

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Cane River Waterway Commission
Natchitoches, Louisiana

July 12, 2000



Investigative Audit

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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Cane River Waterway Commission

July 12, 2000



**Investigative Audit
Office of the Legislative Auditor
State of Louisiana**

**Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor**

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OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
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TELEPHONE: (225) 339-3800
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July 12, 2000

**MR. C. D. BRAZZELL, CHAIRMAN, AND
MEMBERS OF THE CANE RIVER
WATERWAY COMMISSION**
Natchitoches, Louisiana

Transmitted herewith is our investigative report on the Cane River Waterway Commission. Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain allegations received by this office.

This report presents our findings and recommendations, as well as your response. Copies of this report have been delivered to the Cane River Waterway Commission; the Honorable Van H. Kyzar, District Attorney for the Tenth Judicial District of Louisiana; and others as required by state law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel G. Kyle".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

GFC:DGP:AFB:dl

[CANERIV]

Executive Summary

Investigative Audit Report Cane River Waterway Commission

The following summarizes the findings and recommendations as well as management's response that resulted from this investigation. Detailed information relating to the findings and recommendations may be found at the page number indicated. Management's response may be found at Attachment I.

Robert Morrow Overbilled the Cane River Waterway Commission \$1,377

(Page 5)

Finding:

During 1997, Mr. Robert Morrow, former General Manager for the Traber Insurance Agency (Traber), billed the Cane River Waterway Commission (Commission) \$654 for an insurance policy that did not actually exist. In addition, during 1999, Mr. Morrow overbilled the Commission \$723 for various insurance policies. Bank records indicate that Mr. Morrow personally received these excesses in cash; they were not deposited into Traber accounts.

Recommendation:

The Cane River Waterway Commission should implement policies and procedures to ensure that all insurance invoices are compared to insurance policies and that coverage is provided before the premiums are paid. We also recommend that the District Attorney for the Tenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Management's Response:

The Waterway Commission adopted a mandatory policy that the Secretary and/or Assistant Secretary is to compare the premiums listed on any declarations page attached to policies actually issued in the name of the Commission to the statements received from any insurance agent before the premiums are paid. The Commission intends to engage the services of an outside accounting firm to establish a general journal and ledger of accounts and to provide a detailed financial report for the Commissioner's review.

**Charles Powell Received \$626 That
He Was Not Entitled to Receive**

(Page 7)

- Finding:** Mr. Charles Powell, Commission Treasurer, improperly received a \$626 insurance refund that he should have deposited into the Commission's bank account.
- Recommendation:** The Commission should implement policies and procedures to ensure that all credits and/or refunds due to the Commission are properly deposited and recorded. We also recommend that the District Attorney for the Tenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.
- Management's Response:** Mr. Powell denied receiving the check and endorsing it for his benefit or for the Commission. The Commission has directed its legal counsel to investigate the circumstances of the alleged payment to Mr. Powell and to attempt recovery for the benefit of the Commission.
-

Background and Methodology

The Cane River Waterway Commission, located in Natchitoches Parish, was created for operating and maintaining a navigable waterway system known as the Cane River Waterway. The governing board administers the operations and responsibilities of the Commission in accordance with the provisions of Louisiana statutes.

The Office of Legislative Auditor received information indicating that the Commission's insurance agent overbilled the Commission for certain insurance policies. This investigative audit was performed to determine the propriety of this information.

The procedures performed during this investigative audit consisted of (1) interviewing employees and officials of the Commission; (2) interviewing other persons as appropriate; (3) examining selected documents and records of the Commission; (4) making inquiries and performing tests to the extent we considered necessary to achieve our purpose; and (5) reviewing applicable state and federal laws and regulations.

The result of our investigation is the findings and recommendations herein.

