
**West Virginia Legislature
Joint Committee on Government & Finance**



**Commission on
Special Investigations**

**301 Eagle Mountain Road
Room 218
Charleston, WV 25311-1061**

***President of the Senate
Earl Ray Tomblin
Co-Chairman***

***Speaker of the House of Delegates
Richard Thompson
Co-Chairman***

**Twenty–ninth Annual Report
to the
West Virginia Legislature
June 30, 2009**



301 Eagle Mountain Road
Room 218

WEST VIRGINIA LEGISLATURE
Commission on Special Investigations

CHARLESTON, WEST VIRGINIA 25311-1061

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January 13, 2010

West Virginia Legislature
Charleston, West Virginia

Pursuant to Chapter 4, Article 5, Section 2 of the West Virginia Code, we submit the Twenty-ninth Annual Report of the Commission on Special Investigations to the West Virginia Legislature.

Respectfully submitted,

Earl Ray Tomblin, Co-Chairman
Commission on Special Investigations

Richard Thompson, Co-Chairman
Commission on Special Investigations

ERT:RT:lmw

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Pursuant to Chapter 4, Section 2, Article 5 of the West Virginia Code, the Commission on Special Investigations presents the Twenty-ninth Annual Report to the West Virginia Legislature. This Report covers the Commission's activities from July 1, 2008 through June 30, 2009.

I. Commission Members and Staff

The Commission on Special Investigations is comprised of ten Legislators: Five Senators and five Delegates. The following Legislators represent the membership of the Commission on Special Investigations as of June 30, 2009:

<u>Senate</u>	<u>Appointed to Commission</u>
Earl Ray Tomblin - D (Co-Chairman)	1995
Don Caruth – R	2007
H. Truman Chafin - D	1999
Donna Boley - R	2001
Walt Helmick – D	2009

<u>House</u>	<u>Appointed to Commission</u>
Richard Thompson - D (Co-Chairman)	2007
Brent Boggs - D	2009
John Ellem - R	2007
Patrick Lane – R	2009
Harry Keith White - D	2007

These Legislators are responsible for overseeing the Commission's activities, which are discussed at length during Legislative Interim meetings held throughout the year. A quorum, which consists of a majority of the total authorized membership of the Commission, is necessary for the Commission to open or close an investigation or refer the matter to the appropriate committee if the subject does not fall under the Commission's purview.

Staff members of the Commission on Special Investigations as of June 30, 2009:

<u>Staff Member</u>	<u>Title</u>
Gary W. Slater	Director
Charles R. Bedwell	Investigator
Herbert R. Cogar	Investigator
Carl E. Hammons	Investigator
Roy M. Hutchison II	Investigator
James S. Powers	Investigator
Steven E. Staton	Investigator
Lisa M. Wilkinson	Secretary/Investigative Aide

II. Special Appreciation

During the investigative process, individuals in both the private and public sector provided information to Commission members and/or staff members. It would be difficult for the Commission on Special Investigations to perform its duties without the assistance these individuals provide.

Various County Prosecuting Attorneys, United States Attorneys and Assistant United States Attorneys have contributed their time and the resources of their offices in prosecuting individuals who have committed the felonies and misdemeanors evidenced by investigative activities reported on by this Commission. The assistance these offices provide is invaluable in the pursuance of justice.

III. Activities of the Commission (July 1, 2008 through June 30, 2009)

During the course of this fiscal year, the Commission on Special Investigations opened 9 investigative files and closed six investigations. As of June 30, 2009, there were 76 active investigations. The Commission met 10 times between July 1, 2008 and June 30, 2009. During these meetings the Commission staff apprised members of the alleged wrongdoing by agencies, individuals and/or firms conducting business with the State of West Virginia. Commission members also reported matters presented to them by their constituents, State employees, other legislative commissions, committees and fellow legislators.

Various allegations and investigative matters were reported and discussed during these meetings. Approval by a majority vote of the members present was obtained as needed to open, close or refer the matter(s) to prosecutors and/or other authorities.

Among the matters presented were the following:

Public Defender Services

In September 2006, the Commission on Special Investigations received a complaint from the State Public Defender's Office of possible billing irregularities submitted by Attorney Heidi Myers.

After receiving the original information, investigators began reviewing billing records and conducting interviews. It was during this time the US Attorney's Office for the Northern District of West Virginia became involved in the case, as well as US Postal Inspectors.

On November 17, 2006, a Federal search warrant was executed on Myer's Law Office, and others were served Federal Grand Jury subpoenas to appear before a Federal Grand Jury in Wheeling, West Virginia on December 5, 2006 at 9:00 a.m. Myers failed to appear at the appointed time, and at 4:00 p.m. on December 5, 2006, Myers was arrested by the US Marshals Service. Myers was released on a \$15,000 bond for the failure to appear warrant issued by Judge Fred Stamp.

In May 2007, a bench trial was held before Judge Stamp on the failure to appear.

In June 2007, Attorney Heidi J. Myers and her office manager, Nancy Burkhart, were indicted by a Federal Grand Jury on 99 counts of mail fraud, 12 counts of wire fraud and one count of conspiracy.

In July 2007, court hearings were held reference contempt charges against Myers.

April 2008, the West Virginia Supreme Court annulled Myers' law license.

In August 2008, Myers was found to be in criminal contempt (obstruction of justice) and was sentenced to four months in Federal prison by Federal Judge Stamp.

Myers has served her prison time on the contempt charge and is now scheduled for trial in March 2010 on the mail and wire charges, plus the conspiracy.

General Services

This office has been investigating various improprieties in the General Services Division for a period of time. These investigations have ranged from Purchasing Card irregularities to various contracts which the office has entered into with outside vendors who have performed various services. Several of these contracts were under the control of Paul Prendergast, who was the Occupational Health & Safety Coordinator for the General Services Division. While in this position, Prendergast furnished inside information to certain companies, which would enable them to win contracts for work at the State Capitol. Prendergast is known to have been paid \$11,000 in bribes for this over a three year period. He was finally awarded a \$140,000 a year job with one of the firms that had been paying him bribes. This was after CSI Investigators had interviewed him about other matters.

In October 2007, Prendergast pled guilty in Federal Court in Baltimore, Maryland to "the travel act" in connection with accepting bribes, in violation of West Virginia's Bribery and Corrupt Practices Act.

In 2009, Paul Prendergast was sentenced to one year plus one day in Federal prison. After his release, Prendergast is to serve three years of supervised probation and to pay a \$3,000 fine.

The Commission staff, US Environmental Protection Agency and Naval Criminal Investigative Services worked together on this investigation.

Department of Agriculture (Guyan Soil Conservation District)

In the fall of 2007, this office was contacted by the Department of Agriculture, who advised they were concerned about checks that were being written from an account of the Guyan Soil Conservation District. At that time, a preliminary investigation was done and a file was opened at the December 2007 meeting of the Commission.

Following an 11 month investigation, which involved numerous interviews, business record reviews and analysis of various bank accounts, Marcia Masters pled guilty to embezzling \$704,606 from the Guyan Soil Conservation District.

In December 2008, Masters was sentenced to 36 months in Federal prison and ordered to pay \$704,606 in restitution.

The money embezzled by Masters was spent to open a pet store in Huntington, West Virginia called the Poodle Palace, vacations, vehicles purchased for family members and various other things.

West Virginia Development Office

In September 2005, this office received information that several million dollars in State and Federal Grant money had been misused by an Internet company in Parkersburg, West Virginia called Sequelle Communications.

A joint investigation began with the IRS Criminal Investigation Division, US Department of Agriculture's Inspector General's office and the Commission on Special Investigations.

In September 2008, R. Scott Truslow and Mentorgen LLC pled guilty to money laundering conspiracy. This was followed by a plea by Heidi C. Laughery in February 2009 also to money laundering conspiracy.

As of June 30, 2009, this investigation is continuing.

WVU (Award of EMBA Degree)

In May 2008, requests were received from West Virginia University and the Monongalia County Prosecuting Attorney for the Commission to investigate possible criminal acts involving the falsification of University records relating to the awarding of an EMBA degree.

After an extensive four month investigation this case was presented to the Monongalia County Grand Jury and no indictments were returned.

Concord University

In October 2006, this office was advised that there were problems at Concord University involving purchases made in the Purchasing Card program. An investigation was launched in 2007.

This case will be presented to a Kanawha County Grand Jury in July 2009.

Auditor's Office (Corporate ID Theft/Fraud)

On April 30, 2009, this office was contacted by the State Auditor's Office and was informed that three payments to two different State vendors had been diverted by electronic means to bank accounts that were not accounts of the State vendors the money was intended for. The payments totaled \$1,998,748.56.

After receiving this information, the US Attorney's Office was notified and shortly thereafter the US Secret Service contacted this office. The Commission has assisted the Secret Service with this investigation and continues to do so.

On June 30, 2009, a Federal Grand Jury indictment was unsealed, charging Angella Mathoni Chegge-Kraszeski, also known as "Christina Ann Clay", with conspiracy to engage in illegal monetary transactions.

This investigation is continuing.

