



**EXAMINATION INTO ALLEGATIONS OF  
IMPROPER USE OF STATE RESOURCES**

**EDWARD B. HATCHETT, JR.  
AUDITOR OF PUBLIC ACCOUNTS  
[WWW.KYAUDITOR.NET](http://WWW.KYAUDITOR.NET)**

**144 CAPITOL ANNEX  
FRANKFORT, KY 40601  
TELE. (502) 573-0050  
FAX (502) 573-0067**





EDWARD B. HATCHETT, JR.  
AUDITOR OF PUBLIC ACCOUNTS

May 1, 2001

The Honorable Stephen L. Henry, M.D.  
Lieutenant Governor, Commonwealth of Kentucky  
700 Capitol Avenue  
Suite 100  
Frankfort, Kentucky 40601-3474

Re: Examination into Allegations of Improper Use of State Resources

Dear Governor Henry:

Numerous citizen complaints prompted our office to examine the use of state resources to plan and stage your wedding celebrated on October 27, 2000. While there was significant public interest in the ceremony and reception, they were private, by-invitation-only events.

Pursuant to our authority set forth in KRS 43.050, we requested information from you in a letter dated November 9, 2000. Following receipt of your response dated December 1, 2000 (Response), we gathered and evaluated information from other sources. During the course of our work, we identified and examined other related issues. The subjects of examination and our procedures, findings, and recommendations are discussed herein.

We sought to discover possible violations of law resulting from the use of public resources, including potential violations of the Executive Branch Code of Ethics set forth in KRS Chapter 11A. In particular, KRS 11A.020(1)(c) states no public servant shall knowingly “[u]se his official position or office to obtain financial gain for himself or any members of the public servant’s family.” We refer the following findings of our examination to the Executive Branch Ethics Commission (Commission):

- Use of state employees to plan and stage the wedding and reception;
- Use of the resources of the Division of Creative Services, a state agency attached to the Finance and Administration Cabinet (Creative Services), to produce wedding press packets;
- Use of wedding-related photographs produced by Creative Services and paid for with state funds; and
- Use of state employees to arrange for private, compensated appearances by Mrs. Henry.

**State employees  
volunteered over \$16,000  
worth of personal leave to  
the wedding.**

---

Our interviews and examination of timesheets revealed that state employee volunteers collectively used more than 500 hours of personal leave valued at over \$16,000 to account for time spent working on the wedding and related matters. This total includes 165 personal leave hours taken by one employee from the Lieutenant Governor's Mansion (Mansion) who could not distinguish between hours worked on the wedding and other unofficial matters. This total does not include additional hours donated by employees who worked through lunch or beyond normal business hours.

101 KAR 2:102 Sec. 1(2)(b) and 101 KAR 2:102 Sec. 5(2)(a) require an appointing authority to approve the use of personal leave by state employees. This supervisory responsibility allows the appointing authority to determine whether the use of personal leave is in the best interests of the Commonwealth. When approval of such leave inures to the personal financial benefit of the appointing authority, a conflict of interests arises which cannot be properly reconciled.

Also included in the 500 hours of personal leave is the time used by Donna Moloney, Special Events Coordinator for the Governor's Office, who coordinated the work of the wedding volunteers. Ms Moloney used 207.5 hours of personal leave to account for her wedding-related work performed during regular business hours. In addition, Ms Moloney performed wedding-related duties outside of regular business hours. At an acknowledged market rate of \$50 per hour for professional wedding planners, Ms Moloney's services during regular business hours alone provided a benefit in excess of \$10,000.

We refer this finding to the Commission.

Each state employee we interviewed reported that he or she volunteered willingly and made a good faith effort to properly account through personal leave for business hours spent working on wedding activities. We also note that because of the donation of their time to the event, you included many state employee volunteers on your Statement of Financial Disclosure For Calendar Year 2000 filed with the Commission.

---

**A number of allegations received were substantiated, although the Commonwealth has received reimbursement.**

We received and substantiated the following allegations:

- Wedding press packets were produced by Creative Services;
- State computers were used for wedding planning and preparation;
- The Commonwealth reimbursed the lodging expense of a private citizen; and
- Wedding-related long distance telephone calls were charged to the Commonwealth.

