



State of Louisiana

OFFICE OF

STATE INSPECTOR GENERAL

SOUTH LOUISIANA PORT CONFLICTS

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

January 11, 1999

File No. 1-98-0025



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

South Louisiana Port Conflicts

June 12, 1998

Report by

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Inspector General Bill Lynch

Approved by

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Governor M.J. "Mike" Foster, Jr.

File No. 1-98-0025

South Louisiana Port Conflicts

The manager for the South Louisiana Port Commission's Globalplex facility engaged in other business activities at Globalplex as provided in his contract creating conflicts of interest between his primary duties and other work. His firm, Bay Star Enterprises, Inc., contracted to run the day to day operations of the port in 1995.

An investigation of port operations also revealed that a member of the Port Commission, E.J. Martin in 1994 attempted to influence the selection of a manager for a foreign company's operations at the port, attempting to steer it to a personal friend, Marvin Harvey, owner of Bay Star.

Mr. Harvey declined to answer questions pertaining to this investigation, citing a parallel investigation by the State Police and other agencies.

The review of operations at the port, which covered the period April, 1994, to December, 1997, also disclosed the following:

The Port Commission gave Bay Star Enterprises a cost plus contract for managing the Globalplex port and a similar contract for managing its potable and waste water treatment facilities which did not adequately assure the legitimacy of all costs charged to the port.

The port improperly paid the legal expenses for a personal law suit brought by two of its officials, totaling \$5,616.

Mr. Martin loaned money over which he had control to two individuals doing business with the port.

The port paid the \$3,000 cost of two contractors traveling to Brazil, a trip which does not appear to involve Port Commission business.

Background

The South Louisiana Port Commission was created in 1968 to regulate the commerce and traffic within the port area which is comprised of the parishes of St. Charles, St. John the Baptist, and St. James. The commission is headquartered in LaPlace.

The Port Commission consists of seven members appointed to four year terms, concurrent with that of the governor. All actions and resolutions of the Port Commission must be approved by a vote of not less than a majority of all members of the Port Commission. The present members of the commission are E.J. Martin, LaPlace; Greg Leir, Luling; Cart Davis, Hester; Brandt J. Dufrene, Boutee; Honorara Gravois, Vacherie; Louis A. Joseph, Edgar; and Brent Tregre, LaPlace.

The commission maintains its own staff, which recruits business for the port. Richard Clements, who has since retired, served as executive director of the port during the period covered in this report. The Port Commission currently employs a variety of employees including legal counsel, marketing specialists, and accountants. Port Commission staff employees travel to various areas in the United States and foreign countries contacting potential customers.

In 1992, the Port Commission purchased the Goudchaux-Henderson sugar refinery at an approximate cost of \$12 million. The property purchased included approximately 200 acres of land with 3,400 linear feet of frontage on the Mississippi River, refinery buildings, a bulk loading dock with two cranes, a drinking water purification system, and a waste water purification system.

The property is known as the Globalplex Intermodal Terminal. The Port Commission has employed a management company to run the day to day operations of Globalplex, except for 23 acres and a bulk loading dock assigned to Hall-Buck Marine, a longtime tenant at the port.

Holden Springs Inc., owned by Andy Lagueruela, managed Globalplex until March 31, 1994, when its contract was not renewed. Hall-Buck Marine served as the Globalplex

manager from June, 1994, until Jan. 30, 1995. Bay Star Enterprises became the Globalplex manager in May, 1995.

Mr. Harvey and his wife organized Bay Star Enterprises in January, 1995, and listed Mr. Harvey as the president and owner, according to incorporation papers filed with the Secretary of State. Mr. Harvey personally performed the duties of port manager.

Conflicts of Interest

While serving as Globalplex manager, Bay Star became the subcontractor on two projects over which it had supervisory authority. The Port Commission authorized Bay Star to negotiate a contract for the removal of asbestos from a building in one instance. In a second instance, the port gave Bay Star a contract for the demolition of buildings. Bay Star employed a subcontractor and received compensation from the subcontractor in both instances.

Bay Star also owns trucks which are used to provide trucking services for current tenants of Globalplex. Bay Star's contract with the port allows it to contract directly with tenants, shippers, and stevedore companies for services, labor, or equipment provided at the cost of Bay Star and at no cost to the commission. The Board of Ethics has already ruled in an advisory opinion that Bay Star could not do this.

The state Ethics Code prohibits an individual who has authority over a public contract from selling goods or services to the contractor. It also prohibits public servants from subcontracting on agency projects. Bay Star's receipt of payments in connection with the demolition work may be prohibited because of its management duties for Globalplex.

A. Asbestos Removal

The Port Commission, at a meeting Oct. 11, 1995, authorized Bay Star to negotiate with contractors for removal of asbestos in the sugar refinery, with a \$500,000 cap on the

project. On Nov. 30, 1995, the port entered into a \$498,909 contract with an asbestos abatement company, Pro-Tech Environmental Services, Inc.

Bay Star Enterprises received \$78,016 from Pro-Tech for work on the project, which included consulting and service fees of \$50,000 and the purchase of scaffolding for \$28,016, according to Pro-Tech. Bay Star entered into the agreement Jan. 13, 1996, providing Pro-Tech with services such as plumbing, electrical, and consulting.

The asbestos agreement between Bay Star and the Port Commission also awarded Bay Star salvage rights to materials and equipment located in the buildings, which was supposed to off set the cost of demolition, cleanup and relocation of water lines.

