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**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  
Jeffrey Kessler  
Co-Chairman*

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

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**Thirty-second Annual Report  
to the  
West Virginia Legislature  
June 30, 2012**

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301 Eagle Mountain Road  
Room 218

WEST VIRGINIA LEGISLATURE  
**Commission on Special Investigations**

CHARLESTON, WEST VIRGINIA 25311-1061

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February 13, 2013


West Virginia Legislature  
Charleston, West Virginia

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

Respectfully submitted,



Jeffrey Kessler, Co-Chairman  
Commission on Special Investigations



Rick Thompson, Co-Chairman  
Commission on Special Investigations

JK:RT:lmw

## TABLE OF CONTENTS

	Page
Introduction	1
I. Commission Members and Staff	1
II. Special Appreciation	2
III. Activities of the Commission:	2
Bluefield Sanitary Board	3
Department of Administration	7
Public Defender Services	7
Treasurer's Office	8
Coal City Volunteer Fire Department	9
Consolidated Public Employee's Retirement Board	9
IV. Newspaper Articles	
V. Appendix A: Powers and Duties of the Commission	1a
VI. Appendix B: Rules of the Commission	1b

Pursuant to Chapter 4, Section 2, Article 5 of the West Virginia Code, the Commission on Special Investigations presents the Thirty-second Annual Report to the West Virginia Legislature. This Report covers the Commission's activities from July 1, 2011 through June 30, 2012.

### **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, 2012:

<u>Senate</u>	<u>Appointed to Commission</u>
Jeffrey Kessler - D (Co-Chairman)	2011
Donna Boley - R	2001
Mike Hall – R	2010
Corey Palumbo - D	2011
John Unger – D	2011

<u>House</u>	<u>Appointed to Commission</u>
Rick 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, 2012:

<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	Administrative Assistant

**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, 2011 through June 30, 2012)**

During the course of this fiscal year, the Commission on Special Investigations opened 14 investigative files and closed six investigations. As of June 30, 2012, there were 81 active investigations. The Commission met 10 times between July 1, 2011 and June 30, 2012. 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:

**Bluefield Sanitary Board**

In February 2007, CSI received information from Bluefield, West Virginia City officials that monies were being embezzled from the Bluefield Sanitary Board through various schemes. The Bluefield Sanitary Board serves both the City of Bluefield, West Virginia and the Town of Bluefield, Virginia, and operates as a stand-alone entity, funding itself through sewer fees and grant monies. The Sanitary Board has a governing Board of Directors that oversees Sanitary Board operations. The Board's day-to-day operations are the responsibility of the Sanitary Board Executive Director. Contemporaneous with this information being provided to CSI, the United States Attorney's Office for the Southern District of WV received similar information and a joint investigation was undertaken into the allegations.

CSI investigators were granted access to Sanitary Board financial records and several suspected fraudulent schemes were identified whereby hundreds of thousands of dollars were being siphoned from the Sanitary Board. The suspected schemes involved the then current Sanitary Board Executive Director, the Board Maintenance Supervisor, the Board Line Crew Supervisor, the Manager of the Board's West Side Treatment Plant, and several other individuals. The suspected schemes involved multiple non-existent companies that received payments from the Sanitary Board for products and services not received, employees who used Sanitary Board resources for personal gain, the direct embezzlement of Sanitary Board funds from an "off-balance sheet" bank account, and the receipt of goods and services by employees that were paid for by the Sanitary Board.

The suspected schemes and fraudulent activities identified included the following:

- Hundreds of dollars in Sanitary Board funds were expended to ship, via Federal Express, personal items of a Sanitary Board employee

