



State of Louisiana

**OFFICE OF  
STATE INSPECTOR GENERAL**

**LOUISIANA TAX COMMISSION**

**Report by**

**Inspector General Bill Lynch**

**Prepared for**

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

**April 17, 2003**

**File No. 1-03-0054**



State of Louisiana

OFFICE OF  
STATE INSPECTOR GENERAL

Louisiana Tax Commission

Report by

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February 21, 2003

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# Louisiana Tax Commission

Malcolm B. Price Jr., chairman of the Louisiana Tax Commission since 1992, accepted gratuities in the form of expense paid three-day fishing trips to the Gulf of Mexico from an oil exploration and production company which did business before the commission.

He is a substantial owner in a tower company that did business leasing space to wireless telephone companies, part of whose business falls under jurisdiction of the Tax Commission.

Statutes governing the commission prohibit the acceptance of gratuities and entering into business dealings without informing and getting approval from the commission. Neither was done. There also may be violations of the state code of ethics which is a matter for the State Board of Ethics to decide. In addition, an investigation of the commission revealed the following other findings:

- The agency, under Mr. Price's direction, routinely conducted commission meetings in violation of the state's open meetings law, failing to post a notice or an agenda, and thereby effectively denying the public access.
- One of the improper meetings resulted in a confrontation between Mr. Price and the commission's confidential assistant, in which the complaining employee was retaliated against in possible violation of the state's whistle blower protection law.
- Mr. Price received mileage reimbursement for some claimed trips throughout the state which are questionable for the lack of documentation and business necessity for making them. There is nothing to indicate the state benefited from the trips.
- Mr. Price recused himself from participation in certain issues pending before the commission to avoid conflicts of interest with his businesses. Recusal is not an option under the state code of ethics.

- The confidential assistant to the board was improperly designated and acted as notary for the commission without going through the proper procedure.
- The attorney for the commission failed to timely submit her billings for services rendered, as required by her contracts.

## Background

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The Louisiana Tax Commission is composed of three members appointed by the governor, serving at his pleasure. The governor names the chairman. The commission, operating on a \$2.5 million annual budget, has oversight of all parish assessors, and serves as a body for appeals in disputes between property owners and assessors. The commission also has the responsibility to assess the properties of public utilities and commercial entities which cross parish lines, and sets the guidelines which must be used by parish assessors in the assessment of property.

The commission has jurisdiction over physical property and equipment of wireless communications companies and over marshlands property owned and leased by commercial entities. These are important factors taken into consideration in reviewing the conflict of interests and gratuities outlined later in this report.

Mr. Price, Baton Rouge, was first appointed in 1992 by former Governor Edwin Edwards and re-appointed twice by Governor Mike Foster. The other commissioners are Russell Gaspard of Abbeville and Kenneth Naquin of New Orleans. Mr. Gaspard was appointed in 1996 by Governor Foster and Mr. Naquin was appointed in 1992 at the same time as Mr. Price.

The agency administrator is James “Pete” Peters. Until recently accepting employment in the private sector, Desiree Worsley was the confidential assistant to the commission, an unclassified appointee of the commission. There is a staff of about 35, all of whom are classified civil servants.

During this investigation, Mr. Price resigned, Mr. Gaspard was appointed chairman by the governor, and Jewette Farley of Ruston was appointed to the vacancy.

## Gratuities

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Since 1993, Mr. Price has accepted gratuities in the form of expense paid three-day fishing trips to the Gulf of Mexico from an oil exploration and production company. The company has appeared at least three times before the commission.

According to Mr. Price, he accepted nine expense paid trips to the gulf as the guest of the company. He acknowledged participating every year except 2001, since his appointment to the commission. The trips were provided by Burlington Resources, Inc., of Houston, Texas. Mr. Price provided his own transportation to and from the boarding site at Cocodrie Marina in south Louisiana. The company provided a yacht to transport Mr. Price and others to a company-owned 200-foot, 20-bunk barge in the gulf near Timbalier Island. The company provided guides, fishing supplies, drinks and food prepared by a chef aboard the barge.

According to an employee speaking for Burlington Resources, the company provided the fishing trips for a number of assessors in Louisiana and for Mr. Price “because we do business with them, and it makes good business sense to entertain them.” The employee said the trips offered the assessors and Mr. Price a chance to talk with each other in a relaxed setting.

The company has appealed several assessments to the commission, including years in which Mr. Price accepted the gratuity. However, no appeal reviewed was favorable to the company.

The company is also subject to commission rules and regulations which apply to Louisiana marshland property owned and leased by the company.

LSA-R.S. 47:1833 prohibits any member of the commission from taking any gratuity for any accommodation or service rendered to another than the Tax Commission without getting prior approval for such gratuity from the commission. Violation of the statute is a misdemeanor punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days.

Mr. Price did not report the gratuity to the commission, nor did he get prior approval to accept the gratuity.

