

STATE OF LOUISIANA

OFFICE OF STATE INSPECTOR GENERAL



State Board of Massage Therapy

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File No. CID-10-029

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BOBBY JINDAL
GOVERNOR

STEPHEN B. STREET, JR.
STATE INSPECTOR GENERAL

State of Louisiana
Office of the Governor
Office of State Inspector General

October 14, 2011

Honorable Bobby Jindal
Governor of the State of Louisiana
P.O. Box 94004
Baton Rouge, LA 70804-9004

Re: Case No. CID-10-029

Dear Governor Jindal:

This report addresses concerns raised about the expenditure of funds and mismanagement of the State Board of Massage Therapy by its former director, Kayla Aymond. The report includes recommendations to help ensure Ms. Aymond's actions are dealt with in an appropriate manner.

We provided drafts of the report to the State Board of Massage Therapy and Ms. Aymond. The response submitted by the State Board of Massage Therapy is included as Appendix A. Ms. Aymond, through her attorney E. Wade Shows, declined to respond to the report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Stephen B. Street, Jr.", written over the typed name.

Stephen B. Street, Jr.
State Inspector General

SBS/gd

Enclosure

Executive Summary

The Louisiana Office of State Inspector General received credible information that Kayla Aymond, the former executive director of the Louisiana Board of Massage Therapy (Board) misspent and failed to account for and accurately document the expenditure of public funds totaling \$201,200.

Our investigation found the following:

- Between 2006 and 2010, Ms. Aymond prepared checks payable to herself in excess of her standard salary take home pay, resulting in an additional \$113,000 of income. The \$113,000 is a combined total of amounts representing the following:
 - Approximately \$23,500 attributed to the apparent arbitrary reduction of payroll taxes and health insurance premiums.
 - Approximately \$27,000 representing overtime hours paid at the rate of \$70.85 per hour. Supporting documentation for the overtime hours has not been found.
 - Approximately \$62,500 for travel and reimbursement of expenditures. The Board was unable to produce supporting documentation for the travel and expenditures.
- Our investigation also found mismanagement during Ms. Aymond's tenure as follows:
 - Failure to obtain a properly executed building lease renewal.
 - Unauthorized repairs of the leased building costing the Board approximately \$59,000. Ms. Aymond appears to have recovered \$10,000 of this amount through withholding portions of the Board's monthly rent payments.
 - Failure to obtain contracts and approvals for building repairs, legal services, and accounting services.
 - Failure to submit federal withholding taxes resulting in the Board's being assessed approximately \$40,000 by the Internal Revenue Service.
 - Failure to properly document approximately \$72,000 in per diem payments made to Board members during the period of this review.
 - Failure to seek approval and supply justification for cellular telephone service for herself and employees resulting in the expenditure of at least \$16,500 of Board funds.

- Failure to account for approximately \$22,700 in payments to local vendors such as Wal-Mart and Lowe's.
- Ms. Aymond failed to maintain public records as required by state law.

The Board discharged Ms. Aymond in March 2010 after it began questioning expenditures and office practices.

Background

The Board was created by state statute¹ that became effective September 1, 1992. Before that, the state did not license massage therapists². The Board consists of seven members appointed by the governor. Five of the seven members are licensed massage therapists and two are lay members. The statute requires that the Board prescribe application forms for examinations, licensure, and registration of massage therapists. In addition, the Board has the authority to investigate persons who may be engaging in practices which violate provisions of the statute and to impose fines and penalties.

La. R.S. 36:259.CC places the Board under the umbrella of the Department of Health and Hospitals, which maintains a limited oversight to include reviews of the Board's budget, procurements, and contract management.

The Board's operating funds are self-generated through fees collected for licensing, testing, and fines. The Board currently licenses approximately 2,500 massage therapists and 300 establishments. Fees generate revenue of approximately \$500,000 per year. Kayla Aymond, the Board's executive director between 1995 and 2010, had a budgeted salary of approximately \$98,000 for the 2009-2010 fiscal year.

In June 1998, the Office of Inspector General published a report concerning the Board's activities. The report was very critical of Ms. Aymond and the Board regarding the following:

- Ms. Aymond received compensation totaling \$28,360 in addition to her regular salary. Ms. Aymond was paid for investigations and inspections that she purportedly conducted after normal work hours as part of a contract which paid \$50 for each investigation, plus travel related expenses. The report detailed the following:
 - Supporting documents for \$22,060 of the \$28,360 paid to Ms. Aymond were not found.
 - The Board's lack of an adequate accounting system resulted in the Office of Inspector General investigators being unable to determine the actual amount of investigative fees and travel reimbursements represented by the \$28,360 paid to Ms. Aymond.

Ms. Aymond stated to Office of Inspector General investigators that her travel vouchers and receipts had somehow gone missing after the inquiry began.