Documentary evidence contained in the Response showed reimbursements were made to the Commonwealth for private wedding expenses.

*Personal gain from the use of state resources, even though reimbursed, raises an ethical question.*

We examined numerous work orders from Creative Services, which corroborated the statement in the Response that Creative Services produced the contents of the wedding press packet. The Response also noted that all costs associated with the press packets were reimbursed, and documentary evidence supports the conclusion that the reimbursement of costs for press packets was adequate.

State employees are not permitted access to Creative Services for their private benefit. Although Creative Services regularly performs duties for the official functions of the Office of Lieutenant Governor (Office), we question the propriety of its extensive involvement in a private wedding. By using Creative Services rather than a private vendor to produce the press packets, we estimate you received a personal benefit amounting to an approximate value of \$1,160. This benefit may violate KRS 11A.020(1)(c).

We refer this finding to the Commission.

*Reimbursement for computer usage was adequate.*

Our procedures also included examining numerous files maintained on state computers, which confirmed that the files were created on state equipment for unofficial purposes. The Response noted reimbursement had been made for an estimated 50 hours of computer usage at \$3.40 per hour, a rate established by the Governor's Office for

Technology (GOT). Documentary evidence of the reimbursement was provided. We concluded that the reimbursement made at the rate established by GOT for private use of state computers was adequate. We found no evidence that computer usage exceeded the estimated 50 hours.

*Computer files were not adequately secured.*

Computer files maintained in the Mansion containing personal, confidential information were not adequately secured to restrict access to authorized persons. Several official, personal, and wedding-related files were readily accessible to those on the Commonwealth's network. Files containing the addresses, telephone numbers, and credit card information of 106 private citizens were vulnerable to discovery.

*Reimbursement was made for overnight lodging.*

We identified one instance in which a state employee paid an unofficial travel expense for Mrs. Henry prior to the wedding, submitted the expense for reimbursement, and accepted reimbursement from the Commonwealth. Documentary evidence supports the conclusion that the Commonwealth was subsequently reimbursed.

*Reimbursements for telephone charges were adequate.*

We interviewed state employees who volunteered to assist with the wedding, other state employees, and vendors engaged to provide services for the wedding. We obtained telephone and cellular telephone records from GOT and examined them to identify wedding-related calls. These procedures confirmed that long distance telephone calls were made on state telephones for private wedding purposes. The Response included documentary evidence that reimbursements for such calls were made. We concluded that reimbursements made for long distance telephone charges were adequate.

*Recommendations*

We recommend that the use of state resources for private purposes be avoided. A public officer should not allow for the perception that influence was used to gain personal benefit from public resources.

We recommend that a network administrator perform a system analysis and implement changes to protect files maintained on state computers. Files of a personal nature should be removed from the state's computers.

---

**Adequate reimbursement for photographs produced by Creative Services could not be substantiated.**

---

We received an allegation that the Office requested a large quantity of wedding photographs from Creative Services that were paid for by the Commonwealth. We interviewed state employees and examined Creative Services' work orders and inter-account billings. This examination concluded that 1,422 wedding and engagement photographs were requested and received by the Office between February 10, 2000, and January 22, 2001. The entire cost for taking and reproducing these photographs charged to the Office, through inter-account transactions, totaled \$3,074.80.

The Commonwealth was reimbursed \$1,150.50 for the cost of 514 of these photographs used in the wedding press packets. The Office provided an accounting for the official use of an additional 280 photographs costing \$550.50. The state employees we interviewed could not characterize the use of the remaining 628 photographs.

Since it has not been clearly demonstrated that the non-reimbursed photographs were used for official purposes, we cannot determine whether reimbursement should have been made for some or all of the additional 628 photographs totaling \$1,373.80.

We refer this finding to the Commission for advice on the allowable use of these photographs.

*Recommendation*

We recommend that the use of state resources for private purposes be avoided. A public officer should not allow for the perception that public funds were used for private benefit. The use of state resources for official purposes should also be adequately documented.