Library Commission (Tobacco Prevention Clearinghouse)

In August 2008, the Commission received information that a package containing approximately 200 letters had been delivered to the State Capitol Mail Room for mailing. The letters were in plain envelopes with no return address. Mail Room personnel informed CSI investigators that the envelopes had been delivered by a mail runner for the Library Commission.

In an attempt to determine what agency should be billed for the mailing, Mail Room employees opened one of the envelopes. The contents of the envelopes were chain letters intended to solicit money from the addressees, which would be forwarded to persons named in the letters in a classic pyramid scheme. One of the intended recipients, as identified in the mailings, was Gil Thomas, an employee of the Library Commission Tobacco Prevention Clearinghouse. Because the mailings were obviously not official State business, CSI was contacted.

Following interviews with Library Commission employees, Mail Room employees, Gil Thomas, and Thomas' mother-in-law, Patricia A. Hanna, it was determined that Thomas had attempted to use State funds to mail the illegal chain letters and that Hanna had assisted in the preparation of the mailings. Thomas resigned from State employment shortly after being interviewed by CSI investigators.

Following presentation of the investigation to the Kanawha County Prosecuting Attorney's Office, criminal complaints were prepared against Thomas and Hanna. In December 2009, Thomas and Hanna entered into plea agreements to the charge of promoting a Pyramid Promotional Scheme. Both received 30-day jail sentences and \$300 fines, which were suspended. Both subjects were placed on six months of unsupervised probation.

Office of Economic Development (Workforce Investment Programs)

In March 2009, an article appeared in *The Charleston Gazette* stating that Mary Jane Bowling, who oversees "Federal set aside grants", had hand delivered one of the grant payments to Comar, Inc., and its subsidiary Vec-3, where her son, Martin Bowling, worked as Chief Financial Officer. Martin Bowling was in jail at the time of the news article after being sentenced to prison for stealing credit card numbers and making purchases with them.

As of June 30, 2009, this office is investigating this matter and expects criminal charges to be filed.

NEWS ITEMS

Attorney indicted on mail fraud

By EDWARD MARSHALL / Journal Staff Writer

MARTINSBURG — Area attorney Heidi J. Silver Myers and her law office manager were indicted on 112 fraud-related counts by a federal grand jury in Martinsburg, the Office of U.S. Attorney Sharon L. Potter announced Tuesday.

The indictment alleges Myers and the office manager submitted payment claims for legal work in excess of 24 hours per day on more than 100 separate occasions, federal officials said. The 112-count indictment charges Myers, a 29-year-old attorney and the owner and operator of the Myers Law Group in Martinsburg, and 48-year-old Nancy P. Burkhart, the office manager of the Myers Law Group, with conspiracy, mail fraud and wire fraud violations.

The first count of the indictment alleges that the pair conspired from July 2004 to July 2006 to use the U.S. mail and interstate wire services as part of a scheme to defraud West Virginia's Public Defender Services, and to obtain money through fraudulent pretenses by allegedly creating and submitting vouchers for court-appointed work that was not performed. The indictment also alleges they submitted claims for court-appointed work that contained claims of in-court work time of more than 10 hours per day on 16 different dates.

Prosecutors say Myers and Burkhart also submitted vouchers for work by paralegals, secretaries and investigators and falsely billed it as attorney time at a rate of \$45 per hour; submitted vouchers for court-appointed work that contained claims of work hours in excess of 24 hours a day for 147 different dates; created vouchers for court-appointed work showing travel in excess of more than eight hours per day for 15 different dates; and knew that the vouchers were relied upon as the basis for determining payment to Myers for court-appointed work.

Vouchers also were submitted for research, court hearings and other work when Myers actually was traveling on a cruise ship in the Eastern Caribbean with about a half dozen of her employees and their spouses or guests, the indictment charged.

"The defendant also told the employees that the defendant's goal was to make a million dollars in the next year, and would then take the employees on an Australian cruise," the indictment said.

The indictment also alleges that Myers and Burkhart faxed a contract for doing business between Myers and Daniels Capital Corp. on May 19, 2006, for the purpose of executing a scheme to defraud. The corporation, which is in Hoover, Al., is a finance company that offers a quick-pay program for attorneys for court-appointed work.

According to the company's Web site up to 75 percent of an attorney's claim will be paid on request, with the balance, minus their fee, being paid once the attorney's state or federal payment is received.

Myers and Burkhart are accused of having funds wired from a Daniels Capital Corporation bank account in Birmingham, Al. into a bank account of Myers in Martinsburg.

If convicted Myers and Burkhart faces a maximum of 5 years in prison and a fine of up to \$250,00 on count one of the indictment and a maximum of 20 years in prison and a fine of up to \$250,000 on each of the remaining 111 counts.

The case will be prosecuted by Assistant U.S. Attorney Paul T. Camilletti. The case was investigated by the West Virginia Commission on Special Investigations and the U.S. Postal Inspection Service.

It should be noted that the charges contained in the indictment are merely accusations and not evidence of guilt, and that both Myers and Burkhart are presumed innocent until and unless proven guilty.

— The Associated Press contributed to this report. Staff writer Edward Marshall can be reached a (304) 263-8931, ext. 215, or emarshall@journal-news.net

Section: News Date Posted: 6/20/2007

News Item

Dept., Board, or Commission: Public Defender Services

File #:

Newspaper The Journal

Date Wednesday, August 06, 2008

Lawyer receives four months in prison

Woman was convicted last year of criminal contempt for disobeying subpoena

By Edward Marshall / Journal Staff Writer

POSTED: August 6, 2008

MARTINSBURG - A former Martinsburg attorney convicted of criminal contempt last year will spend four months in prison.

Federal Judge Frederick P. Stamp Jr. sentenced Heidi Janelle Silver Myers to the four-month sentence followed by four months of home detention with electronic monitoring at her expense. She also was sentenced to three years supervised release and was fined \$2,000.

Her law license was annulled in April by the West Virginia Supreme Court of Appeals as a result of her conviction.

Myers was convicted in May 2007 following a two-day bench trial, or trial by a judge without a jury. She was accused of disobeying a lawful subpoena in December 2006 issued by a federal grand jury by failing to appear and produce requested documents and items. The items included certain closed court-appointed case files, a network server and a backup hard drive that were missing from her law office when a search warrant was executed during an investigation of her practice.

Stamp found that the contempt constituted a felony conviction and compared her actions to obstruction of justice.

Myers was under investigation by the West Virginia Commission on Special Investigations for allegedly over-billing the state for cases in which she was a court-appointed attorney. In addition to being indicted on the criminal contempt charge, she was later named in a 112-count indictment in June 2007 for allegedly defrauding the West Virginia Public Defender Service over the course of two years.

Myers is free on bond and will self-report on Sept. 4 to a designated federal institution.

The case was prosecuted by Assistant U.S. Attorneys Thomas O. Mucklow and Paul T. Camilletti. It was investigated by the U.S. Postal Inspection Service and Commission on Special Investigations.

• Staff writer Edward Marshall can be reached at (304) 725-6581, or emarshall@journal-news.net

FOR FURTHER INFORMATION CONTACT

**AUSA VICKIE E. LEDUC or
MARCIA MURPHY at 410-209-4885**

October 26, 2009

FOR IMMEDIATE RELEASE

<http://www.usdoj.gov/usao/md>

**WEST VIRGINIA HEALTH AND SAFETY OFFICIAL
SENTENCED TO PRISON**

**Accepted Payments in Connection with Contracts to Maryland Firms
for Asbestos and Lead Abatement**

Greenbelt, Maryland - U.S. District Judge Peter J. Messitte sentenced Paul Prendergast, age 47, of Gaithersburg, Maryland, late last week to a year and a day in prison followed by three years of supervised release for accepting gratuities in connection with asbestos and lead abatement contracts he supervised as a West Virginia state official, announced United States Attorney for the District of Maryland Rod J. Rosenstein and Acting Assistant Attorney General for the Justice Department's Environment and Natural Resources Division John C. Cruden.

According to Prendergast's plea agreement, from 1998 to March 2003 Prendergast worked as an Occupational Health and Safety Coordinator at the West Virginia Department of Administration, General Services Division (GSD), receiving and reviewing bids submitted for asbestos and lead-abatement projects. For certain asbestos and lead abatement jobs, Prendergast had primary authority to award contracts to the lowest bidder. He was also responsible for overseeing work performed on the projects and had primary authority to approve payment requests submitted by the contractor.

Two of these contractors were Maryland corporations engaged in asbestos and lead abatement work in Maryland and West Virginia. The contractors were affiliated companies, and were jointly operated and managed. Between August 1998 and January 2003, these contractors performed a number of abatement contracts for GSD. Immediately upon leaving his employment with GSD, Prendergast worked for one of these companies.

Prendergast unlawfully provided one of these contractors with confidential bid information that he received from other abatement firms regarding contracts to perform asbestos and lead abatement at various buildings in the West Virginia State Capitol Complex. This contractor then used the bid information to submit bids to the State of West Virginia that were lower than those submitted by other abatement companies. Prendergast awarded the contracts and approved

payments to the contractor. While he maintained bid and operational authority over contracts of interest to the contractor, Prendergast also received money and other benefits from the contractor, including three checks from 2000 to 2003 in the amounts of \$6,000, \$2,500 and \$2,500.