The contract with Pro-Tech listed Bay Star Enterprises, Marvin Harvey, president, as the "architect." According to the contract, monthly invoices were to be submitted to the architect for approval before the Port Commission made payment.

Invoices submitted by the contractor were reviewed and certified for payment by Mr. Harvey.

Under terms of the contract with the port, Bay Star was required to list all salvaged material and equipment, along with a statement of expenses being offset by sale of the items. The list of sales and expense offsets was to be submitted to the executive director. None was submitted by Bay Star until after this inquiry began.

Under the contract, Bay Star was entitled only to that amount of sales receipts equal to the expenses incurred. The balance of sales receipts above expenses should have been remitted to the port.

The belated list submitted in 1997 by Bay Star did not account for \$3,268 in sales receipts above the expenses. The report covered the sale of salvage material sold during the period Dec. 11, 1995, through Jan. 25, 1996. The list details \$29,598 in gross sales, and \$26,329 in gross expenses leaving a \$3,268 balance on the asbestos salvage contract.

B. Sugar Refinery Demolition

Bay Star signed a letter of agreement June 14, 1996, with the Port Commission authorizing it to dismantle selected buildings at the Globalplex facility. The buildings were part of the Goudchaux-Henderson sugar refinery operation. The agreement allowed Bay Star to keep proceeds from the sale of scrap iron and salvage within the buildings in exchange for demolishing the buildings at no additional cost to the Port Commission.

Scraper's Den II, Inc. was hired by Bay Star in a letter of agreement dated June 14, 1996. Under terms of the agreement, Bay Star monitored the daily work progress, ordered supplies and handled checks from the sale of scrap.

Bay Star received at least \$58,900 for services provided to the demolition company hired by Bay Star.

Improper Influence Attempt

E.J. Martin, then treasurer of the Port Commission, in 1994 attempted to influence a Malaysian wood products company into assigning its warehouse and milling operations located at Globalplex to Marvin Harvey, a personal friend, an action outside his authority as treasurer of the Port Commission.

Tecta Pacific (S) PTE. LTD. was importing wood products to the United States through Holden Springs, Inc. Holden Springs also contracted with the South Louisiana Port Commission to manage the Globalplex facility. The management contract between the South Louisiana Port Commission and Holden Springs, Inc. expired March 31, 1994, and was not renewed.

Tecta Pacific began negotiating with two persons connected to the Holden Springs firm, Jill Sherman and Ranney Wilson, to succeed Holden to run the business.

Mr. Clements made an effort to have Tecta Pacific do business with the port directly.

Mr. Martin wrote letters on behalf of Marvin Harvey, a friend, urging the Malaysian company to consider him for operating the warehouse and milling operation.

Both Mr. Clements and Mr. Martin traveled to Malaysia in August, 1994, ostensibly to discuss the unloading of ships at the Globalplex wharf. The commission paid the \$11,589 airfare cost of the trip. Mr. Clements told IG investigators that both he and Mr. Martin discussed the warehouse management issue with Tecta Pacific officials. He said he promoted the port as manager while Mr. Martin promoted Mr. Harvey.

In a letter dated Oct. 4, 1994, Mr. Martin asked Tecta Pacific if Mr. Harvey's name had been brought into the discussion of its proposed plans.

On Nov. 8, 1994, Tecta Pacific notified Mr. Clements that it had selected Belle Point Inc., a company created by Ms. Sherman and Mr. Wilson, as manager of its warehouse and milling facility.

Mr. Martin's determination to assist Mr. Harvey continued even after the Malaysian company had selected its manager. In a letter dated Nov. 15, 1994, Mr. Martin wrote Tecta Pacific, recommending Mr. Harvey for any future work the company may have. In 1995, Mr. Harvey was awarded two management contracts by the Port Commission.

Mr. Clements told IG investigators that after Tecta Pacific made its selection, Mr. Martin became angry and instructed him on several occasions to get rid of Belle Point by not renewing its lease on the warehouse space. Ms. Sherman and Mr. Wilson also became the targets of a personal law suit filed by Mr. Martin and Mr. Clements claiming defamation. (The law suit is discussed elsewhere in this report.)

Bay Star Enterprises

Although Mr. Harvey did not get the wood business from the Malaysian company despite the efforts of his port member friend, Bay Star received two separate cost plus contracts from the Port Commission in 1995. Doing business as Bay Star Enterprises, a company which he formed in January, 1995, Mr. Harvey contracted with the port to manage its

potable and waste water treatment facilities, effective Feb. 1, 1995. In May, 1995, Bay Star became the manager of the port's Globalplex operations.

Both contracts provided a basic income to Bay Star with the Port Commission paying all expenses. The contracts also provide for a percentage incentive for bringing new business to the port.

In addition to its Port Commission work, Bay Star has been performing work for contractors and tenants at the port. The contracts between Bay Star and the Port Commission do not contain adequate controls to assure that the expense reimbursements claimed by Bay Star from the port are those actually incurred by Bay Star on behalf of the port.

A. Water Contracts

The Port Commission contracted Feb. 1, 1995, with Bay Star to operate the potable water treatment plant and non-hazardous waste water treatment ponds located at Globalplex. Both facilities were operational at the time of the contract.

The contract guaranteed a \$35,000 annual management fee and 50% of net profits derived from new sales of water and waste water treatment services. The net profits are derived after a baseline cost of operation is established. In addition, Bay Star is eligible to receive 50% of the net reductions between actual monthly cost of operations and the baseline cost of operations.

