



Natalie E. Tennant

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February 13, 2013

Speaker Rick Thompson
President Jeff Kessler
Chairs, Joint Committee of Government and Finance

Re: Report on West Virginia Supreme Court of
Appeals Public Financing Pilot Program

Honorable Speaker and President:

As required by WV Code §3-12-14(a)(2), please find enclosed the report of the
State Election Commission.

Respectfully submitted,

A handwritten signature in blue ink that reads "Natalie E. Tennant".

Natalie E. Tennant
West Virginia Secretary of State

REPORT OF STATE ELECTION COMMISSION
WEST VIRGINIA SUPREME COURT OF APPEALS PUBLIC
CAMPAIGN FINANCING PILOT PROGRAM

FEBRUARY 13, 2013

AUTHORITY: WV CODE §3-12-14(a)(2):

“(a) In addition to its other duties, the State Election Commission shall carry out the duties of this article and complete the following as applicable:

(1) ...

(2) Make an annual report to the Legislature accounting for moneys in the fund, describing the State Election Commission's activities and listing any recommendations for changes of law, administration or funding amounts;

(3) ...

(4) ...

(5) ...

(6) Cause an audit of the fund to be conducted by independent certified public accountants ninety days after a general election. The State Election Commission shall cooperate with the audit, provide all necessary documentation and financial records to the auditor and maintain a record of all information supplied by the audit;”

ACCOUNTING OF FUNDS

The balance of the fund is currently \$2,627,702.¹

Deposits have consisted of:

- \$3,000,000 in three \$1 million transfers from the Purchasing Card Administration Fund
- \$2,185 in individual contributions
- \$1,089 in exploratory and qualifying funds from an individual who elected to not participate
- \$4,688 in interest income.

Expenditures consisted of:

- \$13,705 for uncontested primary election payment made on February 7, 2012
- \$350,000 for contested general election payment made on June 8, 2012
- \$614 printing and postage costs (receipt books etc.)
- \$1,114 SEC members travel expense reimbursements
- \$14,827 WVAG legal fees (WVSCA and US District Court challenges)
- \$5,000 fee expected from Suttle & Stalkaker (see footnote #1)

The fund was audited by Suttle & Stalnaker, Certified Public Accountants, which submitted a report of audit findings on December 31, 2012. Copies of the Audit Report and the Audited Financial Statements are attached to this report. The audit reported no issues or disputes.

¹ The fee for the certified audit (\$5,000) has not yet been paid and will reduce the balance by that amount when paid.

COMMISSION'S ACTIVITIES

During 2012 the Commission certified the qualification of one candidate who chose to participate in the pilot program.

The Commission verified the candidate's entitlement to primary election funds for an uncontested primary. Two candidates filed for the Republican Primary and two nominations were possible. Therefore the Republican Primary was "uncontested" and the code provides for a payment from the fund of \$50,000, less the total raised by the candidate in qualifying contributions. The candidate reported total qualifying contributions of \$36,295 and, thus, received public financing of \$13,705.

Immediately following the primary, any participating candidate who was nominated for the general election became entitled to a payment from the fund. Since two Democrats and two Republicans advanced to the general election and only two seats were to be elected, the general election was "contested". For a "contested" general, the participating candidate was entitled to payment of \$350,000, less any unspent or unobligated funds remaining after the primary. The participating candidate reported no funds remaining following the primary and, thus, received public financing of an additional \$350,000.

In July, 2012, the Commission received campaign finance reports from one non-participating candidate that would have, according to Code §3-12-11(e), triggered the so-called "rescue" or "matching" funds. However, in an official opinion provided to the Commission in 2011, the Attorney General had opined that the rescue funds were unconstitutional under the US Supreme Court ruling of Arizona Free Enterprise Club's Freedom Club PAC v. Bennett, 131 S.Ct. 2806 (2011). Although the participating candidate chose to participate well after the Bennett ruling and the A.G. opinion, the candidate nevertheless pressed the Commission to disburse the rescue funds. In a meeting on July 17, 2012 the Commission, by an evenly divided vote, failed to authorize the disbursement.