The state code of ethics prohibits a public employee from accepting gifts or gratuities from a person or entity that does or may do business with the employee's agency. Whether a violation occurred here is a matter for the Board of Ethics to determine. Assessors who participated in the fishing trips may face inquiry.

## Conflicts of Interest

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Mr. Price had conflicts of interest because his company had business relations with companies who were subject to oversight by the commission.

Mr. Price is the majority owner at 34 percent of Gulf States Towers, a company that builds, maintains and leases towers throughout Louisiana to wireless communication companies. According to Mr. Price, his tower company has lease contracts with four such companies – Alltel, VoiceStream, Verizon and Cingular.

All wireless communication companies in Louisiana are subject to the commission oversight because the commission sets rules and regulations that must be followed by parish assessors in the assessment of such properties.

Also, Cingular is a joint venture of SBC Communications and BellSouth, which has appeared numerous times for appeals before the commission.

LSA-R.S. 47:1833, the statute governing the commission, prohibits any member of the commission from engaging in any business which would interfere or be inconsistent with his duties.

LSA-R.S. 42:1112 of the state code of ethics prohibits any public servant from entering into a contract with an entity under the supervision or jurisdiction of the public servant's agency. Any violation would be a matter for the Board of Ethics to consider.

## Open Meetings Law

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The commission, under Mr. Price's direction since 1992, has violated the state's open meetings law on numerous occasion in hundreds of appeals by failing to post a notice or an agenda, effectively denying the public access.

The commission has three types of meetings, the result of which are decisions made by a vote of the members. They are: Rules and Regulations Hearings, Appeal Hearings, and Decision Meetings.

1. Rules and Regulations Hearings are annually conducted and notice of such hearings is publicly posted, along with an agenda. The hearings and relevant votes of the commission are made publicly. The fact that these meetings are conducted in accordance with the open meetings law, demonstrates that the commission knew what the law requires.
2. Appeal Hearings are conducted annually when taxpayers appeal the assessment of property by parish assessors. Notice of the date and time of the hearings is publicly posted 24 hours prior. However, no agenda is posted. From 1992 through 1995, about 30 Appeal Hearings per year were conducted. From 1996 through 2001 about 100-150 hearings a year were conducted. According to commission members, the increase was primarily due to a particular local assessor who generated a lot of appeals. In 2002, after that assessor left office, the number of appeals returned to about 30.
3. In almost all cases, the commission hears evidence at the Appeal Hearing, then takes the matter under advisement. No vote or judgment is rendered at the time of this public hearing. The decision of the commission is made at a later date during what is called a Decision Meeting. At the Decision Meeting, the commissioners take the bench, call the meeting to order, have discussions on each case, cast their vote and render a decision on the appeal. However, no public notice or agenda was made.

Louisiana's open meetings law requires any decision by a vote of the commission be made publicly and after prior public notice, including the agenda, is posted.

The law says:

“All public bodies...shall give written public notice of any regular, special or rescheduled meeting no later than 24 hours before the meeting. Such notice shall include the agenda, date, time and place of the meeting...”

Both Mr. Price and Administrator Peters agreed there was a problem with the meeting procedures and took prompt steps to correct the situation. The commission also handles more than 30,000 change orders annually and is asking the attorney general for an opinion on whether considering them constitutes an open meeting.

## Whistle Blower

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Desiree Worsley, confidential assistant to the Louisiana Tax Commission for seven years, began furnishing information to state agencies about alleged wrongdoing as early as May, 2002, before a confrontation last December with the chairman when she gave him a letter outlining what she believed were violations of the open meetings law.

On Dec. 11, 2002, a hearing was conducted by the commission to consider the appeal of a property tax assessment between the owner of Belmont Commons, an office building in New Orleans, and a New Orleans tax assessor. The property was assessed at \$5.2 million by the assessor. A Tax Commission appraisal assessed the property at \$3.7 million, but the property owner was seeking to reduce the assessment to \$2.5 million. The appeal was withdrawn and a settlement was eventually reached between the property owner and the assessor, reducing the assessment to \$2.85 million.

During the hearing, Mr. Price called a recess. The property owner, his attorney, the assessor, Administrator Peters and Commissioners Price and Kenneth Naquin went to a private room where the dispute was negotiated. Commissioner Gaspard was neither invited nor attempted to participate.

The assessor, property owner and his attorney, all stated that although Mr. Price and Mr. Naquin may have briefly checked on the progress of the negotiations, they did not recall Mr. Price and Mr. Naquin being in the private office at the same time. They were certain that Mr. Price and Mr. Naquin did not participate in the negotiations.

Mr. Price stated he was in and out of the office, but only to provide information. He said he did not participate in the negotiations. Mr. Price said Mr. Naquin briefly stepped into the office to provide additional information.

Mr. Naquin said he was only in the office for a moment to provide some information to the parties. He believes Mr. Price was also in the office at the time he was there to provide this information.

Mr. Gaspard stated he did not participate in the negotiations. He said he saw his fellow commissioners in the room with the negotiating parties.