Findings and Recommendations

Robert Morrow Overbilled the Cane River Waterway Commission \$1,377

During 1997, Mr. Robert Morrow, former General Manager for the Traber Insurance Agency (Traber), billed the Cane River Waterway Commission (Commission) \$654 for an insurance policy that did not actually exist. In addition, during 1999, Mr. Morrow overbilled the Commission \$723 for various insurance policies. Bank records indicate that Mr. Morrow personally received these excesses in cash; they were not deposited into Traber accounts.

The Commission operates, maintains, and during periods of high traffic, patrols the Cane River Waterway system. Deputies commissioned by the Natchitoches Parish Sheriff's Office patrol the waterways using boats owned by the Commission and jet skis loaned to the Commission each year by local dealers. The Commission is responsible for insuring its boat launch and all of its watercraft including any jet skis on loan from local dealers. During the period 1996 through 1999, the Commission selected Traber as its local insurance agent.



During 1997, the Commission borrowed a jet ski from a local dealer for patrol purposes. The Commission insured this jet ski through Traber. Based on an invoice, Mr. Charles Powell, Commission Treasurer, paid Traber \$654 by check dated September 22, 1997. However,

according to Traber's records, this policy did not actually exist and the Commission's payment was not received by Traber. Instead, bank records show that the check was endorsed and cashed by Mr. Morrow on September 23, 1997. Traber's records indicate that these funds were not deposited into Traber's account.

INVOICE

TRABER AGENCY, INC.
PHONE: 318/357-8277
129 ST. DENIS STREET P.O. DRAWER 908
NATCHITOCHEES, LA. 71458-0608

CUSTOMER NO. 11960

CANE RIVER WATERWAY COMMISSION
P.O. Box 37
Natchitoches, LA 71457

CC NO.	POLICY PERIOD	CL. & TR.	POLICY NUMBER AND DESCRIPTION	PREMIUM		BALANCE
				CHARGE	PAID	
90	06/20/97 to 06/20/98	32-1	1997 Yamaha Jet-Ski Policy Fully earned	654.00		654.00

PAID 9-22-97 #1481

No Policy or Binder Number to Identify Insurance Policy

TRABER AGENCY, INC.

Mr. Powell explained that he receives invoices but does not always receive policies from Traber for the watercraft and property policies. Mr. Powell added that it was typical not to receive a policy for the jet skis

since these policies were for such a short period of time. It should be noted that these policies were for one-year periods each.

During 1999, Mr. Morrow billed the Commission \$1,100 for liability and property coverage for the Melrose boat launch and \$4,333 for liability and collision coverage for one jet ski and three boats. Records obtained from Traber indicate that these policies should have cost \$877 and \$3,833, respectively (see Exhibits). Mr. Powell paid \$1,100 and \$4,333 based on handwritten invoices received from Traber. The Commission's files also contained a statement from the underwriting insurance company containing a breakdown of charges totaling \$877 for the boat launch policy. Bank records indicate that both Commission checks were endorsed and cashed by Mr. Morrow. Mr. Morrow then purchased bank money orders for \$871 and \$3,833, deposited these money orders into Traber's account, and received the excess of \$729 (\$229 and \$500) in cash.

The above actions indicate possible violations of the following state laws:

- R.S. 14:67, "Theft"
- R.S. 22:627, "Disclosure of Agent Fee"

The Cane River Waterway Commission should implement policies and procedures to ensure that all insurance invoices are compared to insurance policies and that coverage is provided before the premiums are paid. We also recommend that the District Attorney for the Tenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