Shortly after that vote two lawsuits were filed against the Commission. A law suit was filed in Federal District Court seeking to enjoin the Commission from disbursing rescue money. A law suit was filed in the West Virginia Supreme Court of Appeals by the participating candidate seeking a mandamus order to compel the payments. The Commission voted to defend the constitutionality of the rescue funds in both actions and was represented by an assistant attorney general. The state action proceeded in advance of the federal action. By order dated September 7, 2012, the West Virginia Supreme Court of Appeals ruled the rescue funds to be unconstitutional. However, deciding that the candidate had a good faith reliance on the statute being constitutional and valid, the Court carved out an extra-statutory relief and permitted the candidate to keep the public financing but still solicit private financing². Following the State Supreme Court ruling, the plaintiff withdrew the pending federal lawsuit.

Although not an activity of the Commission, it is worth reporting that the participating candidate was elected to one of the two Justice positions in 2012.

RECOMMENDATIONS

The Commission members believe the pilot program to have been successful. The goals were: to expose the electorate to candidates who might not otherwise have been heard; and to reduce the impact of private money on judicial candidates. Accordingly, the State Election Commission makes the specific recommendations below.

² The candidate reported receiving \$54,737 in private financing after the ruling.

1. Make the pilot program permanent law.

The Commission members strongly support the program and urge that the program be made permanent law and extended to future elections of Justices of the West Virginia Supreme Court of Appeals³. The members believe that the election of the participating candidate will encourage more participation in the future. If the goals of the program include reducing the influence of private contributions and bringing new voices and ideas to the campaign, then more participation will be even greater success.

2. Future payment amount to participating candidates.

Regarding the payment amount, the Commission members believe that \$400,000 has been proven to be a level at which success can be obtained. However, the well publicized debate over the payment of rescue funds no doubt contributed to the participating candidate's name recognition. The Commission recommends, at a minimum, keeping the current payments unchanged. The Commission further suggests that the Legislature increase the payment, if possible. There are a number of factors that would support an increase in the payment level:

- The totals spent on Supreme Court campaigning continue to grow⁴;
- The participating candidate would have qualified for an additional \$700,000 in matching funds which were ultimately ruled unconstitutional; and
- Some degree of inflation is anticipated.

³ One seat on the Supreme Court is scheduled for election in 2016.

⁴ WV Code 3-12-2, Legislative Findings #4-6 recites the spending history for the elections in 2000, 2004 and 2008. \$3.3 million was spent in 2008. In 2012, candidates spent approximately \$3.7 million.

3. Future contributions to the Fund.

The Commission has concerns about the sufficiency of the Fund balance (\$2.6 million) for future elections. Although \$363,705 was paid to the participating candidate, that did not reflect the maximum possible amount. Circumstances reduced the payment amount considerably. The 2012 election constituted an uncontested Republican primary. This served to save the Fund additional payment. If there had been one additional Republican candidate in the primary, the primary payments would have increased by \$150,000⁵, making the total payout of approximately \$515,000.

With the current Fund balance, approximately five participating candidates at maximum payment levels could be covered without the need for additional funding. The Commission suggests that the Legislature consider additional revenue sources to fund the program, although not necessarily at the past level of funding.

4. Remove from code all unconstitutional payments and reporting requirements.

The unconstitutional rescue (matching) fund provisions – WV Code §3-12-11(e)-(i) and §3-12-13(e)-(g) – must be removed by legislative action. The Commission does not recommend replacing the additional payment provisions with some new law because the free-speech suppression issue could create a new legal challenge. What we now have has survived challenge and the Commission is hesitant to invite a new challenge or invite uncertainty.

⁵ Candidates receive \$200,000 for a “contested” primary, but only \$50,000 for an “uncontested” primary.

This concludes the analysis and recommendations of the State Election Commission. Thank you for receiving and considering this report. On behalf of the Commission and the citizens of this state, thank you for the opportunity to participate in, and benefit from, this historic program.