The Port Commission reimburses all expenses of operations and maintenance of the water treatment plants in addition to expenses incurred by Bay Star to operate the facilities. These expenses include but are not limited to Bay Star's office space and work force costs.

For the period Feb. 1, 1995, through January, 1998, Bay Star has received a total of \$105,000 for management fees and \$95,532 for the 50% split of net profits.

This contract does not provide adequate procedures to assure that Bay Star charges are solely expenses of the port rather than other Bay Star customers. The Port Commission

assumes the time sheets and expenses submitted by Bay Star are related to the water contract activities.

B. Management Agreement

The Port Commission contracted with Bay Star on May 10, 1995, to oversee operations of the Globalplex facility. Bay Star receives a management fee of \$25,000 per year and reimbursement of all expenses associated with the management of the Globalplex facility.

Bay Star is obligated to market and promote Globalplex, maintain the buildings, grounds, utilities and provide security. In addition, Bay Star represents the Port Commission in negotiating new tenant leases or altering existing leases.

On March 13, 1996, the Port Commission amended the management agreement to include an additional compensation amounting to 50% of net revenue from the recently constructed general cargo dock and warehouse. The dock cost approximately \$5 million with \$3.7 million paid through the State Department of Transportation and Development, Transportation Trust Fund.

As of February, 1998, the Port Commission had not paid Bay Star additional compensation added to the contract by the amendment.

The management contract does not provide for adequate procedures to assure that Bay Star charges are solely expenses for the port, rather than other Bay Star customers. The Port Commission assumes the time sheets and expenses submitted by Bay Star are related to Globalplex management activities.

Improper Payments

The Port Commission paid \$5,616 to the private attorney hired by Mr. Martin and Mr. Clements to file a personal defamation suit against Mr. Wilson, a co-owner of Belle Point Services, Inc. in connection with the Malaysian management selection. Mr. Martin was president of the Port Commission at the time and Mr. Clements was executive director.

Lease negotiations held in early 1996, between Bay Star as port manager, and Mr. Clements with Belle Point Services were contentious. During this time, Mr. Martin and Mr. Clements allege defamatory statements were made by Mr. Wilson. The alleged statements included remarks that Mr. Martin and Mr. Clements attempted to use their positions with the Port Commission to influence the Malaysians not to do business with Belle Point Services.

In an executive session of the commission, according to other commissioners, Mr. Martin asked for approval to file suit. However, the commission only gave verbal approval for its attorney, Joseph Accardo, to review the alleged statements and possible lawsuit.

Minutes of Port Commission meetings do not record a vote or discussion concerning Mr. Wilson and a possible lawsuit either in regular or executive session.

Mr. Accardo billed the Port Commission \$1,604.47 for the research and investigation he conducted during the months of April and May, 1996. The work led to the letter dated May 1, 1996, from Mr. Accardo to Belle Point Services, Mr. Wilson and Ms. Sherman, which demanded an apology in writing to be published in four newspapers including the Times Picayune. The letter further stated if Belle Point Services did not agree to the conditions, it was the intention of Mr. Martin and Mr. Clements to file law suits.

There is nothing in the commission records to indicate its approval of such a letter on behalf of Mr. Martin or Mr. Clements.

Belle Point Services rejected Mr. Accardo's demands. Mr. Clements and Mr. Martin, using a private attorney, filed suit against Mr. Wilson.

The attorney for Mr. Clements and Mr. Martin, Donna Green of the law firm of Trinchard and Trinchard, stated she represented them personally, and not in their capacity as port officials. Additionally, she said she told Mr. Accardo that she was representing Mr. Clements and Mr. Martin personally and not the South Louisiana Port Commission.

Nonetheless, invoices were sent by the attorney totaling \$5,270.58 for legal services dated June 17, 1996, for \$1,665 and Sept. 17, 1996, for \$3,605.58 were addressed to Mr. Clements in care of the Port Commission. These invoices were forwarded to the port accounting department by Mr. Clements. However, rather than issuing a check to Ms. Green's law firm, which would be the normal practice, the port issued a check to Mr. Accardo's law firm. This check was signed by Mr. Clements and Brandt Dufrene, a commission member.

In turn, Mr. Accardo issued a check from his law firm in the same amount to Ms. Green's firm on Dec. 10, 1996.

On the same day, Mr. Accardo wrote Mr. Clements: "You have provided me with a copy of the Sept. 17, 1996, invoice of the Trinchard & Trinchard law firm, who are employed by you as special legal counsel...with instructions to pay that invoice. You have informed me that you will secure ratification of your employment of the Trinchard firm at the January, 1997, South Louisiana Port Commission meeting in accordance with the requirement of the Port's statutes. We will comply with your instructions and issue our escrow account check to the Trinchard firm in payment of the Sept. 17, 1996, invoice pending approval by the South Louisiana Port Commission."

No action was taken by the Port Commission at the next or any other meeting to ratify what was an improper payment of port funds with or without its ratification.

A third invoice was paid in the amount of \$345.45, dated Oct. 7, 1997. This invoice was paid by the Port Commission directly to the attorney with a check dated Oct. 24, 1997, bringing the total to \$5,616.

Louisiana law allows the executive director to contract for legal services in the conduct of the port's affairs. However, all contracts for professional services shall not be binding until approved by the commission in a public meeting by a record vote of the majority of its membership.

