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January 2, 1990

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Honorable Harold L. Colburn, Jr., M.D.
Chairman, Assembly Health and
Human Resources Committee
State House Annex, CN-068
Trenton, NJ 08625

Re: Administration of the AIDS Prevention Program by the
Department of Health

Dear Assemblyman Colburn:

Following up on Executive Director James J. Morley's letter to you of February 21, 1989, the Commission authorized an inquiry into the operation of the AIDS Program in the Department of Health (DOH), including those matters outlined in your letter to Mr. Morley of February 16, 1989. This letter reports the results of the Commission's inquiry.

A brief summary of the Commission's conclusions, more particularly explained below, is submitted at the outset:

1. The Commission found that New Jersey's present policy on the distribution of condoms by the DOH or its grantees is more conservative than federal policy. The state's policy, by merely acknowledging existing sexual proclivities, does not, as alleged, seek to encourage promiscuous avoidance of more certain sex transmission control methods such as abstinence and monogamy.
2. Although in the past DOH has been lax in its verifications of the nonprofit status of AIDS program grantees, a more stringent review process is now in place. Even during the period when early proof of nonprofit status was not demanded only one organization that had not met the requirement had been awarded a grant.
3. There have been substantial delays in the official award of grants and resulting lags in the disbursement of grant funds. Such postponements have created hardship for grantees and jeopardized the effectiveness of their AIDS prevention programs. However, the delays have not resulted from favoritism but rather from grantees' unfamiliarity with

complicated application and qualification requirements, as well as insufficient DOH staff to provide adequate technical assistance. Delays have also been minimal for the current grant period.

4. DOH has not accumulated a "slush fund" from unexpended grant funds, as was alleged before your Committee.

5. In a few cases annual independent audits of grants have not been submitted on a timely basis. DOH is now less lenient with those grantees that are behind schedule in submitting the required audits.

6. A grantee called Looking Into the Future Together, Inc. (LIFT), a community based organization in Trenton, abused an initial and two continuation grants totaling approximately \$235,500 which it received from December 1, 1987, through December 31, 1989. LIFT failed to accomplish grant objectives, neglected to maintain adequate financial records and charged to its AIDS grants thousands of dollars worth of expenditures that had nothing to do with AIDS prevention and education. Despite insider allegations which proved accurate in many instances, DOH officials continued to approve disbursements of funds to LIFT while either failing to recognize obvious abuses or ignoring those which were discovered. An expensive special audit by a New York CPA firm hired by the Department of Human Services on behalf of DOH overlooked some of the wrongdoing but provided, albeit in bland terms, a sufficient basis for termination of the LIFT grant. Nonetheless, follow-up by DOH auditors ignored the significance of much of LIFT's transgressions, and the grants have continued. In several instances DOH simply amended grant budgets -- well after the grant periods -- in order to authorize questionable expenditures. All of this indicated a disturbing attitude on the part of certain DOH officials that even a flagrant violator of AIDS grant requirements will be tolerated so that the overall program may be viewed as an unconditional success.

7. The Commission found that DOH employees were generally sensitive to ethical concerns. Allegations of abuses involving consulting, gifts and honoraria were unfounded.

8. Finally, the Commission found no wholesale wastage of printed materials as has been alleged.

BACKGROUND

A public hearing by your Committee on February 9, 1989, elicited several concerns about the administration of DOH's program to channel federal and state grants to private, nonprofit organizations providing education and prevention assistance to

people at risk of becoming infected by human immunodeficiency virus (HIV) and contracting acquired immune deficiency syndrome (AIDS).

DOH's FY 1990 budget appropriates about \$16 million for AIDS programs. The Department expects to receive another \$10,300,000 in federal funding from the Centers for Disease Control (CDC) within the Department of Health and Human Services (HHS).

DOH's AIDS programs are presently administered by the Division of AIDS Prevention and Control. Until mid-1988, the programs were administered by the Division of Narcotics and Drug Abuse Control. As of November 15, 1989, the AIDS Division had 195 positions, 61 of which were funded by the federal government. There were 50 vacancies among the state funded positions and six among those federally funded. Employees perform counseling and testing, administer programs for education and prevention and monitor hospitals with AIDS patients.

PUBLIC FUNDS TO PURCHASE OR DISTRIBUTE CONDOMS

One of the criticisms leveled during your Committee's hearing was that DOH has improperly distributed condoms as part of its program to curb the spread of AIDS. In 1986, DOH staffers applied for and were awarded federal funds to purchase and distribute about 2,000 condoms through DOH's HIV Counseling and Testing Sites (CTSS). After the purchase, this decision was reversed at higher levels as contrary to Department policy. Instead, in January, 1987, these condoms were earmarked for distribution in family planning clinics.

In Spring, 1988, DOH halted a distribution of condoms paid for with federal grant money by the Personal Liberty Fund, the tax-exempt offshoot of the New Jersey Lesbian and Gay Coalition. A few thousand items, each with one condom attached to an educational brochure, were distributed before the program was disallowed. The undistributed condoms were turned over to the Department and could be distributed once an appropriate educational/counseling campaign is developed.

The Department's AIDS literature is first reviewed by an internal panel to ensure accuracy. It is then reviewed by an outside Program Review Panel of individuals with varying viewpoints who apply "community standards" in assessing the proposed literature. DOH has had such a panel since May, 1986.

