propriety of Mr. Hanson's allocation of expenses when multiple agencies benefitted was not within the scope of my investigation.
- Whether Mr. Hanson received fees from multiple agencies for attending the same meeting was not within the scope of my investigation.

The sources of information utilized in my investigation included:

- Mr. Hanson's invoices, expense reports and additional documentation provided by Mr. Hanson
- Consulting Agreements between Mr. Hanson and Chelan, Benton and WA PUDA
- Mr. Hanson's Public Disclosure Commission reports:
 - Personal Financial Affairs Statements (Forms F-1, F-1A)
 - Campaign Summary Receipts & Expenditures (Form C4 and schedules)
 - Cash Receipts Monetary Contributions (Form C3 and schedules)
 - Candidate Registration (Form C1)
- In-person interview of Mr. Hanson on June 16, 2011
- Telephone interviews of NAME AND POSITION REDACTED on July 12, 2011 and July 21, 2011
- Telephone interview of NAME AND POSITION REDACTED on July 19, 2011
- Telephone interview of Mr. Hanson on July 22, 2011

Financial Allegation Findings

I have analyzed the information provided to me and considered the information obtained during my interviews. My investigation encompassed analysis of payments to Mr. Hanson totaling \$290,394 made by Benton, Chelan, WA PUDA and POK from January 2006 through December 2010.

Payments from POK represented reimbursement of expenses. During the time period scope of the investigation, POK staff prepared the initial "Claim for Expenses" form for most employees, including Commissioners. Mr. Hanson typically submitted a "Claim for Expenses" form, but not in all instances. All "Claim for Expenses" forms were retyped by POK staff on colored paper which were then provided to the employee for signature, and submitted to the Commissioners for approval at the Commission meeting. In preparing the colored paper version of the "Claim for Expenses" form it was typical for POK staff to correct errors made by employees; fill in rates for per diem meal requests; and to add reimbursement items not previously requested by the employee, such as the monthly cell phone allowance. In the course of my investigation, I noted instances where overpayment to Mr. Hanson occurred because of errors made by POK staff in the preparation of the "Claim for Expenses" form.

Prior to finalizing this report, my tentative findings were presented to Mr. Hanson in order to afford him the opportunity to provide further information regarding the expense transactions. Mr. Hanson provided additional information which I considered prior to the issuance of this report.

During the course of my investigation, I found no evidence of any scheme of misrepresentation by Mr. Hanson regarding his expense reimbursement requests. My findings, which total **\$1,171.00**, are summarized below with transaction details provided in Exhibit 1. A complete copy of my analysis spreadsheet is provided in Exhibit 2.

1. Overpayment of fax line, meals, and mileage – 7 instances totaling \$692.60 were noted.
2. Overpayment of airline ticket reimbursement – 1 instance of \$478.40 was noted.

During the period investigated, Mr. Hanson received cell phone reimbursements from Benton, and a monthly cell phone allowance from POK. Based on the documentation analyzed, it appears that phone reimbursements to Mr. Hanson exceeded actual expenses for his primary cell phone number by \$2,702.53. Mr. Hanson was eligible to receive reimbursement for a replacement cell phone in 2010 in the amount of \$506.74 which he did not request. Thus, Mr. Hanson's preliminary net excess phone reimbursement is \$2,195.79. Due to a lack of complete cell phone bills and records regarding cell phone replacement during the investigation period, the amount of excess phone reimbursement, if any, cannot be concluded. No further work on this issue is expected in this investigation. Further explanation regarding cell phone reimbursements is provided in the paragraphs below.

POK paid a \$50 cell phone allowance automatically to eligible employees and Commissioners on a monthly basis, with POK staff adding this allowance to the employee's and Commissioner's Claim for Expense forms. POK's cell phone allowance policy does not require employees or Commissioners to submit proof of actual expenditures in order to receive the monthly allowance. Mr. Hanson explained to me that his total monthly AT&T bill exceeds the amount he submitted to Benton for reimbursement, and that POK's cell phone allowance was used by him to offset costs for other cell phones he incurs through AT&T which he uses partially, but not exclusively, for business.

Mr. Hanson provided me with his complete AT&T bills for the period 1/12/10 – 12/11/10 (the "test period"). Analysis of the test period AT&T bills shows that during the eleven month period, total reimbursements from Benton and POK exceeded the charges for Mr. Hanson's primary cell phone number by \$473.96; these same reimbursements exceeded Mr. Hanson's total AT&T bill by \$15.68. Although the test period analysis shows that Mr. Hanson was paid more than his total AT&T charges, it is not clear from POK's cell phone allowance policy as to whether Mr. Hanson's partial business-use phone expenses qualify as acceptable use for the monthly allowance.