¹ The original enabling legislation was Act 753 of 1992. That act created the Board in La. R.S. 37:3501, et seq. That legislation was subsequently changed to La. R.S. 37:3551, et seq.

² See Schackai V. Louisiana Board of Massage Therapy, 767 So.2d. 955 at 956 (La. App.1 Cir.2000).

- In 1996, Ms. Aymond was paid to conduct 117 inspections/investigations, but investigative reports were located for only 48 of those cases.
- Ms. Aymond received \$1,355 for undocumented travel which she claimed was associated with the performance of her duties as the Board's executive director. This travel was in addition to the amount claimed as part of the investigation contract.
- Ms. Aymond failed to maintain public records, in violation of state law.
- The Board did not exercise adequate control over the receipt of revenue to provide reasonable assurances that all revenue was accounted for properly.
- With approval from the Board, Ms. Aymond paid her husband and two sons to perform various jobs. One of Ms. Aymond's sons was paid \$10,184 as an administrative assistant/secretary during a 13 month period.

The 1998 Inspector General report recommended that the Board seek recovery of \$24,560 for unsupported checks paid to Ms. Aymond and her immediate removal from Board employment. The Board rejected the recommendations by supporting and defending Ms. Aymond's actions in a written response.

Former Inspector General Bill Lynch replied to the Board's response by writing, "It is apparent that the board's inability or unwillingness to understand the seriousness of the missing records, false inspection claims, nepotism and conflicts of interest raises even more serious question as to the ability of the board, the staff and its attorney (Donnie Floyd) to serve the best interests of the state...The board's acceptance of Ms. Aymond's steadfast refusal to cooperate in this investigation, is a strong indicator of its indifference to apparent violations of the law, rules and regulations."

Ms. Aymond continued to serve as executive director until the current Board held a special session on March 4, 2010 and terminated Ms. Aymond's employment effective March 18, 2010.

Scope and Methodology

We conducted our audit in accordance with Principles and Standards for Offices of Inspector General as promulgated by the Association of Inspectors General.

The scope of the investigation was focused on actions taken by Ms. Aymond as well as the actions of the Board.

The investigation consisted of interviewing current and past Board members and Board employees. In addition, the investigation included the review of available documents maintained by the Board and regulatory agencies.

Missing Documents

Throughout the course of our investigation, we were delayed and hindered because documents that should have been on file in the Board's office were not there. These documents included but were not limited to the following:

- Payroll records for Board employees. These records should have included a documented rate of pay for each employee, time sheets, vacation and sick leave records, tax withholding statements, etc.
- Travel reimbursement documents. These records should include a standard expense account form along with supporting receipts and justification for work related travel. The travel justification should also be supported with a related work product.
- Employee reimbursements for expenditures. Expenditures incurred by employees for Board related business should include a standard reimbursement form detailing the expenditure and its public purpose along with supporting receipts.
- Reimbursement forms for Board members' per diem payments. These records should include a detailed description of the purpose of the expenses along with the approval of the Board chairman.
- Contracts for services provided to the Board. The contracts should be in writing and detail all aspects of the services to be performed and the method of payment.

La. R.S. 44:36 titled Preservation of Records states that "public records shall be preserved and maintained for a period of at least three years from the date on which the public record was made."

Immediately upon Ms. Aymond's dismissal, the Board hired an attorney to assess its operations. Board minutes dated March 19, 2010 recorded the attorney's stating that he observed "a history of an under appreciation for order, and sloppiness, as reflected by records and documentation management." He continued by stating that files in the Board's office contained loose, unattached documents that were in no discernible order, with no record of dates received and actions processed. The attorney also stated that Ms. Aymond brought a box of complaint files into the Board office from outside the building on March 12, 2010.

In addition to hiring a special legal counsel, the Board hired Camp Morrison Investigations, Inc. to perform investigative and administrative duties on an interim basis until new staff could be hired. Mr. Morrison stated that upon entering the Board's office, he found the entire building in "unbelievable disarray." He also stated that his review of investigative files revealed no evidence that any work was performed. Mr. Morrison was, therefore, unable to determine whether Board employees ever investigated the complaints.

Mr. Morrison also reviewed the Board's licensee files, which he found to be out of order, with paper and notes placed randomly in the files. Mr. Morrison stated that Ms. Aymond's desk was covered in paper which had apparently been taken from the then-empty desk drawers. The papers found on the desk consisted of dated materials of no use to the office operation.

Mr. Morrison was unable to locate relevant documents for the following Board expenditures:

- Signed agreements between the Board and the following:
 - The owner of the building in which the Board leased space
 - The Board's contract attorney
 - The Board's certified public accountant
 - Contractors hired for building maintenance and repairs
- Payroll, travel, and reimbursements for Ms. Aymond.