In 2003, while still employed by GSD, Prendergast prepared a business proposal for the contractor involving a joint venture for a landfill in West Virginia, with the expectation that he would share jointly in the proceeds.

In April 2003, following negotiations that had begun in 2002, the other affiliated company hired Prendergast at nearly triple his state salary: from April 2003 to January 2005, Prendergast was paid \$85,000 as "salary" from this company; and from December 2003 to December 2004, Prendergast received \$55,000 that was funneled through a subcontractor to him.

United States Attorney Rod J. Rosenstein praised the U.S. Environmental Protection Agency - Criminal Investigation Division, the West Virginia Legislature's Commission on Special Investigations and the Naval Criminal Investigative Service for their investigative work. Mr. Rosenstein thanked Assistant U.S. Attorney Gina L. Simms and U.S. Department of Justice Trial Attorney Noreen McCarthy, who prosecuted the case.

HOME

October 13, 2007

W.Va. asbestos chief took bribes

. Prendergast pleads guilty to taking kickbacks from removal firm

By Tom Searls

Staff writer

Paul Prendergast, who headed West Virginia's asbestos and lead abatement program for five years, pleaded guilty this week in federal court to taking kickbacks from a Maryland firm and rigging bids to allow the firm to get state contracts.

Prendergast, 45, who now lives in Gaithersburg, Md., admitted to violating the federal Travel Act and the West Virginia Bribery and Corrupt Practices Act, the U.S. Attorney's Office for the District of Maryland announced.

In a plea agreement Thursday, Prendergast agreed to cooperate with the ongoing investigation. He faces up to five years in prison.

"The investigation into this corruption scheme will continue," Rod J. Rosenstein, U.S. Attorney for the District of Maryland, said in a statement. "We cannot allow public officials to award contracts to the corrupt businesses."

Federal authorities said that from 1998 to March 2003, while Prendergast served as the West Virginia General Services Division's occupational health and safety coordinator, he gave a Maryland asbestos abatement firm inside information about bids submitted by their competitors. That allowed the Maryland firm to submit the low bid and receive the state contract. The jobs were done at the state Capitol Complex.

Two unidentified Maryland firms were named in the information that Prendergast pleaded guilty. Both companies were owned by the same principals, federal records show.

By matching up information from the federal case file and state records, one of the firms was identified as Baltimore-based Environmental and Demolition Services Inc.

Prendergast received at least three payments as kickbacks from the firms — \$6,000 in December 2000, \$2,500 in July 2002 and \$2,500 in January 2003, according to federal records. He also ultimately was rewarded with a job with one of the firms.

That position, which he assumed in March 2003 and kept until at least December 2005, paid him an annual salary of \$140,000 — "nearly triple the salary" he received from the state, federal court documents show.

Authorities also said Prendergast negotiated with one of the firms for the job while he still held his state job, where he held sway over what firms received asbestos and lead abatement contracts. Federal authorities said that violates the West Virginia Bribery and Corrupt Practices Act. That law prohibits state employees "from soliciting, accepting or agreeing to accept" any benefit from those doing business

with the state.

In 2001, Prendergast also schemed with officers of the company to open a landfill in West Virginia "with the expectation that he would share jointly in the proceeds," according to federal records.

Prendergast was last known to be employed by the federal government at a museum in Washington, D. C.

The Legislature's Commission on Special Investigations, along with the Criminal Investigation Division of the U.S. Environmental Protection Agency and the Naval Criminal Investigative Service, headed the investigation.

To contact staff writer Tom Searls, use e-mail or call 348-5198.

News Item

Dept., Board, or Commission:

File #:

Newspaper:

Date:

Masters faces up to 10 years for embezzling



Lori Wolfe/The Herald-Dispatch

Attorney Ashley Lockwood walks with his client, Marcia L. Masters of Kenova, to federal court Monday in Huntington. Masters, charged with taking \$704,606 from the Guyan Conservation District between May 2004 and September 2007, pleaded guilty Monday in U.S. District Court. She worked as the district's administrative officer.

By **CHRISTIAN ALEXANDERSEN**

The Herald-Dispatch

calexander@herald-dispatch.com

HUNTINGTON — A Kenova woman outlined in court Monday how she took more than \$700,000 from the Guyan Conservation District while she was its administrative officer.

Marcia L. Masters of Kenova pleaded guilty in U.S. District Court to embezzling \$704,606 from the conservation district between May 2004 and September 2007.

The 43-year-old woman now faces up to 10 years in prison and a fine of up to twice the amount she embezzled, or possibly more than \$1.4 million.

The plea agreement says Masters will forfeit any property that derived from the proceeds of the embezzlement. Masters also must forfeit money obtained from the sale of two sport utility vehicles and a pet store in Huntington.

U.S. District Judge Robert C. Chambers asked Masters to explain how she stole the money.

As administrative officer, Masters said she had access to the checks that came to the district for various projects. She deposited it into the agency's bank account, then skimmed part of the money by redepositing the funds into her own bank account.



Your View

Post your thoughts and comments on this story and many others at www.herald-dispatch.com

"I defrauded money that wasn't mine," Masters said. "I used the profit off of the projects for my own personal gain."

The Guyan Conservation District is under the control of the West Virginia Conservation Agency and receives federal funding through the state agency. Those funds are used to implement various conservation projects in the district's six-county region, which encompasses Boone, Cabell, Lincoln, Logan, Mingo and Wayne counties. The district's projects include soil and watershed conservation efforts.

According to budgetary information obtained by Herald-Dispatch by use of the Freedom of Information Act in early August,

the district's annual budget increased from \$1.89 million to \$7.9 million between July 2001 and June 2008. A majority of the increase has been allocated for floodwall projects in Milton and Logan, according to the budget.

The prosecutors want Masters to forfeit two vehicles and proceeds from the sale of Pet Palace, her former business at the corner of 4th Avenue and 9th Street in Huntington. Masters, along with her daughter, bought the store in July 2007. Masters sold the business in April 2008.

The plea agreement stipulated that her daughter and son be immune from conspiracy of embezzlement charges.

Masters' sentencing hearing is scheduled for Dec. 1. She was released Monday on a personal recognizance bond.

News Item

Dept., Board, or Commission:

WV Development Office

File #:

Newspaper

Charleston Daily Mail

Date

Saturday, February 21, 2009

'INTERNET IN A BOX'

Broadband CEO admits stealing taxpayer funds

Heidi C. Laughery, 2 others diverted \$2.4M meant for rural Internet near Parkersburg

By Andrew Clevenger
Staff writer

HUNTINGTON — The former CEO of a publicly funded project to bring broadband Internet access to rural areas around Parkersburg admitted in federal court Friday that she illegally conspired with others to funnel government funds to herself.

Heidi C. Laughery, 47, the principal founding member and onetime CEO of Sequelle Communications Alliance Inc., a for-profit company formed in 2001 to complete the broadband project, was indicted in August 2008. In the indictment, federal prosecutors alleged that Laughery and others diverted more than \$2.4 million through Truscom LLC and MentorGen LLC, two Ohio companies involved in the project as subcontractors.

Most of those funds went to-

ward the formation of a new company, Sequelle Systems, which was designed to market the Parkersburg-based broadband project's "Internet in a Box" concept nationally, Herbert Cogar, an investigator with the West Virginia Legislative Commission on Special Investigations, said Friday.

An additional \$244,000 went back to Laughery, Cogar said.

Laughery said she knew that Sequelle could not use funds from a \$3.295 million loan from the U.S. Department of Agriculture's Rural Utilities Service to pay for salaries and other operating costs. With the project faltering, though, she met with Scott Truslow, who founded Truscom, his one-man company in November 2002, and officers of MentorGen in the fall of 2003, she said.

She told them she hadn't

been paid in two years and, together, they arranged to transfer some of Sequelle's RUS funds to MentorGen and Truscom, she said.

In September, Truslow pleaded guilty to conspiring to launder money. At the same time, MentorGen also pleaded guilty to money laundering, and agreed to pay restitution of \$1.5 million and a fine of \$100,000.

Money laundering charges against James Larry Hymer, MentorGen's chief financial officer and project manager of the Sequelle account, are pending. Hymer is scheduled to go on trial next week.

During Truslow's plea hearing, Cogar testified that Sequelle was already paying Laughery \$150,000 a year as part of a compensation package that included the use of an Infiniti G30 sedan.

At the fall 2003 meeting, Hymer said it "would not look good" for Laughery to be paid directly by MentorGen, Cogar said. Sam Wooster, the company's chief technology officer, was concerned that it would look like a "kickback," Cogar testified.

In order to obtain the federal grant, Laughery secured funding of more than \$1 million from other sources, including a \$600,000 grant from the West Virginia Development Office, a \$160,000 loan from the Mid-Ohio Valley Regional Council and a \$340,000 loan from United Bank.

News Item

Dept., Board, or Commission: WV Development Office
File #: _____
Newspaper: Charleston Gazette
Date: Tuesday, September 23, 2008

Guilty pleas entered in Internet fraud case

Prosecutors allege millions embezzled in broadband project

By Andrew Clevenger
Staff writer

HUNTINGTON — The CEO of a publicly funded, multimillion-dollar project to bring broadband Internet access to rural areas around Parkersburg allegedly threatened to walk away from the project in 2003 until others agreed to illegally funnel government money to her.

