



Ralph Campbell, Jr.
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

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August 18, 2003

Lisbeth C. Evans, Secretary
North Carolina Department of Cultural Resources
4601 Mail Center Service
109 East Jones Street
Raleigh, NC 27699-4601

Dear Secretary Evans:

We received an allegation through the North Carolina State Auditor's hotline that employees at the North Carolina Museum of Art (Museum of Art) were having a party for a departing employee and serving alcoholic beverages on the premises. The caller stated the employees were not required to deduct leave for the event and alleged this was a common occurrence. The caller stated the event was scheduled for that afternoon in the photography studio. An auditor was sent to the Museum on July 24, 2003, that same day to investigate the allegation.

Prior to entering the Museum's entrance, the auditor questioned a Museum employee regarding the party. The employee confirmed an event was taking place and alcoholic beverages were present. The Auditor entered the Museum employees' entrance and approached the Security Officer seated at the security desk. The Auditor informed the Security Officer "she was there for the party" and was handed a Visitor's badge without providing any identification. A Museum employee offered to escort the auditor to the event located in the photography studio, a restricted area. The Auditor entered the photography studio and witnessed approximately 35-40 individuals attending what appeared to be a party. The Auditor observed individuals drinking what appeared to be beer. Upon closer examination an individual lifted a beer bottle and stated "yeah, it's beer". The Auditor immediately asked to speak to the person in charge and asked that the alcohol be removed from the state premises. The alcohol was then removed.

The Auditor determined both State and Museum Foundation employees attended the party. One employee stated the party was scheduled from 3:00 to 5:00 p.m. and invitations were sent via e-mail. Some employees said they deducted vacation leave to attend the event while others stated they had not. However, during the initial questioning of employees, the Auditor witnessed the Security Director influencing an employee to state she had taken leave

when in fact she had not. The Auditor requested the Director of Security not accompany her when she resumed questioning employees. Out of the nineteen employees questioned, ten stated they had consumed alcoholic beverages. The Auditor observed both beer and wine being served along with "finger foods". Many of the individuals attending the party departed once the Auditor identified herself; therefore, they were not identified or interviewed.

The Museum of Art's Associate Director of Administration (Associate Director) attended the party and stated he consumed alcohol. He further stated the Museum was permitted to serve alcohol and many of the employees in attendance were Museum Foundation employees; thus not regulated by the State Employee Policies and Procedures. Additionally, he said all employees were aware leave should be taken when attending such an event. The Associate Director said the party was for a departing Museum Foundation employee and all individuals attending the party were of legal age (21yrs. or older). According to the Manager of Communications, the wine was donated by a winery and employees provided the food and beer. The Museum did not provide transportation for the individuals that consumed alcohol.

According to the Associate Director, an Alcohol Law Enforcement Agent (ALE Agent) said alcohol could be served and consumed by Museum employees if they were participating in a social capacity such as dinners, receptions, exhibit openings, etc. Based on this information, the Associate Director said he thought alcohol could be served and consumed at the party. The Museum of Art does own and operate an eating establishment that is licensed to sell beer and wine; however the party took place in a restricted area after the restaurant had closed.

The ALE Agent that spoke with the Associate Director confirmed the Museum of Art has the necessary ABC permits to sell and serve alcoholic beverages. However, the ALE Agent stated he informed the Associate Director that employees (Foundation or State) are only permitted to consume alcohol if they are out of uniform and on leave. Under no circumstances are employees permitted to consume alcohol while working. Further, the ALE agent stated the Museum of Art may have violated their ABC permit by accepting donated alcoholic beverages.

The North Carolina Alcoholic Beverage Control Commission Regulation .0212 titled *Consumption: Intoxication by Permittee Prohibited* states,

- (a) *No permittee or his employee shall consume alcoholic beverages on the licensed premises except under the following conditions:*

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- (1) The permittee or employees shall be off duty for the remainder of that day or night during which he consumes any alcoholic beverages;*
- (2) The permittee or employee shall be out of uniform when uniforms are required to be worn while performing services; and*
- (3) The permittee or employee shall not perform services of any nature while or after consuming alcoholic beverages.*

(b) No permittee or his agents or employees shall be or become intoxicated on the licensed premises.

Further, Alcoholic Beverage Control Law General Statute §18B-1006 states:

(h) Purchase Restrictions- A retail permittee may purchase malt beverages, unfortified wine, or fortified wine only from a wholesaler who maintains a place of business in this State and has the proper permit.

Additionally, the Associate Director stated many employees were “dropping by” the party and would later return to work. Based on the number of attendees and the availability of the alcoholic beverages, it would be impossible to detect if an employee consumed alcohol and returned to work in violation of the regulation stated above. Further, the Auditor was escorted to the event without providing identification and could have easily consumed alcohol as well as accessed restricted areas without detection.

We recommend the Museum of Art cease in serving alcohol to their employees and implement security procedures for restricted areas.

We are presenting our findings for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by September 2, 2003.

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 malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with the mandate, and our standard operating practice, we are providing copies of this special review to the Governor, the Attorney General and other appropriate officials, including the North Carolina Department of Crime Control and Public Safety’s Alcohol Law Enforcement Division and the Alcoholic Beverage Control Commission.

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If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from the North Carolina Museum of Art's staff during our review.

Sincerely,

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

Ralph Campbell, Jr., CFE
State Auditor

Management letters and responses receive the same distribution as audit reports.



**North Carolina Department of Cultural Resources
Office of the Secretary**

Michael F. Easley, Governor

Lisbeth C. Evans, Secretary

September 9, 2003

The Honorable Ralph Campbell, Jr., CFE
State Auditor
20601 Mail Service Center
Raleigh, North Carolina 27699-0601

Dear Mr. Campbell:

Thank you for the opportunity to review and comment upon the special review conducted by your office at the North Carolina Museum of Art.

We have carefully reviewed the findings of the Auditor and it is apparent from the findings that there has been some confusion regarding the issue of serving alcoholic beverages at Museum functions that are attended by Museum staff during working hours.

We recognize those problems pointed out in your letter. I am assured by Larry Wheeler, Director of the North Carolina Museum of Art, that steps have been taken to ensure compliance with all ABC Regulations. The day after the Auditor's visit to the Museum, Mr. Wheeler issued an electronic message to all Museum staff reiterating the ABC regulations and the policies concerning the serving of alcohol to State employees and State facilities. A copy of Title 4 of the North Carolina Administrative Code, Chapter 25, Rule .0212 will be provided to all staff. This regulation will be posted to the Museum's online Staff Information Folder. In the future, no alcohol will be served at staff social events being held at the Museum during business hours. Further, staff members are prohibited from consuming alcohol if they are on duty or plan to return to duty.

It is also critical to note your findings in regard to the auditor being given a visitor's identification badge without providing any identification. Due to the nature of and the value of our Collection, the security of the Museum will make certain that all safety procedures are followed.

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Your staff is to be commended in the professional and courteous way this review was conducted. I accept and endorse your recommendations that the Museum cease serving alcohol to employees and to implement security procedures for restricted areas. I will use the review put forth by your office to improve the Museum of Art for our employees and the citizens of the State.

Sincerely,



Lisbeth C. Evans
Secretary



cc: David J. Olson
Lawrence J. Wheeler
Heyward H. McKinney, Jr.
Richard T. Stone