In addition, Mr. Morrison stated that he found large quantities of supplies such as cases of soft drinks and hundreds of rolls of toilet paper and paper towels. He also found several vacuum cleaners and steam cleaners.

The Office of Inspector General encountered the same problems with Board records as did the special counsel and Mr. Morrison. Our investigative efforts were continually impeded because of the number of documents missing from the Board's office.

Kayla Aymond Payments

Between January 2006 and March 2010, Ms. Aymond signed checks payable to herself approximately \$113,000 in excess of her standard salary. She received the additional funds through the manipulation of payroll deductions, payment for undocumented overtime hours, and reimbursement for undocumented expenditures.

Two signatures appear on Board checks, Ms. Aymond's and that of a Board member. Between January 2006 and August 2008, former Board member Tammy Kershaw and Ms. Aymond co-signed Board checks made payable to Ms. Aymond. Between August 2008 and February 2010, former Board member Bruce Evans and Ms. Aymond co-signed checks made payable to Ms. Aymond.

Ms. Kershaw stated that she routinely signed 20 to 30 blank checks per month while visiting the Board office. Mr. Evans allowed Ms. Aymond to use a stamp of his signature on blank checks.

The Board is the appointing authority for operations of the organization. As such, the Board hires an executive director and sets the salary. Any payments in excess of the set salary require Board approval. If the Board were to grant approval for pay raises or payments in excess of the set salary, the minutes of the meeting would be expected to reflect the approval.

The Office of Inspector General attempted to verify Ms. Aymond's payroll information by requesting official documents from the Board and its former Certified Public Accountant, Eric Vicknair. Board employees located a limited number of payroll documents from file cabinets and some deleted files recovered from Ms. Aymond's computer. Mr. Vicknair supplied additional documents in response to a court ordered subpoena, but neither the Board nor Mr. Vicknair was able to supply a complete and accurate set of payroll documents.

Ms. Aymond stated in an interview that time sheets were faxed to Mr. Vicknair each pay period and that he set up a program on her computer to automatically compute the amount of each employee's payroll check.

Mr. Vicknair stated that his duties concerning payroll consisted of working with each employee's gross pay amount and total taxes withheld from the gross pay. He stated that Ms. Aymond provided the figures to complete the payroll reports and that he worked with the payroll report at the Board's office using the spread sheet maintained on Ms. Aymond's computer.

As stated in the Background section of this report, the Board and Ms. Aymond were cited for a lack of record keeping and supporting documentation in the June 1998 Inspector General's report detailing \$28,360 of questionable payments made to Ms. Aymond.

Excessive Pay

A review of Ms. Aymond's payroll indicates that she manipulated deductions from her gross payroll amount which resulted in a higher take home pay than would have been possible otherwise. These manipulations resulted in Ms. Aymond's receiving approximately \$23,500 more in net pay than was otherwise due.

While a limited number of records were available for review, the documents we located show that Ms. Aymond's deductions for federal and state income taxes and medical insurance were not consistent. The inconsistencies typically resulted in an increase in the check's net amount.

Check stubs for the period July 2009 through March 2010 list deductions for 19 payroll checks. Ms. Aymond and Mr. Vicknair list deductions for state retirement, Medicare, federal and state income tax, and medical insurance. The first six check stubs show Ms. Aymond's bi-weekly gross pay as \$3,778.48, and net pay as \$2,939.77. The gross pay totaling \$3,778.48 results from Ms. Aymond's working a standard 80 hours during the two week pay period multiplied by her \$47.23 hourly rate of pay. The resulting net pay totaling \$2,939.77 is consistent with other checks that Ms. Aymond received during the period of this review. The deductions listed on these check stubs for retirement, Medicare, state tax, and medical insurance appear to be nearly correct. However, the federal tax deduction of \$166.91 is only 4.8% of the gross wage amount, which is far below the deduction of approximately 12% shown on Ms. Aymond's yearend W-2 for calendar year 2009. Had Ms. Aymond deducted 12% for federal tax, the amount deducted from her gross pay would have been approximately \$419, a difference of \$252 per pay check.

A similar scenario continues on the next six paychecks, which indicate that Ms. Aymond received her standard pay plus 20 hours of overtime paid at the time and one-half rate of \$70.85 per hour. Check stubs for these checks show that Ms. Aymond deducted \$480.30 for federal taxes. A 12% deduction from each overtime check would amount to \$589, a difference of \$109. The state tax deduction on each check is also short by approximately \$35.

As another example the February 26, 2010 check stub, which records standard net pay at \$2,939.77, shows a federal tax deduction of \$472, 13.5% of gross wages, and a state tax deduction of \$32.27, less than 1% of gross wages. Ms. Aymond's annual W-2 forms show approximately 3% deducted annually for state tax. In addition, the \$202 medical insurance premium was not deducted from the gross pay on this check.

