

STATE OF NORTH CAROLINA

SPECIAL REVIEW

CENTRAL PIEDMONT COMMUNITY COLLEGE

CHARLOTTE, NORTH CAROLINA

OCTOBER 2002

OFFICE OF THE STATE AUDITOR

RALPH CAMPBELL, JR.

STATE AUDITOR

SPECIAL REVIEW

CENTRAL PIEDMONT COMMUNITY COLLEGE

CHARLOTTE, NORTH CAROLINA

OCTOBER 2002



Ralph Campbell, Jr.
State Auditor

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LETTER OF TRANSMITTAL

October 9, 2002

The Honorable Michael F. Easley, Governor
Mr. H. Martin Lancaster, President of the North Carolina Community College System
Mr. J.W. Disher, Chairman of Central Piedmont Community College Board of Trustees
Dr. P. Anthony Zeiss, President of Central Piedmont Community College
Members of the North Carolina General Assembly

Ladies and Gentlemen:

Pursuant to General Statute §147-64.6(c)(16), we have completed our special review into allegations concerning Central Piedmont Community College. The results of our review, along with recommendations for corrective actions, are contained in this report.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with that mandate, and our standard operating practice, we are providing copies of this report to the Governor, the Attorney General and other appropriate officials.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ralph Campbell, Jr.".

Ralph Campbell, Jr., CFE
State Auditor

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INTRODUCTION

During the State Auditor's annual financial audit of Central Piedmont Community College (CPCC), the auditors noted that on August 1, 2000, CPCC paid a \$93,600 real estate broker's commission on the purchase of 1.98 acres from Central Piedmont Community College Foundation, Inc. (Foundation). However, the payment appeared inappropriate, because CPCC and the Foundation had entered into an option-to-purchase agreement four years earlier that was still in effect.

The financial auditors obtained preliminary documentation surrounding this transaction and referred the issue to the State Auditor's investigative audit section for further examination.

We used the following procedures to conduct this special review:

- Examination of CPCC documents and records.
- Interviews with CPCC employees.
- Interviews with individuals external to CPCC.

This report presents the results of our special review. The review was conducted pursuant to G.S. §147-64.6(c)(16) rather than a financial audit. The State Auditor performs an annual financial audit of CPCC.

Central Piedmont Community College

Central Piedmont Community College (CPCC) is one of the 58 community colleges in the North Carolina Community College System. The central campus is located in Charlotte with other campuses in Charlotte and Mecklenburg County.

INTRODUCTION (CONTINUED)

CPCC has a 12-member Board of Trustees. The Governor, the Mecklenburg County Board of Commissioners, and the Charlotte-Mecklenburg Board of Education appoint four members each. Each member serves four years. The Board consists of a Chairman, Vice-Chairman and Secretary and operates through four committees: the Executive Committee, the Finance Committee, the Facilities Committee, and the Instructional Programs and Institutional Support Committee. The Board of Trustees provides policy direction to the President of CPCC.

The President serves as the Chief Executive Officer of CPCC and is assisted by an Executive Vice President¹.

In 1999, the voters of Mecklenburg County approved the issuance of general obligation bonds (land banking bonds) to secure land for public institutions supported by Mecklenburg County, such as, CPCC.

Central Piedmont Community College Foundation, Inc

Central Piedmont Community College Foundation, Inc. (Foundation), is a nonprofit organization incorporated in the state of North Carolina. Its primary mission is to support Central Piedmont Community College and its students. A Board of Directors governs the Foundation. The Board of Directors consists of not less than 21 members and not more than

¹ Central Piedmont Community College

INTRODUCTION (CONCLUDED)

29 members. Board members serve three-year terms and are selected by the Board from individuals proposed by the nominating committee.

The Foundation employs an Executive Director, who reports to the Board, and supervises a staff of four people. As of June 30, 2001, the Foundation had net assets (assets less liabilities) of \$13,057,906.

