

**Stanislaus County Chief Executive Officer  
Grand Jury Case No. 04-47  
2003-2004**

**REASON FOR INVESTIGATION**

The Civil Grand Jury conducted an investigation of the Chief Executive Officer and the circumstances which led to his resignation. Specifically, the Grand Jury was interested in whether or not the Board of Supervisors exercised proper oversight over the CEO's use of budgeted funds, appropriate use of the CEO employment agreement and to identify whether the County Auditor required sufficient justification for the CEO's expenditures prior to approving payments.

**BACKGROUND**

On July 8, 2003, the Stanislaus County Chief Executive Officer (CEO) resigned his county position. Subsequent to the CEO's resignation, questions were raised at meetings of the Stanislaus County Board of Supervisors regarding the CEO's use of a budget line item titled "Special Projects" and certain credit card transactions made by the CEO. The Stanislaus County Board of Supervisors authorized a special audit to be conducted by an independent accounting firm. The audit pointed to a number of expenditures made by the CEO which were not appropriate. As a result, the CEO was asked to reimburse the county for improper or unjustifiable expenses.

The circumstances surrounding the CEO's resignation and his use of the Special Projects budget line item raised questions about the role of the Board of Supervisors in overseeing the CEO. Questions were also raised about the role of the County Auditor/Controller in processing claims for payment.

**PROCEDURES FOLLOWED**

Persons Interviewed:

1. Staff of the County Auditor.
2. Member of the Board of Supervisors.
3. Staff of the Chief Executive Office.

Documents Reviewed:

1. Stanislaus County Code Chapter 2.08.
2. 1997 and 2002 Employment Agreements with CEO.
3. July 22, 2003 Amendment to Employment Agreement.
4. California Government Code Section 29741.
5. Policies & Procedures of the Stanislaus County Auditor.
6. County Budgets dealing with Special Projects Fund.

7. County Auditor's records of expenditures dealing with Special Projects Fund.
8. September, 2003 Special audit of CEO expenditures by independent auditors.
9. Records of Board meetings dealing with CEO's powers and authority .
10. Stanislaus County Superior Court Case #321449.

## **FINDINGS**

1. Section 2.08.010(A) of the Stanislaus County Code states, in part, "The CEO shall act under the supervision of the board of supervisors and be subject to its direction."
2. The CEO's most recent employment agreement with the County was entered into on May 6, 2002 and was valid from June 30, 2002 through June 30, 2007.
3. Section 6.01 of that Agreement states, "Employee may terminate his obligation under this Agreement by giving County at least One Hundred Eighty (180) days notice in advance..."
4. Section 6.04 of the May 6, 2002 Agreement also states that, "Employee may be terminated for cause under the following conditions ... (3) For any material breach of this Agreement, insubordination, or gross negligence in performing his duties as included in this Agreement and set forth in Stanislaus County Code Chapter 2.08." This revision was not found in the May 13, 1997 Agreement.
5. The May 6, 2002 Section 6.03 states that if terminated for cause, the Employee would not receive severance pay.
6. The CEO resigned his duties effective July 8, 2003.
7. Following the CEO's resignation on July 8, 2003, Stanislaus County entered into an Amendment to the earlier employment agreement on July 22, 2003. The Amendment provided for mutual promises, terms and conditions under the May 6, 2002 agreement which had terminated. The Amendment allowed him to remain as a "management employee" of the Stanislaus County until October 15, 2003 to assist their staff in specific areas.
8. In the Amendment to the Employment Agreement, Stanislaus County agreed to pay the CEO a total of six months' salary plus benefits.
9. Section 2.02 of the May 6, 2002 employment agreement states, "This agreement shall not be interpreted to prohibit Employee from making personal investments or conducting private business affairs otherwise legally allowed by applicable statutes, ordinances and regulations."

10. Stanislaus County Code Section 2.08.040, last sentence, states, "The CEO shall not engage in any other business or occupation during their appointment without prior approval of the board."
11. The CEO did not receive approval by the Stanislaus County Board of Supervisors to engage in any other business activities outside his duties.
12. The CEO engaged in business arrangements with DTW Energy Corporation and Stanislaus Energy Partners. These activities were a matter of public record as of 4/4/03, as presented in the CEO's statements in the Superior Court Case # 321449.
13. In Paragraph 14 of July 22, 2003 Amendment to the Employment Agreement, the CEO agreed to "resign any Director, Officer or Executive position he currently holds with DTW Energy Corporation and Stanislaus Energy Partners for which he has a personal business interest..."
14. On April 4, 2003, in Stanislaus Superior Court Case # 321449, the CEO stated in his Responsive Declaration, "I am the President of DTW Energy Corporation. ... I am entitled to a Director fee of \$1500 per month..."
15. Section 2.08.030 of the County Code states in part, "The CEO is entitled to all actual and necessary budgeted expenses for conducting county business..."
16. Section 29741 of the California Government Code requires the County Auditor to "allow or reject claims" for expenditures by County officials.
17. The Policies and Procedures of the Stanislaus County Auditor titled "Trip Authorization, Travel and Purchasing Cards" and "A/P Claims Process" require that all claims for payment to an employee or an outside source be backed up by supporting documentation explaining and justifying the expense.
18. An independent audit of the CEO's expenses, conducted in September, 2003 by the independent accounting firm, after the CEO's employment ended, cited claims that were paid by the County Auditor without proper documentation.

## **CONCLUSIONS**

1. The CEO resigned without giving the 180-day notice. This did not entitle him to further compensation and severance pay as required by Section 6.01 of his May 6, 2002 Employment Agreement.
2. The CEO's outside business dealings were a breach of his employment contract.
3. The Board of Supervisors had the authority through Section 6.04(3) of the May 6, 2002 Employment Agreement to terminate the CEO for cause.

4. The Board of Supervisors should not have agreed to any additional compensation for the CEO.
5. There are not any provisions in the Stanislaus County Code, the CEO's Employment Agreement, or any other document made available to the Civil Grand Jury that allows the County to provide unrestricted and unchecked expenses for the CEO.
6. The CEO violated Stanislaus County policies for travel expenses and procurement of services.
7. Neither the County Code nor the CEO's Employment Contract exempts him from submitting claims for payment not backed up with proper proof or documentation.
8. The County Auditor's staff should have rejected the claims for payments which lacked proper justification.
9. The Board of Supervisors did not exercise sufficient oversight of the CEO.

## **RECOMMENDATIONS**

1. The Board of Supervisors must be diligent in overseeing the activities and expenditures of the CEO. They must have in place a monitoring system whereby the activities, and especially the expenditure records, of the CEO are periodically monitored.
2. The Board of Supervisors must enforce all provisions of the employment contracts of employees.
3. The County Auditor's staff must be diligent in scrutinizing claims for credit card payments, regardless of who the payee is. They must adhere to all state and county codes as well as all policies it establishes.