Ms. Worsley, who was present at the open hearing, said she publicly stated that Mr. Price and Mr. Naquin were violating the open meetings law.

On the following day, Mr. Price criticized her publicly for having made the accusations at a public meeting.

On December 17, Ms. Worsley gave Mr. Price a letter restating her allegation that the commission was in violation of the open meetings law. Mr. Price countered with his own letter to her, outlining retaliatory steps he was taking against her.

Her job duties were reduced, a flexible work schedule was made rigid, her phone calls were restricted, her office was moved so that calls to Mr. Price were no longer routed through her. After being informed of the retaliation against Ms. Worsley, the Inspector General urged Mr. Price to consider his actions in light of the state's whistle blower protection statute. No changes in his order were made.

State law, through what is commonly known as the whistle blower act, protects employees from retaliation for disclosing information about wrongdoing in government.

LSA-R.S. 42:1169(A) states:

“Any public employee who reports to his agency head or the board information which he reasonable believes is a violation of any provision of law within the jurisdiction of the board or of any order, rule, or regulation issued hereunder or any other alleged acts of impropriety within any governmental entity shall be free from discipline or reprisal for reporting said acts of alleged impropriety.”

LSA-R.S. 42:1169(B) states:

“Any public employee who reports to a person or entity of competent authority or jurisdiction information which he reasonably believes is a violation of any law or of any order, rule, or regulation issued in accordance with law or any other alleged acts of impropriety related to the scope or duties of public employment or public office within any branch of state government or any political subdivision shall be free from discipline or reprisal for reporting said acts of alleged impropriety. No employee with authority to hire and fire, supervisor, agency head, or other elected official shall subject to reprisal any such public employee because of said employee’s efforts to disclose such acts of alleged impropriety.”

Ms. Worsley filed a complaint with the Board of Ethics that she was retaliated against because of her blowing the whistle.

## Questionable Travel

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Travel expenses submitted by Mr. Price are questionable due to a lack of documentation supporting the purpose and business necessity for the trip. Additionally, some expense vouchers submitted by Mr. Price were not in conformity with state travel regulations.

Travel expenses submitted by Mr. Price for the period July 1, 2001, through Dec. 31, 2002, were reviewed. During the period under review, Mr. Price was reimbursed \$4,791. Mr. Price filed expense accounts for 77 days of travel during the period July 1, 2001, through April 30, 2002. He has not filed an expense account for the period May 1, 2002, through Dec. 31, 2002. Problems found with the expense accounts include the following:

1. Travel expenses are not supported by documentation detailing the exact destination and purpose of the trip.
2. Departure and arrival times shown on the expense accounts are not accurate.
3. Expense accounts were not filed on a timely basis.

In addition, Mr. Price claimed expenses for a February, 1994, trip to California for the stated purpose of accompanying tax commission auditors in which he claimed and received \$266 in expenses for two non-business related days.

### Lack of Documentation

Expense request vouchers submitted by Mr. Price indicated the destination of his travel but did not have any supporting documentation showing the relevance of the travel to tax commission business. Such documentation would show how the travel related to cases currently before the commission, specific problems reported to the commission, or studies conducted for the commission.

When questioned about the purpose of the trips relative to the places traveled, Mr. Price, gave various explanations for travel. For 28 trips with expenses totaling \$1,532, Mr. Price was able name 10 individuals he contacted, such as contract attorneys and parish assessors. On 43 trips totaling \$2,514 in expenses, he did not list a specific location only a general phrase such as subdivision property review or apartment value review.

The 10 individuals named by Mr. Price were contacted by this office and stated they had met Mr. Price in their parish during the period of this review. None of the individuals was able to give a specific date for the meetings. One said he was not in the office on one of the dates listed by Mr. Price.

For the 43 trips taken without showing a specific location or person contacted, this office was unable to verify the authenticity of the trip, public purpose and necessity of the travel.

Mr. Price stated he often takes trips to get an overall view of the property in an area. He does not always meet with the assessor or anyone else. Mr. Price further stated he feels a personal look at property and the area in general is needed to understand the property values in a parish. He said this overall view of the area is necessary for him to discuss ratio studies performed by Tax Commission employees with assessors or other problems with taxpayers.

Mr. Price stated he did not keep a record of persons he talked to while traveling, or the reason for visiting a particular area. Mr. Price further stated while traveling to various parts of the state he met with friends for lunch or dinner. According to Mr. Price, there is no documentation for the trips other than the expense account.

Travel regulations require expenses incurred on state business be limited to those expenses necessarily incurred for the performance of a public purpose authorized by law to be performed by the agency.

### Departure and Arrival Times

Departure and arrival times reported on Mr. Price's state travel vouchers are not accurate. The travel vouchers indicate a departing time of 8 a.m. and arrival time 5 p.m.

Mr. Price stated the times recorded on his expense accounts are always shown as departing 8 a.m. and arriving at 5 p.m. According to Mr. Price, these times were used to correspond to a normal work day and not intended as anything other than normal work hours.