In addition, Mr. Hanson spent \$506.74 in 2010 for a new cell phone and qualifying incidentals. Under POK's One Time Cell Phone Allowance Policy dated December 19, 2008, Mr. Hanson was eligible to seek reimbursement in the amount of \$506.74. Mr. Hanson told me, and I confirmed with POK, that he did not seek reimbursement under this policy.

Financial Allegation Recommendations

Based on my investigation, I have the following recommendations to improve POK's expense reimbursement process to separate the functions of preparing and reviewing expense reimbursements.

1. Claim for Expense forms should be prepared in full by the requesting party and not by POK staff; POK staff should review the forms. Incomplete or inaccurate Claim forms should be returned for correction and resubmission. Payments made by POK should agree to the expense report submitted by the requesting party.
2. Employees and Commissioners should submit the Claim for Expense form with all appropriate receipts or documentation attached; the Certification section of the form should be signed and dated by the employee or the Commissioner when the form is submitted.
3. Cell phone reimbursement should only be paid to those submitting a Claim for Expense form.
4. Expense reports should contain sufficient detail regarding location and time of meetings so that the reasonableness of mileage, meals and other reimbursed expenses can be determined.

Financial Allegation Observations

During my investigation, I noted that POK's business mileage reimbursement rate exceeded the Internal Revenue Service (IRS) standard mileage rate. In accordance with Internal Revenue Service rules, mileage reimbursements in excess of the IRS standard mileage rate are to be treated as income to employees, reported by the employer on the employee's Form W-2, and subject to payroll taxes. See Appendix 1 for excerpts from Internal Revenue Service regulations.

Mr. Hanson and ^{Name} ~~redacted~~ told me that POK has not reported payments made in excess of the IRS mileage rate to employees or Commissioners since POK implemented a policy of reimbursing more than the IRS mileage rate. It is recommended that POK consult with a tax professional regarding the mileage reimbursement rate issue as it pertains to past and future years.

During the course of reviewing the expense reports submitted by Mr. Hanson to Benton, Chelan, WA PUDA, and POK it was apparent that Mr. Hanson's travel often benefitted multiple agencies. However, each agency in approving the expenses submitted by Mr. Hanson did so without complete knowledge of the scope of Mr. Hanson's travels.

Although this aspect was beyond the scope of my investigation, I could not ascertain the propriety of Mr. Hanson's expense allocations to the various agencies because the expense reports submitted did not contain details regarding the purpose and schedule of the meetings or whether meals were provided. In order to evaluate Mr. Hanson's expense allocation, consideration would also need to be given to the specific expense reimbursement policies of each agency. The lack of a centralized point of contact for submission of expenses when multiple agencies are involved increases the risk of over- or under-payment by an individual agency.

Additional Allegations

During the course of the investigation of the financial allegation, additional allegations involving Mr. Hanson arose which were made by POK staff, as well as, allegations involving POK staff which were made by Mr. Hanson. I was asked to address the significant allegations through interviews of POK staff and Mr. Hanson. I express no opinions regarding the credibility of the additional allegations or the responses I received during the interview process. The information is provided in my report in order to provide a complete record of the investigation. A summary of the significant allegations and responses, is provided below.

1. It was alleged that Mr. Hanson suggested to POK staff that a "Confidential Attorney/Client privilege not subject to public disclosure" letter issued by Foster Pepper PLLC to POK be shredded or destroyed. Mr. Hanson denied this allegation.
2. It was alleged that Mr. Hanson suggested to POK staff that a "Confidential Attorney/Client privilege not subject to public disclosure" letter issued by Foster Pepper PLLC to POK be disregarded. Mr. Hanson denied this allegation.
3. It was alleged that Mr. Hanson suggested to POK staff that the investigation of the citizen complaint be terminated prior to its conclusion. Mr. Hanson denied this allegation. Mr. Hanson further stated it was POK staff that suggested to him that if he resigned or retired there may be no need to complete the investigation; this comment was consistent with information obtained from POK staff. Mr. Hanson told POK staff that he considered retiring when his wife turns sixty-five. POK staff suggested to Mr. Hanson that he may be able to retire sooner than planned by becoming a consultant for POK thereby retaining income and medical insurance benefits. Mr. Hanson stated to POK staff that he would not retire or resign prior to the conclusion of the investigation; this comment was consistent with information obtained from POK staff.
4. It was alleged that Mr. Hanson suggested to POK staff that Foster Pepper PLLC's work with Benton could be jeopardized if POK proceeds with the investigation of the citizen complaint. Mr. Hanson denied this allegation.
5. It was alleged that Mr. Hanson's filings with the Washington Public Disclosure Commission (i.e., Forms F-1) were not accurate. Mr. Hanson denied this allegation.

Thank you for the opportunity to assist you in this matter.

Sincerely,

Heiskell MacGillivray & Associates, PS



By: Lenore D. Romney, CPA, CFE, CVA
Enclosures