Dr. Robert Rupp, Chair

Natalie E. Tennant, Secretary of State

Mr. Gary A. Collias, Commissioner

Mr. William Renzelli, Commissioner

Mr. Taylor Downs, Commissioner

WEST VIRGINIA SUPREME COURT OF APPEALS
PUBLIC CAMPAIGN FINANCING FUND

AUDITED FINANCIAL STATEMENTS
DECEMBER 31, 2012

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INDEPENDENT AUDITORS' REPORT

To the Members of the
State Election Commission of West Virginia and the
West Virginia Secretary of State
Charleston, West Virginia

Report on the Financial Statements

We have audited the accompanying financial statements of the West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) which comprise the Statement of Assets and Fund Equity – Modified Cash Basis as of December 31, 2012 and the related Statement of Revenues, Expenditures, and Changes in Fund Equity – Modified Cash Basis for the period from June 15, 2010 (inception of the Fund) through December 31, 2012, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

The management of the Fund is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence that we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the accompanying modified cash basis financial statements referred to above present fairly, in all material respects, the financial position of the Fund as of December 31, 2012 and the changes in its financial position for the period from June 15, 2010 (inception of the Fund) through December 31, 2012, in conformity with the basis of accounting described in Note 1.

Emphasis of Matter

As discussed in Note 1, the financial statements present only the Fund and do not purport to, and do not, present fairly the financial position of the State Election Commission of West Virginia as of December 31, 2012 and the changes in its financial position for the years then ended in conformity with the modified cash basis of accounting described in Note 1, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

Management has omitted the Management's Discussion and Analysis that are required to be presented to supplement the basic financial statements. Such missing information, although not part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Report on Other Legal and Regulatory Requirements

In accordance with *Government Auditing Standards*, we have also issued our report dated January 11, 2013 on our consideration of the Fund's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.



Charleston, West Virginia
January 11, 2013

WEST VIRGINIA SUPREME COURT OF APPEALS
PUBLIC CAMPAIGN FINANCING FUND
STATEMENT OF ASSETS AND FUND EQUITY – MODIFIED CASH BASIS
DECEMBER 31, 2012

ASSETS

Cash deposits and investments with the State Treasury	<u>\$ 2,627,702</u>
Total assets	<u>\$ 2,627,702</u>

FUND EQUITY

Fund equity, reserved for subsequent years' budgets	<u>\$ 2,627,702</u>
Total fund equity	<u>\$ 2,627,702</u>

WEST VIRGINIA SUPREME COURT OF APPEALS

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PUBLIC CAMPAIGN FINANCING FUND

STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND EQUITY –
MODIFIED CASH BASIS

PERIOD FROM JUNE 15, 2010 (INCEPTION OF THE FUND) THROUGH DECEMBER 31, 2012

Revenues	
Intergovernmental transfers	\$ 3,000,000
Interest and investment income	4,688
Public donations	2,185
Unused candiate exploritory funds	<u>1,089</u>
	<u>3,007,962</u>
Expenditures	
Candidate contributions	363,705
Legal expenses	14,827
Board member per diem and travel	1,114
Printing and postage	<u>614</u>
Total expenditures	<u>380,260</u>
Excess of revenues over expenditures	2,627,702
Fund equity, at inception of Fund	<u>-</u>
Fund equity, end of year	<u>\$ 2,627,702</u>

The Accompanying Notes Are An Integral
Part Of These Financial Statements

WEST VIRGINIA SUPREME COURT OF APPEALS
PUBLIC CAMPAIGN FINANCING FUND
NOTES TO THE FINANCIAL STATEMENTS

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PERIOD FROM JUNE 15, 2010 (INCEPTION OF THE FUND) THROUGH DECEMBER 31, 2012

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

GENERAL – The West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) was created under the Provisions of Chapter 3, Article 12, of the West Virginia Code. The Fund accounts for the financial activity of a pilot program that has been established to provide candidates running for the West Virginia Supreme Court of Appeals funding during primary and general elections in an effort to ensure that all eligible candidates that have met the requirements as outlined within the Code have a level of funding that will enable a fair election. Candidates use the funding they are provided for various campaign expenses such as media advertisements and other political paraphernalia.