The state's group insurance office does not invoice the Board for individual employee premiums. Its invoices list the total amount of premiums for all employees. The state's group insurance office confirmed that premiums billed for Board employees have been paid in full. Federal and state income taxes are also paid with one Board check representing the total amount due for all employees. The source of funds the Board used to pay the deficiencies in Ms. Aymond's payroll withholdings remains unknown.

Additional Pay

During the period of our review, Ms. Aymond received 20 payroll checks that included additional take home pay totaling approximately \$27,000. The additional amounts added to the payroll checks were for overtime hours which Ms. Aymond purportedly worked and received compensation at a rate of time-and-one-half, or \$70.85 per hour. No Board approval for extra or overtime pay was found during a review of the Board minutes for this period.

Tammy Kershaw, a former Board chairperson, stated that she was aware Ms. Aymond received overtime payments during the license renewal period. However, past and present Board members stated that they were unaware that Ms. Aymond received additional pay. The majority of Board members interviewed stated that Ms. Aymond's salary was sufficient to cover overtime hours and additional duties. They also stated that Ms. Aymond should have only been paid her normal salary to perform her stated Board duties.

Mr. Vicknair stated that he has never seen Ms. Aymond's time sheets but has seen paid overtime for her and other Board employees. He further stated that the budget did not have money set aside for paid overtime or bonuses.

The Board's two full-time employees recently completed their first license renewal period without claiming any overtime hours.

Travel and Reimbursement Checks

Between January 2006 and March 2010, Ms. Aymond received 50 checks totaling in excess of \$62,500, which were not payroll related. The memo lines on these checks state that they were either for expense reimbursements or travel.

The State's travel regulations require that receipts and documentation to support expenditures be maintained in accordance with record retention laws. In addition, all claims for reimbursement must be submitted on the approved form, designated as Division of Administration BA-12.

We were unable to locate an approved BA-12 form for travel expenses or supporting documents to justify the reimbursements that Ms. Aymond received. Without supporting documents and approved travel forms, we were unable to associate any public purpose with the 50 checks totaling in excess of \$62,500.

Ms. Aymond's actions may have violated state law.³

³ Article 7, Section 14(A) of the State Constitution states in pertinent part, "The funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person."

La. R.S. 14:67.A states, "Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations."

Mismanagement

Ms. Aymond failed to follow state procedures when she purchased goods and services with public funds. Signed contracts and official records of Board approval for various purchases could not be found in the Board's files after Ms. Aymond's departure.

The Office of Inspector General found Ms. Aymond mismanaged the following:

- Leased office space
- Unauthorized repairs and construction on the leased building
- Failure to recover the cost of repairs to the leased building
- Legal counsel contracts
- Accounting services contracts
- Unpaid Internal Revenue Service taxes
- Per diem payments to board members
- Wireless communication services
- Miscellaneous purchases

Leased Office Space

While Ms. Aymond followed state procedures during the initial period of leasing the Board's office building, she later neglected to do so by failing to obtain a signed lease agreement during the renewal period as required.

La. R.S. 39:1641 and the La. Administrative Code, Title 34, Part III, Section 501.A require state agencies to obtain approval from the Commissioner of Administration before leasing a facility. The Office of Facility Planning and Control (FP&C) is the agency within the Division of Administration responsible for overseeing and coordinating lease agreements with state agencies.

FP&C records show that prior to signing the initial lease, Ms. Aymond worked with FP&C personnel. She complained to FP&C that the building needed immediate attention to repair a roof leak and damaged ceiling tiles. FP&C documents show Ms. Aymond sent a July 22, 2002 message stating that the Board would like to withdraw from negotiations to lease the building. Yet, by August 26, 2002, Ms. Aymond asked FP&C to proceed with the building lease because all repairs were completed.

On September 4, 2002, the then Board chairman, Michael Breaux, signed a five year lease for the building commencing August 15, 2002 and ending August 14, 2007, with a further five year option ending in 2012. The building's owner signed the lease and FP&C approved it.

Several months into the lease period, Ms. Aymond again complained of roof leaks. She asked FP&C if the Board could hire a contractor to repair the leaking roof. In a letter dated January 24, 2003, FP&C notified Ms. Aymond that due to a lack of cooperation from the building's owner, it would not grant permission for the Board to make the repairs. The FP&C director recommended the Board seek office space elsewhere.

Ms. Aymond chose not to obtain office space elsewhere as the FP&C Director suggested, but continued to work with the building's owner in an effort to have the problems fixed. FP&C documents indicate that Ms. Aymond ceased communications with the agency shortly after its refusal to allow the Board to make repairs to the building.