The state travel regulations require "in all cases the date and hour of departure from and return to domicile must be shown."

### Filing Expenses On A Timely Basis

Mr. Price's travel expense vouchers were held for months following the date of travel.

On May 20, 2002, Mr. Price submitted for reimbursement one travel expense voucher for expenses incurred during the period July 1, 2001, through Aug. 31, 2001, approximately 9 months after the last day of travel. On May 21, 2002, Mr. Price submitted two expense vouchers covering the period Sept. 1, 2001 through Dec. 31, 2001. On July 11, 2002, Mr. Price submitted two expense vouchers covering the period Jan. 1, 2002, through April 30, 2002.

Mr. Price stated expense vouchers are generally held for at least six months before filing for reimbursement. He further stated he does not submit all travel expenses and would not file an expense voucher for reimbursement if commission travel funds were low.

State travel regulations state "claims should be submitted within the month following the travel."

Good fiscal management requires expenses be recorded and paid as close to the actual date of the expense as possible.

## California Trip

According to Mr. Price, the Tax Commission was expanding its audit program due in part to legislation passed in 1993 which allowed the commission to receive 10 per cent of the additional tax, penalty, and interest collected. He said his purpose for traveling to California was to observe the auditors while in the field conducting an audit. He further stated he accompanied the auditors on two audits.

However, Mr. Price extended the trip two days in order to visit a friend and improperly charged the state for the additional expenses totaling \$266.

Tax Commission employees traveled to California in February, 1994, to audit companies doing business in Louisiana. The auditors were in California for one week.

Mr. Price departed for California on Wednesday, Feb. 23, 1994, and returned on Sunday, Feb. 27, 1994.

Expenses claimed by Mr. Price for the extra days include the following:

|              |                   |
|--------------|-------------------|
| \$ 85.71     | Lodging           |
| 60.00        | Meals             |
| 31.40        | Tolls and Parking |
| 61.12        | Rental Car        |
| 4.00         | Tips              |
| 12.86        | Gas               |
| <u>10.43</u> | <u>Telephone</u>  |
| \$265.52     | Total             |

State travel regulations require expenses reimbursed to travelers be those expenses necessarily incurred in the performance of a public purpose.

## Recusals

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Appointed members of boards and commissions, unless specifically exempted, may not avoid a conflict of interest situation by recusing themselves on a matter coming before the agency. The Board of Ethics has ruled that such conflicts may be resolved only by divesting oneself of the particular interest that creates the conflict or resignation from the board or commission.

On at least two occasions, Mr. Price recused himself from participating in matters coming before the tax commission because of his personal businesses. Whether those particular matters were actual conflicts of interest would be matters for the Board of Ethics to decide.

We report these incidents here for the benefit of the commission in handling future situations that might arise.

In the first instance in 2000, Mr. Price stepped aside from considering an appeal involving an assisted living facility because he is the owner of a similar facility. Mr. Price announced publicly that he was recusing himself because he was in that business. Had there been an actual conflict of interest, he could not have simply recused himself and would have either had to divest himself of the interest or resign from the commission.

On the second occasion, an appeal by AT&T Wireless came up for consideration in 2002 and again, Mr. Price stepped aside. The acting chairman stated Mr. Price was recusing himself for business reasons. Again, he would have had to divest his business or resign.

When the issue came up, Mr. Price left his seat to take one in the back of the room. He turned to Commissioner Naquin and stated, “Kenny, I’m going to let you handle this next one, I wasn’t there.” It is not required that a commissioner participate if there is no conflict involved.

Mr. Naquin conducted the hearing after stating for the record, “Mackie (Price) recused himself from this because of business considerations.”

The tax commission has jurisdiction over some aspects of wireless telephone companies, some of which do business with his tower company.

Mr. Price claimed he “stepped down” from the bench for other reasons, but not to recuse himself. He added he was unaware until recently that he was not allowed to recuse himself from commission hearings as a means of avoiding a conflict of interest.

## Notary

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The person assigned to be the notary for the commission did not take an oath of office as required by the statute governing the commission.

Since 1996, the confidential assistant for the commission served as the notary ex officio, responsible for notarizing all agency documents which require it.

LSA-R.S. 47:1835 authorizes the commission to appoint a secretary as notary ex officio by swearing in the employee after furnishing a bond of \$10,000.

## Attorney Billings

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Vyrona M. Wiltz, attorney for the Tax Commission, did not submit her billings for services rendered at the end of each calendar month as required by her contracts.

Ms. Wiltz began contracting annually with the commission in fiscal year 1993 to provide legal services on a part-time basis. The services included rendering legal opinions as requested, establishing legal procedures for conducting public hearings and tax appeal hearings, and representing the commission in court proceedings. Her contracts required billings to be submitted at the end of each calendar month.

Payments to Ms. Wiltz for fiscal years 1998 through 2000 were reviewed. The dates for each payment are gaped by several months, which indicate that billings were not submitted for payment processing at the end of each calendar month.