- A Sanitary Board employee arranged the installation of a new heat pump at the employee's residence with the unit and installation being paid for by the Sanitary Board
- Sanitary Board employees regularly falsified expense accounts
- "Bonuses" were given to select employees without the knowledge or consent of the Sanitary Board's Board of Directors
- Sanitary Board employees were regularly directed to perform work of a personal nature for other Sanitary Board employees
- A Sanitary Board employee directed the purchase of new suspended ceiling components for the Sanitary Board's West Side Treatment Plant. These materials were then used by the employee in the employee's residence
- A Sanitary Board employee used a Sanitary Board credit card to purchase hundreds of dollars in items used by the employee at the employee's residence and personal business
- The Sanitary Board paid thousands of dollars for hay and straw it did not receive when Sanitary Board employees submitted fictitious invoices
- The Sanitary Board was invoiced under the name of several actual and fictitious companies for the hauling of sewer sludge, hauling of gravel, work on farm roads where sludge was allegedly delivered and for road repairs (asphalt paving) when these services were not performed
- The Sanitary Board's equipment, material and personnel were used to install 1,400 feet of sewer line to a private residence where a Sanitary Board employee invoiced the property owner using a fictitious company and the Sanitary Board employee received the proceeds
- Various trucks, trailers and equipment were invoiced to the Sanitary Board, however they were never delivered to the Sanitary Board
- A Sanitary Board employee authorized employees to purchase automotive parts and building materials for use by the employee, with the items being paid for by the Sanitary Board and installed on the employee's personal vehicles and being used at the employee's residence and personal business
- An "off balance sheet" bank account was established by Sanitary Board employees whereby monies totaling several thousand dollars were collected in the name of the Sanitary Board, deposited and then expended by an employee for items not used by the Sanitary Board
- Sanitary Board employees and equipment were used to transport and erect temporary horse stalls owned by the City of Bluefield, West Virginia, for private entities, and the Sanitary Board employees directed the payments received to an inactive bank account in the name of a fictitious company operated by one of the Sanitary Board employees, for the purpose of converting the payments to cash which was "split" among Sanitary Board workers involved

- An inspector paid under a contract with the Sanitary Board actually spent his work day working for one of the Sanitary Board's employees at the employee's personal business

Federal Grand Jury subpoenas were issued for bank records and other documents from numerous persons and companies, and a detailed review of those records was conducted by CSI investigators. Sanitary Board employees and other persons associated with Sanitary Board operations and who potentially had information regarding these schemes were interviewed by CSI investigators. Several persons appeared before a Federal Grand Jury and testimony was taken in regard to many of the suspected schemes and suspect invoices. Following two years of intense investigation, the United States Attorney declined prosecution due to statute of limitation restrictions and the lack of Federal funding to the Bluefield Sanitary Board during the limited time frame applying to specific statutory violations. As there were numerous violations of State law discovered during the investigation, the United States Attorney petitioned the Federal Court to allow the release of information gained through the Federal Grand Jury to the Prosecuting Attorney of Mercer County, West Virginia, for possible prosecution.

CSI Investigators briefed Mercer County Prosecuting Attorney Timothy Boggess regarding the investigation and provided to the Prosecutor relevant documents and Grand Jury records. In March 2010, CSI investigators presented to the Mercer County Grand Jury information regarding several of the schemes and the following indictments were returned:

- Robert Terry Honaker – former Executive Director of the Bluefield Sanitary Board, six (6) counts of conducting Fraudulent Schemes, one (1) count of Obtaining Money by False Pretense.
- Kirk A. Simpkins – two (2) counts of Obtaining Money by False Pretense.
- Steven R. Burkhart Sr. – Line Crew Supervisor for the Bluefield Sanitary Board, four (4) counts of conducting Fraudulent Schemes and six (6) counts of Falsifying Accounts.
- Joseph Anthony Nunn – one (1) count of Conducting a Fraudulent Scheme
- Dewayne Houk Sr. – Maintenance Supervisor for the Bluefield Sanitary Board, one (1) count of Embezzlement.



As the “off balance sheet” bank account was operated in the State of Virginia, the information regarding that scheme was provided to Dennis Lee, Commonwealth Attorney for Tazewell County, Virginia, for further investigation by the Virginia State Police.

Immediately prior to the initiation of CSI’s investigation into this matter, Robert Terry Honaker was terminated as Executive Director of the Bluefield Sanitary Board. During the investigation and prior to the indictments, Steven Burkhart Sr. was terminated from his position as the Board’s Line Crew Supervisor. Brandon Sherwood, former Manager of the Sanitary Board’s West Side Treatment Plant, was also terminated from his position as Field Engineer for the Bluefield Sanitary Board prior to the Grand Jury presentation. Following the indictments, Dewayne Houk Sr. was terminated as the Board’s Maintenance Crew Supervisor.

The indictments of this case resulted in the following disposition of the individual cases:

Dewayne Houk pled guilty to one count of fraudulent schemes and received five years’ probation and ordered to pay \$6,300 in restitution.