Ms. Aymond continued to circumvent the FP&C and, as a result of her failure to communicate with FP&C, ultimately placed the Board in a month-to-month lease because the five-year option renewal was not properly executed. A lease agreement for the period October 2007 through October 2012 was signed by the building's owner but not the Board or FP&C. The new lease increased the rent from \$1,500 per month to \$1,750 per month.

Unauthorized Building Repairs and Construction

Ms. Aymond hired a personal friend, Elie Batiste, who is not a licensed contractor, to perform repairs on the leased building without approval from the FP&C. Ms. Aymond spent approximately \$59,000 in public funds for labor and materials to repair and upgrade the leased building. Evidence has not been found to indicate that she solicited any bids or executed written contracts for the planned work.

A Division of Administration official stated that agencies can make small repairs to leased facilities after receiving approval from FP&C; however, the state does not approve payment to renovate a leased building. FP&C policy allows for the costs of small repairs to be deducted from the monthly rent payment. FP&C files indicate that Ms. Aymond never sought the required approval of FP&C to make the \$59,000 worth of repairs to the leased facility.

Board minutes for the November 2006 Board meeting concerning a budget for building construction state that the building's owner started repairing the roof and the exterior siding. The City of Baton Rouge issued a cease and desist order on the project because the contractor was unlicensed and failed to obtain building permits.

The November 2006 Board minutes state, “All the bids to finish the building came in to between \$40,000 to \$50,000 to complete the building.” The minutes reflect that the Board approved spending \$40,000 to \$50,000 to repair the building.

Ms. Aymond chose Mr. Batiste to complete the Board approved building repairs. The Board’s cancelled checks indicate that Mr. Batiste had already been performing roof repairs and replacing ceiling tiles since July 2006.

Mr. Batiste stated that he and Ms. Aymond developed a friendship that evolved into a personal relationship. He stated that he told Ms. Aymond that her current contractor was not performing quality work and offered to do the job himself. He also stated that he did not submit a bid for the work and is not a licensed contractor. He also stated that Ms. Aymond provided all materials and supplies that he used for the project.

Of the total project cost, approximately \$59,000, Ms. Aymond spent approximately \$54,500 between January 2006 and December 2007. She also began paying an increased monthly rent of \$1,750 in December 2007.

Mr. Batiste stated that on two occasions, Ms. Aymond prepared checks payable to him in excess of the amounts that he was owed. She instructed him to cash the checks and return the cash to her. Upon doing so, she paid Mr. Batiste the amounts he was owed and kept the remainder for herself. Mr. Batiste remembered that one of the two checks was in the amount of \$1,700. He stated that after cashing the check and returning the money to Ms. Aymond, she gave him the \$700 he was owed and kept the remaining \$1,000 herself.

Failure to Recover the Cost of Building Repairs

Ms. Aymond recouped approximately \$10,000 of the \$59,000 spent on building repairs by withholding portions of the Board’s monthly rent.

The building lease agreement that the Board and the building’s owner signed states that the Board can make repairs to the building if the owner is unresponsive. The agreement states that repairs must be approved by the Division of Administration and the cost deducted from rental payments. We have not located an agreement between the Board and the building’s owner addressing either the repairs or the method by which the cost of the repairs would be recovered.

Rent checks for June 2006 through February 2010 indicate the following:

Year	Amount Owed	Amount Paid	Difference
2006 (June – December)	\$10,500	\$ 9,000	(\$1,500)
2007 (January – December)	\$18,750	\$13,750	(\$5,000)
2008 (January – December)	\$21,000	\$14,000	(\$7,000)
2009 (January – December)	\$21,000	\$21,000	-0-
2010 (January – February)	\$ 3,500	\$ 7,000	\$ 3,500
Total			(\$10,000)

Legal Counsel Contracts

Ms. Aymond paid a contract attorney, Donnie Floyd, in excess of \$77,000 between June 2006 and April 2010 without a legal employment contract. We were also unable to locate Mr. Floyd's monthly invoices in the Board's files.

La. R.S. 49:258 states in pertinent part, "Any appointment of private legal counsel to represent the state or a state agency shall be made by the attorney general with the concurrence of the commissioner of administration." The Department of Health and Hospitals, the Attorney General's Office, and the Division of Administration's Office of Contractual Review have no records to show that legal services contracts between the Board and Mr. Floyd were ever approved.

Mr. Floyd provided copies of the following records:

- Legal services contract from January 1, 2006 through December 31, 2008 with a \$120,000 maximum amount. Mr. Floyd signed this contract but the Board, the Attorney General, and the Office of Contractual Review did not.
- Legal services contract from July 1, 2009 through June 30, 2010 with a \$50,000 maximum amount. Mr. Floyd and Ms. Aymond signed this contract, but it was not approved by the Attorney General or the Office of Contractual Review.
- 26 invoices totaling \$56,672.10 for the period of May 18, 2006 through April 26, 2010. Invoices that Mr. Floyd supplied total approximately \$20,400 less than the amount he received.