Whether public funds should be used to purchase or distribute condoms as part of an AIDS prevention program is a public policy question which the Commission will not address. A strictly secular, public health approach might justifiably offer condom instruction (including sample distribution) as part of an

overall program encouraging abstinence and monogamy. In any event, there are no legal restrictions on the use of public funds for such purposes.

Federal funds provided to states for AIDS health education and risk reduction programs may be used to purchase condoms at the discretion of state health officials. Officials at the CDC presently expect that federal grants in New Jersey will be used to purchase condoms, since DOH received approval in the Fall, 1988, of a CDC grant to purchase and distribute packets containing three condoms each along with educational inserts for use in connection with a variety of counseling and testing programs.

Under its present policy, the New Jersey Department of Health does not approve the expenditure of state funds for the purchase or distribution of condoms. State funds may, nonetheless, be used to educate persons about the use of condoms in connection with other means of protecting against the transmission of HIV. Moreover, DOH policy does not prohibit recipients of state funds from purchasing or distributing condoms with other funds, including federal grants distributed by DOH.

Deputy Commissioner of Health Christine M. Grant informed the Commission that, in order to become consistent with federal policy, DOH plans to revise its policy to permit the use of state funds to purchase and distribute sample condoms in the context of direct one-on-one education and counseling programs. The Department will remain opposed to using state funds for the mass distribution of condoms. Furthermore, no condom samples paid for by state funds would be distributed until DOH has approved appropriate educational literature.

A telephone survey of other states conducted in June, 1988, by the AIDS Division indicated that only 11 states then prohibited the use of state funds for condom purchases.

NONPROFIT STATUS OF GRANTEES

In general, CDC grants are provided to nonprofit organizations and government agencies. No grants in New Jersey have been awarded to for-profit organizations. To qualify for nonprofit status a grantee must be a corporation or association no part of whose net earnings may lawfully inure to the benefit of any private shareholder or individual. In addition, at the time of grant negotiations it must be registered with the Charities Registration Office of the Division of Consumer Affairs, Department of Law and Public Safety. Proof of nonprofit status may include status as a tax-exempt organization pursuant to §501(c)(3) of the IRS Code.

A grantee checks off a block in the grant application to

indicate its profitability status. At the time of the Commission's initial inquiries, responsibility within the AIDS Division for verification of this status had not been clearly delineated. DOH officials have assured the SCI that this responsibility has now been assigned to grant application review personnel.

At your request, the Office of the State Auditor reviewed the application files of 14 grantee organizations as of April 2, 1989, for grant years 1988 and 1989 in order to determine if DOH had adequately verified nonprofit status. No verifications had been conducted when these applications were processed. This function was performed by independent auditors conducting required single state audits. However, these audit reports were typically not submitted until approximately six months after the close of the grantees' fiscal years, well beyond the point when grant funds had been expended.

At a minimum, a checklist for the review of applications should have been established and each qualification confirmed in writing by a responsible official. Robert F. Hummel, Assistant Commissioner for AIDS Prevention and Control, assured the Commission that the Grants Management Office now assumes this responsibility.

Meanwhile, as a result of the audit conducted by the Office of the State Auditor, a memorandum, dated June 12, 1989, was sent to all DOH grants management officers and program officers from Maria T. Usas, Grants Manager, Grant Evaluation Program. The memorandum states that if at the time of a grant award the applicant has not submitted documentation of registration with the Charities Registration Office and Internal Revenue Code 501(c)(3) status, the notice of grant award must state that the grantee must submit the necessary proof within 60 days of the date of the notice of grant award or face suspension of the grant.

The SCI discovered two grants to an organization that had not qualified as nonprofit. The community-based organization known as Soul-O-House (now known as Amani, Inc.) in Newark, which did not qualify for nonprofit status, received an initial grant and extension grant for AIDS education and prevention covering the period from July 1, 1987, through June 30, 1989. Despite this lack of qualification, Soul-O-House continued to receive funding from the AIDS Division for 19 months until the grant was suspended on February 1, 1989, pending presentation of proof to DOH of resolution of past tax liabilities.

Although it has been alleged that the New Jersey Lesbian and Gay Coalition had received grants, it has not. But its nonprofit, tax exempt affiliate, the Personal Liberty Fund of the New Jersey Lesbian and Gay Coalition, Inc., has been awarded

grants.

DELAYS IN DISBURSING GRANTS

Minority groups have complained of delays in receiving AIDS grants from DOH, implying that grant applications from gay and lesbian groups have received favored treatment. However, the Commission found no favoritism. Rather, some applicants were more adept at fulfilling the complicated application and qualification requirements. Others were hampered by the absence of sufficient DOH staff to provide adequate technical assistance. AIDS grants are relatively new, and the grantees are not traditional providers; therefore, they lack a cadre of staff members familiar with the grant process.

In order to seek a portion of the CDC funds administered by the State, potential grantees first submit proposals to the AIDS Division. The Contract Administrator incorporates these proposals into the main state grant application which is forwarded to the CDC for programmatic, fiscal, legal and medical reviews. CDC representatives then contact the AIDS Division Director for a "negotiations call" which allows input from various DOH units via speaker telephone. Final monetary figures are agreed upon and a federal grant award letter is sent to the AIDS Division confirming the grant. However, the State does not distribute money to the grantee organizations until their formal applications are submitted and brought into compliance with all of the technical requirements of the federal program.

In the past, much time has been consumed in determining whether a grant applicant was fully qualified. Prior to July, 1988, only one person within the AIDS Division served as Contract Administrator to review the fiscal information contained in the 13-section grant application. Since then, one person has been added to assist in this lengthy process.