FINDINGS AND RECOMMENDATIONS

- 1. CPCC MANAGEMENT, IN PURCHASING REAL ESTATE FROM THE FOUNDATION WITH FUNDS PROVIDED BY THE COUNTY, PAID \$260,548 MORE THAN THE PRICE ESTABLISHED BY AN OPTION-TO-PURCHASE, AND PAID A \$93,600 REAL ESTATE COMMISSION WHEN THEY ALREADY HELD AN OPTION-TO-PURCHASE THE PROPERTY.**

In 1994, Central Piedmont Community College (CPCC) acquired an option-to-purchase approximately 1.98 acres on Independence Boulevard in Charlotte. Two years later, the Central Piedmont Community College Foundation, Inc., (Foundation) purchased the property for \$1,872,000 and leased it to CPCC for \$18,502.05 per month. The term of the lease was for 10 years and four days commencing on November 27, 1996. Also in November 1996, the Foundation and CPCC entered into an option-to-purchase agreement for the property. The option allowed CPCC to purchase the property from the Foundation for the amount of any outstanding loans secured by the property.

In February 2000, CPCC and Mecklenburg County Parks and Recreation formally requested a Charlotte Realtor represent both organizations in obtaining properties in the Elizabeth Avenue area. Included in those properties was the 1.98 acre parcel on Independence Boulevard that was owned by the Foundation with CPCC already holding an option-to-purchase.

In August 2000, CPCC purchased the Independence Boulevard property from the Foundation for \$1,872,000 using Mecklenburg County general obligation bond proceeds (County land banking bonds passed by the voters in November 1999) to fund the

FINDINGS AND RECOMMENDATIONS (CONTINUED)

purchase. The Closing and Disbursement Statement shows that CPCC paid a \$93,600 broker's commission at closing. This was done, even though CPCC had an option to purchase the property from the Foundation prior to hiring a Realtor. In addition, the purchase price was \$260,548.25 more than the price established by the option-to-purchase documents.

According to the CPCC Executive Vice President who was involved in the transactions, she prepared a list of properties CPCC would like to acquire in the Elizabeth Street area and gave the list to the Realtor. She said the property referred to above was included on the list. She said she had forgotten about the option, so she included the property on the list in error. She acknowledged that a Realtor was not needed to assist in negotiating the purchase price for the parcel. When asked why CPCC paid the Foundation \$1,872,000 for the property instead of the option amount of \$1,611,451.75 (the amount of the outstanding loan), she said that the County had agreed to pay the original cost of \$1,872,000.

According to the Attorney who represented the County in the transaction (a County Attorney was used since County bond proceeds were used to fund the purchase), he was not told of the option-to-purchase agreement. He said that the Foundation originally asked for the purchase price to be the current appraised value of approximately \$2,200,000, but the County refused, because of the close relationship between the Foundation and CPCC. He said the County agreed to pay the Foundation's cost in the property, but he did not know at the time CPCC had an agreement with the Foundation to obtain the property for less.

FINDINGS AND RECOMMENDATIONS (CONCLUDED)

According to the Attorney who represented CPCC in the transactions, she did not remember the option existed.

According to the President of the real estate company that received the commission, who is also a Foundation Board member, he did not have knowledge of the option. He said his company was given a list of seven properties that CPCC desired to acquire with County bond proceeds. He said his staff worked diligently to acquire the properties while working with CPCC and County officials. He said if he had known of the option, he would have excluded the property from the list.

According to the CPCC President, he did not remember the option existed until we brought it to his attention. He said that the CPCC Foundation intends on reimbursing the County \$260,548.25 as well as any interest that would have accrued on the funds since August 1, 2000. In addition, the CPCC Foundation intends on reimbursing the County \$80,573 for the commission. The Realtor has agreed to reimburse \$13,027 ($\$260,548.25 \times 5\%$) of the commission.

RECOMMENDATION

We recommend that (i) CPCC assure that the Foundation reimburse the County \$260,548.25 for the excess purchase price and (ii) CPCC assures the County is reimbursed the \$93,600 for the real estate commission. In addition, we recommend CPCC review its procedures and practices on real estate purchases to assure it is fully aware of the interest it holds in properties and that real estate brokers are used only when needed.

STATEMENT OF QUESTIONED COSTS

The following schedule represents a quantification of the items examined during our special review. We cannot completely quantify the tangible benefits or detriment, if any, to the taxpayers resulting from the findings of our review. We simply are noting areas where managerial oversight should be enhanced, or where, in our judgment, questionable activities or practices occurred.