Mr. Floyd no longer represents the Board.

Accounting Services Contracts

Ms. Aymond paid Eric Vicknair \$66,805 for professional accounting services without first entering into a written contract and seeking approval from the appropriate state oversight agencies. Mr. Vicknair worked as the Board's CPA between July 2007 and May 2010. We found no contracts and a limited number of invoices and work product to support payment for his services. Ms. Aymond paid Mr. Vicknair \$25,100 for calendar year 2008 and \$26,296 for 2009.

The Board is required to submit all proposed contracts for professional services to the Department of Health and Hospitals for review and approval. In addition, if a proposed professional services contract exceeds \$20,000, approval from the Office of Contractual Review is also required. Neither the Department of Health and Hospitals nor the Office of Contractual Review have a record of contracts between Mr. Vicknair and the Board.

Mr. Vicknair was contacted and asked to provide documents associated with his work for the Board. After repeated attempts to gain his cooperation, the Office of Inspector General obtained a Subpoena Duces Tecum issued by the 19th Judicial District Court ordering Mr. Vicknair to produce all documents in his possession relating to the Board for the period August 2006 through May 2010.

Mr. Vicknair provided an unorganized packet of incomplete documents to support his work for the Board. For example, the packet contained the following:

- Three letters of engagement covering the period of July 1, 2007 through June 30, 2012. The letters are identical with the exception of the effective dates. All three letters are signed by Ms. Aymond.
- Copies of the Board's bank statements for the period of June 2009 through May 2010.
- Eight invoices from Mr. Vicknair to the Board for the period of July 2009 through July 2010, totaling \$23,381. Invoices for the period of July 2007 through June 2009 were not provided. Mr. Vicknair did not provide 15 invoices to support Board payments totaling \$45,630.

Engagement letters show Mr. Vicknair charged the Board \$125 per hour, plus out-of-pocket expenses, to compile the annual financial statements, assist with the preparation of quarterly and annual payroll tax reports and the annual budget.

Invoices that Mr. Vicknair supplied vaguely describe the services provided but do not specify the number of hours spent on each activity reported. The invoices bill the Board for services such as assisting with payroll, recording financial transactions, and reconciling various general ledger accounts.

Unpaid Internal Revenue Service Taxes

Ms. Aymond failed to properly account for and submit payroll withholding taxes to the Internal Revenue Service, resulting in the Board's owing in excess of \$40,000 for past due taxes, penalties, and interest.

Minutes of the June 18, 2010 Board meeting state that the Board received notices for unpaid civil penalties for 2005 and 2006 totaling approximately \$26,000. In addition to the civil penalties, the Board received notices for unpaid withholding taxes for 2008 through 2010 totaling approximately \$14,000.

The June 18, 2010 Board meeting minutes further state that Mr. Vicknair told the Board that he prepared the quarterly federal reports while Ms. Aymond was responsible for making the payment. Mr. Vicknair stated to the Board that had he known about the tax issues, he would have corrected the problem.

While some of the Internal Revenue Service notices precede the period of our review, we compared quarterly federal tax reports that Mr. Vicknair prepared to payments that Ms. Aymond prepared. The results of this comparison show that

Ms. Aymond consistently paid the Internal Revenue Service less than the quarterly reports calculate as the appropriate amount of taxes due.

The current Board and its staff are working with the Internal Revenue Service to pay the past due taxes, penalties, and interest assessments.

Per Diem Payments to Board Members

Ms. Aymond approved approximately \$72,000 in payments to Board members without sufficient documentation to support the payments.

The Board's enabling statutes allow Board members to receive \$50 per day plus travel expenses, in accordance with the state's travel regulations, for each day the members conduct Board-approved business.

Board members receive the \$50 per diem for all quarterly and committee meetings they attend. However, the largest per diem payments appear to be for continuing education course reviews, which are generally assigned to an individual Board member. Continuing education course reviews appear to be conducted in the Board members' homes because travel expenses are generally not included in the requests for payment.

The following chart shows the total payments to Board members for per diem and travel, according to cancelled checks. These amounts include per diem and travel payments for each calendar year during the period of this investigation:

Calendar Year	Total Amount Paid
2006	\$16,875
2007	\$16,116
2008	\$ 9,794
2009	\$16,138
2010	\$13,231

As noted in previous sections of this report, we were unable to obtain a complete record of Board member requests for per diem and travel reimbursements.