Loans

Mr. Martin has loaned money he controlled to individuals who do business with the Port Commission.

A promissory note dated March 30, 1994, lists Jayendra Shah borrowing \$200,000 from E.J. Martin Enterprises. The note has a 12 month term at 12 per cent interest.

Mr. Shah is the president and part owner of Fromherz Engineers, Inc, located in Metairie. Fromherz Engineers has worked with the Port Commission on several projects, both before and during the loan period.

During the loan period, Mr. Shah, signing as president of Fromherz Engineers, invoiced the Port Commission \$42,372. The loan has been repaid.

Concerning loans to Mr. Harvey, Mr. Clements stated that both Mr. Martin and Mr. Harvey told him about loans made for items such as trucks, tractors, and land. A recent audit of Bay Star Enterprises, the Globalplex management company revealed three checks payable to E.J. Martin and two checks payable to Martin Global, Ltd.. The checks totaled \$37,735.

The Code of Ethics generally prohibits board members from continuing to serve if individuals with whom they have financial relationships do business with their board.

Brazil Trip

The Port Commission paid expenses in excess of \$3,000 for a trip to Brazil. Seven of the eight organizations contacted in Brazil do not appear to have anything to do with Port Commission business.

A trip to Brazil was taken Aug. 12, 1996, through Aug. 18, 1996, by Mike Curtis and Marvin Harvey. Mr. Curtis is the owner of Curtis Testing Laboratory which provides wastewater analyses for the Globalplex treatment ponds.

Documentation provided for the expenses include eight business cards obtained from Brazilian organizations. A notation on top of the page states "contacts made in Brazil for potential business opportunities." Seven of the eight business cards are from municipal water departments or environmental technology companies.

Mr. Curtis stated the trip was paid for and arranged by Mr. Harvey. While in Brazil he and Mr. Harvey talked to various organizations about U.S. wastewater standards and testing procedures. Brazil was in the process of enacting new laws dealing with waste water control procedures. While in Brazil neither he nor Mr. Harvey offered any proposals to install or monitor wastewater or water treating projects.

The Port Commission does not have documentation to explain the purpose for the trip. Mr. Clements states that while on a trip to Brazil, government officials discussed problems with local sewer systems. Mr. Martin wanted Mr. Harvey to return to Brazil to follow up on the sewer system conversations. Mr. Clements complied with Mr. Martin's request and arranged for Mr. Harvey and Mr. Curtis to travel to Brazil. Mr. Clements further stated that he gave the names of several shipping companies to Mr. Harvey to contact while they were in Brazil.

One of the eight business cards appears to be a food products company which could possibly use the Globalplex facility.

Conclusions:

1. The manager for the Globalplex facility may have conflicts of interest by engaging in business activities with subcontractors and tenants of the port.
2. Bay Star failed to account for the sale of scrap and salvage timely as required by the contract, and failed to remit an excess balance of \$3,268 to the port.
3. Mr. Martin, acting outside his authority as treasurer of the Commission, attempted to influence the selection of a managing company for handling

4. Contracts should require adequate assurance that reimbursements are made only for expenses actually incurred on behalf of the port.
5. The port should seek recovery of \$5,270.58 improperly paid to Mr. Accardo and \$345.45 from Mr. Martin and Mr. Clements..
6. The port should either require documentation that business was done on behalf of the port or seek recovery of the \$3,000 in reimbursement paid to Mr. Harvey for the trip to Brazil.

Responses:

Responses from Bay Star, Mr. Clements, Mr. Shah and Mr. Accardo are attached. Mr. Martin and the Port did not provide a written response. Attachments to the responses may be obtained from the responders.

IG Comment:

Bay Star claimed it actually lost money on the salvage work. However, Bay Star did not allow its books to be examined and the loss claims were not listed with the Port Commission in its original filing.

JOSEPH ONEBANE (1917-1987)
JOHN G. TORIAN, II (1936-1991)

JAMES E. DIAZ
TIMOTHY J. MCNAMARA
EDWARD C. ABELL, JR.
LAWRENCE L. LEWIS, III†
ROBERT M. MAHONY
DANIEL G. FOURNERAT
DOUGLAS W. TRUXILLO*
RANDALL C. SONGY
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GARY P. KRAUS
RICHARD J. PETRE, JR.
THOMAS G. SMART
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***ALSO ADMITTED IN OKLAHOMA
****ALSO ADMITTED IN CONNECTICUT
*****ALSO ADMITTED IN COLORADO

May 29, 1998

VIA HAND DELIVERY

Mr. Gordon Devall
State Inspector General's Office
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State Capitol Annex
Baton Rouge, LA 70804-9095

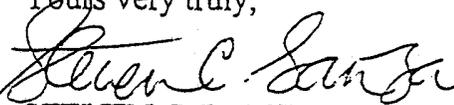
RE: Your File No. 1-98-0025

Dear Mr. Devall:

Attached hereto is the response submitted by Bay Star Enterprises, Inc. to the Inspector General's draft report of May 1, 1998 in the above-captioned matter. Please call me with any questions.

With kind regards, I remain

Yours very truly,


STEVEN C. LANZA

SCL/msg
Attachment

cc: Bay Star Enterprises, Inc.
Bill Lynch

**RESPONSE BY BAY STAR ENTERPRISES, INC.
TO DRAFT REPORT OF MAY 1, 1998
(FILE NO. 1-98-0025)**

The comments contained in this response are submitted by Bay Star Enterprises, Inc. ("Bay Star") and shall be presented in response to the various headings of the Inspector General's draft report forwarded by Bill Lynch's cover letter of May 1, 1998, as noted below.