BASIS OF ACCOUNTING – The Fund presents its financial statements in accordance with the modified cash basis of accounting. The modified cash basis combines both characteristics of the cash basis of accounting and the accrual basis of accounting. The cash basis recognizes short-term cash inflows and outflows during the period in which they are received or disbursed. The accrual basis recognizes long-term assets and liabilities during the period for which the item is incurred. Although the modified cash basis of accounting has been used to prepare the financial statements of the Fund, no such items have been incurred that would require the accrual aspect to be used.

CASH DEPOSITS – Cash is comprised of deposits held in the West Virginia Treasury in money market and short term bond pools which are not subject to custodial credit risk, concentration of credit risk, interest rate risk, or foreign currency risk under the provisions of *Statement No. 40 of the Governmental Accounting Standards Board*.

REVENUE SOURCES – The sources of revenue for the Fund are outlined in Chapter 3, Article 12, Section 6 of the West Virginia Code. Of these revenue sources, the majority of the Fund's revenue is derived from yearly transfers of \$1 million dollars from the Purchasing Card Administration Fund as authorized by the West Virginia State Auditor. Since inception of the Fund, three such transfers have been made.

CANDIDATE CONTRIBUTIONS – The rules for candidate contributions are outlined in Chapter 3, Article 12, Section 11 of the West Virginia Code. Since inception of the Fund, \$363,705 was given to an eligible candidate. This candidate was the only candidate that participated during the pilot program.

FUND EQUITY – The amount in fund equity at December 31, 2012 has been fully restricted for future years. Assuming the Fund is continued (see Note 3), this amount will be used in future years to pay candidate contributions as well as other Fund expenses.

WEST VIRGINIA SUPREME COURT OF APPEALS
PUBLIC CAMPAIGN FINANCING FUND
NOTES TO THE FINANCIAL STATEMENTS

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PERIOD FROM JUNE 15, 2010 (INCEPTION OF THE FUND) THROUGH DECEMBER 31, 2012

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

DATE OF MANAGEMENT REVIEW – Subsequent events (events or transactions that have occurred which may have a material effect on the financial statements and that require adjustment to or disclosure in the financial statements) have been evaluated through January 11, 2013, which is the date the financial statements were available to be issued.

NOTE 2 - CHALLENGES TO THE LAW

During the pilot program, two lawsuits were filed: one by the participating candidate and, subsequently one by the nonparticipating candidate in the general election pertaining to specific sections of Chapter 3, Article 12, of the West Virginia Code in regards to whether specific provisions within the Code were constitutional. The United States Supreme Court had issued a ruling on a similar provision in Arizona that determined that the Arizona provision was unconstitutional. Fund management requested an opinion from the West Virginia Attorney General regarding these matters, who rendered an opinion that the relevant sections were unconstitutional. Chapter 3, Article 12, Section 11 (e) (g) & (h) and Chapter 3, Article 12, Section 13 (e) as originally enacted were affected by this opinion. Neither candidate received any monetary damages as a result of the lawsuits, and the only legal expenses incurred by the Fund were paid to the West Virginia Attorney General for the work performed. At December 31, 2012, both lawsuits were considered closed and no other lawsuits existed at January 11, 2013, the date of this report.

NOTE 3 - CONTINUANCE OF THE FUND

Per Chapter 3, Article 12, Section 17 “the provisions of Article 12 shall have no force or effect on or after July 1, 2013. Any moneys remaining in the fund on July 1, 2013, shall be transferred to the General Revenue Fund.” This date of expiration represents the end of the pilot program. The West Virginia Legislature will determine whether to renew the Fund or end the program on July 1, 2013. If the Fund is renewed, it is expected that the amount of fund equity at the time of renewal would carry over into the permanent program. As of January 11, 2013, the date of this report, it was uncertain as to how the West Virginia Legislature would act regarding the future of the Fund.