Billings submitted from Ms. Wiltz for fiscal years 2001 through mid-fiscal year 2003 were reviewed, along with the subsequent payments. The following was noted

- For fiscal year 2001 monthly billings were submitted a minimum of one month late and a maximum of six months late.
- For fiscal year 2002, Ms. Wiltz submitted her monthly billings in two batches. The first batch submitted February, 2002, included monthly billings from July, 2001 through October, 2001. The second batch submitted in July, 2002, included monthly billings from November, 2001 through March, 2002.
- Thus far for fiscal year 2003, Ms. Wiltz submitted one batch of monthly billings. The batch was submitted in January, 2003, and included monthly billings from July, 2002 through December, 2002.

Ms. Wiltz admits that she has not been submitting her billings at the end of each calendar month as required by her contracts. She stated that she no longer has a secretary and simply does not like doing the task herself. Ms. Wiltz stated that she has spoken with Mr. Price and Mr. Peters and plans to submit her billings as required by the contract in the future.

Her contract with the Tax Commission has been terminated.

*Conclusions:*

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1. Mr. Price accepted gratuities in the form of expense paid fishing trips to the Gulf of Mexico from a company under commission oversight. Mr. Price failed to properly disclose to the commission his acceptance of those gratuities, which is required by the statute governing the commission.
2. Mr. Price had a conflict of interest because a company in which he is a substantial owner did business with other companies subject to jurisdiction of the commission.
3. The commission, under Mr. Price's direction, failed to post notices and agendas for numerous meetings involving hundreds of appeals, as required by the state open meetings law, thereby denying the public access to the hearings.
4. Mr. Price took retaliatory action against an employee who reported what she believed to be a violation of the open meetings. Employees reporting allegations of wrongdoing are protected by a state whistle blower act.
5. Mr. Price claimed and was reimbursed for travel for which there was a lack of documentation as to purpose and time. On a trip to California, Mr. Price received \$266 for personal expenses to which he was not entitled.
6. Mr. Price recused himself from participation in at least two appeals cases up for hearing to avoid a conflict of interest. Recusal is not an option under the state ethics code. If there is a conflict, a commissioner must either divest himself of his interest or resign from the commission.
7. The employee assigned as notary for the commission did not take the oath required by the commission statute.

8. A contract attorney for the commission failed to submit billings timely.

*Recommendations:*

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1. The Louisiana Tax Commission should insure all commission members and administrators have a working knowledge of and observe all pertinent laws, rules and regulations under which the commission operates.
2. The commission should follow good business practices in regard to the timeliness of submission of travel reimbursement and contract attorney invoices.
3. This report should be forwarded to the appropriate authorities.

*Responses:*

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Attached are responses from Mr. Price, Burlington Resources and Mr. Gaspard.

*I.G. Comment:*

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After reviewing the responses of Mr. Price and Burlington, we advise further that we regard violations of the statute governing the Tax Commission and the state code of ethics, if so adjudged by the Board of Ethics, as serious matters, regardless of whether Mr. Price is no longer a member.

BL/JW/rp

File No. 1-03-0054

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February 19, 2003

Mr. Bill Lynch  
State Inspector General  
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Baton Rouge, Louisiana 70804-9095

Re: Malcolm B. Price, Jr.  
Your File: 1-03-0054  
Our File: 02-244

Dear Mr. Lynch:

As you are aware, the undersigned regularly represents Malcolm B. Price, Jr. On behalf of Mr. Price, please accept our thanks for the opportunity afforded for us to meet with you during the ongoing investigation by your office of the Louisiana Tax Commission. We have received a preliminary draft of the report of your office concerning the Louisiana Tax Commission and this shall serve as Mr. Price's response to the same. We respectfully request that your office give consideration to the comments contained herein before compiling and releasing your final report on the Tax Commission.

As you are aware, Mr. Price has recently been subject to some scrutiny by the Louisiana Board of Ethics and the Louisiana Tax Commission underwent a thorough audit by the Legislative Auditor's office in the last two years. Since the Louisiana Board of Ethics materials are confidential, I am assuming that you have not had the opportunity to review communications from the State Board of Ethics, Mr. Price and the undersigned, concerning Mr. Price's involvement with Gulf States Towers, LLC and Gulf States Towers II, LLC. Since this is addressed in the second paragraph of the summary on the first page of the draft report and is subject of an entire section of the draft report at page 4 under the heading "Conflicts of Interest", I think that it is relevant for you to have these materials. For your consideration and review I enclose herewith copies of the following:

1. October 11, 2002 letter from the Louisiana Board of Ethics directed to Gulf States Towers II, LLC.
2. My October 16, 2002 response letter to the Louisiana Board of Ethics with enclosures.
3. My October 24, 2002 response letter to the Louisiana Board of Ethics.
4. November 25, 2002 letter of the Louisiana Board of Ethics.