Joseph Anthony Nunn pled guilty to one count of fraudulent schemes. Nunn received a three year suspended sentence and ordered to pay \$6,350 in restitution.

Stephen R Burkhart, Sr. pled guilty to one count of fraudulent schemes and received a sentence of 1 – 10 years, which was suspended. He was given one year of home confinement and ordered to pay \$12,700 in restitution.

On July 7, 2011, Robert Terry Honaker was convicted by a Mercer County jury of four (4) counts of a six (6) count indictment of fraudulent schemes. In sentencing, Honaker received an indeterminate sentence of one (1) to ten (10) years in a State correctional facility combining two (2) other counts and giving him five (5) years’ probation upon completion of his prison term and ordered to pay \$15,895 restitution.

At Honaker’s sentencing, Judge William Sadler stated that Honaker had created a “*CULTURE OF CORRUPTION within the Bluefield Sanitary Board that permeated the organization from top to bottom.*”

## **Department of Administration**

In August 2007, agents from the Criminal Investigation Division of the Internal Revenue Service requested that Commission investigators assist in an ongoing criminal investigation of Clark Diehl, the owner of Wallpapers In Stock, a store in Charleston, West Virginia which specializes in wall coverings and window treatments. The investigation was led by the United States Attorney's office for the Southern District of West Virginia, and also involved agents of the Federal Bureau of Investigation. At the time of this request, Diehl was already under investigation for federal income tax evasion.

Subsequent investigative efforts revealed Diehl was involved in a number of illegal activities including the falsification of competitive bids submitted to the Governor's office in association with a transaction which occurred in 2006. More specifically, Diehl fabricated two written price quotations from non-existent business enterprises, thereby making it appear the price offered by Wallpapers In Stock was the lowest competitive bid, as required by State statute. This falsification resulted in Diehl being paid over \$29,000 by the State in association with this transaction.

On Friday, December 4, 2009, an information was filed in US District Court in Charleston charging Clark Diehl with one (1) count of income tax evasion, and one (1) count of mail fraud. The mail fraud charge arose as a result of the above described transaction.

In January 2010, Clark Diehl entered a plea of guilty to these charges, and his sentencing was initially scheduled for May 19, 2010.

On August 7, 2012, Diehl was sentenced to six (6) months in a halfway house and ordered to pay the State of West Virginia \$29,732 in restitution.

## **Public Defender Services**

The 2011 Annual Report reported an attorney in Martinsburg had fraudulently billed the Public Defender Services for representing clients who were indigent. This year we have convicted two (2) more attorneys for the same type billing scheme from two (2) different areas of the State.

In 2010 CSI received information that Jeremy Vickers, an attorney in Point Pleasant, West Virginia was possibly overbilling Public Defender Services for clients he was representing.

After receiving this information, Investigators began an extensive review of his records. This review indicated Mr. Vickers billed for 170 days of work in excess of 24 hours per day from 2005 through 2010. After this review, interviews were conducted, resulting in a guilty plea by Vickers to wire fraud in US District Court in Huntington, West Virginia in October 2011.

In January 2012, US District Judge Robert C. Chambers sentenced Vickers to 21 months in Federal prison and ordered restitution in the amount of \$221,740.

In February 2011, this office received information that Christopher Bledsoe, an attorney from Pineville, West Virginia, was possibly submitted false billing to Public Defender Services. The information received was that Bledsoe was billing for visiting clients in jail but was not doing so.

This office began a review of Bledsoe invoices. While conducting interviews, it was found that Bledsoe was creating false Court Orders by forging various Judges signatures to Court Orders that contained hours that were never worked.

Mr. Bledsoe pled guilty to wire fraud in September 2011 in US District Court in Beckley, West Virginia.

In February 2012, US District Judge Irene Berger sentenced Bledsoe to 18 months in Federal prison and three (3) years of supervised release. Mr. Bledsoe was further ordered to pay \$188,887.74 in restitution. He was further ordered to turn over all of his attorney case files to the Wyoming County Clerk's Office.

These cases were prosecuted by the US Attorney's Office for the Southern District of West Virginia.