According to testimony Monday during guilty pleas from two of her co-defendants, Heidi C. Laughery lied when she said she was not getting a salary from Sequelle Communications Alliance Inc., a for-profit company formed to complete the broadband project.

Federal prosecutors allege that the project collapsed in 2004 after Laughery, with the help of others, embezzled millions from the endeavor, which received a \$3.295 million loan from the U.S. Department of Agriculture and \$1 million in state and private funding.

R. Scott Truslow, 49, a

Columbus, Ohio-based engineering contractor whose company was hired by Sequelle, pleaded guilty to one count of conspiring to launder money. Truslow admitted that he knew that the federal funds could not be used to compensate Laughery, but he accepted more than \$500,000, roughly half of which he gave to Laughery.

"We rationalized that it was good for the project [to keep Laughery involved]," Truslow said. "She convinced us that Sequelle's board had approved [the money-laundering arrangement]."

Truslow, who formed his company, Truscom LLC, in November 2002, admitted that its only client was Sequelle.

As part of his guilty plea, Truslow agreed to pay \$548,871 in restitution.

Herbert Cogar, an investigator with the state Legislative Commission on Special Investigations, testified that Sequelle was already paying Laughery \$150,000 a year when she pressured Truslow and officers at MentorGen LLC to pay her more money.

One of the conditions of the \$3.295 million federal loan was

that the funds had to be used for construction costs, and not to pay Sequelle's salaries and company expenses, Cogar said.

MentorGen, an Ohio-based telecommunications software development company, also pleaded guilty to laundering money for Laughery. George Anderson, MentorGen's vice president of sales and marketing and chairman of its board of directors, entered the plea on the firm's behalf. Anderson has not been charged with any crimes.

Although the business cannot go to prison, it did agree to pay restitution of \$1.5 million and a fine of \$100,000.

Laughery, who was convicted in 1987 of embezzling more than \$133,000 when she worked as a broker for Merrill Lynch in San Francisco, lied about her criminal history on funding applications to the Mid-Ohio Valley Regional Council, Cogar said.

In July 2003, with \$1 million in loans and grants secure from the other sources, Sequelle began receiving the federal funds, he said. In just over a year, Sequelle had received the entire amount, he said.

Although the project called for the construction of four transmission towers, only two were completed, he said.

Instead, Laughery siphoned \$2.4 million to MentorGen to fund a new venture, Sequelle Systems, Cogar said. Sequelle Systems was designed to repli-

cate the project's "Internet in a box" business model on a national scale, he said.

In October 2003, Laughery told Sequelle's board of directors that she would voluntarily suspend her salary, he said. Around that time, she met with Truslow and MentorGen officers and told them Sequelle had not paid her, Cogar said.

At that meeting, James Larry Hymer, MentorGen's chief financial officer, said it "would not look good" for Laughery to be paid directly by MentorGen, Cogar said. Sam Wooster, the company's chief technology officer, was concerned that it would look like a "kick-back," Cogar testified.

Between that meeting and December 2004, Laughery was paid roughly \$70,000 by Sequelle, he said. Her total compensation for that period, including the illegally laundered funds, was around \$325,000, he said. Laughery's compensation package included the use of an Infiniti G30 sedan, he said.

In the fall of 2004, Laughery became MentorGen's CEO and Truslow became the company's chief operations officer, he said. In March 2005, Laughery resigned from Sequelle, retroactive to Jan. 1, and recommended bankruptcy to the project's board of directors, he said.

Laughery and Hymer have pleaded not guilty and are scheduled to go to trial Oct. 28.

U.S. District Judge Robert C. Chambers scheduled sentencing for Truslow and MentorGen for Jan. 12. Truslow faces up to 10 years in prison.

Laughery hid the fact that she was a convicted felon on funding applications. Government records indicate that, in 1987, Laughery was convicted in federal court of embezzling more than \$133,000 from clients' accounts when she worked as a broker for Merrill Lynch in San Francisco. She was sentenced to 18 months in prison.

With the additional funding in place, Sequelle began receiving money from the \$3.295 million federal loan in July 2003, Cogar said. Within 14 months, Sequelle had drawn down the entire amount, he said.

Government officials responsible for monitoring the federal loan were unaware that Laughery and MentorGen were involved with Sequelle Systems, the new project with national ambitions, he said.

In fall 2004, with Sequelle Systems in place, Laughery became MentorGen's CEO and Truslow became the company's chief operations officer, Cogar said at the September hearing. In March 2005, Laughery resigned from the Parkersburg project, and recommended bankruptcy to its board of directors, Cogar said.

As part of the plea deal, Assistant U.S. Attorneys Anna Forbes and Booth Goodwin agreed to drop the rest of the 12-count indictment against Laughery.

U.S. District Judge Robert C. Chambers scheduled Laughery's sentencing for May 27. She faces up to 10 years in prison and restitution in an amount to be determined by the court.

Truslow, who also faces a possible 10-year sentence, is scheduled to be sentenced on March 16.

Reach Andrea Clevinger at aclevinger@wvpost.com or 304-344-7723.

Bresch jury: No charges

Garrison and Macia facing ethics probe

BY CASSIE SHANER *The Dominion Post*

WVU officials involved in the decision to award an unearned MBA degree to Heather Bresch will not be indicted on criminal charges, according to Monongalia Prosecuting Attorney Marcia Ashdown.

But an official with the state's Office of Disciplinary Counsel said ethics complaints have been filed against former WVU President Mike Garrison and former WVU Vice President for Legal Affairs Alex Macia.

In a statement released Thursday, Ashdown said her office worked with the state's Commission on Special Investigations to conduct an extensive investigation into the decision to grant the degree, reviewing information gathered by an independent academic panel and additional evidence gathered by investigators.

All the information collected in the investigation was presented to the Monongalia County grand jury, and that group chose not to hand down indictments.

"The grand jury was of the opinion that the conduct committed by the decision-makers constituted poor judgment and misapplication of power, rather than intentional criminal activity," Ashdown said in her statement.

In a report released with Ashdown's statement on Thursday, the grand jury said a "faulty decisionmaking process" led WVU officials to award the degree to Bresch, the daughter of Gov. Joe Manchin and chief operating officer of Mylan Pharmaceuticals.

According to the report, "the grand jury feels strongly that ethical and moral boundaries were violated by all individuals involved in this situation.

"The haste and poor judgment that accompanied and contributed to the incorrect degree decision, and resulted in the creation of an unfounded transcript, arose in a setting in which politics, express or implied, took the place of a studied and reasoned decisional process."

The grand jury agreed with the investigative panel's statement that Bresch "was not justified in any belief that she had actually earned a degree," and said the decision to grant the degree "has caused farreaching and unnecessary damage to the academic reputation of West Virginia University and to the State of West Virginia."

The grand jury said wrongdoing in the Bresch matter should be addressed in an academic setting and suggested WVU establish academic procedures to prevent the mistakes of the Bresch scandal from occurring again — a step that will "protect the integrity of degrees" previously awarded and those awarded in the future.

WVU officials have said they are working to address eight recommendations made by the investigative panel in response to the Bresch scandal. Per one recommendation, Garrison — who stepped down following the panel's report — said "the matter of grade modification to Ms. Bresch's academic records" was referred to the university's Office of Academic Integrity for review.

College of Law professor Marjorie Anne McDiarmid serves as WVU's academic integrity officer, but she said Thursday that she could not comment on any investigation into the Bresch matter. She has previously said that WVU policy prohibits her from discussing a case.

The grand jury report also indicated that "ongoing ethics inquiries" were appropriate in the Bresch case.

Ethics complaints filed

Rachael Cipoletti, chief lawyer for the Office of Disciplinary Counsel for the West Virginia State Bar, said Thursday that ethics complaints have been filed against Garrison and Macia, who was present at the meeting in which the decision was made to award the degree.

"I can't tell you anything about the investigation, only that they're under investigation," Cipoletti said.

Garrison and Macia, who also left his post at WVU this summer, have both returned to private practice with the law firm Spilman, Thomas & Battle, with Garrison in the Morgantown office and Macia in the Charleston office.

WVU spokeswoman Becky Lofstead has previously said that the state Ethics Commission made preliminary inquiries into the Bresch decision, but Lewis G. Brewer, the commission's executive director, said Thursday that he could neither confirm nor deny whether the ethics board is investigating.

Finally, the grand jury indicated that administrative changes at WVU and the action taken to rescind the Bresch degree "tend toward repairing the damage that was done, and now work toward restoring the public's confidence in our public institutions."

Interim WVU President C. Peter Magrath took over on Aug. 1, and the search for WVU's next president is under way. Former WVU President Gene Budig will chair the panel.

According to a timeline approved last month, the WVU Board of Governors is slated to pick the next president by April 3, 2009.

The Charleston Gazette

June 3, 2009

North Carolina woman indicted in state auditor scam

By **Andrew Clevenger**

Staff writer

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CHARLESTON, W.Va. -- A federal grand jury in Charleston has indicted a North Carolina woman for her part in a conspiracy that defrauded the West Virginia Auditor's office of about \$2 million.