PREFACE PARAGRAPHS AND BACKGROUND

Bay Star was the party that contracted with the South Louisiana Port Commission -- not Marvin Harvey. The draft report does not take cognizance that Bay Star is a separate entity; rather, the draft report seems to use Bay Star and Marvin Harvey interchangeably. Such interchangeable use is not proper.

CONFLICTS OF INTEREST

Bay Star was not aware of any conflicts of interest regarding its business activities relative to the contracts issued by the South Louisiana Port Commission ("SLPC"). The SLPC never advised Bay Star that it was unethical to receive compensation from subcontractors. The SLPC Executive Director, Richard Clements, and the SLPC's legal counsel, Joseph Accardo, Jr., even reviewed Bay Star's contracts with its subcontractors. It would be assumed that the SLPC would not knowingly approve or enter into a contract with a third party that violated ethics laws. This same assumption applies to Bay Star. See Exhibit "A" which is a memorandum dated May 24, 1996, from Joseph Accardo, Jr. to Richard Clements (Port's Executive Director) reviewing Bay Star's contract with Scrappers Den II, Inc. and making recommendations related thereto. The SLPC was a party to the contract dated November 30, 1995, by and among the Port of South Louisiana, Pro-Tech Environmental Services, Inc. and Bay Star Enterprises, Inc. Bay Star at all times acted in good faith in the execution of these contracts.

Bay Star did not consider itself to be a public servant and was not aware of any violations of the State Ethics Code. State projects are normally awarded according to the requirements of the Public Bid Law. The subcontracts that Bay Star entered into in connection with SLPC projects were not required to be bid pursuant to the Public Bid Law. See Exhibit "B" which is a letter from Glenn R. Ducote (Assistant Attorney General) to Joseph Accardo, Jr. (Port-Commission Attorney) confirming this fact.

Bay Star purchased trucks and a fork lift to operate the general cargo dock and warehouse in order to meet the requirements of its contract. Because the dock is not adjacent to the warehouse, as found in most port facilities, this placed the Globalplex terminal in a non-competitive situation for loading and unloading ships. Bay Star trucks were available for tenants, but were not mandatory. See Exhibit "C" which reflects a Globalplex management meeting on February 27, 1996, attended by Richard Clements (Executive Director of the SLPC) wherein this matter was addressed and no objection was lodged against Bay Star's activities relative to such trucking. The Board of Ethics advisory opinion was issued in August of 1997, approximately a year after the purchase of trucks by Bay Star. Upon receipt of the ethics opinion, Bay Star wrote to Gary LaGrange (Executive Director of SLPC) on August 21, 1997, requesting that the subject contracts be amended to avoid any ethically prohibited activities. See Exhibit "D." As evidenced by its letter, Bay Star was not attempting to violate any ethical provisions. Recall the fact that Bay Star's contracts -- which were approved by the SLPC and its legal counsel -- specifically permitted Bay Star's providing services to tenants of the Globalplex terminal. See Section 7.2.2 of First Amendment to Management Agreement. Despite the letter dated August 21, 1997, the SLPC never formally presented Bay Star with any written amendments to the contracts to address the ethics opinion prohibitions. It should be noted that, in the same time period that Bay Star received a copy of the ethics opinion, Bay Star ceased providing trucking services for tenants located at the Globalplex terminal. Bay Star has always acted in good faith with regard to these matters.

ASBESTOS REMOVAL

Of the \$78,016 received by Bay Star from Pro-Tech Environmental Services, Inc., only \$22,500 was for consulting. The remainder of the funds were for the sale of scaffolding, the provision of materials and equipment and for plumbing and electrical services.

The asbestos removal cap of \$500,000 for the buildings at issue was considerably less than other estimates received by the SLPC. For example, the SLPC received a estimate for \$2,995,000 to do the substantially the same work that Bay Star contracted to perform. See Exhibit "E" which is a copy of a estimate for the asbestos removal submitted by Regional Electric & Construction, Inc. dated June 5, 1995.

The asbestos removal project was dangerous and required extensive planning for the safety of the workers. Bay Star ensured that the project was

completed without a single injury, and with no DEQ violations. Bar Star took the risk that the project might ultimately cost more than \$500,000, thereby protecting the SLPC from such financial risks.

The topic of the asbestos removal contract with Bay Star was discussed at various Globalplex management meetings where SLPC representatives were present and there were no objections lodged thereto.

Information regarding the sales of equipment/salvage was always made available to the SLPC's Executive Director for his review. No representatives of the SLPC ever asked Bay Star to review such information until after Richard Clements resigned and an investigation was started.

With regard to the \$3,268 in sales receipts that the draft report contends were above expenses, it should be noted that there was no such excess of receipts over expenses. In fact, not only did the SLPC receive all monies due to it, but Bay Star actually paid \$2,226.80 of expenses out of its own monies (over and above the receipts). See Exhibit "F" which outlines the receipts/expenses. The 3" water line referenced in Exhibit "F" was needed by the Globalplex terminal to provide water to the ships. The SLPC is still receiving the benefit from the extra expenses funded by Bay Star.