---

**Use of state employees resulted in private financial gain.**

---

We learned that at your direction, before and after the wedding, state employees were used to schedule Mrs. Henry's private appearances. Some of these appearances were for compensation potentially totaling \$29,700.

We examined numerous computer files that documented state employees working at the Mansion for the purpose of receiving and responding to requests for appearances by Mrs. Henry. These computer files included correspondence dated as early as July 19, 2000, on stationery with the heading "Miss America 2000 Heather Renee French" that included the Mansion as the return address.

As of October 25, 2000, seventy-six requests for appearances scheduled to occur between October 2000 and September 2001 were documented in these computer files. These requests are summarized as follows:

<b>Status</b>	<b>Number</b>	<b>Fees</b>	<b>Donations</b>
Accepted	19	\$ 18,200	\$ 1,000
Undecided	20	11,500	-
Declined	37	1,000	-
<b>TOTAL</b>	<b>76</b>	<b>\$ 30,700</b>	<b>\$ 1,000</b>

*State employees were used to book private appearances.*

At your direction, the state employees received, logged, and responded to requests for Mrs. Henry's private appearances. These duties also included the preparation and transmittal of contractual agreements.

One Mansion employee stated that she performed these duties during official work hours. However, after the fact, this employee claimed several personal leave days off when she was actually present at work performing official duties. This employee did not track time spent on unofficial duties,



but estimated how much time should be reimbursed to the Commonwealth. This employee used 165 hours of personal leave to cover her estimated time spent on Mrs. Henry's scheduling and assistance with wedding preparation. The employee was not able to distinguish between the number of hours worked on scheduling and those expended in wedding preparation. This employee "donated" as much as \$3,400 in personal leave to book up to \$29,700 in paid appearances for Mrs. Henry. Another state employee performed similar scheduling duties, which she did not distinguish from her official duties.

Professional firms are known to charge a fee for their work amounting to as much as 25 percent of the speaking fee. The use of state employees instead of a professional firm to schedule these bookings may have resulted in personal gain in excess of \$7,400. We learned that a private firm was engaged in mid-December 2000 to assume the management of Mrs. Henry's appearances.

State employees performing duties that inure to the personal financial gain of a state official or his family creates the appearance of an inappropriate use of an official position, even if those employees take personal leave to do so.

Since this practice may have violated KRS 11A.020(1)(c), we refer this finding to the Commission.

*Recommendations*

We recommend that official position not be used to obtain financial gain.

We recommend that state employees under your direction accurately report time worked on a daily basis.

---

**Several allegations were either unsubstantiated or innocuous.**

---

Evidence obtained during the course of our examination supports the conclusions that

- State employees did not receive inappropriate remuneration for wedding volunteer efforts;
- An uncompensated college intern was not exclusively assigned wedding-related duties;

- State vehicles were not used in the planning, preparation, and execution of the wedding;
- The Commonwealth did not purchase decorations or food for use in the wedding;
- The Commonwealth did not directly pay costs of the wedding; and
- Kentucky State Police (KSP) security detail personnel were not used inappropriately.

Wedding volunteers attempted to segregate wedding activity from official time worked. No evidence of inappropriate remuneration was noted. A college intern was found to have assisted with certain wedding related duties, but was not exclusively assigned such duties and was not compensated by the Commonwealth. Our examination also did not note any evidence of inappropriate use of state vehicles, inappropriate use of decorations or food purchased by the Commonwealth, direct payments of wedding costs by the Commonwealth, or inappropriate use of KSP security detail personnel.

Examination procedures included interviewing numerous wedding volunteers, state employees, college personnel, and vendors. Documentary evidence provided in your Response, timesheets, and computer files were also examined. We identified transactions between the Commonwealth and wedding vendors since your engagement announcement on February 9, 2000. We then requested supporting documentation from numerous state agencies and performed detailed testing of all identified transactions.

The Honorable Stephen L. Henry, M.D.  
May 1, 2001  
Page 9

*While goods, services, and wedding gifts were accepted from a few vendors who conduct business with the Commonwealth, no statutory violations were noted.*

Interviews of wedding volunteers, state employees, and vendors revealed that goods or services for the wedding and wedding gifts were donated by various companies. A few of these companies have transacted business with the Commonwealth. KRS 11A.045 prohibits a public servant or his spouse from knowingly accepting any gifts totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, or is regulated by, the agency in which the public servant is employed or which he supervises. The statute also authorizes the Commission to grant exceptions to this prohibition where such exemption would not create an appearance of impropriety.