The problem of delay has been compounded by the fact that many grantees whose proposals have been accepted have not completed the applications promptly or correctly. Cumbersome federal guidelines result in complicated applications, which require detailed information about lease agreements, interest bearing accounts, justification for indirect costs, etc. Failure to properly complete the application prevents disbursement of an initial payment until the process is completed, creating a cash flow problem for smaller grantees.

On April 29, 1988, the CDC awarded a grant to DOH for the period May 1, 1988, through December 31, 1988. On April 24, 1989, the Office of the State Auditor reported to your Committee that DOH received applications from May to August 1988. Its review of 15 grantee files found that five were approved by DOH in less than two months from the dates on which their

applications were submitted. Nine were approved within a two to seven month period, and one was not processed because the applicant failed to submit the required reports for its prior grant.

The SCI found that in one instance, funds from a \$45,000 grant were not made available to Soul-O-House (now called Amani) of Newark, until May 16, 1989, well after the expiration date of the grant period, December 31, 1988. Although the grantee had been told that the grant would be approved and had been submitting expenditure reports, the official application and grant award had not been processed at DOH. The Program Review Officer, Kathleen Russo, did not receive the completed application until January 11, 1989, after the completion of the grant period. According to Russo, Grant Management Officer Dolores Ignas gave the application to Russo and requested that she sign it and back-date it to December, 1988. Although Ignas originally told the SCI that she requested the back-dating because Amani's need for the money was great and changeovers in AIDS Division personnel had created inordinate confusion and delays, she later denied making the request.

Russo stated that, at Ignas' request, Russo's supervisor, Eileen Bonilla, also asked Russo to back-date the approval document. Bonilla denied making the request. However, in a January 13, 1989, memorandum to Bonilla Russo stated, "I was most surprised to learn on 1/11/89, eleven days after termination of the proposed grant period, that Amani, Inc. had not been under contract to the Department!" She refused to back-date the document and signed it on January 12, 1989 (Ignas had signed on December 27, 1988). Russo included the comment:

... I am disapproving this application, as it was not completed for processing until after termination of the proposed grant period. However, Amani, Inc. has submitted documentation as evidence that proposed grant objectives were met. I would request an agency audit in support of, and to allow for appropriate reimbursement for services rendered.

Within a week after Russo's January 12, 1989, signature, Bonilla relieved Russo of responsibility for the Amani program, cancelled a site visit to Amani which had been scheduled by Russo and advised her not to confer with Amani personnel or accept their telephone calls. Ignas advised the SCI that Amani had received a payment of \$25,100 on May 16, 1989, four and one half months after the grant expiration date.

For the January 1, 1989, through December 31, 1989, grant period, the CDC did not inform the AIDS Division of its commitment of funds to New Jersey -- restricting payments to 17 minority community-based organization grantees -- until January

17, 1989. Those organizations whose proposals had been part of the State's submission to the CDC were told in mid-February to submit their formal applications. The Office of the State Auditor reported to your Committee on April 24, 1989, that as of April 2, 1989, 14 had submitted their applications. One in December, 1988, and five in January, 1989, had supplied their applications in anticipation of the announcement of funding availability. Two more arrived in February and six came in March. The remaining three organizations were deemed ineligible because required progress reports and/or single audits for prior grants had not yet been filed or because they had to clear pending IRS inquiries.

The delays occurred despite the fact that AIDS Division personnel had met on September 7, 1988, with the proposed 1989 grantees to review the proper method of completing grant applications. On March 15, 1989, another meeting was held to instruct the grantees on how to complete their grant applications.

Until recently, the official policy of the AIDS Division was to deny all grant extension requests. Grant extensions are still not allowed for federal CDC grants. Presently, formal procedures exist for the extension of state grants up to six months beyond their legally defined termination dates. Normally an extension may be granted if the grantee submits a written request before the grant's termination date has passed. If a grant has already terminated or the extension is sought for a period beyond six months, special circumstances must be cited, and approval must be obtained from the Commissioner of Health after review of the need for special consideration by the Assistant Commissioner for AIDS Prevention and Control and the Assistant Commissioner for Management & Administration. DOH officials told the SCI that no grant extensions have ever been approved.

DISPOSITION OF UNEXPENDED FUNDS

Recipients of AIDS grants obtain the actual fund payments in two methods. Under the scheduled advance payment system the grantee receives monthly payments and must submit quarterly cash status and expenditure reports to DOH. Smaller grantees tend to select the advance payment system because they lack a sustaining cash flow from other sources. Grant funds awaiting expenditure pursuant to this method must be deposited in an interest bearing account by the grantee.

Under the cost reimbursement system DOH reimburses state invoices submitted by the grantee. The grantee also supplies quarterly expenditure reports to the department. Under both methods the grantee must maintain receipts, cancelled checks and other records as documentation of specific expenses.

Joseph P. Mansfield, Jr., testified before your Committee on February 9, 1989, that DOH has accumulated a "slush fund" by accepting CDC grants for community-based organizations and failing either to award the grants or to return unexpended money to the CDC. The Commission, however, found no evidence of any attempt by anyone in DOH to accumulate in the Department funds otherwise earmarked for grantees.