With regard to the comment in the draft report that Bay Star was listed as "architect" in the pertinent contract with Pro-Tech, it should be noted that the parties (including the SLPC) simply used a standard printed form contract for this job. The standard form contract's use was suggested by Pro-Tech who had used it for prior jobs. Bay Star's name was listed in the blank line where the architect on a project is normally listed. The use of this contract was in no way to suggest that Bay Star was acting as an architect on the project. The standard form contract's use was simply to save contract preparation fees for the parties.

SUGAR REFINERY DEMOLITION

Bay Star signed an agreement to assume the responsibility of the demolition of certain buildings at no cost to the SLPC, thereby resulting in savings to the SLPC. Under the contract, the SLPC was only to pay for the hauling and disposal of wood debris with a limitation for such expenses of \$15,000. All revenues from scrap sales would ultimately be for the account of Bay Star. As reflected in the minutes of the Globalplex management meeting of May 28, 1996, Joseph Accardo, Jr., the Port's attorney, was to review and approve the contract

that Bay Star had for the building demolition. See Exhibit "G". This was done and the contract was signed by the parties.

IMPROPER INFLUENCE ATTEMPT

Contrary to Richard Clements' apparent statements to the Inspector General's investigator, it appeared that Richard Clements, not E. J. Martin, was angered and expressed his desire to get rid of Bell Point. At a Globalplex management meeting conducted on October 1, 1996, Richard Clements instructed Bay Star to have notice send to Belle Point that their lease would not be renewed. See Exhibit "H."

BAY STAR ENTERPRISES

The draft report suggested that Bay Star received an "unusual cost plus contract" for managing the Globalplex terminal, as well as a similar contract for managing the waste water treatment facilities. It was Richard Clements who suggested the 50% element (i.e., the "plus" element) of Bay Star's contract. The contract between the SLPC and Bay Star was apparently not unusual at all -- in fact, Hall-Buck Marine, Inc., who served as the previous manager of the Globalplex terminal, was issued a "cost plus" contract by the SLPC. See Exhibit "I" which is a copy of the Letter of Intent from SLPC to Hall-Buck Marine, Inc., dated March 22, 1994. Furthermore, it was the SLPC that issued the contracts to Bay Star. The draft report makes it appear that Bay Star did something improper in acquiring its contracts with the SLPC. Nothing could be further from the truth. In fact, the SLPC (or its agents) prepared, reviewed and approved all contracts with Bay Star. These contracts were also reviewed and purportedly approved by the SLPC's legal counsel, Joseph Accardo, Jr. At no time prior to the execution of these contracts was Bay Star ever informed by the SLPC or by the Port's legal counsel that anything was improper about the contracts. Unlike the SLPC, Bay Star did not have the benefit of legal counsel to review these contracts.

All costs charged to the SLPC by Bay Star for reimbursement were done through purchase orders or invoices, and were approved by the SLPC's Executive Director and Finance Department on a bi-weekly basis. SLPC employs legal counsel, accountants and a finance department that monitors and dictates procedure of reporting reimbursement costs. Until its relationship with Bay Star became adversarial (apparently for political reasons), the SLPC never raised the issue of any impropriety with respect to Bay Star's operation procedures.

As between the SLPC and Bay Star, it is the SLPC's obligation to include provisions in the contracts to "assure the legitimacy of all costs charged to the port." (See page 1 of draft report). Any suggestion in the draft report that Bay Star had the obligation to ensure that certain provisions were included in the contracts to protect the SLPC's areas of interest is meritless. That role was squarely reserved for SLPC and its legal counsel. Therefore, any alleged deficiency in these contractual areas should not be asserted against Bay Star.

Additionally, it should be noted that the Management Agreement of March 13, 1996, regarding cargo dock and warehouse, proved to be a liability to Bay Star because Bay Star incurred considerable expenses not reimbursed by the SLPC in order to fulfill its obligations under this Management Agreement.

BRAZIL TRIP

Richard Clements insisted that Mike Curtis and Marvin Harvey travel to Brazil to represent the SLPC in securing information on waste water projects. The Globalplex terminal was capable of providing shipping services to Brazil for waste water equipment and supplies.

For almost their entire time in Brazil, Mike Curtis and Marvin Harvey stayed at the private home of the cousin of Eddie Boschart. Mr. Boschart was a friend of Richard Clements. These arrangements saved hotel costs for the SLPC. Mike Curtis and Marvin Harvey worked each day, driving to their destinations, and calling on municipalities to gather information and offer services on behalf of the SLPC. It was discovered that their need for waste water treatment equipment was great, but their funds were limited.

Mike Curtis and Marvin Harvey stayed at a motel only one night and it was the last night there, in order to catch their flight the next day (one night, two rooms). The reimbursement of \$3,042.98 represents expenses for two people for seven days. These expenses were entirely reasonable -- in fact, quite low. The reimbursement request did not include cash that was spent for which no receipts were secured, such as taxi fare, certain meals, etc.

E. J. Martin and Richard Clements traveled to Brazil the week after Mike Curtis and Marvin Harvey returned to Louisiana. Both E. J. Martin and Richard Clements were briefed on the trip of Mike Curtis and Marvin Harvey prior to Messrs. Martin's and Clement's departure for Brazil.

The trip to Brazil was for the purpose of SLPC business. Richard Clements insisted that the trip be taken. SLPC business was handled on the trip. To suggest otherwise is without merit.

The letter attached as Exhibit "J" was requested of Mike Curtis to confirm certain of the facts set forth above.