In an eight-page indictment unsealed Wednesday, federal prosecutors charged Angella Muthoni Chegge-Kraszeski, 33, of Raleigh, with obtaining a false South African passport in the name of Christina Ann Clay, then using the false identity to create four dummy corporations in North Carolina.

Two of the bogus businesses had names similar to entities doing business with West Virginia's government, including Deloitte Consulting Corporation and Unisys Corporation, according to the indictment. The actual business names are Deloitte Consulting LLP and Unisys Corporation.

Chegge-Kraszeski allegedly set up bank accounts under the similar but incorrect business names at TCF Bank in Minneapolis. Using those names, she then contacted West Virginia Auditor Glen Gainer's office and had the funds diverted to the Minnesota accounts, the indictment alleges.

Chegge-Kraszeski and co-conspirators known and unknown to the grand jury then began funneling money to banks in Nairobi, Kenya, according to the indictment.

Gainer's office discovered the missing money in the beginning of May. According to the indictment, the first payment of \$919,916 intended for Deloitte Consulting for services provided to the state Department of Health and Human Resources was misdirected on March 19.

Over the next six weeks, Chegge-Kraszeski and her accomplices allegedly steered 12 payments totaling \$913,373.52 to banks in Kenya, the indictment charges.

The indictment focuses only on the monies diverted using the fake Deloitte account, said Assistant U.S. Attorney Booth Goodwin, head of the economic crimes section.

Chegge-Kraszeski was previously taken into custody on state charges and had her initial appearance in court in Raleigh earlier today, he said. U.S. Marshals are transporting her to West Virginia, where she will be arraigned on the current charges.

Goodwin declined to comment on whether others had been taken into custody or were facing additional charges.

The U.S. Secret Service and the West Virginia Commission on Special Investigations are handling the investigation, he said.

State Auditor Glen Gainer said he was "elated" at the fast response of the U.S. Attorney's Office and the U.S. Secret Services once the corporate identity theft was discovered.

"I'm very pleased that there has been at least one arrest in this case, and we look forward to others," he said.

Since the initial fraud was discovered, the state's payment process has been reviewed both internally and by an outside expert, he said.

"We are very diligently and carefully scrutinizing every electronic payment because of this," he said. "We are erring on the side of caution."

Since the fraud was uncovered locally, authorities have identified at least three other banking institutions, five corporations and nine other states besides West Virginia that may have been affected, Gainer said. He declined to be more specific, saying investigators have asked him not to disclose any additional information.

According to a news release from the Florida Department of Financial Services, members of the North Carolina State Bureau of Investigation in arrested Chegge-Kraszeski mid-May for allegedly trying to defraud Florida with a similar scheme.

Using an alias, Chegge-Kraszeski allegedly tried to divert millions in state funds by pretending to be a legitimate state vendor, the release states.

Reach Andrew Clevenger at acleven...@wvgazette.com or 304-348-1723.

By **Eric Eyre**
Staff writer

CHARLESTON, W.Va. - Convicted Cross Lanes computer executive Martin R. Bowling will have to wait up to 10 days to find out whether he'll continue to serve out his sentence in jail.

On Tuesday, Kanawha Circuit Judge Jennifer Bailey told Bowling she would keep an "open mind" and that he was a candidate for alternative sentencing.

But the judge noted that Bowling had a host of prior arrests since 2000 and failed a drug test while awaiting sentencing.

Bowling, former chief technical officer with Comar Inc. and its subsidiary Vec3, was sentenced to three years in prison earlier this month, after admitting he used stolen credit card numbers to purchase Cuban cigars, artwork, movie tickets and other merchandise on the Internet.

"He's always been able to get out of everything with no consequences," Bailey said. "He never said he was sorry until today."

Wearing shackles, an orange jumpsuit and his trademark black-rimmed designer eyeglasses, Bowling choked back tears as he stood in the courtroom and asked the judge to give him a second chance.

"With a second chance, I will never appear before this court or any other court," Bowling said. "I've let so many people down. It's not who I am. I'm not that person."

Bowling said he would pay restitution to the people whose credit card numbers he stole in 2006. Bowling swiped the names and numbers from a wood-crafting magazine subscription database, and admitted to making about \$4,900 in illegal purchases a year later.

"I understand the seriousness of the crime," Bowling said. "I've used my time in jail to think about my life and what I'm doing and what I want to be. I realize jail is not where I want to be."

Bowling said he was a good candidate for probation and promised he would become a productive member of society.

"I will use this opportunity to give back to the community and give to those in need," he said. "I would just like to make it better, make amends."

Bowling's lawyer, Erica Lord, said the two were friends and went to school together years ago. She noted that 25 people had submitted letters to Bailey, asking the judge to reduce Bowling's sentence.

"He's not the type of person I ever thought I'd end up representing," Lord said. "He has always been an inspiration to everyone he has touched. He's an extremely smart young man who made a bad lapse in judgment."

Bailey took offense to the comments of a Bowling supporter who suggested Bowling's punishment should include revamping the circuit court's antiquated Web site.

"That would be like placing someone who used meth in a pharmacy," the judge said.

Bailey said Bowling had 13 prior arrests since 2000, including charges of driving under the influence and driving with a suspended license.

Bailey also said Bowling made numerous illegal purchases on the Internet with the stolen credit card numbers over the course of a year.

"There were multiple incidents of that conduct over a year," Bailey said. "He violated their private lives, as well as the trust of his employer."

After failing his drug test, Bowling claimed he was taking a prescription medication at the time, but never provided proof of the prescription to the court.

"I can only presume it was illegal," Bailey said.

Bailey said she would rule on Bowling's request to reduce his sentence within seven to 10 days - possibly sooner.

"We have a young man who did not complete college," Bailey said. "Apparently, he has a gift and ability in the world of technology. He stands before this court as a convicted felon."

Bowling claims in his bio - published on his Web site and in Comar's MetroValley magazine - that he graduated from Marshall University with a computer science degree. However, Marshall officials said last week there's no record of Bowling graduating from Marshall.

About 20 of Bowling's supporters, including his mother, Mary Jane Bowling, crowded into the courtroom Tuesday.

The Gazette reported last week that Mary Jane Bowling, an administrator with the state Workforce West Virginia employment office, distributed a \$100,000 grant to Comar, which her son ultimately used to buy computers, office supplies and to travel to

conferences in Las Vegas, Seattle, Fort Lauderdale, Fla., and other cities throughout the U.S.

The Gazette story outlined how Mary Jane Bowling hand-delivered a \$37,000 check to Comar, directed office subordinates to make special payments to the company and authored a preliminary draft of Comar's grant application. She also administered the Department of Labor "set-aside" grant.

The grant's approval and subsequent payments came two months after Martin Bowling was indicted on computer fraud charges, and continued even after he was convicted in November.

Workforce West Virginia officials said Mary Jane Bowling never disclosed her son's legal troubles to her superiors. The office has started an investigation of the matter.

Mary Jane Bowling declined to answer questions Tuesday after the hearing. Her son's supporters surrounded her in a tight circle and ushered her out of the courtroom, blocking a Gazette photographer.

At one point, one of Mary Jane Bowling's associates locked the courtroom door and tried to prevent a photographer and reporter from leaving the courtroom as Bowling was rushed onto an elevator.

Comar CEO Al Hendershot also attended Tuesday's hearing, saying he would immediately hire Bowling back with the company as a private contractor, if Bailey frees him from prison.

Hendershot called Bowling a "brilliant strategist," who could help the company plan for its future. He said he wouldn't allow Bowling access to Comar's client database, however.

"We all understand the seriousness of this," Hendershot said. "If the intent was to teach Marty a lesson, then that was accomplished."

Moments later, Lord, Bowling's lawyer, abruptly cut Hendershot off and told him to quit speaking to a Gazette reporter.

"This has got to stop," Lord said.

Hendershot has previously said Comar completed an internal audit after Bowling's indictment on computer fraud charges last year. He added that Comar has receipts to show that all of the grant funds were spent as intended.

The Gazette requested copies of those receipts from Workforce West Virginia. The agency said Comar did not turn in receipts as part of its monthly reports.

Bowling made the bulk of his illegal purchases from his computer at Comar, according to a police report.

Bowling, 29, was nationally known for his expertise in Internet marketing and Web site development. He also specialized in "on-line reputation management," which helps companies and individuals push positive information about themselves to the top of a page following a Web search.

Bowling also developed a popular Web site called Zi.ma, which shortens Web address links or URLs. He frequently spoke about his work at national conferences.

He has more than 1,300 followers on Twitter.com, a social networking site, though he has been unable to post messages since being booked at South Central Regional Jail on March 5.

Reach Eric Eyre at erice...@wvgazette.com

The Charleston Gazette

March 31, 2009

Grant money disbursed to official's housemate

By Eric Eyre

Staff writer

CHARLESTON, W.Va. -- A West Virginia employment programs administrator distributed federal grant money that ultimately was used to pay \$5,000 to her Cross Lanes housemate.

Mary Jane Bowling, a grants manager with Workforce West Virginia, helped to direct a \$100,000 grant to Cross Lanes-based Comar Inc., which subsequently used the funds to pay \$5,000 to Christine Gardner, whom Comar hired to help write its grant application.