Due, in part, to tardy receipt of grant funds, several grantees have been unable to complete programs which anticipated the arrival of funds earlier in the grant period. Depending on the payment method selected, funds authorized but not expended by grantees have either been retained at DOH or returned to it by the grantee. Any unexpended funds remaining at the end of the grant period must be reported to the CDC on a report required to be filed within 90 days after the close of the grant period. The federal government then considers the availability of the unexpended funds in the negotiations for the next grant period. Twenty-five percent of the unexpended funds may be expended in the discretion of DOH on an emergent basis, so long as written approval is received from the CDC. Such expenditures have never been made or requested in New Jersey, however.

Mansfield attributed a sinister purpose to a memorandum, dated April 26, 1988, from Eileen Bonilla to Dolores Ignas dealing with the continuation of CDC funding for certain community-based organizations. The memorandum noted that two of the organizations listed to receive continuation awards were "not supported in the CDC negotiations" and suggested that unexpended funds from other grants could be used to continue the funding to these two entities. Mansfield implied that by seeking to obtain the funds from unexpended amounts DOH was somehow attempting to circumvent the wishes of the CDC. However, the CDC had actually approved continued funding for the two organizations in the negotiations with DOH but had "not supported" them simply because sufficient funding was not available for all of the needy grantees. The CDC had not precluded applying unexpended funds to would-be grantees for which money was not available in the first round of negotiations.

AUDIT COMPLIANCE

Pursuant to the federal Single Audit Act of 1984 and policies promulgated by the Director of the Federal Office of Management and Budget and the State Office of Management and Budget in the Treasury Department, a nonprofit recipient of a state-administered federal grant receiving more than \$25,000 per year must hire an independent auditor to submit an annual single audit report for review by a state department under the general oversight (cognizance) of a federal "cognizant agency" (in this case, the United States Department of Health and Human Services - HHS). The state department distributing the funds and

overseeing the audits is called a "cognizant department." If more than one state department is disbursing funds, the one responsible for the largest percentage of total funds distributed by the State is the cognizant department. For grants over \$10,000 per year derived solely from state funds, the New Jersey Single Audit Policy, instituted on October 21, 1986, similarly requires that annual single audits be submitted to a state cognizant department.

For both federal and state-funded programs the auditors must be on a list of firms officially authorized to conduct independent audits. The list is maintained by the State Office of Management and Budget.

At least three months prior to the end of a grantee's fiscal year, DOH must notify it of the audit responsibility. A grantee is required to submit its annual single audit to DOH's Grant Evaluation & Review Unit within six months of the end of its fiscal year. The Grants Manager logs in the grantees' single audit reports and forwards them to the Department's Audit Program, which conducts a desk review to ensure compliance with all single audit requirements.

The Audit Program, with eight auditors and a supervisor, monitors grants for several programs in addition to AIDS grants. As of May 1, 1989, for grantees with fiscal years ending in 1987 and 1988, Audit Program personnel conducted over 220 pre-award inspections of operations of recipients subject to single audit review, including 45 and 49 AIDS grantees, for 1987 and 1988, respectively, for which DOH served as the cognizant department.

If the Audit Program discovers a mistake or problem in a single audit report, it sends a deficiency letter to the grantee and follows up by contacting the CPA firm that actually conducted the audit. If the situation is not rectified within 30 days (something which occurs in only about one percent of the cases), the Office of Management and Budget is notified to begin proceedings to remove the CPA firm from the list of authorized state vendors. Once removed from the list a firm may not perform any other single audits.

It has been alleged that DOH has continued to approve grants to recipients that were not in timely compliance with the audit requirement. If the AIDS Division determines that a grantee has not submitted the required audit, either the Grants Manager or the Contract Administrator must notify the Accounting and Procurement Section of DOH, which notifies the grantee that its payments have been curtailed for noncompliance.

A review of the files at DOH revealed a few grantees that were not in timely compliance with single audit requirements. Although the audit for Northeast Life Skills Associates, Inc., of

Passaic was due on August 1, 1988 (six months after the end of its fiscal year), its audit was not received at DOH until March 10, 1989 -- over seven months late. DOH never sent any letter notifying Northeast Life that it was late in complying with the audit requirement.

On April 18, 1989, DOH sent a letter to Hyacinth Foundation of Highland Park reminding it that its audit had been due on September 31, 1988. The audit was received on May 10, 1989 -- over seven months late.

On March 14, 1989, DOH sent a letter to Essex Substance Abuse Treatment Center of Newark stating that its audit had been due on December 30, 1988. The audit was received on April 17, 1989 -- three and a half months late.

Until recently, the Personal Liberty Fund of the New Jersey Lesbian and Gay Coalition, Inc., had not submitted annual audit reports for the 1985 through 1987 grant periods. Eventually, payments from the organization's 1988 grant were withheld. As of November 15, 1989, DOH reported that the 1987 audit had been received but remained open due to questioned costs of \$8,604. The Personal Liberty Fund did not apply for a grant in 1989. The Commission found no other examples where the AIDS Division was so lenient with an organization that had not submitted audits.

The Personal Liberty Fund also did not expeditiously complete a consumer manual, "A Gay and Lesbian Resource Guide," funded with a \$1,200 grant. An initial draft was completed in 1986, but a final draft was not approved by DOH for printing until March, 1989.

William W. Congdon, Director of Financial and General Services at DOH, acknowledged that he had, via telephone, granted extensions of time to file single audits to many grantees, citing their inexperience with the grant process. He told the SCI that in the future any request for a single audit extension would have to be explained in person at the Department's offices and be accompanied by a written request.

