

Pursuant to Chapter 4, Section 2, Article 5 of the West Virginia Code, the Commission on Special Investigations presents the Twenty-eighth Annual Report to the West Virginia Legislature. This Report covers the Commission's activities from July 1, 2007 through June 30, 2008.

I. Commission Members and Staff

The Commission on Special Investigations is comprised of ten Legislators: Five Senators and five Delegates. The following Legislators represent the membership of the Commission on Special Investigations as of June 30, 2008:

<u>Senate</u>	<u>Appointed to Commission</u>
Earl Ray Tomblin - D (Co-Chairman)	1995
Don Caruth – R	2007
H. Truman Chafin - D	1999
Donna Boley - R	2001
William R. Sharpe – D	1997

<u>House</u>	<u>Appointed to Commission</u>
Richard Thompson - D (Co-Chairman)	2007
Tim Armstead - R	2007
Joseph DeLong - D	2007
John Ellem - R	2007
Harry Keith White - D	2007

These Legislators are responsible for overseeing the Commission's activities, which are discussed at length during Legislative Interim meetings held throughout the year. A quorum, which consists of a majority of the total authorized membership of the Commission, is necessary for the Commission to open or close an investigation or refer the matter to the appropriate committee if the subject does not fall under the Commission's purview.

Staff members of the Commission on Special Investigations as of June 30, 2008:

<u>Staff Member</u>	<u>Title</u>
Gary W. Slater	Director
Charles R. Bedwell	Investigator
Herbert R. Cogar	Investigator
Carl Hammons	Investigator
Roy M. Hutchison II	Investigator
James S. Powers	Investigator
Steven E. Staton	Investigator
Lisa M. Wilkinson	Secretary/Investigative Aide

II. Special Appreciation

During the investigative process, individuals in both the private and public sector provided information to Commission members and/or staff members. It would be difficult for the Commission on Special Investigations to perform its duties without the assistance these individuals provide.

Various County Prosecuting Attorneys, United States Attorneys and Assistant United States Attorneys have contributed their time and the resources of their offices in prosecuting individuals who have committed the felonies and misdemeanors evidenced by investigative activities reported on by this Commission. The assistance these offices provide is invaluable in the pursuance of justice.

III. Activities of the Commission (July 1, 2007 through June 30, 2008)

During the course of this fiscal year, the Commission on Special Investigations opened 11 investigative files and closed nine investigations. As of June 30, 2008, there were 68 active investigations. The Commission met 10 times between July 1, 2007 and June 30, 2008. During these meetings the Commission staff apprised members of the alleged wrongdoing by agencies, individuals and/or firms conducting business with the State of West Virginia. Commission members also reported matters presented to them by their constituents, State employees, other legislative commissions, committees and fellow legislators.

Various allegations and investigative matters were reported and discussed during these meetings. Approval by a majority vote of the members present was obtained as needed to open, close or refer the matter(s) to prosecutors and/or other authorities.

Among the matters presented were the following:

Public Defender Services

In September 2006, the Commission on Special Investigations received a complaint from the State Public Defender's Office of possible billing irregularities submitted by Attorney Heidi Myers.

After receiving the original information, investigators began reviewing billing records and conducting interviews. It was during this time the US Attorney's Office for the Northern District of West Virginia became involved in the case, as well as US Postal Inspectors.

On November 17, 2006, a Federal search warrant was executed on Myer's Law Office, and others were served Federal Grand Jury subpoenas to appear before a Federal Grand Jury in Wheeling, West Virginia on December 5, 2006 at 9:00 a.m. Myers failed to appear at the appointed time, and at 4:00 p.m. on December 5, 2006, Myers was arrested by the US Marshals Service. Myers was released on a \$15,000 bond for the failure to appear warrant issued by Judge Fred Stamp.

In May 2007, a bench trial was held before Judge Stamp on the failure to appear.

In June 2007, Attorney Heidi J. Myers and her office manager, Nancy Burkhart, were indicted by a Federal Grand Jury on 99 counts of mail fraud, 12 counts of wire fraud and one count of conspiracy.