Bowling, 56, and Gardner, 58, share the same Edgebrook Road address on their driver's licenses, personal property tax ticket, voter registration cards and in the state payroll system.

The \$5,000 payment came two months after Bowling's son, former Comar Chief Technical Officer Martin Bowling, was indicted on computer fraud charges in Kanawha County Circuit Court.

A Workforce West Virginia spokeswoman declined to say whether the agency knew of Bowling's and Gardner's connection before and after the grant was awarded.

"Workforce West Virginia is still looking into the matter," said Jama Jarrett of the state Department of Commerce, which oversees the employment programs office.

Comar Chief Executive Officer Albert Hendershot said Tuesday that Mary Jane Bowling and Gardner "do not cohabit. They don't live together."

Hendershot said Bowling rents an apartment from Gardner. The Gazette found no records to substantiate that assertion.

Mary Jane Bowling wrote a preliminary draft of Comar's initial grant application, which Gardner revised and submitted to Workforce West Virginia for approval in April 2008, according to records obtained by the Gazette. The two also traded questions and answers while working to fine-tune the application.

The final grant application lists Gardner as a Comar "partner," who supported the firm's employee training project and provided an "in-kind" donation of talent and time.

After Workforce West Virginia approved the grant, Comar and its subsidiary, Vec3, submitted a "statement of work revision" that included a \$5,000 request to pay Gardner as a "professional advisor."

Bowling signed off on the revision that paid her housemate \$500 a day for 10 days of work on the grant, according to a document that Bowling initialed. She also e-mailed Gardner grant-related documents, including a letter from Gov. Joe Manchin announcing that Comar had been awarded \$100,000 - one of nine recipients of a federal Department of Labor "set-aside" grant last year.

Last July, Comar submitted a monthly grant report to Workforce West Virginia, stating that Gardner worked for the company between July 14 and 25, 2008, and was owed \$5,000.

Days later, Mary Jane Bowling hand-delivered a \$37,100 check to Comar's Cross Lanes office, records show. The check included the \$5,000 payment for Gardner.

Gardner's contract states that she performed a "needs assessment study on West Virginia-based small business and Internet marketing." The contract required her to submit a "final results report" to Comar, a marketing firm that also publishes MetroValley magazine.

Gardner could not be reached for comment. A person who answered Gardner's cell phone earlier this week identified herself as Gardner's sister and said Gardner was attending to a family emergency and was unavailable for comment.

Gardner has not returned phone calls and e-mails seeking comment during the past two weeks. Mary Jane Bowling also has repeatedly declined comment.

The Gazette examined a host of records that show Bowling and Gardner share the same address in Cross Lanes.

Voter registration records indicate the women have lived at the same house since 2001. Their most recent Kanawha County vehicle tax ticket shows they share the same address and jointly pay taxes on three vehicles.

Their driver's licenses and payroll records also list the same Cross Lanes residence.

Property tax records list only Gardner's name on her Cross Lanes home. She does not own any rental properties in Kanawha County or nearby Putnam County, according to a record search.

Bowling owns a condo in Cross Lanes, where Martin Bowling and his girlfriend, Mandi Felty, last lived, according to voter registration, driver's license and personal property tax records. Mary Jane Bowling's property is designated as "non-owner occupied."

Since 2006, Gardner has run West Virginia State University Extension's Economic Development Center at 1506 Kanawha Blvd. W. in Charleston. The center, which pairs job seekers with employers, is funded by federal grants.

A company owned by Martin Bowling, NexGen Solutions, was headquartered at the same Kanawha Boulevard address as Gardner's office, according to a list of companies that provide training for Workforce West Virginia.

Years ago, Martin Bowling got his start at Comar as a mentor to Gardner's daughter, who works at the company.

On March 5, Bowling was sentenced to three years in prison after he admitted he stole credit card numbers and names and used them to purchase Cuban cigars, movie tickets and artwork on the Internet. Bowling made most of the purchases on his office computer at Comar, according to a police report.

Last week, Bowling asked Kanawha Circuit Judge Jennifer Bailey to reduce his sentence and place him on probation or home confinement. Gardner was one of about 20 people who attended Bowling's court hearing to show support for the convicted felon's request.

Bailey plans to decide on Bowling's future within days.

The Gazette previously reported that Martin Bowling's girlfriend, Felty, also was paid \$5,000 by Comar from the grant Mary Jane Bowling administered. Felty, like Gardner, worked as a "personal advisor," according to her contract.

State ethics law prohibits public officials and state employees from using their position for private gain "or that of another person."

Gardner previously worked at the state Development Office, where she was assigned to recruit Canadian businesses.

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The Charleston Gazette

April 1, 2009

State sought grant for convicted computer executive

Agency pursued federal funding despite guilty plea

By Eric Eyre

Staff writer

CHARLESTON, W.Va. - West Virginia's employment programs agency worked to secure a \$900,000 federal grant in February for convicted Cross Lanes computer executive Martin Bowling and his employer, Comar Inc., even though Bowling had pleaded guilty to felony computer fraud charges two months earlier and was awaiting sentencing.

The grant request is still pending before the U.S. Department of Labor, an agency spokeswoman said Wednesday.

Bowling worked on the grant application with his mother, Mary Jane Bowling, an employment programs administrator with Workforce West Virginia, agency records show. Martin Bowling, 29, was convicted in November and sentenced on March 5 to three years in prison.

In early February, Workforce West Virginia approached Martin Bowling, former chief technical officer at Comar and its subsidiary, Vec3, about the availability of the federal grant to provide technology training for more than 200 elderly workers across the state. No other businesses or nonprofits were given an opportunity to collaborate with the state on the grant.

Bowling planned to lead the project - called the "Vec3/Workforce West Virginia Senior Academy."

The state employment programs agency hasn't withdrawn its \$900,000 grant application, Workforce West Virginia spokeswoman Jama Jarrett said Wednesday.

"We are taking a close look at anything that involves the company in question," Jarrett said.

Comar Chief Executive Officer Al Hendershot said the Cross Lanes marketing and publishing firm would likely stop pursuing the grant.

"It's certainly a great project, but we're going to decline to go after it," Hendershot said Wednesday. "We're a little reluctant to do grants right now."

Workforce West Virginia first approached Martin Bowling about the federal grant on Feb. 10, according to an e-mail sent by Pam Williams, an employment programs specialist who works under Bowling's mother.

Williams told Bowling they had only days to put together the grant application.

"So bottom line, we would like to work with you and the Vec3 group to develop a training program for the older worker population," Williams wrote to Bowling, who was awaiting sentencing at the time. "It would be a great opportunity for the Vec3 group if the state is awarded the grant, which would be \$900,000."

In subsequent e-mails, Williams requested that Bowling send her background information on Vec3 and a proposed project budget. Williams notified Bowling that his mother would be calling him to discuss the project.

Two days later, Bowling submitted a proposal to Williams that included biographical information.

"Martin Bowling brings vast knowledge of new media to his stewardship of Vec3," the proposal states.

The proposal also listed Vec3's "key partners" - companies that would collaborate on the grant and hire elderly workers trained at the technology academy.

Those partners included Chesapeake Energy, Summersville-based Bright Enterprises and the Cunningham Laser Vaginal Rejuvenation Institute in Charleston.

Hendershot said Wednesday he was unsure why Bowling included the institute as a project partner. The institute, which specializes in designer laser vaginoplasty, G-spot enhancement and other cosmetic surgery procedures, employs seven people.

"I'm surprised we listed it," Hendershot said. "I'm not sure what that's about. Maybe, they're going to do a spa."

The institute's director, Lynn Cunningham, could not be reached for comment Wednesday.

After receiving Vec3's proposal, Williams sent an e-mail to Mary Jane Bowling on Feb. 16, asking whether Bowling had a copy of Vec3's budget for the grant.

Mary Jane Bowling wrote back that she had reviewed the company's budget and suggested that it be fine-tuned.

A day later, Mary Jane Bowling contacted her son about Vec3's "strategies, activities, timeframes and outcomes" with the project, according to an e-mail.

"Does it cover close to what your objectives are?" Mary Jane Bowling asked Martin Bowling in an e-mail. "We will insert the common measures - employment rate, retention, etc."

Bowling and Vec3 planned to use the grant money over three years, records show.

Williams declined comment Wednesday, referring questions to Jarrett, Workforce West Virginia's spokeswoman, who would not say whether Williams knew about Bowling's legal troubles.

Mary Jane Bowling and Martin Bowling have repeatedly declined comment.

Last week, Martin Bowling asked Kanawha County Circuit Judge Jennifer Bailey to reduce his sentence and place him on probation or home confinement. Bailey plans to decide Bowling's fate within days.

Bowling was sentenced March 5, after he admitted he stole credit card names and numbers and used them to buy artwork, Cuban cigars, movie tickets and other merchandise on the Internet.

Bowling told police he made most of the purchases on his computer at Comar, which publishes MetroValley magazine.

The Gazette has previously reported that Mary Jane Bowling helped to direct grant money to Comar that was ultimately distributed to Martin Bowling and his girlfriend, Mandi Felty. Comar also used the grant funds to pay \$5,000 to Christine Gardner, who shares the same address as Mary Jane Bowling and worked as a "professional adviser" for the Cross Lanes firm, the Gazette found.