As a result of the audit conducted by the Office of the State Auditor, a memorandum, dated June 12, 1989, was sent to all DOH grants management officers and program officers from Maria T. Usas, Grants Manager, Grant Evaluation Program. The memorandum stated:

For those grantees that the Department has been assigned as the cognizant audit agency, their audit reports must be submitted to this program on a timely basis and in accordance with the requirements of the single audit policy. If these reports are not submitted by the due date and the grantee has not submitted a proper justification for an

extension, this office will suspend all current grants to the grantee and will withhold further payments to the grantee until the audit is received or some satisfactory other arrangement has been made between the grantee and this office.

LIFT GRANTS

Looking Into the Future Together, Inc. (LIFT), a community-based organization in Trenton, allegedly did not abide by the terms and conditions of a \$63,683 CDC grant for the period December 1, 1987, through April 30, 1988, which was disbursed through DOH (DOH grant # 1). DOH also awarded LIFT a \$69,792 continuation grant of CDC funds for the period May 1, 1988, through December 31, 1988 (DOH grant # 2). Moreover, another continuation grant for \$102,053 was awarded to LIFT for the period January 1, 1989, through December 31, 1989 (DOH grant # 3). Total DOH grants approved amounted to approximately \$235,528.

In addition, LIFT was awarded a \$111,000 grant from the Division of Youth and Family Services (DYFS) of the New Jersey Department of Human Services for the period December 1, 1987, through December 31, 1988, to further its primary endeavor, the establishment of programs and an infant care center to assist adolescent parents. The DYFS grant actually ran only to September 30, 1988, because it was terminated for failure to comply with grant terms and conditions. Since it initially provided the greater share of funding for LIFT programs, Human Services was the cognizant department for the government grants disseminated to LIFT.

Former DOH employee Silas Mosley, Jr., alleged before your Committee on February 9, 1989, that on September 9, 1988, partially in retaliation for reporting that LIFT had misappropriated grant money intended for AIDS education, he was fired from his job as a provisional Field Representative II with DOH. Following four days of hearings, a DOH hearing officer recommended on October 28, 1988, that the decision to remove Mosley from state employment be affirmed. This recommendation was accepted by the Department effective November 4, 1988, and on that date his salary was discontinued.

As a provisional employee (whose employment began on July 5, 1986) Mosley was not eligible to appeal his termination through the State's Merit System Board. In early February, 1989, a CWA attorney representing Mosley filed a notice indicating his intention to sue DOH and certain of Mosley's superiors for alleged wrongful discharge and other claims, including violation of the state's Conscientious Employee Protection Act. Subsequently, a lawsuit was filed and is pending. Mosley also filed a complaint with the Philadelphia District Office of the

federal Equal Employment Opportunity Commission alleging employment discrimination against DOH. That complaint is also pending.

Although DOH grant # 1 designated Andrew Bryant as the program officer "responsible for the programmatic monitoring" of the grant, Mosley appears to have taken over much of that task - with the knowledge and approval of Bryant's and Mosley's superiors -- from the beginning of DOH grant # 1 to a couple of months prior to the official approval for DOH grant # 2 (the first continuation grant). In part, this was an extension of Mosley's role as the Department's liaison with a Minority AIDS Task Force, composed mostly of representatives of community-based organization grantees. LIFT's Founder and Executive Director, Alma J. Hill, had been a member of the Task Force. A state-wide task force no longer exists, since county groups and ad hoc meetings with minority leaders are now deemed to supply sufficient community input for the AIDS Division.

Mosley had assisted in LIFT's assumption of official responsibility for an AIDS grant proposal originally conceived by an organization called Creative Alternative Learning Methods, Inc. (CALM, Inc.). LIFT had been asked to administer the grant proposed by CALM because it met the grant program's nonprofit status requirement.

On or about April 26, 1988, Mosley's supervisor, Eileen Bonilla, officially assigned him to provide technical assistance to LIFT and other grantees in the preparation of their grant applications, including LIFT's application for a continuation grant (DOH grant # 2). In a memorandum to Bonilla, dated May 25, 1988 (copy indicated to Dolores Ignas), Mosley noted that his daughter, Katherine R. Mosley Davis, who had been hired on March 28, 1988, by Hill as LIFT's AIDS Program Coordinator, claimed that LIFT's May 11, 1988, final report on DOH grant # 1 contained "questionable discrepancies." Previously, when Hill had encountered difficulty in finding a suitable candidate to replace the first coordinator, Mosley had suggested his daughter, who was obtaining advanced nursing training as an officer on leave from the military.

Bonilla and Ignas denied receiving Mosley's May 25th memorandum, and she and other DOH officials denied knowing that Mosley's daughter was working for LIFT until late July, 1988. Mosley's serving as an official liaison with a grantee that had employed his daughter -- an obvious conflict of interest -- was cited by DOH as one of the grounds for its termination of his employment. Andrew Bryant denied receiving his designated copy of a July 6, 1988, letter to Mosley from Alma Hill -- a letter which also mentioned that Mosley's daughter was LIFT's AIDS Program Coordinator. It was not until after Mosley submitted a memorandum, dated July 20, 1988, to Bonilla and Bryant,

summarizing allegations of administrative irregularities at LIFT, that Bonilla orally reassigned oversight of the LIFT grant. Her July 27, 1988, memorandum to Mosley confirmed in writing the reassignment of this responsibility to another AIDS Division employee, E. Steven Saunders.