### **Treasurer's Office (Fraudulent Tax Return)**

In January 2011 this office was contacted by the State Treasurer's Office advising that Vicky Dunbar had contacted them stating she had not received her State income tax check for 2009. This resulted in a forgery application being forwarded to Dunbar, which she completed, resulting in a new income tax check being issued and then cashed. Dunbar again contacted the Treasurer's Office stating she had not

received her income tax check. At this time, the Treasurer's Office contacted the Commission for assistance.

A Commission on Special Investigations Investigator, along with a Detective from the Lewisburg Police Department, traveled to the Lewisburg Wal-Mart and obtained a photograph of Vicky Dunbar cashing the first check at this store.

When confronted with this information during her interview, Dunbar confessed to cashing both checks and filling out false affidavits.

On April 16, 2012, Dunbar entered a guilty plea to Larceny by Fraudulent Scheme.

On June 4, 2012, Dunbar was sentenced to two (2) years' probation and ordered to pay restitution.

#### **Coal City Volunteer Fire Department**

November 2009, CSI received information that Douglas Bragg, who at the time was a Lester City Policeman and the Chief of the Coal City Volunteer Fire Department, was misusing the Coal City Volunteer Fire Department's money.

Shortly after receiving this information, CSI obtained the financial records of the Coal City VFD. After reviewing the records and interviewing various individuals and businesses, it was found Bragg had used the VFD's credit cards and checking account to make numerous personal purchases totaling over \$10,000. The money was used for engagement and wedding rings, tuxedo rentals for the wedding, vacation to Gatlinburg, Tennessee, a computer chip implant for a dog, and various other personal bills.

On September 14, 2010, Bragg was indicted for embezzlement by a Raleigh County Grand Jury.

On April 27, 2012, Douglas Bragg pled guilty to forgery and was placed on probation for 24 months and ordered to pay restitution in the amount of \$10,763.57 to the Coal City Volunteer Fire Department.

#### **Consolidated Public Retirement Board**

In March 2011, this office was contacted by the Bureau of Criminal Investigation of the West Virginia State Police who asked us to assist them with an investigation regarding the theft of funds from the Consolidated Public Retirement Board.

The investigation of this matter revealed that Michael Paul Scyoc, a former employee of the Retirement Board, had caused three (3) checks totaling \$24,000 (\$8,000 each) to be issued to his parents and a friend. Only the checks to his parents were cashed with Scyoc receiving the funds. The check made payable to his friend was never cashed.

On August 11, 2011, Scyoc pled guilty to one (1) count of theft of Federal funds before US District Judge Johnston.

On November 7, 2011, Judge Johnston sentenced Scyoc to five (5) years' probation and ordered him to pay \$16,000 in restitution, which Scyoc had paid prior to his guilty plea.

Also in May 2011, the Commission on Special Investigations was contacted by the Consolidated Public Retirement Board's Acting Director advising the CPRB had been contacted by the Social Security Administration, who stated they had been paying benefits to a widow who had been deceased since 1993. The father had died in 1973 and the mother received his benefits from 1973 until her death in 1993.

The investigation revealed that a former West Virginia resident currently living in Florida had not notified the Social Security Administration or the CPRB of his mother's death. Payments to the mother from both Social Security and the CPRB continued to be made from 1993 until 2010. The son obtained the funds by forging his mother's name to the checks. He also had the funds direct deposited into a joint checking account he had in his and his Mother's name.

During this time period, the son received a total of \$230,495.16 in benefits from the State of West Virginia. With the lost interest accrual of \$245,269.92, the total loss to the State was \$475,863.78.

The son was arrested in Florida and charged with Social Security fraud. After a court ordered forensic psychiatric examination, it was determined the son suffered from elderly dementia and was not competent to stand trial and all charges were dismissed in Florida. The investigation in West Virginia was closed due to this examination.

NEWS  
ITEMS



September 17, 2011

## **Honaker to serve time for fraud**

By GREG JORDAN

**Bluefield Daily Telegraph (<http://bdtonline.com>)**

PRINCETON — A former executive director of the Bluefield Sanitary Board was remanded Friday to a regional jail after being sentenced to serve between 1 to 10 years in prison.

A Mercer County jury found Robert Terry Honaker, 59, of Wytheville, Va. guilty July 7 of four counts of fraudulent scheme. Each of the charges carry an indeterminate term of up to 10 years imprisonment. Honaker was found not guilty on two other charges.