The following per diem requests from Board members were paid in the amounts requested below with no additional supporting documentation:

Kayla:

The following are the dates worked as Hearing Officer at the Board's Informal Conferences:

May, June, July 27, 2007 54 days @ \$46.18 \$2493.72

Thank you,

Kayla,

These are my reimbursement dates:

January 2009 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22, 23, 24, 27, 28, 29, 30

February 2009 2, 3, 5, 6, 7, 10, 11, 12, 13, 14, 17, 19, 20, 21, 23, 24

March 2009 3, 4, 6, 9, 11, 12, 13, 14, 18, 20, 24, 25, 26, 27, 30, 31

Per Diem \$ 46.18 X 50 = \$ 2,419.56

For comparison, current Board members received a total of \$4,986 in per diem payments between May 2010 and December 2010. Projecting the amount of per diem payments over a twelve month period would result in a total expenditure of \$7,500, as compared to the \$16,000 routinely paid to Board members over a twelve month period during Ms. Aymond's tenure.

Wireless Communication Services

Ms. Aymond obtained at least three cellular telephones with wireless service plans which she assigned to herself and Board employees at a cost of at least \$17,000 during the period of our review. Ms. Aymond had neither the justification nor the authority to unilaterally approve the cellular telephone acquisitions and service plans.

The Office of Telecommunications Management (OTM) is established in statute found at La. R.S. 39:140 – 39:143. These statutes give OTM the authority to “review, coordinate, approve, or disapprove all requests by state agencies for the procurement of telecommunications systems or telecommunications services”.⁴ OTM records indicate that Ms. Aymond did not request approval for cellular telephone service as required.

OTM has established criteria for user eligibility and an approval process that must be followed before state agencies can purchase or rent wireless telephone services. Each state agency is responsible for assuring that eligibility and written approvals are granted before acquiring wireless telephone service. OTM has delegated authority to state department heads to approve wireless telephone service for their organizations, but requires boards and commissions within the departments to seek approval for wireless telephone service directly from OTM.

OTM's screening criteria for wireless telephone service states that approvals shall be based on protection of life and property, a demonstrated requirement to improve efficiency and effectiveness, and a lack of a suitable communications alternative. In addition, OTM rules state that agency provided wireless telephone service is for official state business and is not intended for personal use.

⁴ La. R.S. 39:141.A.(5)

The invoices for wireless telephone service found at the Board's office show the telephones purchased were iPhones. The invoices also contain a detailed summary of each phone's usage. The invoices show that two of the three telephones were used every day of the week and all hours of the day for calls, text messaging, and data transfers. For example the invoice for the period March 17, 2009 through April 16, 2009 consists of 75 pages and records the following:

Telephone Number (225) 439-1314

- 191 Telephone calls totaling 630 minutes (10 ½ hours)
- 355 Text messages
- 424 Data transfers

Telephone Number (225) 439-4838

- 190 Telephone calls totaling 1,707 minutes (28 ¾ hours)
- 1,329 Text messages
- 813 Data Transfers

It should be noted that the 75-page invoice discussed above was not the largest invoice found. Invoices prior to calendar year 2010, the year of Ms. Aymond's dismissal, routinely ranged from 50 to 95 pages each.

Further review of the invoices shows that past due balances were common because Ms. Aymond often neglected to pay the amounts owed by their due dates, which caused late fees to be incurred.

Ms. Aymond paid the following charges for cellular telephone usage:

• 2006 (November and December)	\$1,230.44
• 2007 (January through December)	\$5,258.51
• 2008 (January through December)	\$4,389.93
• 2009 (January through December)	\$4,414.37
• 2010 (Fees attributed to Ms. Aymond)	<u>\$1,211.02</u>
Total	<u>\$16,504.27</u>

The Board paid an additional \$555 after Ms. Aymonds' departure in March 2010 before eliminating cellular telephone service effective May 2010. The Board currently has possession of two of the three iPhones purchased. Ms. Aymond reportedly lost the other iPhone.

Current Board staff and the Office of Inspector General have not identified a public purpose for Ms. Aymond's purchase and use of wireless telephones costing over \$16,500 during the approximate three and one half year period.

Miscellaneous Purchases

Between January 2006 and February 2010, Ms. Aymond spent public funds totaling \$22,700 at local retail outlets with no documented public purpose. Current Board employees located a limited number of receipts, some of which we were able to match to Board checks. However, a number of receipts found did not match a corresponding Board check.

A review of the receipts found with corresponding Board checks shows the following:

- Wal-Mart purchases totaling approximately \$11,700 included a digital camera, a stereo system, a camcorder, numerous food items such as chips and dips, paper products, fire ant killer, and candles.

The digital camera, stereo system, and camcorder were not found in the Board office.

- Lowe's receipts totaling approximately \$2,600 included painting supplies, paper products, ant killer, and assorted plants.

The receipts without corresponding Board checks show purchases that were generally personal in nature for items such as food, drinks, and gardening supplies.

The current Board reports spending a total of only \$575 for supplies during an eight-month period from May 2010 through February 2011.