Workforce West Virginia has started a review of the matter.

Martin Bowling was a nationally known expert on Internet marketing, Web site development and "online reputation management," a service to improve a company or individual's image on the Internet.

He was being held at South Central Regional Jail this week.

Twenty-five people, including Hendershot, Felty and Gardner, have submitted letters supporting Bowling to the judge.

Charleston Gazette

May 5, 2009

\$1 million grant request included positions for state official and her convicted son

By Eric Eyre
Staff writer

CHARLESTON, W.Va. - A state workforce training official stood to receive up to \$82,700 from a \$1 million federal grant she sought for a Cross Lanes computer firm that employed her son.

Much of the grant money also was slated for an economic development center, where the state official's housemate works as an extension agent.

Mary Jane Bowling, a Workforce West Virginia office manager, filed the grant application with the U.S. Department of Labor two months after her son, Martin Bowling, was convicted of computer fraud.

The state agency withdrew its application for the federal grant last month in the wake of a series of Gazette reports about alleged misconduct at Workforce West Virginia.

Mary Jane Bowling planned to work as the workforce training grant's "program coordinator," a position which would pay her \$82,728 over three years, according to the grant application recently obtained under the state Freedom of Information Act.

The money would have been used to offset -- not supplement -- Bowling's \$55,000-a-year state government salary, agency officials said this week.

"The money outlined in the grant was not an addition to Mary Jane's salary," said Workforce West Virginia spokeswoman Jama Jarrett. "Workforce West Virginia could have reimbursed itself for her time spent on the grant."

Comar Inc. and its subsidiary Vec3, where Martin Bowling worked as chief technical officer, was to receive \$258,000 of the federal grant money, records show.

Martin and Mary Jane Bowling planned to lead the project -- called the "Vec3/Workforce West Virginia Senior Academy."

Meanwhile, \$385,000 in grant money was earmarked for West Virginia State University's Office of Community and Economic Development. Gardner runs the office's Economic Development Center on Charleston's West Side.

Tax and voting records show that Gardner and Mary Jane Bowling have shared the same Cross Lanes address for years. Gardner also is Martin Bowling's godmother.

The \$1 million federal grant was to provide technology training for about 250 elderly workers -- or \$4,000 per person -- across the state.

No other businesses or nonprofits were given an opportunity to collaborate with the state on the grant.

After receiving documents related to a draft of the grant application, the Gazette previously reported that Mary Jane and Martin Bowling sought a \$900,000 federal grant to train older workers.

However, records released last week show Workforce West Virginia requested \$1 million from the federal government.

Workforce West Virginia first approached Martin Bowling about the federal grant on Feb. 10, according to an e-mail sent by Pam Williams, an employment programs specialist who works under Mary Jane Bowling. Martin Bowling and Mary Jane Bowling later traded e-mails about the grant, records show.

The federal grant's proposed budget called for paying part-time salaries to Mary Jane Bowling, Williams, and four other Workforce West Virginia employees.

Mary Jane Bowling was expected to spend at least half of her work hours on the project.

The state employees also were to receive \$82,947 in fringe benefits from the federal grant to offset their benefits provided by the state.

Comar and Vec3 planned to use \$285,000 of the \$1 million grant to establish an online "Web portal," according to the grant application.

The Web site was to include tutorials, a question and answer forum, training directory and a skills evaluation survey. Older workers also would use the site for "social networking," according to the grant application.

West Virginia State's Community and Economic Development office planned to use its portion of the grant to provide entrepreneurial training and mentoring for older women through a small business program called "Opening Soon Inc.," the grant application states.

The program is offered at WVSU's Economic Development Center, where Gardner works as an extension agent.

The grant application included letters of support from four area businesses that pledged to hire elderly workers through the project.

Those employers included Bright Enterprises, TRG call center and the Cunningham Laser Vaginal Rejuvenation Institute in Charleston.

The Institute's director, Lynn Cunningham, wrote that the elderly worker technology-training project would provide the Institute with a "higher quality and quantity of potential employees." The Institute, which employs seven people, specializes in designer laser vaginoplasty, G-spot enhancement and other cosmetic surgery procedures.

"The Cunningham Laser Vaginal Rejuvenation Institute would feel confident the potential employees have proven proficient in the desired skill and qualify for an open position immediately without requiring further training," Cunningham wrote in the letter attached to the federal grant application.

The state Legislature's Commission on Special Investigations and Workforce West Virginia are reviewing a separate \$100,000 federal grant that Mary Jane Bowling distributed to Comar and Vec3 last year.

Workforce West Virginia Director Ron Radcliff resigned amid the probes.

Last week, Gov. Joe Manchin appointed Russell Fry as acting director of Workforce West Virginia. Fry was the agency's employment services director.

In November, Martin Bowling pleaded guilty to a computer fraud charge, after admitting he stole people's names and credit card numbers and used them to purchase cigars, artwork, movie tickets and other merchandise.

In March, Bowling was sentenced to three years in state prison.

Two weeks ago, Bowling was released from South Central Regional Jail. Kanawha Circuit Judge Jennifer Bailey changed his sentence to five years of probation with a year of home confinement.

The Bowlings declined to comment this week.

Workforce West Virginia officials have declined to say whether they've taken disciplinary action against Mary Jane Bowling. She has remained on the state payroll amid the investigation.

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**POWERS & DUTIES
OF THE
COMMISSION**

The West Virginia Code

ARTICLE 5.

COMMISSION ON SPECIAL INVESTIGATIONS

Sec.		Sec.	
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§ 4-5-1. Commission continued as "commission on special investigations"; composition; appointment and terms of members.

The purchasing practices and procedures commission, heretofore created, shall continue in existence but on and after the effective date of this section shall be named and designated the "commission on special investigations." The commission shall continue to be composed of five members of the Senate, to be appointed by the president thereof, no more than three of whom shall be from the same political party; and five members of the House of Delegates, to be appointed by the speaker thereof, no more than three of whom shall be appointed from the same political party: Provided, That in the event the membership of a political party is less than fifteen percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than fifteen percent membership may be one from that house. The commission shall be headed by two cochairmen, one to be selected by and from the members appointed from the Senate, and one to be selected by and from the members appointed from the House of Delegates. All members of the commission shall serve until their successors shall have been appointed as heretofore provided. (1971,c.87;1980,c.78;1989,c.113.)

§ 4-5-2. Powers and duties generally.

The commission on special investigations shall have the power, duty and responsibility, upon a majority vote of the members appointed, to:

- (1) Conduct a comprehensive and detailed investigation into the purchasing practices and procedures of the state;
- (2) Determine if there is reason to believe that the laws or public policy of the state in connection with purchasing practices and procedures have been violated or are inadequate;
- (3) Determine if any criminal or civil statutes relating to the purchasing practices and procedures in this state are necessary to protect and control the expenditures of money by the state;
- (4) Investigate or examine any matter involving conflicts of interest, bribery of state officials, malfeasance, misfeasance or nonfeasance in office by any employee or officer of the state;

(5) Conduct comprehensive and detailed investigations to determine if any criminal or civil statutes have been violated at any level of state government;

(6) Determine whether to recommend criminal prosecution or civil action for any violation, either criminal or civil, at any level of state government and, if it is determined that action is necessary, to make appropriate recommendation to the attorney general, prosecuting attorney or other authority empowered to act on such recommendation; and

(7) Make such written reports to the members of the Legislature between sessions thereof as the commission may deem advisable and on the first day of each regular session of the Legislature make an annual report to the Legislature containing the commission's findings and recommendations including in such report drafts of any proposed legislation which it deems necessary to carry such recommendations into effect.

The commission is also expressly empowered and authorized to:

(1) Sit during any recess of the Senate and House of Delegates;

(2) Recommend to the judge of any circuit court that a grand jury be convened pursuant to the provisions of section fourteen, article two, chapter fifty-two of this code, to consider any matter which the commission may deem in the public interest and, in support thereof, make available to such court and such grand jury the contents of any reports, files, transcripts of hearings or other evidence pertinent thereto;

(3) Employ such legal, technical, investigative, clerical, stenographic, advisory and other personnel as it deems needed and, within the appropriation herein specified, fix reasonable compensation of such persons and firms as may be employed: Provided, That such personnel as the commission may determine shall have the authority to administer oaths and take affidavits and depositions anywhere in the state;

(4) Consult and confer with all persons and agencies, public (whether federal, state or local) and private, that have information and data pertinent to an investigation; and all state and local governmental personnel and agencies shall cooperate to the fullest extent with the commission;

(5) Call upon any department or agency of state or local government for such services, information and assistance as it may deem advisable; and

(6) Refer such matters as are appropriate to the office of the United States attorney and cooperate with such office in the disposition of matters so referred. (1971,c.87;1980,c.78)

§ 4-5-3. Executive sessions; hearings; subpoena power; enforcement provisions.

The commission shall have the power and authority to hold executive sessions for the purpose of establishing business, policy, an agenda and the interrogation of a witness or witnesses: Provided, That if a witness desires a public or open hearing he shall have the right to demand the same and shall not be heard otherwise: Provided, however, That if a witness desires a hearing in an executive session, he shall have the right to demand the same and shall not be heard otherwise. However, members of the staff of the commission may be permitted to attend executive sessions with permission of the commission.