Honaker was charged with fraudulent scheme and obtaining money by false pretenses. The charges occurred between 2001 and 2007 when he worked for the Bluefield Sanitary Board. His position as that entity's executive director was terminated in 2007.

During Friday's hearing, Judge William Sadler sentenced Honaker to an indeterminate term of 1 to 10 years in prison that will be followed by 5 years of probation, according to information with the Mercer County Circuit Clerk's Office.

Honaker was also ordered to pay more than \$15,000 in restitution to the city of Bluefield. After the hearing, Sadler remanded Honaker to the Southern Regional Jail in Beaver.

Prosecuting Attorney Scott Ash said at the trial that Honaker used the sanitary board's funds and personnel for his own benefit. One count involved work done on Honaker's pick-up truck by sanitary board personnel. Other charges involved the shipping of semen from a stud horse belonging to his son, purchases of hay, a heat pump installed at Honaker's home, and a trailer purchased for the sanitary board.

Honaker's attorneys countered that only empty shipping containers were sent from Bluefield, and that the sanitary board's shipping number had been used by mistake. The defense also stated that Honaker paid for truck repairs that were the result of use that did not involve the sanitary board's business.

The hay that was purchased was used for composting, not feeding Honaker's horses, his attorney's, Keith Flinchum and William Flanigan, said during the trial.

— Contact Greg Jordan at [gjordan@bdtonline.com](mailto:gjordan@bdtonline.com)

Tuesday August 9, 2011

## Questions follow light sentencing in mail fraud case

by Ry Rivard

Daily Mail Capitol Reporter



*Tom Hindman*

Clark Diehl, left, leaves the Robert C. Byrd Federal Building in Charleston Monday after being placed on probation for five years on fraud and tax charges related to work his wallpaper company did at the state Capitol. Diehl is accompanied by his attorney, Ben Bailey.

A federal judge expressed some skepticism Monday that federal prosecutors couldn't make a case against two state employees who may have committed mail fraud.

The remarks from U.S. District Judge John Copenhaver came during a sentencing hearing for Charleston businessman Clark Diehl, who admitted to fraud involving a contract to redecorate the governor's office during the administration of Joe Manchin, now a U.S. senator.

Diehl faced 15-21 months in prison but was sentenced to six months in a federal halfway house and five years of probation. The light sentence came, in part, because Diehl spent nearly four years helping the government investigate possible corruption of West Virginia's procurement process.

According to court documents, Diehl provided federal and state investigators with tips and also secretly recorded about 100 telephone calls and face-to-face conversations.

About 20 of those conversations appeared to have implicated at least two state employees in mail fraud, according to court documents filed by Diehl's attorney and remarks during the hearing by a federal prosecutor. Those employees were not identified.



But prosecutors decided not to charge the workers with any crimes.

Maria Lerner, an attorney with the U.S. Department of Justice's Public Integrity Section said prosecutors could have trouble prosecuting others based on Diehl's help because of Diehl's history of fraudulent activity.

"Oh my heavens, miss," the judge replied, adding that prosecutors routinely rely on convicted criminals to help uncover other crimes.

"What's different about this case than any other?" he said.

A bit later, Lerner told the judge that while Diehl had provided "some information about the criminal activities of others" that information "has been limited."

The judge replied, "You're not telling me much."

Assistant U.S. Attorney Hunter Smith said Diehl had been "forthwith and truthful" in all his dealings with the government after he began cooperating.

Diehl's sentencing hearing had been repeatedly postponed. Last October, for instance, a hearing was postponed because prosecutors said Diehl was cooperating in a "sensitive and ongoing investigation."

Diehl was initially charged for crimes related to work he did for the Governor's Office during the Manchin administration. His company, Wallpapers In Stock, provided window treatments in the governor's office suite. But the work was not properly bid and Diehl wasn't going to be paid by the state. Diehl then attempted to collect anyway, in the course of which he committed fraud, according to prosecutors.

Diehl's sentencing also coincides with the end of an investigation of state procurement practices and the Manchin administration.

The investigation appears to have begun with Diehl's decision to provide prosecutors with information four years ago. The full scope of the investigation was never clear, but it appears to have been fairly wide-ranging.

The state of West Virginia has paid more than \$60,000 to a private attorney to handle the subpoenas it received related to the investigation.