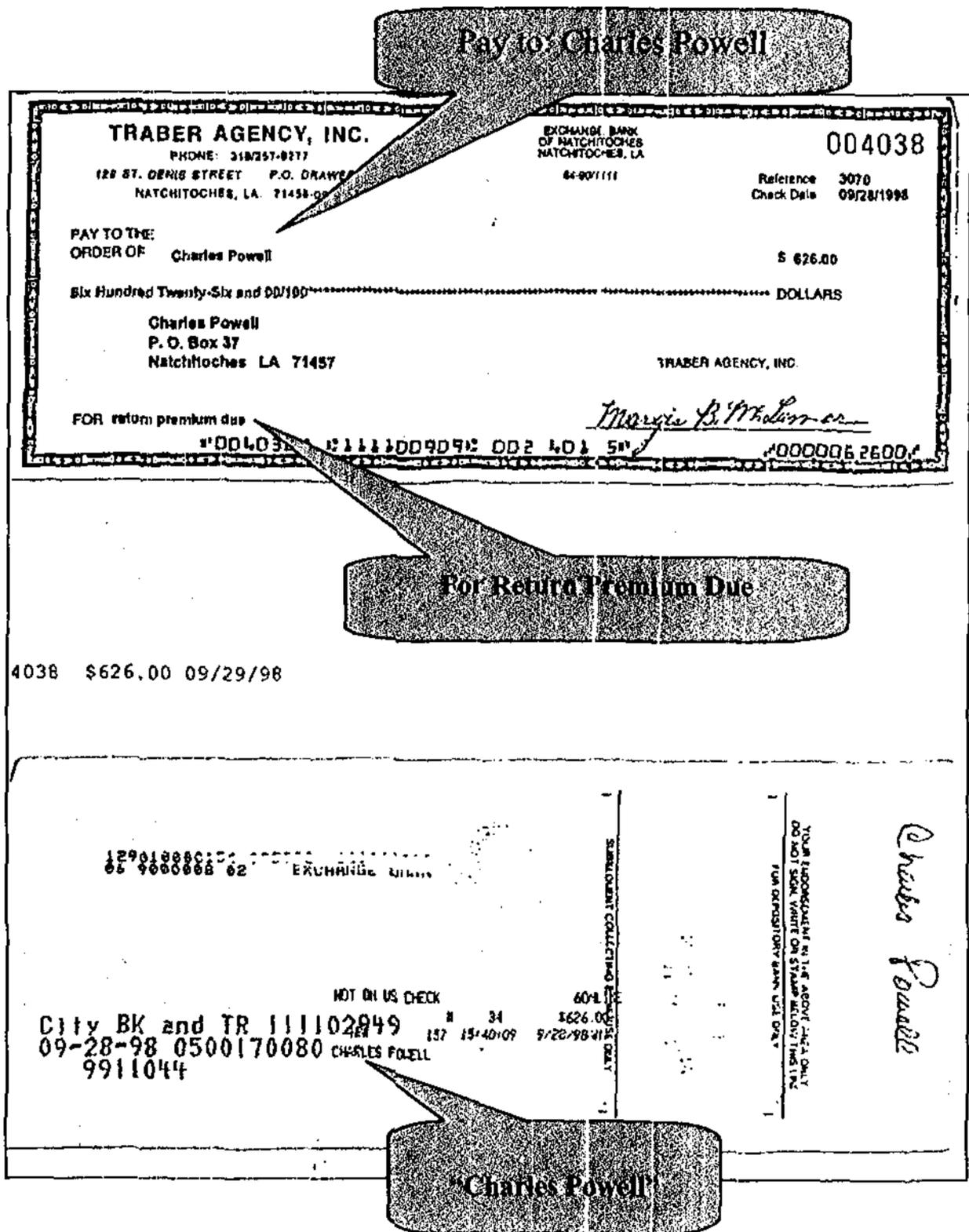
Charles Powell Received \$626 That He Was Not Entitled to Receive

Mr. Charles Powell, Commission Treasurer, improperly received a \$626 insurance refund that he should have deposited into the Commission's bank account.