The commission is hereby empowered and authorized to examine witnesses and to subpoena such persons and books, records, documents, papers or any other tangible things as it believes should be examined to make a complete investigation. All witnesses appearing before the commission shall testify under oath or affirmation, and any member of the commission may administer oaths or affirmations to such witnesses. To compel the attendance of witnesses at such hearings or the production of any books, records, documents, papers or any other tangible thing, the commission is hereby empowered and authorized to issue subpoenas, signed by one of the

cochairmen, in accordance with section five, article one, chapter four of this code. Such subpoenas shall be served by any person authorized by law to serve and execute legal process and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers or any other tangible thing within his control when the same are demanded, the commission shall report the facts to the circuit court of Kanawha county or any other court of competent jurisdiction and such court may compel obedience to the subpoena as though such subpoena had been issued by such court in the first instance. (1971, c. 87.)

§ 4-5-4. Compensation and expenses of members; other expenses; how paid; joint committee approval.

The members of the commission shall receive travel, interim and out-of-state expenses, as authorized in sections six, eight and nine, article two-a, chapter four of this code. Such expenses and all other expenses including those incurred in the employment of legal, technical, investigative, clerical, stenographic, advisory and other personnel shall be paid from the appropriation under "Account No. 103 for Joint Expenses," but no expense of any kind whatever shall be incurred unless the approval of the joint committee on government and finance therefor is first had and obtained by the commission. (1971, c. 87.)

§ 4-5-5. Investigations exempt from public disclosure requirements.

The investigations conducted by the commission and the materials placed in the files of the commission as a result of any such investigation are exempt from public disclosure under the provisions of chapter twenty-nine-b of this code. (1986, c 98.)

§ 4-5-6. False statements to commission.

(a) A person is guilty of making a false statement to the commission on special investigations when:

(1) Such person, with the intent to impede the commission or to impede an investigator of the commission acting in the lawful exercise of his or her official duties, knowingly and willfully makes any false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry;

(2) Such statement, representation, writing or document is made or given to the commission or an investigator of the commission acting in the lawful exercise of his or her official duties; and

(3) The misrepresentation is material.

(b) The provisions of subsection (a) of this section are not applicable to a person in the relation of husband and wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, of an individual who is the subject of an investigation by the commission.

(c) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than one thousand dollars, or confined in jail for not more than one year, or both, in the discretion of the court.

RULES OF THE COMMISSION

**RULES OF THE
COMMISSION ON SPECIAL INVESTIGATIONS
WEST VIRGINIA LEGISLATURE**

Section 1. Establishment and Purpose of Rules.

A code of fair procedure for the Commission on Special Investigations is hereby established for the purpose of providing for the operation of this Commission in a manner which will enable it to perform properly the powers and duties vested in it, including the conduct of hearings, in a fair and impartial manner, consistent with protection of the constitutional rights of persons called to testify at such hearings and preservation of the public good.

Section 2. Definitions.

As used in these rules:

1. "Commission" means the Commission on Special Investigations as enacted by the Legislature at the regular session 1980.

2. "Hearing" means any meeting in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted by the Commission for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.

3. "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public.

Section 3. Quorums and Voting.

(a) A quorum shall consist of a majority of the total authorized membership of the Commission.

(b) No action shall be taken by the Commission at any meeting unless a quorum is present. The Commission may act only by a majority vote of the total membership of the Commission.

Section 4. Hearings.

(a) The Commission may hold hearings appropriate for the performance of its duties, at such times and places as the Commission determines.

(b) Each member of the Commission shall be given at least three days' written notice of any hearing to be held when the Legislature is in session and at least seven days' written notice of any hearings to be held when the Legislature is not in session. Such notices shall include a statement of the subject matter of the hearing. A hearing and any action taken at a hearing, shall not be deemed invalid solely because notice of the hearing was not given in accordance with this requirement.

(c) The Commission shall not conduct a hearing unless a quorum is present.

Section 5. Issuance of Subpoenas.

(a) The Commission, by majority vote of the members present, may issue a subpoena requiring a person to appear before the Commission and be examined in reference to any matter within the scope of the inquiry or investigation being conducted by the Commission. The Commission also may issue a subpoena or subpoena duces tecum requiring any person to appear before the Commission and bring with him any books, records, documents and such other papers pertinent thereto.

(b) A person subpoenaed to attend a hearing of the Commission shall receive the fees and allowances as provided for in sections sixteen and seventeen, article one, chapter fifty-nine of the Code.

Section 6. Notice to Witnesses.

(a) Service of a subpoena requiring the attendance of a person at a hearing of the Commission shall be made in the manner provided by law, including the Rules of Civil Procedure, for the service of subpoenas in civil actions, except that the subpoenas shall be served without charge. Service shall be made at least seven days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of the members present of the Commission in a particular instance when, in their opinion, the giving of seven days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

(b) Any person who is served with a subpoena to attend a hearing of the Commission also shall be served with a copy of the resolution establishing the Commission, a copy of the rules under which the Commission functions, a general statement informing him of the subject matter of the Commission's investigation or inquiry and a notice that he may be accompanied at the hearing by counsel of his own choosing.

Section 7. Conduct of Hearings.

(a) All hearings of the Commission shall be public unless the Commission, by majority vote of the members present, determines that a hearing should not be open to the public in a particular instance; provided, however, that if a witness desires a hearing in an executive session, he shall have the right to demand the same and shall not be heard otherwise. However, members of the staff of the Commission may be permitted to attend executive sessions with permission of the Commission.

(b) The cochairman on the part of the Senate, if present and able to act, shall preside at all hearings of the Commission and shall conduct the examination of witnesses himself or permit examination by other members of the Commission's staff who are so authorized. In his absence or disability, the cochairman on the part of the House shall serve as presiding officer. Selection of a presiding officer to act in the absence or disability of both cochairmen shall be by majority vote of the members present at a meeting at which there is a quorum.

(c) No hearing, or part thereof, shall be televised, filmed or broadcast except upon approval of the Commission, by majority vote of the members present.

Section 8. Right to Counsel and Submission of Questions.

(a) Every witness at a hearing may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the Commission may prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

(b) Any witness at a hearing, or his counsel, may submit to the Commission proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the Commission shall ask such of the questions as are appropriate to the subject matter of the hearing.

Section 9. Testimony.

(a) The Commission shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the Commission and its staff, the testimony or responses of witnesses, sworn written statements submitted to the Commission, and such other matters as the Commission may direct.

(b) All testimony given or adduced at a hearing shall be under oath or affirmation unless the requirement is dispensed within a particular instance by majority vote of the Commission members present at the hearing.

(c) Any member may administer an oath or affirmation to a witness at a hearing.

(d) The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper or other document, the production of which has been required by a subpoena duces tecum. Unless the direction is overruled by majority vote of the Commission members present, disobedience shall constitute a contempt.

(e) A witness at a hearing or his counsel, with the consent of a majority of the Commission members present at the hearing, may file with the Commission for incorporation into the record of the hearing sworn written statements relevant to the purposes, subject matter and scope of the Commission's investigation or inquiry.

(f) A witness at a hearing, upon his request and at his own expense, shall be furnished a certified transcript of his testimony at the hearing.

(g) Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of the members of the Commission who are present, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.

(h) All information of a defamatory or highly prejudicial nature received by or for the Commission other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by majority vote of the members of the Commission who are present for legislative purposes, or unless its use is required for judicial purposes.

Section 10. Interested Persons.

(a) Any person whose name is mentioned or who is otherwise identified during a hearing of the Commission and who, in the opinion of the Commission, may be adversely affected thereby, may, upon his request or upon the request of any members of the Commission, appear personally before the Commission and testify in his own behalf, or, with the Commission's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

(b) Upon the consent of a majority of the members present, the Commission may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance or submission of evidence shall limit in any way the Commission's power of subpoena.

(c) Any person who appears before the Commission pursuant to this section shall have all the rights, privileges and responsibilities of a witness provided by these Rules.

Section 11. Presiding Officer.

The cochairman on the part of the Senate, if present and able to act, shall preside at all meetings of the Commission. In his absence or disability, the cochairman on the part of the House shall preside. Selection of a presiding officer to act in the absence or disability of both cochairmen shall be by majority vote of the members present at a meeting at which there is a quorum.

Section 12. Contempt.

(a) A person shall be in contempt if he:

1. fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation;

2. fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper or other document subpoenaed by or on behalf of the Commission; or

3. commits any other act or offense against the Commission which, if committed against the Legislature or either house thereof, would constitute a contempt.

(b) The Commission may, by majority vote of the members present, authorize the taking of such steps as are necessary under law to obtain a contempt citation in such cases.

Section 13. Meetings.

Meetings of the Commission, other than hearings, shall be held upon call of either cochairman or upon majority vote of the members present. Unless otherwise directed by majority vote of the members present, such meetings will be held at the State Capitol.

Section 14. Limitation of Rules.

Nothing contained in these Rules shall be construed to limit or prohibit the acquisition of evidence or information by the Commission by any lawful means not provided for herein.