The probe included federal subpoenas issued last summer to the state Division of Highways and reportedly the state Department of Administration, including flight records of state aircraft that are used primarily by the Governor's Office.

Campaign finance records from Manchin's unsuccessful 1996 run for governor also were subpoenaed by a federal grand jury. The investigation, which included the FBI and

IRS, also looked into appraisal work done on state projects by former Manchin Chief of Staff Larry Puccio's company, Fairmont-based Puccio and York.

Puccio is now chairman of the state Democratic Party.

In a court filing last week, Ben Bailey, Diehl's attorney, suggested a number of reasons for no additional charges stemming from Diehl's cooperation, saying, "Attorneys General changed, United States Attorneys changed, Governors and Senators changed, and the United States' prosecution of Alaska Senator Ted Stevens imploded."

Public Defender Services

Charleston Gazette  
September 13, 2011

## Two lawyers charged in overbilling probe

Two state attorneys face federal wire fraud charges for allegedly overbilling for defense work in criminal matters.

Jeremy Vickers, 36, of Point Pleasant and Christopher Bledsoe, 33, of Pineville, were each charged with one count of wire fraud while handling cases for the state Public Defender Service, according to a news release from US Attorney Booth Goodwin.

Both lawyers have agreed to plead guilty to the charges, according to the release.

Vickers billed more than 24 hours for one day's work on 173 occasions, the release states. He submitted the false bills to the Public Defender Service through an unnamed third-party vendor, which was also ultimately reimbursed by the service, the release states.

In a similar but unrelated charge, Bledsoe forged a circuit court judge's signature on payment vouchers and other court documents so he could submit falsely inflated invoices to a different unnamed third-party, the release states.

Last year, Mingo County lawyer Bill Docy was sentenced to six months in federal prison after admitting to netting more than \$120,000 in false invoices he sent to yet another third-party.

"Lawyers take an oath to uphold the law," US Attorney Booth Goodwin said. "That's why I knew that other members of this profession will agree with me that it is alarming to have three lawyers prosecuted in this district over the last year for breaking the law in the course of performing their duties."

The charges against Bledsoe and Vickers arose out of a West Virginia Commission on Special Investigations probe into fraudulent billings submitted by attorneys for services in appointed criminal cases.

Public Defender Services

The Daily Register

January 19, 2012

## **Attorney sentenced to 21 months in prison**

by Beth Sergent

bsergent@heartlandpublications.com

01.18.12 - 11:30 pm

HUNTINGTON – An attorney who formerly practiced law in Mason County has been sentenced to 21 months in prison for receiving more than \$200,000 in a fraudulent billing scheme.

According to the a press release from the office of R. Booth Goodwin, II, United States Attorney, Southern District of West Virginia, Jeremy T. Vickers, 36, of Summerville, formerly of Point Pleasant, was sentenced on Tuesday by U.S. District Judge Robert C. Chambers for wire fraud.

Vickers previously pleaded guilty in October. According to the press release, Vickers admitted he had submitted false and fraudulent payment vouchers for reimbursement for court-appointed defense work - this amount came to \$221,740.43 which Vickers was ordered to pay back as restitution. A representative with Goodwin's office said Vickers was to be housed at FCI Morgantown and he was detained immediately after his hearing due to allegedly testing positive for methamphetamine while out on bond.

The release goes on to say since 2004, Vickers practiced law in Point Pleasant and among other types of cases, he represented indigent clients in state criminal matters pending in Mason, Jackson and Roane Counties. At the conclusion of each case, Vickers routinely submitted a payment voucher form to the respective Circuit Court judge for approval. The Circuit Court judge reviewed the payment voucher and signed a court order authorizing payment. Vickers then submitted the court order to the West Virginia Public Defender Services (WVPDS) for payment. Typically, the WVPDS took several months or more to reimburse Vickers.

The release then says Vickers entered into a cash-advance agreement with Huntington-based Attorney Finance Corporation (AFC) to expedite his reimbursement payments. In exchange for prompt payments less a small percentage, Vickers assigned his right to full payment from WVPDS to AFC. The release says, in essence, once Vickers received the court order approving his payment voucher for a particular case, he would fax a copy of the order to both WVPDS and AFC. The Attorney Finance Corporation would then wire Vickers the reimbursement less a percentage that same day or the next day. When WVPDS eventually processed the same payment voucher, WVPDS would pay AFC directly the full amount.