The Commission granted an exemption on November 3, 2000, for "the Lt. Governor to accept customary wedding gifts from persons or businesses that may be doing business with, regulated by, or attempting to influence the actions of the Office of the Lt. Governor provided such gifts are reasonable in value." Documentary evidence obtained during our examination supports the conclusion that wedding gifts received met this criterion.

We wish to thank you, your staff, and all other state employees contacted for the courtesy and cooperation extended us during the course of our examination.

Very truly yours,



Edward B. Hatchett, Jr.  
Auditor of Public Accounts

EBHJr:kct

**THIS PAGE LEFT BLANK INTENTIONALLY**

**LIEUTENANT GOVERNOR STEPHEN HENRY'S RESPONSE**



John L. Smith  
Grant M. Helman  
John H. Harralson, III  
Trevor A. Smith  
David S. Stevenson  
Stuart A. Scherer

**SMITH & HELMAN**

2000 PNC PLAZA  
500 WEST JEFFERSON STREET  
LOUISVILLE, KENTUCKY 40202  
(502) 540-5700  
(502) 568-3600 (FAX)

**Of Counsel:**  
Harry Lee Meyer

**John L. Smith**

April 30, 2001

Edward B Hatchett, Jr.  
Auditor of Public Accounts  
144 Capitol Annex  
Frankfort, Kentucky 40601-3448

RE: Lt. Governor Stephen L. Henry

Dear Mr. Hatchett:

This law firm and the Lt. Governor are in receipt of the draft audit report prepared by your office. Please allow this correspondence to serve as Lt. Governor Henry's response to that report. The Lt. Governor agrees with your conclusion that a number of allegations investigated by your office were unfounded. These include the following:

- The Commonwealth did not pay costs of the wedding;
- The Commonwealth did not purchase decorations or food for use in the wedding;
- State vehicles were not used in the planning, preparation, and execution of the wedding;
- State employees did not receive inappropriate remuneration for wedding volunteer efforts;
- Kentucky State Police (KSP) security detail personnel were not used inappropriately; and
- An uncompensated college intern was not exclusively assigned wedding-related duties.

The Lt. Governor has reviewed the four (4) allegations which your office intends to refer to the Executive Branch Ethics Commission. The Lt. Governor asserts that such a referral is not warranted and would respond to the facts and conclusions you contend support such a referral as follows:

A. There Was No Conflict of Interest  
Resulting from use of State Employee Volunteers

As your report notes, every state employee who volunteered their time toward helping put together the wedding did so

## SMITH & HELMAN

Edward B. Hatchett, Jr.  
April 30, 2001  
Page 2

"willingly" and made a "good faith effort" to use personal leave time for hours spent during business hours. No state employees were ever required to work on the wedding or to use leave time for such work. Any persons using large amounts of leave time due to wedding preparations did so because they are close friends with the Lt. Governor and Mrs. Henry.

Although the Henry wedding was on a large scale and received intense media coverage, it was simply a wedding with results like any other - - the marriage of a very happy bride and groom. As with any wedding, friends and family of the bride and groom wanted to pitch in and be a part of the process. In this case, it so happened that the groom and a number of these considerate and gracious friends were employed by the Commonwealth of Kentucky. The Lt. Governor and Mrs. Henry accepted the assistance of their friends with much gratitude.

The important thing to remember is that no state revenue was expended as a result of the participation of the volunteers. These kind people used personal leave time that they would have taken at some point anyway. Moreover, it is also important to remember that state employees may do whatever they wish with their personal leave time. The Auditor's report makes great stretches of imagination when it values personal leave at dollar amounts, i.e. Donna Moloney's services in excess of \$10,000. Personal leave time is earned by the individual state employee, not "given" to them by the state. Do not state employees lose the personal leave time if not used within a stated length of time? These volunteers chose to use that time in an effort to help their friends, the Henrys, organize a successful, large scale wedding. For this, the Henrys are extremely grateful.