Recommendations:

1. The Board should consider civil legal action against Ms. Aymond to recover funds she spent without first obtaining approval from the Board and state oversight authorities. The recovery of funds should include the following:

\$113,000	Additional payments received by Ms. Aymond
\$49,000	Failure to recover costs of building improvements
\$16,500	Wireless communications
<u>\$22,700</u>	Miscellaneous purchases
\$201,200	

2. This report should be forwarded to the appropriate taxing authorities for further investigation.
3. This report should be forwarded to the appropriate prosecuting authorities for review and possible prosecution.

APPENDIX A

State Board of Massage Therapy

Response



LOUISIANA BOARD OF MASSAGE THERAPY

BOBBY JINDAL
GOVERNOR

October 10, 2011

Stephen B. Street
State Inspector
Post Office Box 94095
Baton Rouge, Louisiana 70804-9095

By Facsimile (225-342-6761)
& U.S. MAIL

Re: Case No. CID-10-029

Dear Mr. Street,

On behalf of the Louisiana Board of Massage Therapy ("Board"), I submit this response to the draft audit report relating to the referenced State Inspector General Case Number. Based on the limited personal knowledge of some members of the Board, and in reliance on the accuracy of the evidence referred to in the draft audit report, the Board concurs in all of the findings and recommendations set forth therein.

With regard to your request for a corrective action plan, to the best of our knowledge we, the Board Members, have already adopted generally recognized best practices designed to resolve and prevent similar issues from occurring in the future. As you may know, in March of 2010, the Board unanimously voted to terminate Ms. Aymond, formerly known as Ms. Perkins, from her employment with the Board. Since that time the Board has replaced all employees and has completely transformed its operations in an effort to fully comply. Corrective actions already taken by the Board include:

1. The Board hired a new Executive Director previously employed in the private sector banking industry with experience in financial operations and controls.
2. The Board retained the Attorney General's Office to serve as general counsel to assist in complying with laws applicable to state boards and commissions, and in particular the laws that ensure transparency of Board operations.
3. The Board retained a new Certified Public Accountant to monitor financial controls.
4. The Board retained a third-party payroll administrator to ensure that all state and federal taxes are properly deducted from all payroll checks, and to ensure compliance with state and federal payroll reporting requirements.
5. The Board staff has organized the office files and established a filing system to

ensure the integrity of Board records.

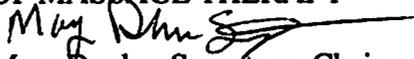
6. The Board has established internal financial controls recommended by its most recent annual audit, by its interim Certified Public Accountant, and its Executive Director.
7. The Board has taken actions to control expenditures, monitor monthly and quarterly financial reports, and eliminate expenditures that are not necessary to the proper function of the Board and its staff.
8. The Board has established a new web site with the following features:
 - a. A new interface that is more useful and more easily navigated by licensed therapists and the general public;
 - b. An online license renewal system designed to control the excessive labor and postage costs associated with the annual license renewal process;
 - c. Database functionality that will allow the Board to efficiently administer its licensing and regulatory functions.

The Board is currently working to resolve other issues noted in your report, such as the non-payment of payroll taxes and the lack of a written lease. These matters involve on going Board actions with third parties over whom the Board has limited control.

Thank you for the thorough investigation of this matter, and for the opportunity to respond to the draft audit report. If I can be of further assistance, please do not hesitate to contact me.

Sincerely yours,

THE LOUISIANA BOARD
OF MASSAGE THERAPY


Mary Donker Syvertsen, Chair

Cc: The Members of the Louisiana Board of Massage Therapy
Mr. Charles Belsom, Board Attorney, Attorney General's Office

Twelve copies of this public document were published in this first printing at a cost of \$64.87. The total cost of all printings of this document, including reprints is \$64.87. This document was published by the Office of State Inspector General, State of Louisiana, Post Office Box 94095, 150 Third Street, Third Floor, Baton Rouge, LA 70804-9095 to report its findings under authority of LSA-R.S. 39:7-8. This material was printed in accordance with the standards for printing by state agencies established pursuant to LSA - R.S. 43:31.

A copy of this report has been made available for public inspection at the Office of State Inspector General and is posted on the Office of State Inspector General's website at www.oig.louisiana.gov. Reference should be made to Case No. CID-10-029. If you need any assistance relative to this report, please contact Stephen B. Street, Jr., State Inspector General at (225) 342-4262.

REPORT FRAUD, WASTE, AND ABUSE

To report alleged fraud, waste, abuse, or mismanagement relative to state programs or operations, use one of the following methods:

- Complete complaint form on web site at www.oig.louisiana.gov
- Write to Office of State Inspector General, P. O. Box 94095, Baton Rouge, LA 70804-9095
- Call the Office of State Inspector General at (225) 342-4262