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL
REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT
OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH
GOVERNMENT AUDITING STANDARDS

To the Members of the
State Election Commission of West Virginia and the
West Virginia Secretary of State
Charleston, West Virginia

We have audited the financial statements of West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) as of December 31, 2012, and have issued our report thereon dated January 11, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the Fund is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Fund's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing our opinion on the effectiveness of the Fund's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Fund's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Fund's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the State Election Committee, the West Virginia Secretary of State, and management, and is not intended to be and should not be used by anyone other than these specified parties.



Charleston, West Virginia
January 11, 2013

**West Virginia Supreme Court of Appeals
Public Campaign Financing Fund**

**Report to The State Election Committee and the
West Virginia Secretary of State**

January 11, 2013



January 11, 2013

To the Members of the
State Election Commission of West Virginia and the
West Virginia Secretary of State
Charleston, West Virginia

We are pleased to present this report related to our audit of the financial statements of the West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) from inception to December 31, 2012. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the Fund's financial reporting processes.

This report is intended solely for the information and use of the Members of the State Election Committee, the West Virginia Secretary of State, and management of the Fund and is not intended to be and should not be used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have regarding this report. We appreciate the opportunity to continue to be of service to the State Election Committee and the Fund.

A handwritten signature in cursive script that reads 'Suttle & Stalnaker, PLLC'.

Suttle & Stalnaker, PLLC
Charleston, West Virginia

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Required Communications

Statement on Auditing Standards No. 114 requires the auditor to communicate certain matters to keep those charged with governance adequately informed about matters related to the financial statement audit that are, in our professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. The following summarizes these communications.

Area	Comments
Auditor's Responsibility Under Professional Standards	<p>We have audited the financial statements of the West Virginia Supreme Court of Appeals Campaign Financing Fund from June 15, 2010 (inception of the Fund) to December 31, 2012 and have issued our report thereon dated January 11, 2013. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards (and <i>Government Auditing Standards</i>), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated December 30, 2012.</p>
Qualitative Aspects of Accounting Practices	<p>Adoption of, or Change in, Accounting Policies</p> <p>Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) are described in Note 1 to the financial statements. We noted no transactions entered into by the Fund for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.</p>

Area	Comments
	Management's Judgments and Accounting Estimates
	Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimates affecting the financial statements are located in the attached <i>Summary of Accounting Estimates</i> .
	Financial Statement Disclosures
	The financial statement disclosures are neutral, consistent, and clear.
Difficulties Encountered in Performing the Audit	We encountered no significant difficulties in dealing with management in performing and completing our audit.
Corrected and Uncorrected Misstatements	Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. See the attached <i>Summary of Recorded Audit Adjustments</i> and <i>Summary of Uncorrected Misstatements</i> .
Disagreements with Management	For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.
Management Representations	We have requested certain representations from management that are included in the management representation letter dated January 11, 2013.

Area	Comments
Management Consultations with Other Independent Accountants	In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a “second opinion” on certain situations. If a consultation involves application of an accounting principle to the Fund’s financial statements or a determination of the type of auditors’ opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.
Other Audit Findings or Issues	We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the Fund’s auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.
Certain Written Communications Between Management and Our Firm	Copies of certain written communications between our firm and management are attached as Exhibits.

**West Virginia Supreme Court of Appeals Public Campaign Financing Fund
Summary of Accounting Estimates
December 31, 2012**

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses its knowledge and experience about past and current events and certain assumptions about future events. You may wish to monitor throughout the year the process used to compute and record these accounting estimates. The following describes the significant accounting estimates reflected in the West Virginia Supreme Court of Appeals Public Campaign Financing Fund's December 31, 2012 financial statements:

<u>Area</u>	<u>Accounting Policy</u>	<u>Estimation Process</u>	<u>Comments</u>
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There were no significant accounting estimates used in the financial statements.