The Henrys may have benefited as a result of the help from Donna Moloney and the other volunteers. Was this the motivation behind the utilization of Ms. Moloney or the volunteers? Absolutely not. The Lt. Governor and his fiancée could have hired a wedding planner at the "market rate of \$50.00 per hour". However, they had a close friend in Ms. Moloney - - whose job title is "Special Events Coordinator" - - who had the appropriate knowledge and expertise as well as the desire to volunteer her capable services. They chose to accept Ms. Moloney's offer to assist in coordinating the wedding and she did a wonderful job.



## SMITH & HELMAN

Edward B. Hatchett, Jr.

April 30, 2001

Page 3

Moreover, it should be remembered that the responsibility for many important aspects of the wedding preparations fell upon the Lt. Governor, the bride to be, as well as other friends and family members who were not state employees.

The Lt. Governor never considered the work performed by Ms. Moloney or any of the small number of volunteers while on personal leave time as "inuring" to his personal financial benefit. He considered the work of volunteers to be a simple case of friends helping friends. In this day and age, public officials must make every effort to avoid even the appearance of the misuse of official resources. In this regard, the Lt. Governor and the Second Lady are concerned that any such appearance may have resulted from the use of the volunteers in putting together the wedding.

### B. There Was No Improper Use of Creative Services to Prepare Press Packets

First and foremost, Creative Services did not "prepare" press packets. Creative Services simply provided copies of the official photograph of the Lt. Governor and his fiancée, and took a picture of the wedding invitation for use in the press packets. In addition, as the draft report acknowledges, Creative Services was fully reimbursed for the costs of those photographs. The fact that a sitting Lt. Governor married a former Miss America made the wedding a media sensation. Most, if not all, media inquiries were directed to the Governor's Press Office, Lt. Governor's office or Old Governor's Mansion. In this sense, as planning progressed, the wedding took on an almost quasi-official atmosphere. For this reason, the decision to create the press packets was made in an effort to efficiently respond to media inquiries. Under these circumstances, the use of Creative Services in providing the photographs was logical and reasonable.

Finally, the Lt. Governor is at a loss as to how the Auditor arrived at the conclusion that the Lt. Governor received a personal benefit of \$1,160.00 by utilizing Creative Services. The Lt. Governor can only say that a number of prints of an existing routinely used photograph and one new photograph were ordered and paid for. The bottom line on this issue is that Creative Services was fully reimbursed with respect to the press packet photographs and no tax dollars were expended.

**SMITH & HELMAN**

Edward B. Hatchett, Jr.  
April 30, 2001  
Page 4

C. There Was No Improper Use of Creative Services  
for Wedding Photographs

The Lt. Governor and Mrs. Henry take great exception with this allegation. The Henrys used private photographers, Mark Kidd Studios of Lexington, and Williams & Williams of Maysville, to shoot wedding photos. Creative Services routinely documents the Governor's activities at various events. Because of the public interest in the marriage of a sitting Lt. Governor and a former Miss America, as well as the prominent role of the Governor in this wedding, Creative Services photographed the wedding in accordance with the mission of that office. Although the Lt. Governor appreciates the hard work and diligence of the Creative Services staff, he did not necessarily want to add to the already burgeoning corps of photographers and press on top of the large number of guests. Recognizing the official state interests in this wedding, the Lt. Governor did not object to the presence of Creative Services. With the exception of the press packet photographs, all photos prepared by Creative Services were done so in its official capacity. The Henrys have not personally requested or obtained any wedding photos from Creative Services and any such photos are not the financial responsibility of the Henrys.

The Auditor's report repeatedly refers to this wedding as a "private wedding." This wedding was about as private as an inauguration, for example. The Lieutenant Governor of Kentucky is a public figure. Weddings, funerals and births concerning public figures are hardly private. From the time the engagement was announced, this entire matter was public. Newspapers, live television and radio - all served to make this a more or less public ceremony. This wedding was in no way "private" in the traditional sense of the word.