The draft of your report in dealing with this issue on page 4 states "Mr. Price had conflicts of interest because his company had business relations with companies who were

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subject to oversight by the Commission.” I respectfully suggest to you that this position stated in your draft is at odds with the position of the Louisiana Board of Ethics as stated in its November 25 correspondence. This writer and Mr. Price have discussed the statements contained in the Louisiana Board of Ethics correspondence concerning what actions Mr. Price might take in the event that entities, with whom Gulf States Towers, LLC and Gulf States Towers II, LLC did business appeared with appeals before the Tax Commission. Mr. Price was taking steps to reduce his ownership interest in both the Gulf States Towers entities below twenty-five (25%) percent, and Mr. Price had determined that he would resign from his position with the Tax Commission if need be. None of the entities, Alltel, VoiceStream, Verizon or Cingular, had any appeals before the Tax Commission. Further, the Tax Commission, as set forth in the correspondence, did not set the assessments for those entities. Further, the Commission had not set, nor were there any matters before the Commission wherein it proposed to set rules and regulations for the Parish Assessors to utilize in assessments of such properties.

As you are aware, Mr. Price has recently resigned his position with the Louisiana Tax Commission. I respectfully suggest to you that any issues concerning Mr. Price’s investment in Gulf States Towers, LLC and Gulf States Towers II, LLC have been rendered moot in light of Mr. Price’s resignation, which removes any potential for a conflict of interest to have occurred in the future. The Louisiana Board of Ethics, who is the state agency authorized to investigate, conduct hearings and assess fines and penalties in connection with violations of state laws on conflicts of interest has looked at the matter, prior to Mr. Price’s resignation and found no issues worthy of that investigation.

It is respectfully suggested that paragraph 2 on page 1 of the summary and all of the material on page 4 under the heading of “Conflicts of Interest” should be deleted on the final draft of your report. In the background section of the draft report on page 2, it is suggested that the reference to “physical property and equipment of wireless communications companies” should be removed with the other comments concerning “potential” conflicts.

Pages 2 and 3 of the draft report concern the receipt of gratuities by Mr. Price. I have concerns here over the standards that your office expects of Mr. Price and any successors to his position. You have noted in the draft of your report the prohibition against accepting gifts or gratuities from anyone that does or may do business with an employee’s agency. In theory, almost every person, both natural and juridical, in the state is someone who “may do” business with the Louisiana Tax Commission. This is due to the fact that every person who owns a piece of movable or immovable property that is subject to assessment and ad valorem taxes may become dissatisfied with the local assessment and appeal such to the Tax Commission. I would hope that you would not expect Mr. Price, or his successor, to essentially remain isolated from all other persons in the state, since each one of those persons may ultimately one day appeal a tax assessment to the Tax Commission. I think of my own relationship with Mr. Price which goes back over forty years and predates our attorney/client relationship. Due to the longstanding

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nature of our relationship, Mr. Price and I on occasion have dinner together, share a glass of wine and hunt together. At times I am a guest of Mr Price, and sometimes he engages in those activities as my friend and guest. I do not believe that the Louisiana Board of Ethics, nor your office, would expect Mr. Price to seek permission of the Louisiana Tax Commission before he is permitted to allow me to buy him a glass of wine at a local watering hole due to the fact that at some point in the future I may become dissatisfied with the assessment on my home or business furniture and fixtures.

The comments concerning the trip sponsored by Burlington Resources, Inc. (formerly Louisiana Land and Exploration) would appear to be well taken. According to Mr. Price, it was his understanding that his predecessors in office had gone on the annual fishing trip sponsored by Burlington Resources for a number of years. Mr. Price recognized that the trip provided him with a method of having valuable and meaningful interaction with assessors from around the state and he considered the trip somewhat of a workshop or seminar with the assessors who attended. At no time were there any officers of Burlington Resources, Inc. at the facilities during the trips and we would request that you make note of that fact. We would further request that you make note in your report that attendance at this annual trip by the chairman of the Tax Commission has apparently been customary for a number of years predating Mr. Price's occupying the chairmanship of the Commission. Again, all of the other commission members and the staff of the Tax Commission were aware that Mr. Price was taking the trip, as was the custom for the Commission chairman, although no "formal" approval of the trip was made in the minutes of the Tax Commission meetings.

The rationale behind the rule against accepting gratuities contained in La. R.S. 47:1833, is to prevent any undue influence over Commission members by those tax payers who have matters before the Commission. When all Commission members are aware of the "gratuity" and consent or approve the same, then this removes any potential of impropriety. I would suggest to you that Mr. Price's participation in the annual trip provided by Burlington Resources was tacitly approved by the other Commission members, who knew that the trip had traditionally occurred and was attended by the chairman. Given that all commission members were aware of the trips, and no appeal filed by Burlington Resources was ever given favorable review by the Louisiana Tax Commission, it is obvious that there was no influence by Burlington Resources, nor any impropriety. Since there is absolutely nothing wrong with the chairman of the Tax Commission

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taking such a trip, if formal approval or consent is given by the Commission, in order for Mr. Gaspard and his successors in office to avail themselves of this unique opportunity, I would suggest that you might want to include a statement in this section that would suggest placing such a matter on the agenda of the Tax Commission for approval would allow Mr. Gaspard or his successors to avail themselves of this unique opportunity.