In July 2007, court hearings were held reference contempt charges against Myers.

April 2008, the West Virginia Supreme Court annulled Myers' law license.

As of June 30, 2008, Myers is awaiting sentencing on the contempt charge and trial on mail and wire fraud.

Pharmacy Board

In September 2006, CSI received information that William T. Douglass, Jr, Executive Director and General Counsel for the West Virginia Board of Pharmacy, had been submitting altered expense accounts to the Board. Douglass had been directed by the Board in December 2004 to cease putting tips for maids, bellhops and wait staff on his expense accounts. Up to that time Douglass' expense settlement forms routinely included tips of \$50 - \$75 from individual travel reimbursements.

Douglass continued adding tips to his expense accounts, even after being directed by the Board to cease the practice. Douglass circumvented the Board's directive by adding tips to expense account settlement forms after the forms had been approved by a Board member, but before they were submitted to the Division of Finance for processing.

The Commission investigation revealed that once confronted by the Board a second time, Douglass and the Board entered into a confidential agreement in June 2006, wherein Douglass agreed to no longer submit tips. The agreement, drafted by Douglass as legal counsel for the Board, also placed Douglass on a two year probationary period.

A review of Douglass' expense accounts by the Commission revealed numerous suspicious submissions and Commission and grand jury subpoenas were issued to numerous entities, both private and public, that had reimbursed Douglass for expenses as Executive Director of the Pharmacy Board. Commission investigators were able to identify numerous instances where Douglass double billed for expenses paid for by The United States Marshal Service, The National Association of Boards of Pharmacy, West Virginia University, The West Virginia University Foundation, and several private Pharmacy Associations throughout the state over a period of several years.

The investigation also revealed that Douglass submitted false claims of training to the State Bar for Mandatory Continuing Legal Education credits. Records indicated Douglass also added numerous "personal vacation" days to out of state trips and charged the expenses to the Board. In addition Douglass conducted his personal sports agent business from the Board office, on Board time with Board resources,

including trips with motel and travel expenses charged to the Board. Douglass used the Board cellular and office telephones to conduct his sports agency business.

Douglass filed multiple false tax returns and false Ethics Commission financial disclosures.

The investigation revealed a total of 46 separate and distinct bad acts by Douglass that included falsifying accounts, computer fraud, receiving prohibited compensation, and embezzlement among other improper activities.

As a result of our investigation, the Board of Pharmacy terminated Douglass' employment in June 2007.

On November 13, 2007, Douglass entered a plea of guilty to one count of falsifying accounts before Kanawha County Circuit Judge Todd Kaufman. Douglass waived his right to a presentence investigation and was immediately sentenced to two years probation, as recommended by the state, restitution in the amount of \$6,700 and 75 hours of community service to be served at Manna Meals or the Kanawha/Charleston Humane Society.

Subsequent to Douglass' plea to one count of felony falsifying accounts, the Kanawha County Prosecutor's office notified the State Bar's Office of Disciplinary Council. The Office of Disciplinary Council was provided with details of the Commission investigation findings. Douglass' license to practice law was revoked in April 2008 as a result.

The Commission investigation found that Douglass acted alone in his improper and illegal activities, and no other Pharmacy Board employee or Board members were implicated in any wrongdoing.

State Surplus Property

In May 2004, this office was asked to assist with an investigation being conducted by Federal Investigators and the US Attorney's Office for the Southern District of West Virginia. The investigation involved equipment purchases of surplus property by the Berwind Volunteer Fire Department, who's Fire Chief was also an employee of the Miners Health, Safety and Training Division of the State of West

Virginia. All equipment purchases were made through the State Surplus Property Office.

In August 2006, Gerry Barton, the Fire Chief for the Berwind Volunteer Fire Department, and his wife, Brenda, were indicted by a Federal Grand Jury on five (5) counts of conversion of Federal Surplus Property to their own use (consisting of forklifts, trucks and a bulldozer), and seven (7) counts of money laundering.