Mosley stated that when he explained the LIFT financial situation to Saunders and warned him that Hill might not abide by the grant requirements, Saunders commented, "The money is going to a small black organization, so we do not expect much for it." Saunders vigorously denied making the statement. Despite this denial, SCI representatives consistently encountered the attitude on the part of DOH personnel that inexperienced grantees should be given significant leeway after failing to meet program and fiscal requirements, which sometimes seemed elementary.

DOH's inaction, in the face of readily substantiated allegations concerning LIFT, confirms the Commission's view that the Department regarded its grant oversight responsibility too lightly. Despite Mosley's numerous charges that LIFT mispent AIDS grant monies and failed to comply with its program objectives, no action was immediately taken by the AIDS Division to conduct a programmatic or fiscal review of LIFT's grants. DOH officials were rightly concerned about the conflict inherent in a DOH employee's supervising a grantee that employed his daughter. Having reassigned Mosley, however, DOH did not pay enough attention to determining the veracity of his daughter's insider allegations regarding misconduct by the grantee. On July 29, 1988, two days after confirming Mosley's reassignment, Bonilla met with Saunders and LIFT Executive Director Hill for a "fact-finding session to discuss implementation of the grant and their current status." Bonilla denied Mosley's request to attend this meeting. Neither Bonilla nor anyone else at DOH met with Katherine Mosley Davis to review her allegations concerning LIFT. Alma Hill officially announced to LIFT staff the termination of Davis' employment with LIFT on August 9, 1988.

Although zealously pursuing Mosley, his superiors overlooked an important consequence of LIFT's employment of his daughter. When Davis became dissatisfied with LIFT's handling of the AIDS grants, Mosley, instead of unduly favoring LIFT, became one of its harshest critics. Ironically, had it not been for the conflict situation, the State would probably not have learned about certain improprieties, or the extent of other improprieties, in LIFT's administration of the grants. Mosley's personal ties to Davis solidified his support for her "whistleblowing," whereas other DOH employees who were informed of the allegations against LIFT showed little inclination to examine them thoroughly.

For example, no one at DOH promptly brought Mosley's concerns to the attention of the Department of Human Services,

the cognizant department, despite the fact that Mosley's July 20 memorandum to Bonilla referred to a planned audit of the DYFS grant. Nonetheless, inquiries into LIFT's funding were already underway at Human Services. In fact, as early as January, 1986, DYFS personnel had been supplying technical assistance to LIFT in planning, implementing and evaluating its Infant Day Care Center. Starting in July, 1987, a development team, composed of DYFS, Mercer County and City of Trenton personnel, met on a monthly basis for nearly six months "to address the issues of deficit spending, fiscal accountability and program design." Funding for LIFT's day care operation was renewed January 1, 1988, by DYFS, Trenton and Mercer County only after LIFT agreed to create an administrative position, other than the executive director, "responsible for fiscal accountability to avoid future deficit spending." Five months later, on May 1, 1988, LIFT eliminated this position without consulting its funding sources.

In contrast to Human Services' active oversight of its own grant to LIFT, DOH's Technical Assistance Unit had conducted a site visit at LIFT on December 9, 1987, as part of a "pre-award survey" and never mentioned the DYFS grant problems in its report. Noting only that LIFT would have to open an interest bearing account for grant funds and conform its annual audit to Single Audit Act requirements, the technical assistance reviewer concluded that LIFT's accounting system was adequate to comply with grant terms and conditions. A simple check with the cognizant department, however, would have revealed DYFS' concerns about LIFT's deficit spending and fiscal accountability, but apparently such checks were not routinely conducted. Even so, the report indicated that the Technical Assistance Unit would conduct a follow-up visit in February, 1988 -- a time when LIFT was definitely not maintaining adequate books and records to account for grant expenditures. This follow-up review was never held, however, and by March 20, 1988, DOH had paid LIFT the full amount authorized under DOH grant # 1.

Prior to mid-1988, DYFS personnel had recognized the need for a special audit of LIFT. On June 10, 1988, Ronald Bruschini, Management Coordinator in the Office of Contract Administration, wrote to Bernice E. Smith, Director of the Office of Auditing for the Department of Human Services, requesting that LIFT be added to the department's audit request list. Bruschini stated, "[DYFS's] Central Region has indicated an immediate need for a review of [LIFT's] internal controls and compliance with their DYFS contract." Bruschini noted that a programmatic review was already being conducted by staff from state, county and city agencies.

Apparently, there was no communication of Human Services' concerns, as they initially developed, to the other key government grantor, DOH. The earliest mention of a need to contact DOH was found in a July 8, 1988, entry in a DYFS

chronology prepared in mid-September, 1988. The entry read "The [DYFS] Supervising Contract Administrator will be contacting the Department of Health regard[ing] LIFT performance in the DOH AIDS Education Contract." No such contact took place, however, until August 23, 1988, when the DYFS Supervising Contract Administrator met with Mosley, who by then had been relieved of responsibility for the LIFT grant.

Yet another warning of serious trouble at LIFT occurred on August 19, 1988, when Mildred Sampson, resigned as President of its Board of Directors. Citing "the recent situations and disclosures concerning the current status of LIFT, Inc.," Sampson sent copies of her resignation to officials of DYFS, Mercer County and the City of Trenton. Sampson told the SCI that the Board of Directors never officially approved or voted on whether to receive an AIDS grant from DOH prior to the time the initial grant was received (although its members knew an AIDS grant was being administered by LIFT). Therefore, she did not send a copy of her resignation letter to DOH. She related that Alma Hill seldom adhered to Sampson's advice to "only spend money on budgeted items" and expressed her concern that Hill consistently failed to submit required expenditure reports to DYFS and DOH.