1. Overpayment to the Foundation	\$260,548
2. Unnecessary Payment to the Realtor	<u>93,600</u>
Total	<u>\$354,148</u>

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Response from Central Piedmont Community College



October 3, 2002

Mr. Ralph Campbell, Jr., CFE
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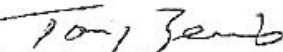
Dear Mr. Campbell:

As requested, this letter responds to the Special Review, Central Piedmont Community College, September 2002, forwarded to me by your correspondence of September 5, 2002.

First, let me thank you and your staff for calling this matter to our attention. The College has responded in a proactive manner to address the situation and reimburse Mecklenburg County fully. This reimbursement was accomplished, with the support of the CPCC College Board of Trustees and the CPCC Foundation Board of Directors, on September 4, 2002. Those actions are outlined in our attached response, which we understand will be included with your final report.

Again, thank you for drawing this matter to the College's attention. We appreciate the cooperative and professional manner in which this issue was handled.

Sincerely,


P. Anthony Zeiss
President

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**Central Piedmont Community College
Response to Special Review
September 2002**

Central Piedmont Community College generally agrees with the Findings and Recommendations of the Draft Special Review. It concurs that the option to purchase contained in the Lease between the College and the CPCC Foundation, dated November 27, 1996, provided for a purchase agreement under which the purchase price for the acquisition of the property was to be the amount of the outstanding mortgage balance as of the date of the closing. All individuals involved in the closing of the acquisition acknowledge that at the time of the acquisition of the property in August, 2000, they either did not remember or were not aware of the existence of the option to purchase. As set forth below, the College immediately forwarded funds to Mecklenburg County as reimbursement for the excess amount funded by the land banking bonds. The CPCC Foundation has responded by promptly reimbursing the College the amount of the excess purchase price that was paid to the CPCC Foundation at closing, plus accrued interest.

With respect to the payment by the College of the real estate commission, the College decided very early in the process of acquiring properties with land banking funds to engage a real estate broker to assist the College in the variety of tasks which had to be accomplished over an extended period of time related to the acquisition of property, including the property in question. Section 21 of the purchase agreement specifically provides: "Nothing contained herein shall alter any agreement between a Realtor or broker and Seller or Buyer as contained in any listing agreement, buyer agency agreement, or any other agency agreement between them." CPCC believes that the payment of a real estate commission related to the purchase of the property was permitted and proper and within the scope of its discretion and reasonable judgment. The College, however, in conjunction with its attorneys and the real estate broker, has reimbursed Mecklenburg County for the total real estate commission that was paid in conjunction with the College's acquisition of the property.

The following significant events or transactions have taken place since the College was alerted to this matter:

- On August 27, 2002, the CPCC Foundation Board of Directors voted unanimously to reimburse CPCC the sum of \$287,027 to be in turn forwarded to Mecklenburg County. This represents reimbursement of the following:

Variance between the original purchase price (\$1,872,000) of the land and the outstanding mortgage balance as of August 1, 2000 (\$1,611,451)	\$260,549
Interest accrued from August 1, 2000 to September 4, 2002	\$26,478

- On September 4, 2002, CPCC's Board of Trustees unanimously agreed to participate in the reimbursement of Mecklenburg County for the real estate commission which was paid. This commission totaled \$93,600, of which the College, using non-tax dollars, funded \$40,286, counsel to the College funded \$40,286, and the real estate broker funded \$13,028.
- On September 4, 2002, the College issued a check made payable to Mecklenburg County totaling \$380,627. The College delivered the check to the county manager on that day.

The College has provided documentation of these transactions to the state auditor's office.

In summary, the reimbursement to the County exceeded the amount recommended by the Auditor, because interest on the variance in purchase price was included. In addition, CPCC has acted on the Auditor's recommendation that it review its policies and procedures on real estate purchases. Going forward, it will be College policy to record a memorandum of all options and long-term leases, even if such recordation is not required by law or local practice. In that way, a title search will minimize the prospect of a similar oversight.

CPCC appreciates the office of the state auditor calling this matter to the College's attention and thus affording us the opportunity to correct the situation. We are satisfied that there was no misconduct on the part of any individuals or entities involved. When the oversight was noted, all parties involved responded promptly to assure appropriate reimbursement using non-tax funds.

September 18, 2002

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DISTRIBUTION OF AUDIT REPORT

In accordance with G.S. §147-64.5 and G.S. §147-64.6(c)(14), copies of this report have been distributed to the public officials listed below. Additional copies are provided to other legislators, state officials, the press, and the general public upon request.

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October 9, 2002

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