CONCLUSION

The SLPC benefited greatly by the service of Bay Star under the Management Agreement, the Lease and Operating Agreement, and the other contracts with Bay Star. Based on apparent false accusations of Richard Clements, as well as SLPC political tides turning against Bay Star, it is unfortunate that Bay Star has been the target of improper harassment, investigation and defamation. The SLPC unilaterally terminated Bay Star's Management Agreement without just cause -- an action which has damaged Bay Star. All conclusions and recommendations set forth in the draft report adverse to Bay Star should be revised and removed if justice is to be served.

Submitted by:

Bay Star Enterprises, Inc.
May 29, 1998

FROM:
RICHARD CLEMENTS

8 May 1998

Re: File No 1-98-0025

MR. Gordon Devall
Office of State Inspector General
State of Louisiana
P.O. Box 94095
State Capital Annex
Baton Rouge, LA 70804-9095

Dear Mr. Devall:

This is in response to the "DRAFT" report "South Louisiana Port Conflicts" sent to me by letter signed by Mr. Bill Lynch.

Concerning the Asbestos Removal issue, I refer you to my letter (by e-mail to Harvey's) dated Nov. 1, 1995. The last sentence of the last paragraph states "All salvage material and equipment must be listed with the proposed method of off-set and such list provided to the Executive Director.

The key word is proposed. Clearly this shows the intent was to have the Executive Director see in advance what the off-set arrangements had been made and make sure there was

a reasonable balance; and only those materials that were previously sighted and agreed upon would be used in an off-set. * see ^{at end of} letter.

This did not occur. At one point, I questioned Mr Harvey about a missing ^{SCREW} ~~screw~~ (pump?). He said it had been stolen. I understand, this was sold to Colonial sugar.

IT is a fact that MR Harvey never proposed a salvage off-set deal to me.

Any isolated list given to the Port is clearly in violation of the letter contract of November 1995.

AS FOR MR Harvey's consulting, I can only imagine its true nature. Since, he had plumbing & Electrical talkent on his staff which was paid by the Port, I can only imagine the purpose of these monies.

Both the Asbestos Removal and the demolition were confined to certain buildings. This is clearly the case with the demolition. Your report so indicates.

MR. Harvey sold materials (such as the gears which I believe ended up in Mexico - these were the ones loaded by my son) not in either the buildings being demolished or involved in the asbestos removal. Also this sale occurred after the asbestos project.

Moving on to the Tecta Pacific issue. The prime reason for my trip to Malaysia was to negotiate and have signed an agreement to build a new building for Tecta Pacific at Globalplex. This was accomplished. The agreement is at the Port.

A secondary purpose of my visit was to discuss the way the ships were loaded in Malaysia. They were not being loaded so as to minimize cargo damage and provide efficient cost-wise unloading at Globalplex. This I did discussing the issue with Tecta Pacific's cargo people.

As your report indicate, I did promote the Port as manager for their Globalplex operations. This was before Belle Point was selected — at the time, I didn't even know Rainey Wilson had a company named Belle Point.

As for the lawsuit. Mr Wilson did in fact slander me! I did none of the things he said I was doing. I was and never did try to get him out of the work with Tecta Pacific.

If you check the records, you will see that MR Wilson settled the case for \$1500.00. The Port has this money.

As far as the legal fees, I was told by MR. Martin the Commission had agreed to pay. He said he had polled them by phone and ratification (formal) would be at a later meeting.

Since I was functioning in my capacity as Executive Director

and had done no harm to Mr. Wilson,
I saw nothing wrong with the
Commission backing a lawsuit
depending the attacks on the
Executive Director.

Thank you for the time
and effort you have put
into this issue.

Sincerely

R. J. Clement

* note on above paragraph concerning
interpretation of 1 Nov 95 letter.

Shortly after I left the Port but
before I moved to FHA, I received
a call from Joe Accardo. He
ask how I interpreted the 1 Nov 95
letter. I told him; he ask that
I change my opinion and wanted
me to come to the Port and
discuss the issue. I said no.

**FROMHERZ
ENGINEERS, INC.**

Consulting Engineers

2740 Indiana Ave., Suite 200
Kenner, Louisiana 70062

(504) 466-5060
(504) 466-0064 (Fax)

Mr. Bill Lynch
State Inspector General
State of Louisiana
P.O. Box 94095
Baton Rouge, LA 70804-9095

May 12, 1998

Ref: File No. 1-98-0025

Dear Mr. Lynch:

Reference is made to your letter dated May 1, 1998 regarding the referenced file. I have reviewed the portion of the draft report (one page), which was attached to your letter.

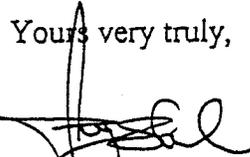
I have had several discussions with your staff regarding my business dealings with Mr. E. J. Martin. The statements made in the draft report are essentially correct but some clarifications and elaboration should be noted:

The loan amount of \$200,000 was for my personal business and not for Fromherz Engineers and was paid up in full, with all interest due, on time.

During the loan period, Fromherz Engineers did provide services to Port of South Louisiana, as sub-consultants to AACO Engineering. That contract was awarded to AACO in the summer of 1992. The invoiced amount \$42,372 appears to be correct. All invoices were processed and approved by AACO before payments were made to us.

I want to assure you and the Governor, that had I known that such business dealings between friends are considered improper or unethical, I would not have even considered it. I respect Mr. Martin too much. In all these years, I have yet to buy a lunch for him because he would not accept anything like that.