There are comments contained on pages 4 and 5 of the draft concerning the open meetings law and also comments concerning open meetings law violations contained on pages 6 and 7 under the heading of "Whistle Blower". It is noted that there is a logistic problem present for the members of the Tax Commission created by the State Open Meetings Law. Since there are only three Commission members, any time two of them are physically located in the same room or location, it could technically give rise to a claim that a meeting is going on between a quorum of the Louisiana Tax Commission in violation of the Sunshine Laws. The comments in the "Whistle Blower" section of your draft report briefly address that issue. As I understand it, there is no finding that the Sunshine Law was violated concerning the Belmont Commons appeal and hearing. The comments concerning that situation merely point out that as long as there is a three member commission, it will be extremely difficult for the commissioners to avoid giving someone the appearance that there is an ongoing meeting just because two of the commission members may be present in the same room at the same time.

Your investigation has pointed out a number of occasions in which notices were not properly posted. The Commission relied upon its confidential assistant to properly post notices and agendas, but apparently this reliance was misplaced. You have noted that the Commission is awaiting an opinion from the Attorney General's office concerning the procedures to utilize in adopting a large volume of change orders. In the interim, the findings of your staff concerning the procedures in posting notices and agendas by the Tax Commission should provide effective guidance Mr. Gaspard and future chairs.

Pages 6 and 7 of your draft report concern alleged "Whistle Blower" status of Desiree Worsley. As you are aware, Mr. Price has resigned his position as chairman of the Louisiana Tax Commission. It is my understanding that Ms. Worsley tendered her resignation as confidential assistant to the Louisiana Tax Commission and thereafter was offered her old position by the successor chairman, Mr. Gaspard. It is also my understanding that Ms. Worsley declined to resume here position with the Tax Commission and rather accepted a position with another state agency. Under the circumstances, Ms. Worsley has not been "suspended, demoted or dismissed" from her position. While Ms. Worsley was free to report to Mr. Price, or others on the Tax Commission, her opinion of the State Open Meetings Laws, she was not privileged to do so in the context of an open public meeting, nor in the manner in which she made her comments

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State Inspector General  
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in open public meeting. In fact, there was no violation of the State Open Meetings Law at the time Ms. Worsley essentially created a scene at a Tax Commission meeting. Ms. Worsley's behavior at that meeting added to the long list of insubordination on her part. I would add to the list the fact that she failed to properly post notices and agendas of the Tax Commission as noted in your report, which was her responsibility.

You have indicated that Ms. Worsley has filed a complaint with the State Board of Ethics that retaliation occurred against her because she was a "whistle blower". If that statement is correct, then the Louisiana Board of Ethics, who would be the appropriate party to make an investigation, will choose whether to investigate the complaint or to pass on a formal investigation. Whether there is any information concerning Ms. Worsley in the report will have no effect on what, if any, action the Louisiana Board of Ethics takes. As suggested above, this situation is now moot, whatever the position or view one chooses to take. Including the "Whistle Blower" section in the final draft of your report will not serve any interest whatsoever, including Ms. Worsley's. The only thing that will be accomplished by including such a section would be to denigrate the activities of the Commission as a whole by further documenting and reporting the unfortunate events that occurred on December 11, 2002.

The next section of the proposed report is under the heading "Questionable Travel". In that section, it is not suggested that Mr. Price claimed reimbursement for any items which were not otherwise properly reimbursable. Deficiencies in record keeping and the timeliness of submitting expense reports are noted and Mr. Price does not dispute nor disagree with the recommendations. Concerning the California trip, we first note that the investigation concerns a trip taken in February of 1994. All of those travel records have been destroyed since it is now nine years later. Mr. Price relied upon his executive assistant at the time, Ann Laurence, to properly complete and fill in the travel reimbursement request in 1994. Ms. Laurence was imminently familiar with the state regulations on travel reimbursement and Mr. Price was satisfied that she handled the same correctly. At this date, some nine years later, Mr. Price has no documents in his possession that would provide any enlightenment on the California trip. However, Mr. Price has a vivid recollection of the fact that he stayed in California on Saturday, February 26 and departed on Sunday, February 27, 1994, because he was unable to book any direct flights back to the State of Louisiana. He also has a vivid recollection of the fact that his lodging was significantly more than the \$85.71 claimed and paid as being the state maximum rate. It is the position of Mr. Price that the trip to California in February of 1994 was and occurred in performance of his public duties, and was beneficial to him in his position as chairman of the Tax Commission with regards to the ongoing audit process in California.