D. There Was No Misuse of State Resources  
In the Scheduling of Appearances by the Second Lady

One mansion employee was used to help with the scheduling of Mrs. Henry's personal appearances. As with the wedding volunteers, all such activities were done on a voluntary basis while this employee was on personal leave time. Again, this was not only a state employee, but a close friend of the Henrys. No tax dollars

## SMITH & HELMAN

Edward B. Hatchett, Jr.

April 30, 2001

Page 5

were expended as a result of this scheduling work nor was the motivation of the Henrys rooted in "personal financial gain".

Neither Mrs. Henry nor the Lt. Governor were prepared for the number of requests for appearances which started streaming into the mansion and the Lt. Governor's office. Over 150 requests were referred to the Lt. Governor who would handle the request or instruct the mansion employee how to respond. All of this was occurring at the same time the wedding preparations were taking place. The mansion employee handling the scheduling issues volunteered to do so while taking personal leave time for the wedding.

Soon it became obvious that the Henrys needed qualified professional assistance with respect to the booking of Mrs. Henry's appearances. As a result, Washington Speakers Bureau and McKinney Associates, Inc. were retained to handle all scheduling matters for Mrs. Henry.

While holding the Miss America crown, all of Mrs. Henry's appearances were booked by pageant officials. Since October, 2000, when her reign came to an end, Mrs. Henry has made numerous unpaid and 18 paid appearances. Of those 18, the mansion employee in question filled in the blanks of nine form contracts, four of which were to benefit the Heather French Foundation for Veterans, a non-profit organization. This employee also handled mail, received and made a number of telephone calls as well as preparing the options list given to the Auditor's office. This hardly makes the mansion employee Mrs. Henry's "booking agent." All negotiations and appearance decisions were made by the Lt. Governor and/or Mrs. Henry. The notion that the mansion employee's clerical help saved the Henrys \$7,400.00 is absurd.

Here again, the Lt. Governor would like to emphasize that no state tax dollars were spent toward the time dedicated to scheduling appearances for Mrs. Henry. The state employee who handled these matters did so voluntarily and out of friendship on personal leave time - - which may be used for any purpose she sees fit. The Lt. Governor and Mrs. Henry were in no way motivated by personal financial gain of which there was very little, if any. The Henrys would not jeopardize the public trust for any amount of money.

**SMITH & HELMAN**

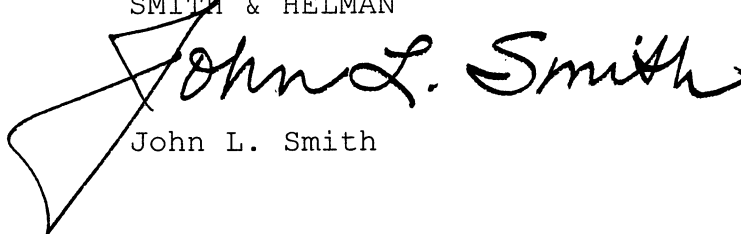
Edward B. Hatchett, Jr.  
April 30, 2001  
Page 6

As a final note, the Lt. Governor and Second Lady would affirmatively state to the Auditor and the citizens of Kentucky that they did everything humanly possible to avert the expenditure of any tax dollars in connection with their wedding. The Lt. Governor and Mrs. Henry did everything in their power to plan the wedding in such a manner that the ceremony would reflect a favorable light on the state as a whole. It has been over 100 years since a sitting Governor or Lt. Governor married while in office. There was no precedent which could serve as a guide as the wedding plans progressed. The Lt. Governor consulted with the Executive Branch Ethics Commission as well as other knowledgeable persons in a sincere effort to ensure that all wedding related activities were within the bounds of all rules, regulations and laws. The Lt. Governor and Mrs. Henry believe they were successful in this regard and are confident the final findings of the Auditor and/or the Ethics Commission will concur.

This concludes the Lt. Governor's response to the draft audit report. The Lt. Governor thanks the Auditor for the opportunity to submit this response. If you have any questions or require any other information please do not hesitate to contact the undersigned.

Respectfully,

SMITH & HELMAN

A handwritten signature in black ink that reads "John L. Smith". The signature is written in a cursive style and is positioned over a large, hand-drawn scribble that partially obscures the typed name below it.

John L. Smith

JLS:kal