**West Virginia Supreme Court of Appeals Public Campaign Financing Fund
Summary of Recorded Audit Adjustments
December 31, 2012**

During the course of an audit, we accumulate adjustments that are determined by management to be material to the financial statements and to the related financial statement disclosures, or management otherwise determines are appropriate to make. Following is a summary of the adjustments made to the original trial balance we received.

<u>Account</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
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There were no audit adjustments identified during the course of our audit.

**West Virginia Supreme Court of Appeals Public Campaign Financing Fund
Summary of Uncorrected Misstatements
December 31, 2012**

During the course of an audit, we accumulate uncorrected misstatements that are determined by management to be immaterial, both individually and in the aggregate, to the financial statements and to the related financial statement disclosures. Following is a summary of those differences.

<u>Account</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>
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There were no uncorrected misstatements identified during the course of our audit.

Certain Written Communications Between Management and Our Firm

Engagement Letter

Management Representation Letter

ENGAGEMENT LETTER

December 30, 2012

Natalie E. Tennant, West Virginia Secretary of State
on behalf of the State Election Commission
1900 Kanawha Boulevard East
Building 1, Suite 157-K
Charleston, West Virginia 25305

We are pleased to confirm our understanding of the services we are to provide regarding the Supreme Court of Appeals Public Campaign Financing Fund (Fund) for the period from inception through December 31, 2012. We will audit the financial statements of the Fund. The financial statements are expected to be prepared on the modified cash basis of accounting, a special purpose framework other than accounting standards generally accepted in the United States of America. Financial Statements prepared in accordance with special purpose framework other than accounting standards generally accepted in the United States of America are expected to provide similar applicable disclosures and certain required supplementary information (RSI), such as management's discussion and analysis (MD&A) that are required by accounting standards generally accepted in the United States of America. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the Fund's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1) Management's Discussion and Analysis.

If the MD&A is not included with the financial statements, our report will note such omission.

Audit Objectives

The objective of our audit is the expression of an opinion as to whether the Fund's financial statements are fairly presented, in all material respects, in conformity with the modified cash basis of accounting. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and will include tests of the accounting records of the Fund and other procedures we consider necessary to enable us to express such an opinion. If our opinion on the financial statements is other than unqualified (unmodified), we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

We will also provide a report (that does not include an opinion) on internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a material effect on the financial statements as required by *Government Auditing Standards*. The report on internal control and compliance will include a statement that the report is intended solely for the information and use of management, the body or individuals charged with governance, others within the entity, and specific legislative or regulatory bodies and is not intended to be and should not be used by anyone other than these specified parties. If during our audit we become aware that the Fund is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit in accordance with U.S. generally accepted auditing standards and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. As part of the audit, we will assist with preparation of your financial statements and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the written representation letter our assistance with preparation of the financial statements and that you have reviewed and approved the financial statements and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met; for the selection and application of accounting principles; and for the fair presentation in the financial statements of the financial position of the Fund and the respective changes in financial position in conformity with the modified cash basis of accounting.

Management is also responsible for making all financial records and related information available to us and for ensuring that management is reliable and financial information is reliable and properly recorded. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report.

You are responsible for the preparation of the MD&A.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information. With regard to using the auditor's report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors or any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to later periods for which we are not engaged as auditors. We have advised you of the limitations of our audit regarding the detection of fraud and the possible effect on the financial statements (including misappropriation of cash or other assets). We are available to perform, as a separate engagement, extended procedures specifically designed to detect fraud, but we understand that you have declined to engage us to do so at this time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the Fund and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards and *Government Auditing Standards*.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants that apply to the Fund. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We will provide copies of our reports to the State Election Commission; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of Suttle & Stalnaker, PLLC and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to other State agencies or bodies for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Suttle & Stalnaker, PLLC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by a regulatory agency.