It was some time on or about August 8, 1988, (well after the inquiries within Human Services had been initiated) that the so-called "Mosley memos" appeared on the desk of the DYFS Contract Administrator for Mercer and Ocean counties. A letter, dated August 16, 1988, to Mosley from Gary J. Werner, Supervising Contract Administrator for the DYFS Central Region, confirmed his scheduled meeting with Mosley on August 23, 1988, "to further discuss and update each other concerning [LIFT's] contract status." Mosley did not inform his superiors about this meeting until after he received a request from Bonilla, dated August 29, 1988, seeking details of his contacts with DYFS personnel. One of the grounds for Mosley's dismissal from his DOH job was his alleged insubordination in having contacts with DYFS regarding LIFT after being removed from the LIFT assignment, despite the fact that Mosley was the DOH employee most familiar with LIFT's financial activities.

Meanwhile, the Mosley memos were promptly forwarded by DYFS personnel to Human Services' Audit Director Smith for her review. On August 26, 1988, Human Services formally engaged the CPA firm of Watson, Rice & Company to audit the DYFS grant at a fee not to exceed \$3,063. About the same time, Smith requested a meeting with the Health Department's Audit Program to review the Mosley allegations. This meeting was held on September 9, 1988. Smith, Robert Cartwright, Chief of DOH's Audit Program, and Barbara Kutrzyba, a Human Services auditor and contact person, attended. DOH asked that the Watson, Rice & Company audit be extended to DOH grant # 1 and agreed to share the cost with Human Services. The fee for the DYFS grant audit had grown to \$8,033. The DOH

grant # 1 audit was to cost an additional \$4,823.

Citing "the absence of good accounting records" necessitating "alternative audit procedures" and "the absence of a responsible individual to answer our questions and assist us during the audit process," Watson, Rice requested assistance from the Department of Human Services on June 17, 1989, concerning "the tremendous loss that we suffered in performing the audit of LIFT, Inc. for the department." Watson, Rice billings for the audit of DOH grant # 1 exceeded the contract amount by \$2,774, and the billings for the DYFS grant audit exceeded the contract amount by \$4,040. Agreeing that "this engagement has taken significantly longer than originally budgeted due to the condition of the agency's records and the manner in which [LIFT was] performing the reconstruction [of its records]," Smith, on June 19, 1989, approved Watson, Rice's request for a budget increase totalling \$6,814 for the two grants. Thus, it finally cost \$12,073 to audit the \$111,000 DYFS grant and \$7,597 to audit the initial DOH grant of \$63,683.

But the independent audits of LIFT had not concluded. The Watson, Rice engagements were formally entered on November 23, 1988. Although this was just over a month before the end of the grant period for DOH grant # 2, the first DOH continuation grant was not included in the initial Watson, Rice audit. On June 16, 1989, Smith reported to Human Services' then-Deputy Chief of Staff Larry L. Lockhart that John B. Tournour, Regional Inspector General for Audit of the U. S. Department of Health and Human Services, had indicated that the Watson, Rice audit reports would not be sufficient to meet the single audit requirement for LIFT. Smith added that despite the fact that the State Department of Health "has refused to participate in the single audit for 1988 and has indicated they will waiver [sic] the requirement," Human Services -- still the cognizant department despite its own cancelation of funding to LIFT -- would "comply with the OIG's request" and contract with Watson, Rice to complete the single audit. On June 20, 1989, Human Services, awarded a further engagement to Watson, Rice to conduct the single audit of LIFT for the period January 1, 1988, to December 31, 1988, which would include DOH grant # 2. The added cost was not to exceed \$7,585.

Without waiting for the Watson, Rice audit of the DYFS grant to be completed, DYFS cancelled its funding contract with LIFT on September 30, 1988, after having supplied \$92,033 of the grant funds to reimburse LIFT's expenses. The DYFS grant was terminated for LIFT's failure to file the correct expenditure reports over a six month period and its severe internal control weaknesses. Since then, DYFS has provided no additional funding to LIFT.

Kutrzyba notified DOH's Cartwright of DYFS' decision by telephone on October 6, 1988. Yet on October 7, 1988, the AIDS

Division forwarded to LIFT the official notice of a continuation grant (DOH grant # 2) for \$69,792 for the period May 1, 1988, through December 31, 1988. This decision was based on a two-page report, dated September 30, 1988, submitted by John R. Marks and Richard T. McDonald, describing a "program review," which consisted of a site visit to LIFT on September 27, 1988. Marks and McDonald were employees of DOH's Division of Narcotics and Drug Abuse Control, the office that handled AIDS programs before the creation of the AIDS Division. Eileen Bonilla had asked them to evaluate the situation at LIFT as "objective observers with site and program review experience." They interviewed Alma Hill and spoke to two LIFT employees; however, they did not contact former bookkeeper Raye Williams or former program coordinator Katherine Davis. They did not examine any fiscal records and gullibly noted in their report, "Ms. Hill claims that an audit of the 1987 budget produced no major irregularities or problems."