Beginning in the fall of 2008 through at least July 2010, Goodwin's office says Vickers began falsely inflating the hours he worked on indigent criminal cases. Vickers reportedly admitted for at least 173 days, he billed more than 24 hours of legal work. He was paid by AFC for those days. When WVPDS processed the bills months later, the discrepancy came to light. WV PDS confronted Vickers regarding the excessive billing and froze any further payments.

The release then says Vickers further admitted he continued to obtain approved payment vouchers from the Circuit Court, which he subsequently faxed to AFC for payment. Vickers also reportedly admitted he avoided detection of the scheme by purposely failing to send the payment vouchers to WV PDS. As a result, AFC was not reimbursed for their advance payments to the defendant.

The charges against Vickers arose out of an investigation by the West Virginia Commission on Special Investigations into false and fraudulent billings submitted by attorneys for services performed in appointed criminal matters. Assistant United States Attorney Thomas C. Ryan handled the prosecution.

The State Supreme Court ordered Vickers' disbarment in October of last year.

Public Defender Services

Charleston Gazette  
September 23, 2011

## Attorney pleads guilty to wire fraud

A Pineville attorney has pleaded guilty to one count of wire fraud in federal court in Charleston.

The office of US Attorney R. Booth Goodwin II says 33 year-old Christopher B. Bledsoe admitted Thursday that he forged a judge's signature to complete payment vouchers and other court documents. The falsely inflated invoices were paid by a third-party vendor, which was reimbursed by the Public Defender Service.

The charge arose from an investigation by the West Virginia Commission on Special Investigations into fraudulent billings by attorneys appointed to represent indigent defendants.

Bledsoe faces up to 20 years in prison and a \$200,000 fine when he is sentenced Feb. 2.

-- The ASSOCIATED PRESS

Coal City Volunteer Fire Department

The Register-Herald

June 3, 2010

## **Former fire chief facing charges**

By Andrea Lannon

A former Coal City fire chief is facing charges of embezzlement and forgery after turning himself in to the Raleigh County sheriff's office last Thursday, authorities said.

Douglas Ryan Bragg, 26 of Glen Morgan, is said to have forged the name of a former fire department official as a co-signature on several department checks, Sgt. Larry Lilly. Lilly estimates there is \$12,000 worth of missing funds.

Bragg turned himself into the sheriff's office after arrest warrants were obtained.

The state closed the fire department in September 2009 and the sheriff's office, along with the West Virginia Commission on Special Investigations, conducted an investigation into missing funds. Bragg resigned shortly after, Lilly said.

Bragg was also an officer for the Lester Police Department and Mayor Sam Allen said Bragg has been suspended without pay until further investigation.

State Fire Marshal Sterling Lewis says the situation is unfortunate.

"It's just a sad thing to see because this is money that is going to help protect people," he said. "I am very sad that this has happened."

Bragg was taken before a Raleigh County magistrate on Thursday and was released on a \$15,000 bond.

Consolidated Public Retirement Board

Charleston Gazette

November 9, 2011

## **Ex-state loan manager gets probations for theft**

A former loan manager for the West Virginia Consolidated Public Retirement Board has been sentenced to five years' probation for stealing retirement funds.

Michael Scyoc, 35, was sentenced Monday in federal court in Charleston.

The Charleston resident pleaded guilty in August to stealing \$16,000 from the West Virginia Teacher's Retirement Plan. He admitted using his position to issue loan checks from the plan for individuals who weren't entitled to them.

Federal prosecutors say the others then chased the checks and the defendant pocketed the funds.



**POWERS & DUTIES  
OF THE  
COMMISSION**

# The West Virginia Code

## ARTICLE 5.

### COMMISSION ON SPECIAL INVESTIGATIONS

Sec.		Sec.	
4-5-1	Commission continued as "commission on special investigations"; composition; appointment and terms of members.	4-5-4	Compensation and expenses of members; other expenses; how paid; joint committee approval.
4-5-2	Powers and duties generally.	4-5-5	Investigations exempt from public disclosure requirements.
4-5-3	Executive sessions; hearings; subpoena power; enforcement provisions.	4-5-6	False statements to commission.

#### **§ 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.

## 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.