We expect to begin our audit on approximately January 2, 2013 and plan to issue our reports by January 15, 2013. Horace Emery is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

Fees

We generally base our fees on the time required at our regular rates for the services and personnel assigned plus out of pocket costs and relevant computer charges. Our charges also include other appropriate factors, including the difficulty of the assignment, the degree of skill required, time limitations imposed on us by others, the experience and ability of the personnel assigned, and the value of the services to the client. Interim billings will be submitted as work progresses and as expenses are incurred. Billings are due upon submission. Assuming adequate records, internal controls, and assistance of your personnel, we estimate that our fee for the above services will not exceed \$5,000 for the audit of the financial statements of the Supreme Court Public Campaign Financing Fund.

We will attempt to minimize our fees consistent with quality work. The extent to which we can do this will depend on your personnel offering us clerical and other assistance to prepare schedules, perform analyses, and provide source documents. This fee estimate will be subject to adjustments based on unanticipated changes in the scope of our work and/or the incomplete or untimely receipt by us of the information on the client participation list. All other provisions of this letter will survive any fee adjustment.

Client and accountant both agree that any dispute over fees charged by the accountant to the client will be submitted for resolution by arbitration in accordance with the Rules of Professional Accounting and Related Services Disputes of the American Arbitration Association. Such arbitration shall be binding and final. In agreeing to arbitration, we both acknowledge that in the event of a dispute over fees charged by the accountant, each of us is giving up the right to have the dispute decided in a court of law before a judge or jury and instead we are accepting the use of arbitration for resolution.

If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under Rules for Professional Accounting and Related Services Disputes before resorting to litigation. Costs of any mediation proceeding shall be shared equally by all parties.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2011 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the State Election Commission and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

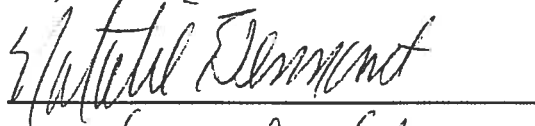
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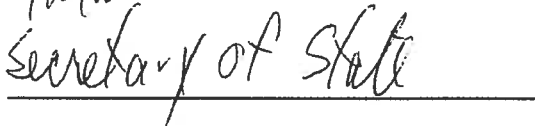
Suttle & Stalaker, PLLC

RESPONSE: This letter correctly sets forth the understanding of the Office of Secretary of State Natalie E. Tennant, on behalf of the State Election Commission.

By:



Title:





Kelley,
Galloway &
Company, PSC

CERTIFIED PUBLIC ACCOUNTANTS

- 1200 CORPORATE COURT • P.O. BOX 990 • ASHLAND, KENTUCKY 41105-0990 •
- Phone (606) 329-1811 • Fax (606) 329-8756 • E-mail contact@kelleygalloway.com • Web site www.kelleygalloway.com •

Member of the Center for Public Company Audit Firms, the Private Companies Practice Section of the American Institute of Certified Public Accountants and PKF North America Network

SYSTEM REVIEW REPORT

To the Members of Suttle & Stalnaker, PLLC
and the West Virginia Society of CPAs Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Suttle & Stalnaker, PLLC (the firm) in effect for the year ended May 31, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Suttle & Stalnaker, PLLC in effect for the year ended May 31, 2011, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Suttle & Stalnaker, PLLC has received a peer review rating of *pass*.

Kelley, Galloway & Company, PSC

Kelley, Galloway & Company, PSC
Ashland, Kentucky
November 2, 2011

MANAGEMENT REPRESENTATION LETTER



Natalie E. Tennant

Secretary of State
State of West Virginia

Office of the Secretary of State
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
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www.wvsos.com

January 11, 2013

Suttle & Stalnaker, PLLC
The Virginia Center, Suite 100
1411 Virginia Street, East
Charleston, West Virginia 25301

This representation letter is provided in connection with your audit of the financial statements of the West Virginia Supreme Court of Appeals Public Campaign Financing Fund (the Fund) as of December 31, 2012, and for the period from June 15, 2010 (inception of the Fund) through December 31, 2012, and the related notes to the financial statements, for the purpose of expressing an opinion as to whether the financial statements are presented fairly, in all material respects, in accordance with the modified cash basis of accounting.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm to the best of our knowledge and belief, as of January 11, 2013, the following representations made to you during your audit.