On July 8, 1998, the Commission purchased a jet ski liability policy for \$912 from Traber Agency, Inc., an independent insurance agency. On July 31, 1998, the Commission purchased another policy from Traber to cover liability on its two patrol boats. This policy cost the Commission \$1,953. Thereafter, Traber combined the two policies, and as a result, was able to reduce the Commission's total premium by \$626. Traber issued a check for \$626 to the Commission as a premium return. Ms. Cheryl Garrett, Traber account representative, stated that Mr. Morrow instructed her to void the check and issue a second check payable to Mr. Powell. Ms. Garrett then issued Traber check number 004038 to Charles Powell for \$626. This check appears to have been endorsed by Mr. Powell and cashed on September 28, 1998. These funds were not deposited into the Commission's bank account.

Mr. Powell stated that the signature on the back of the check looks like his signature, but explained that he never saw this check and did not receive the cash. It should be noted that the name "Charles Powell" was printed on the back of this check along with the date, time, amount, and branch where the check was cashed.

Ms. Brenda Page, City Bank and Trust representative, stated that the name "Charles Powell" printed on the check indicates that the teller who cashed the check identified Mr. Powell when the check was cashed.



These actions indicate possible violations of the following state laws:

- R.S. 14:67, "Theft"
- R.S. 14:134, "Malfeasance in Office"

The Cane River Waterway Commission should implement policies and procedures to ensure that all credits and/or refunds due to the Commission are properly deposited and recorded. We also recommend that the District Attorney for the Tenth Judicial District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Attachment I

Management's Response

CANE RIVER WATERWAY COMMISSION
P. O. Box 37
Natchitoches, Louisiana 71457

June 23, 2000

*VIA TELECOPIER: (225) 339-3870
AND FEDERAL EXPRESS*

Honorable Daniel G. Kyle, CPA, CFE
Louisiana Legislative Auditors Office
State of Louisiana
1600 North Third Street
P. O. Box 94397
Baton Rouge, Louisiana 70804-9397

Re: Cane River Waterway Commission

Dear Mr. Kyle:

The Board of Commissioners of the Cane River Waterway Commission acknowledges receipt of your draft Report dated June 9, 2000. Thank you for having initiated the investigation and having reported your findings in such a prompt and unambiguous manner.

Following receipt of the Annual Financial Report from Johnson, Thomas and Cunningham, CPAs for the fiscal year-end June 30, 1999 which we received early February, 2000, the Waterway Commission adopted a mandatory policy, as an internal control that the Secretary and/or Assistant Secretary is to compare the premiums listed on any declarations page attached to policies actually issued in the name of the Waterway Commission to the statements received from any such agent before the premiums are paid. All checks drawn on deposits of the Waterway Commission will require two signatures.

In addition, the Commission adopted the following resolution at its meeting held February 15, 2000:

"Mr. Powell submitted a Treasurer's Report. In connection with this report, the Treasurer advised the Commissioners that a refund was received from Traber Insurance Agency for unearned premiums resulting from a cancelled policy of insurance affecting a personal watercraft used by the patrolman during the summer, 1999 in the estimated sum of \$682 which was deposited into the Commission's bank account. However, and as a result of the recent audit by the State's Legislative Auditor, there was discovered a check which was issued by Traber Insurance Agency to Mr. Powell, individually, in the sum of \$1,138 which was subsequently cashed. Mr. Powell denied receiving

Attachment II

Exhibits

Exhibits

TRABER AGENCY, INC. PHONE: 318/357-8277 129 ST. DENIS STREET P.O. DRAWER 908 NATCHITOCHE LA 71458-0908		INVOICE		
CANE RIVER WATERWAY Commission P.O. Box 37 NATCHITOCHE, LA 71458		CLIENT		
		DATE CLIENT SERVICE PAGE		
		PAYMENT INFORMATION INVOICE SUMMARY PAYMENT AMOUNT PAYMENT FOR:		
		Thank You		
PLEASE DETACH AND RETURN WITH PAYMENT				
INVOICE	EFFECTIVE	TRANSACTION	DESCRIPTION	AMOUNT
	3/16/99 TO 3/16/00	POLICY # PENDING	PREMISES LIABILITY FOR BOAT LAUNCH	\$1100.00
Pd. 3-17-99 #1735				TOTAL \$1100.00 Thank You
			DATE 3/17/99	
ANW301		<small>TRABER Agency, Inc. Supply Division 318/357-8277 Fax 318/357-8278</small>		

