

STATE OF NORTH CAROLINA  
Office of the State Auditor

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

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December 28, 2005

Mr. Richard B. Roberts, Chairman, Board of Directors  
North Carolina State Education Assistance Authority  
Post Office Box 14103  
Research Triangle Park, North Carolina 27709

Dear Mr. Roberts:

We received a complaint through the State Auditor's Hotline alleging the Manager of the Claims Account and Default Aversion Division (Manager) for the North Carolina State Education Assistance Authority (SEAA) used state resources for secondary employment during the workday. According to the complainant, the Manager used her state computer to operate a real estate business on state time.

We have completed a special review of this allegation. The following findings and recommendations are based on an examination of the Manager's computer; verification of the Manager's real estate license and affiliation with a licensed real estate firm, examination of documents from a SEAA investigation, review of applicable policies and statutes; and interviews of SEAA employees.

**Use of SEAA Computer Resources and Time for Secondary Employment**

Our review confirmed the Manager engaged in secondary employment on state time using state resources despite knowledge of SEAA's secondary employment and computer resources use policies.

The Computer Resources Use policy identifies allowable use of computer resources, including hardware, servers, networking facilities, personal computers and related equipment, email, and all software owned or licensed to SEAA. The policy specifically prohibits personal use of agency computer resources to result in commercial gain or profit.

Analysis of the Manager's computer revealed she conducted numerous real estate activities using state property on state time. For example, the Manager's Internet history revealed the following activity over the preceding six-month period:

- 411 visits to the website of Triangle MLS, Inc. Triangle MLS is a multiple listing service that provides database management services such as active listings, historical data and photographs of homes sold to licensed real estate professionals servicing the greater

triangle area. Access to their website is limited to a membership composed of licensed real estate firms and their associates.

- 59 visits to a website that advertises real estate and home services in the Triangle, Fayetteville, Southern Pines and surrounding areas.
- 59 visits to another website that provides a variety of real estate related services including real estate listings as well as real estate professional, mortgage provider and home inspector locator functions.
- 192 visits to the Wake County Real Estate Data website. This website provides information on Wake County real estate tax accounts, ownership, photos, ownership history, building and land specifications and recent sales in the area.
- 30 visits to the website of the real estate firm for which the Manager works.
- 39 visits to other real estate related websites for NC Realtor, Women's Council of Realtors, Raleigh Regional Realtors and Triangle Listings as well as a variety of home inspection, real estate agent and automated showing notification service sites.
- 751 visits to the Manager's personal Yahoo email account (which she used for real estate activities) during approximately 25% of the six-month period reviewed. We were able to image more than 25 Yahoo emails in their entirety, which included correspondence between the Manager and mortgage brokers, other real estate agents and her clients. The signature on this email account reads "For all of Your Real Estate Needs, Contact Me" followed by the Manager's name, real estate firm and mobile telephone number.

In our opinion, the Manager's use of SEAA's computer resources related to secondary employment violated the agency's Computer Resources Use policy.

Our review of the Manager's computer also revealed significant Internet use related to personal travel, banking and bill management, entertainment, medical, pharmaceutical, job search and shopping websites. We identified numerous visits to marketing and advertising websites that may have been related to the Manager's secondary employment or used to obtain personal benefit in return for completion of surveys.

The Manager acknowledged daily use of her SEAA office and computer for real estate related activities including visits to Triangle MLS, Inc., and her Yahoo email account. She estimated she spent 30 minutes daily on real estate activities. She said she logged into real estate related websites and left them up on her computer throughout the workday. The Manager explained duplicates of all emails sent to her through the real estate firm's website were also sent to her Yahoo email account. She admitted she accessed other real estate related websites on her SEAA computer. She confirmed her knowledge regarding the agency's secondary employment and computer use policies but denied she was "running a real estate office out of SEAA."

The extent of the Manager's Internet activity related to secondary employment and personal use indicates a considerable amount of her workday was spent on duties unrelated to her primary employment. SEAA and the Office of State Personnel's secondary employment policies require employees submit a written request for permission to engage in employment outside of their state

employment that identifies the nature of the secondary employment, the hours worked on a normal schedule and whether or not there is any conflict with the employee's primary job (in terms of time or content). The employee must receive written authorization from the Director prior to engaging in secondary employment. In addition, the UNC Office of the President's policy on External Professional Activities states an employee's failure to comply with policy requirements constitutes a violation of employment responsibilities and may result in disciplinary proceedings.