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter dated December 30, 2012.
2. The financial statements referred to above are fairly presented in conformity with the modified cash basis of accounting and include all properly classified funds and other financial information required to be included in the financial reporting entity.
3. We acknowledge our responsibility for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

4. We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
5. Significant assumptions, if any, we used in making accounting estimates are reasonable.
6. Related party relationships and transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties have been appropriately accounted for and disclosed, if any, in accordance with the requirements of the modified cash basis of accounting.
7. No events, including instances of noncompliance, have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to or disclosure in the aforementioned financial statements.
8. The effects of uncorrected misstatements are immaterial, both individually and in the aggregate, to the financial statements. A list of the uncorrected misstatements, if any, is attached to the representation letter.
9. The effects of all known actual or possible litigation, claims, and assessments, if any have been accounted for and disclosed in accordance with the modified cash basis of accounting.
10. Guarantees, whether written or oral, under which the Fund is contingently liable, if any, have been properly recorded or disclosed.

Information Provided

11. We have provided you with:
 - a. Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters.
 - b. Additional information that you have requested from us for the purpose of the audit.
 - c. Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
 - d. Minutes of the meetings of the State Election Committee, or summaries of actions of recent meetings for which minutes have not yet been prepared.
12. All material transactions have been recorded in the accounting records and are reflected in the financial statements.
13. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

14. We have no knowledge of any fraud or suspected fraud that affects the entity and involves:
 - a. Management,
 - b. Employees who have significant roles in internal control, or
 - c. Others where the fraud could have a material effect on the financial statements.
15. We have no knowledge of any allegations of fraud or suspected fraud affecting the entity's financial statements communicated by employees, former employees, regulators, or others.
16. We have disclosed to you all known instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse, if any, whose effects should be considered when preparing financial statements
17. We have disclosed to you all known actual or possible litigation, claims, and assessments, if any, whose effects should be considered when preparing the financial statements.
18. We have disclosed to you the identity of the entity's related parties and all the related party relationships and transactions, if any, of which we are aware.

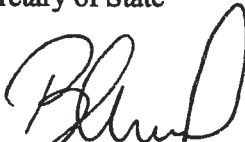
Government Specific

19. We have made available to you all financial records and related data.
20. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
21. The Fund has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or equity.
22. We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts; and we have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that we believe have a direct and material effect on the determination of financial statement amounts or other financial data significant to the audit objectives, including legal and contractual provisions for reporting specific activities in separate funds.
23. There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.

24. As part of your audit, you assisted with preparation of the financial statements and related notes. We have designated an individual with suitable skill, knowledge, or experience to oversee your services and have made all management decisions and performed all management functions. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.
25. The Fund has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.
26. The Fund has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
27. Components of net assets (net investment in capital assets; restricted; and unrestricted) and equity amounts are properly classified and, if applicable, approved.
28. Interfund, internal, and intra-entity activity and balances have been appropriately classified and reported.
29. Note 3 to the financial statements discloses all of the matters of which we are aware that are relevant to the organization's ability to continue as a going concern, including significant conditions and events, and management's plans.
30. We are responsible for determining that significant events or transactions that have occurred since the balance sheet date and through the date of this letter have been recognized or disclosed in the financial statements. No events or transactions have occurred subsequent to the balance sheet date and through the date of this letter that would require recognition or disclosure in the financial statements. We further represent that as of the date of this letter, the financial statements were complete in a form and format that complied the modified cash basis of accounting, and all approvals necessary for issuance of the financial statements had been obtained.
31. During the course of your audit, you may have accumulated records containing data which should be reflected in our books and records. All such data have been so reflected. Accordingly, copies of such records in your possession are no longer needed by us.



Natalie Tennant
Secretary of State



Brian Messer
Chief Financial Officer