It is not necessary that we comment extensively on the section of the report under the heading of "Recusals". Mr. Price had no conflicts of interest in the matters that are before the Tax Commission discussed in that section, as you have noted in your report. Mr. Price was attempting to be like "Caesars' wife" and avoid even the remotest appearance of any conflict

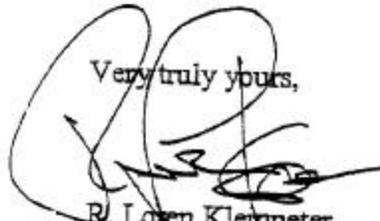
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since he had interest in businesses which could be thought to be competing with those who were seeking relief before the Tax Commission. As we understand the comments in this section, they are contained to give guidance to future commission members and we respect them as such. I do not think that we need comment on the provisions of the report concerning the notary and attorney billings.

In keeping with the comments set forth above, we respectfully suggest that items 2 and 4 in the Conclusion section should be removed. We further submit that the reference in item 5 that Mr. Price was not entitled to \$266 for expenses on the California trip should be removed.

Thank you for the opportunity to present our position to you in this format. Should you have any questions regarding the above, both this writer and Mr. Price will be more than happy to discuss the same with you.

Very truly yours,



R. Loren Klempeter  
For the Firm

RLK:awk

# **BURLINGTON**

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## **RESOURCES**

February 20, 2003

Mr. Bill Lynch  
State Inspector General  
Office of State Inspector General  
Division of Administration, State of Louisiana  
Post Office Box 94098  
Baton Rouge, Louisiana 70804

Re: Your File No. 1-03-0054

Dear Mr. Lynch:

Thank you for your February 10, 2003 letter enclosing an excerpt from your draft report regarding the Louisiana Tax Commission which references Burlington Resources Inc. ("Burlington"). We appreciate this opportunity to comment on that excerpt.

Page 3 of your excerpt addressing Mr. Price's attendance as an invited guest on fishing trips hosted by Burlington is generally correct, although the circumstances of those trips are not accurately portrayed by your references to the company providing a "yacht" (a "boat" would be more appropriate) and the food being prepared by a "chef" (a "cook" is more accurate).

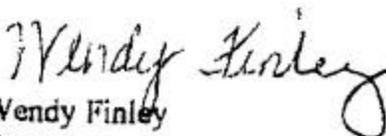
On a more substantive note, we believe that referring to Burlington and our employee by name and attributing statements to our employee in the report is unnecessary, and we ask you to consider removing these references. The focus of your report appears to be Mr. Price's failure to obtain prior approval for attending the fishing trips, and not Burlington's conduct in hosting them or our employee's explanation of their purpose. Burlington believes that there is a mutual benefit in having open lines of communication and informative interaction with public officials and employees involved in the regulation of its property and business activities, and an informal setting, like a fishing trip, promotes that interaction. Our employee's statement was consistent with that belief.

Burlington assumes that any public official or employee who attends a fishing trip has done whatever he or she needs to do in the way of securing any approval that may be required as a condition of such person's public status or employment to accept the invitation. Moreover, Burlington has never conditioned, directly or indirectly, any such invitation to a public official or employee on any expectation of treatment favorable to Burlington. Indeed, your excerpt acknowledges that Mr. Price was a member of the Louisiana Tax Commission, which considered three matters of appeal involving Burlington, and denied a favorable outcome to Burlington in all of those appeals.

Specific references to Burlington and our employee by name in your report in these circumstances could easily be misconstrued as an implication of complicity on their part in any failure of Mr. Price to follow approval requirements applicable to his public position. As that is clearly not the case, Burlington asks that you remove any reference to it and our employee by name in your report.

Thank you again for this opportunity to comment on your proposed report.

Very truly yours,

  
Wendy Finley  
Tax Manager

February 17, 2003

File No. 1-03-0054

This is in response to the report concerning the Louisiana Tax Commission Investigation.

**Opening Meetings Law, Page 4, Louisiana Tax Commission:**

I want to affirm that on many occasions there were meetings held in violation of the state's open meetings law without posting notice or an agenda.

**Whistle Blower, Page 6, Louisiana Tax Commission**

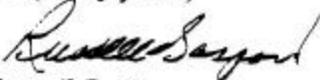
This is in reference to the Dec. 11, 2002, hearing date recess where a meeting took place in Mr. "Pete" Peters' office. At the time that I went to inquire about what was going on. All of the persons named in your document were in the room. The report fails to mention that Ms. Vyrona Wiltz, the agency attorney then, and Mr. Claude Mauberret, N.O. 2nd Municipal District Assessor, were also in attendance.

**Recusals, Page 11, Louisiana Tax Commission**

I want to affirm that I was present on both occasions that Mr. Price recused himself. First, I heard him recuse himself for the 2000 hearing involving assisted-living facilities; second, for the 2002 Wireless hearing. On both occasions his voice was very clear and distinct in stating that he was recusing himself. Mr. Naquin, then acting chairman, reiterated the fact that Mr. Price was recusing himself.

Thank you for allowing me the courtesy to respond to the allegations against Mr. Price.

Very truly yours,

  
Russell R. Gaspard