Allegations concerning the Manager's secondary employment were reported to UNC Office of the President and SEAA. The internal investigation of the allegations resulted in SEAA's adoption of the Office of State Personnel's secondary employment guidelines.

Accordingly, all SEAA employees were requested to identify any secondary employment and obtain a supervisor's permission to continue or begin said employment. The Manager identified her secondary employment as real estate sales performed on nights and weekends in response to her supervisor's inquiry. In our opinion, the Manager's response to her supervisor did not sufficiently fulfill the requirements of SEAA's secondary employment policy.

We determined the Manager's time spent conducting real estate business during her workday cost the State at least \$1,413.08 for the six months for which computer records were reviewed. This amount is based on the Manager's hourly pay rate times her estimate of one half hour spent on real estate activities each day for the 133 business days (minus work holidays) over that time period.

### **Recommendations**

UNC General Administration and SEAA administration should reiterate secondary employment and computer resource use policies to all employees. Additionally, agency management should ensure all employees annually submit the required secondary employment form identifying the existence of any secondary employment as well as accurately detailing the nature of such employment including time required and hours worked for the employee.

We also recommend management reinforce to all employees that no interference in primary work by secondary employment will be tolerated and disciplinary action will result. Management should request repayment of \$1,413.08 for the Manager's time spent conducting secondary employment during the workday.

Please provide your written response to these findings and recommendations, including corrective actions taken or planned, by January 17, 2006.

In accordance with General Statute § 147-64.6(c) (12), the Governor, the Attorney General and other appropriate officials will receive a copy of this management letter.

Richard B. Roberts, Chair  
December 28, 2005  
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If you have any questions or wish to discuss this matter further, please contact us.

Sincerely,

*Leslie W. Merritt, Jr.*

Leslie W. Merritt Jr., CPA, CFP  
State Auditor

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

January 11, 2006

Mr. Leslie W. Merritt, Jr., CPA, CFP  
State Auditor  
2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear Mr. Merritt:

Mr. Richard Roberts, Chairman, Board of Directors, North Carolina State Education Assistance Authority (SEAA), has requested that I respond to your letter of December 28, 2005 on his behalf. I have undertaken a careful review of the findings and recommendations included in the letter and respectfully offer this response.

With regard to your first recommendation on reiteration of secondary employment and computer resource use policies to SEAA employees, the SEAA, working in concert with UNC General Administration, remains committed to providing regular, annual notification and training for all managers and employees regarding these policies. We have a timetable for these notifications that ensures that all employees are appropriately informed of all requirements of each policy and of the consequences of noncompliance. We require that all employees engaged in secondary employment submit fully completed secondary employment forms documenting the nature of their employment and the time and hours worked to ensure that there is no interference with the employee's primary job responsibilities. We will continue to investigate fully any allegations of noncompliance with either policy and take appropriate disciplinary action.

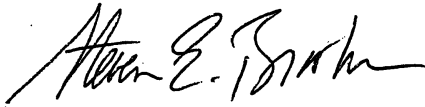
With regard to your second recommendation that the Authority request repayment of \$1,413.08 from the Manager as compensation to the State for time spent conducting secondary employment during the workday, we will consult with our legal counsel regarding our options to seek repayment given that the Manager is no longer employed by the SEAA or the State of North Carolina. In determining our course of action, we will weigh the potential costs to the State in time and attorney fees associated with any legal action against the likelihood that any such action would yield full recovery.



Mr. Leslie W. Merritt, Jr., CPA, CFP  
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I trust that this responds meaningfully to the findings and recommendations offered in your letter of December 28, 2005. Please be assured that the SEAA takes the implementation and enforcement of these policies seriously and will continue to take all steps necessary to educate our employees and ensure compliance.

Sincerely,



Steven E. Brooks  
Executive Director

C: Jeffrey Davies  
Julia Hoke, Esq.  
Ann Lemmon  
Richard Roberts