In September 2007, Garry Barton entered a guilty plea to two felony counts. The charges against his spouse, Brenda Barton, were dismissed.

On July 22, 2008, Barton was sentenced in Federal District Court, Bluefield, WV, to two years confinement, three years supervised release and was ordered to pay \$113,000 restitution.

Heizer-Manilla Watershed Organization

In September 2006, the Commission on Special Investigations received information from the Department of Environmental Protection regarding suspicious spending of grant money by Heizer-Manilla Watershed Organization President Renae Bonnett and her husband, Treasurer Bobbie Bonnett. Heizer Manilla Watershed Organization has received approximately \$40,000 in State grants since its inception in 1990.

After receiving this information, investigators obtained Grand Jury Subpoenas for the bank records of Bobbie and Renae Bonnett. Upon examining these documents and conducting interviews, 48 suspicious transactions were discovered. At that point it became evident that Heizer-Manilla Watershed funds were converted to the personal use of the Bonnett's.

In June 2007, investigators interviewed Bobby Bonnett about the Heizer-Manilla Watershed Organization accounts. Mr. Bonnett described his duties as Treasurer as paying the bills, writing the checks, making deposits and providing an account of transactions. When Mr. Bonnett was questioned about the suspicious transactions that CSI Investigators discovered, Bonnett admitted to converting Heizer-Manilla Watershed funds to his personal use. Bonnett stated he began taking money from the Heizer-Manilla account in 2003. Bonnett stated he needed the money for personal expenses

such as paying the electric bill, buying cigarettes, groceries and gasoline. It was discovered that approximately \$2,600 was taken by Mr. Bonnett from the Heizer-Manilla Watershed account.

In February 2008, Bobbie Bonnett entered a guilty plea in Kanawha Circuit Court to embezzlement and was placed on probation and ordered to pay restitution in the amount of \$2,630.

General Services

This office has been investigating various improprieties in the General Services Division for a period of time. These investigations have ranged from Purchasing Card irregularities to various contracts which the office has entered into with outside contractors who have performed various services. Several of these contracts were under the control of Paul Prendergast, who was the Occupational Health & Safety Coordinator for the General Services Division. While in this position, Prendergast furnished inside information to certain companies, which would enable them to win the contracts for work at the State Capitol. Prendergast was paid \$11,000 in bribes for this over a three year period. He was finally awarded a \$140,000 a year job with one of the firms that had been paying him bribes. This was after CSI Investigators had interviewed him about another matter.

In October 2007, Prendergast plead guilty in Federal Court in Baltimore, Maryland to "the travel act" in connection with accepting bribes, in violation of West Virginia's Bribery and Corrupt Practices Act.

The Commission staff, US Environmental Protection Agency and Naval Criminal Investigative Services worked together on this investigation.

Department of Agriculture, Guyan Soil Conservation District

In the fall of 2007, this office was contacted by the Department of Agriculture, who advised they were concerned about checks that were being written from an account of the Guyan Soil Conservation District. At that time, a preliminary investigation was done and a file was opened at the December 2007 meeting of the Commission.

Investigators have conducted several interviews and records were subpoenaed.

As of the writing of this report, it appears that over \$700,000 has been embezzled and plea negotiations are ongoing with the suspect in this case.

West Virginia Development Office

In September 2005, this office received information that several million dollars in State and Federal Grant money had been misused by an Internet company in Parkersburg, West Virginia called Sequelle Communications.

A joint investigation began with the IRS Criminal Investigation Division, US Department of Agriculture's Inspector General's office and the Commission on Special Investigations.

This investigation has been ongoing for approximately three years. During this time, numerous interviews have been conducted and numerous records reviewed.

As of June 30, 2008, it is apparent there will be court action taken in the next several months.

WVU (Award of EMBA Degree)

May 2008, requests were received from West Virginia University and the Monongalia County Prosecuting Attorney for the Commission to investigate possible criminal acts involving the falsification of University records relating to the award of an EMBA degree.

As of the closing date of this report, this investigation is ongoing.