INFLATED TRABER INVOICE FOR BOAT LAUNCH

INVOICE

ENTRY MO 4

AGENT NO 4260

NAMED INSURED CANE RIVER WATERWAY COMMISSION

TRABER AGENCY, INC.
P.O. BOX 908
NATCHITOCHE, LA 71458-0908

Invoice # 013674
INTERSTATE INS. UNDERWRITERS
3003 KNIGHT STREET
SHREVEPORT, LA 71105
318-865-7600

DUE DATE: 05/15/99

INVOICE DATE 04/01/99 JEQ EFFECTIVE: 03/16/99 AMOUNT REMITTED \$

PRODUCER COMMISSION	CO NO	POLICY PERIOD	CL & TR	POLICY NUMBER AND DESCRIPTION	PREMIUM		BALANCE
					CHARGE	CREDIT	
00	RV60	03/16/99	481	CGL3000129 - 0 NEW BUSINESS	750.00		
00	RV	03/16/00	17	GENERAL LIABILITY POLICY FEE	85.00		
				SURPLUS LINES TAX	41.75		
				TRANSACTION TOTAL	876.75		
				COMMISSION		-75.00	
				BALANCE			801.75

APR 12 1999

ORIGINAL (FOR YOUR RECORDS)

CORRECT POLICY AMOUNT FOR BOAT LAUNCH

PHONE: 318/357-8277
129 ST. DENIS STREET P.O. DRAWER 808
NATCHITOCHEE, LA. 71458-0908

INVOICE

CLIENT
DATE: 5-31-99
CLIENT
SERVICE
PAGE

CANE RIVER WATERWAY COMMISSION
P.O. Box 37
NATCHITOCHEE, LA
71457

PAYMENT INFORMATION
INVOICE SUMMARY
PAYMENT AMOUNT
PAYMENT FOR:

Thank You

PLEASE DETACH AND RETURN WITH PAYMENT

INVOICE	EFFECTIVE	TRANSACTION	DESCRIPTION	AMOUNT
12634	5/22/99	CB2001021	WATERCRAFT POLICY	4333.00

Pd 6-3-99
1766

TOTAL
4333.00
Thank You

DATE
5-31-99

INFLATED TRABER INVOICE FOR BOAT POLICY



SPECIALTY RISK ASSOCIATES
 P. O. Box 4829
 Shreveport, LA 71134-0829
 (318) 865-7023

TRABER AGENCY, INC.
 129 ST. DENIS STREET
 P. O. BOX 908
 NATCHITOCHE LA
 71458-0908

June 11, 1999

JUN 23 1999

Invoice

ACCOUNT NUMBER 2518
 TRANSACTION EFFECTIVE DATE 5-22-99
 EXPIRATION DATE 5-22-00

Policy Number	Type of Coverage / Description	Amount
14535	Boat Less Commission	CANE RIVER WATE 3833.00 -383.30 <i>posted</i>
	Total due	3449.70

We appreciate your business.

1000000025332020 00

ORIGINAL COPY

Page 1 of 1

CORRECT AMOUNT FOR BOAT POLICY

Attachment III
Legal Provisions

Legal Provisions

The following legal citations are referred to in the Findings and Recommendations section of this report:

R.S. 14:67 provides, in part, that 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.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him or to perform any such duty in an unlawful manner.

R.S. 22:627 provides, in part, that no agent shall charge or receive any fee, compensation, or consideration for insurance which is not included in the premium quoted to the insured and the premium specified in the policy delivered to the insured except for reimbursement for expenses due the agent, and except for an agency fee. Any reimbursement or agency fee shall be itemized separately on an invoice statement.