Yours very truly,


Jay Shah

JOSEPH ACCARDO, JR.
P. O. BOX 909
LA PLACE, LA 70069
(504) 652-9278

June 3, 1998

Mr. Bill Lynch
Inspector General
P. O. Box 94095
Baton Rouge, LA 70804-9095

RE: File No. 1-98-0025

Dear Mr. Lynch:

I have reviewed the draft report provided me.

As you are aware, matters relative to my legal services to the Port, my conversations related thereto with the Executive Director, Mr. Richard Clements, and Commissioners are deemed confidential. My ability to comment on these matters is severely restricted because of the confidential communication and so as to avoid any perception of criticism of the Port or the Commissioners. Please accept these comments with the caveat that I am unable to comment on many aspects of your report.

The draft report indicates that at a meeting of the Commission, the allegations of defamation by Mr. Ranney Wilson were discussed. At the meeting, I was directed to investigate, research the law and prepare a possible suit on the alleged defamation of the South Louisiana Port Commission, Mr. Clements and Mr. Martin, by Ranney Wilson, a parish council member and a principal in Belle Point Services, Inc., the lessee of the Port. The legal services referenced above were undertaken and paid for pursuant to a commission approved, hourly contract for legal services with the Port. The reference in the report to the fees paid for those services are gratuitous and seems to imply that they were somehow not appropriate. Please consider a deletion of that information.

In carrying out the directive relative to the alleged defamation, the witnesses interviewed included two parish presidents, three council members and two Port Commissioners, Mr. Dufrene and Mr. Lier. The summary of my research of the law, the interviews and draft lawsuit were submitted to Mr. Clements and Mr. Martin. During this process and at subsequent contacts with commissioners, I had the occasion to answer questions of several commissioners relative to the case. It is my understanding that Mr. Clements or Mr. Martin independently communicated with the Commissioners relative to the status of the case.

Mr. Bill Lynch
June 3, 1998
Page 2

The results of the interviews and research indicated that in the alleged defamation of Mr. Clements and Mr. Martin, the Port could similarly be defamed. In such an instance, legal action to enjoin the alleged defamation would be justified since the impaired business reputation of the Port would hamper its ability to negotiate agreements.

The draft report also implies that the May 1, 1996 letter demanding a retraction by Mr. Wilson was not authorized. My research of the Port law is clear that legal services are performed under the direction of the Executive Director. Letters of demand such as the one sent Mr. Wilson have been sent in the past, and now, without the approval of the Commission. It is my view that the writing of a demand letter is considered a function within the scope of the powers of the Executive Director.

After completion of the interviews and research, a decision was reached that the interest of the Port and Mr. Clements and Mr. Martin may be divergent and that separate counsel should be employed. Ms. Donna Green of Trinchard and Trinchard was employed to represent Mr. Clements and Mr. Martin. Based upon the comments of Mr. Wilson and his counsel, the prospect of a lawsuit by Belle Point against the Port, Mr. Clements and Mr. Martin was a concern and separate counsel was justified. Counsel for Mr. Wilson was notified on May 10, 1996 of the employment of Ms. Green.

The resulting investigation of the claims required the same witness, including Mr. Dufrene and Mr. Lier to be interviewed by Ms. Green, all as evidenced by the Trinchard invoices.

The claim was settled, with proceeds to be paid to the Port. Invoices for legal services by the Trinchard firm of June 17, 1996 and September 17, 1996 for \$5270.58 were sent to Mr. Clements at the Port.

Without forewarning, the invoices attached to a December 6, 1996 Port check payable to my firm, signed by Mr. Richard Clements and Brandt Dufrene, were forwarded to me and received on December 9, 1996 for payment to the Trinchard firm as special counsel.

The December 10, 1996 letter relative to the invoices to Mr. Clements was partially quoted in the draft report. I cannot add or detract from the advice contained therein, except to reiterate that there was justification as noted above for the employment of special counsel and the Commission had the right to ratify the payment of the Trinchard invoice. My reliance on the stated intentions of Mr. Clements to seek ratification of the payment of the invoice to the Trinchard firm are as a result of many years of his adhering to his stated intentions and course of action. Additionally, I believed the factual circumstances surrounding the alleged defamation as communicated to the Commission would convince the Commission of the correctness of his actions.

The draft report seems to be devoid of any indication the Mr. Clements was interviewed relative to this specific matter. The reasons for his actions are not considered in the report, but may be found in his belief, reasonably grounded, that he had the support of the Commission and his actions would

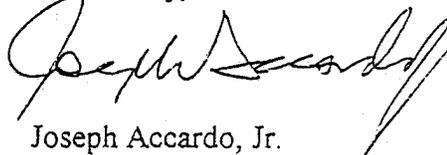
Mr. Bill Lynch
June 3, 1998
Page 3

be ratified at the January meeting of the Commission. The reason for his failure to present the ratification of the payment of the invoices to the Commission are likewise not discussed, but may have been related to the terminal illness of Mrs. Clements which required increasing and frequent attention during the fall of 1996 and the spring of 1997 resulting eventually in his resignation on March 23, 1997 to attend to her.

I hope you will review the relevant portion of your draft report in light of these comments.

Thank you for your consideration.

Yours truly,

A handwritten signature in cursive script, appearing to read "Joseph Accardo, Jr.", written in dark ink.

Joseph Accardo, Jr.

JA:mms