Neither Marks, McDonald nor anyone else at DOH sought a copy of the audit that Hill claimed had been conducted for 1987. Actually, a draft audit report for the year ending December 31, 1987, had been prepared for LIFT by Kopcho, Beckman & Co. on September 9, 1988, and forwarded to DYFS. The final report was only recently submitted because LIFT had failed, until then, to pay a substantial portion of Kopcho, Beckman's bill, according to Robert M. Kopcho, a partner in the firm. Among its other findings, the draft audit report states, "Subsequent to December 31, 1987, and as of the date of this report [October 20, 1988, in the final report] the organization's accounting system and internal controls were not adequate." These inadequacies were detailed in the findings of the draft and final reports.

Marks and McDonald unquestioningly accepted Hill's assertion that Williams was responsible for LIFT's fiscal problems and that Davis was answerable for LIFT's failure to complete a number of projects. In fact, without ever talking to Davis or detailing specific projects, Marks and McDonald accepted at face value the assertion that Davis "exasperated an already confused situation by taking with her, or misplacing, a number of completed projects." Davis denied removing any of LIFT's files.

Marks and McDonald added in their report, "Mr. Robert Bender of Accountants for Public Interest is scheduled to conduct an audit of the program on September 29, 1988." In addition, they noted, "There have been some rumors of fiscal irregularities which [we] do not feel is [sic] within [our] purview to make any comment. Perhaps the independent audit being conducted by Mr. Bender will provide the answers to those questions."

Bender, the Executive Director of Accountants for Public Interest, told the SCI that he has never conducted an audit at LIFT but merely provided some tax information to Hill over the telephone. In addition, Hill contacted him in the fall of 1988

requesting his voluntary assistance in compiling records for an audit; however, Bender declined. No one at DOH contacted Bender to determine whether he had conducted an audit as Hill misrepresented to Marks and McDonald.

Despite the fact that fiscal considerations were not within their purview, Marks and McDonald set forth a meaningless excuse (apparently offered by Alma Hill) for LIFT's fiscal problems: that Williams "had failed to properly transfer designated funds to a DYFS account thereby leaving an impression that there were more funds available." They also stated (without any supporting inquiry), "This money was subsequently spent on a computer and other equipment but unfortunately the vouchers for this equipment cannot be located." Not only did it not matter which of LIFT's four accounts received the money from DOH so long as it was allocated to AIDS program expenses, but (as noted below) two nonbudgeted computers were purchased with DOH money, and one never left the premises of the vendor. Marks and McDonald told the SCI that neither actually saw any computers at LIFT.

Robert Hummel, DOH's Assistant Commissioner for Aids Prevention and Control, told the SCI that he began employment with the State of New Jersey during the first week in September, 1988, and was not that familiar with the LIFT grant, with the exception of the Silas Mosley personnel action that was going on at the time of the Marks and McDonald review. The AIDS Division had only recently been created at that time and was in the process of taking over the grant program and employees from the Division of Narcotics and Alcohol Abuse Control. Hummel recalled discussing the Marks and McDonald report with Bonilla and concurring with her opinion that the LIFT grant should be continued. Meanwhile, Bonilla claimed that she sent a copy of the Marks and McDonald memorandum to DOH's head of Financial Services William Congdon and received no comment questioning their report. Hummel stated that he was unaware at that time that DYFS had cancelled its LIFT grant prior to the AIDS continuation grant being renewed. Hummel also said he had hoped that any fiscal irregularities at LIFT would have been uncovered during the Watson, Rice audit.

In any event, the Marks and McDonald report was forwarded to Bonilla on Friday, September 30, 1988. Bonilla, Program Officer Steven Saunders and Grant Management Officer Dolores Ignas signed off on the continuation grant approval on Monday, October 3. Hummel and DOH Grants Manager Maria Usas added their signatures on Tuesday, October 4. Even the need for nominal inquiry concerning fiscal irregularities and allegations seems to have fallen prey to DOH's rush to officially continue the AIDS grant to LIFT.

DOH did delay \$38,569 in payments under the first continuation grant until after the Watson, Rice audit had been

completed in mid-1989. It also conducted its own audit -- partially based on the Watson, Rice audit -- of the initial grant and the first continuation grant. In early July, 1989, DOH paid to LIFT the balance of the first continuation grant money, plus a \$10,000 supplement authorized by CDC for all grantees. DOH also gave formal approval for the second continuation grant (DOH grant # 3). Meanwhile, on July 5, 1989, LIFT forwarded a check to DOH for \$2,712, representing disallowed computer-related expenses. LIFT was also required to satisfy DOH that it had paid back payroll taxes owed to the Federal Internal Revenue Service. Checks totaling \$24,327.95, dated June 30, 1989, were delivered to the IRS.

Watson, Rice encountered scheduling delays requested by LIFT and incomplete and missing financial records during its audit. Therefore, its audit of the DYFS and DOH grants, originally scheduled for completion by December 23, 1988, was not finished until May 18, 1989. Although LIFT was given a significant amount of time to document its expenditures, Watson, Rice commented that, with respect to purchases and cash disbursements, the "supporting documentation for 62% of the items reviewed by us was not available."

Watson, Rice relied on a compilation of LIFT's books and records prepared from available checks, vouchers and receipts by Richard J. Kelley, an accountant who, between jobs on temporary disability, volunteered to assist LIFT from late November, 1988, to March, 1989. Kelley worked an additional four weeks (until April 6, 1989) at a salary of \$400 per week after his disability payments ended. He also loaned LIFT \$1,500 on February 17, 1989, with Hill agreeing that the money would be paid back one month later. It was not repaid, however, until August 23, 1989. Kelley stated that if a question arose during his assembly of records, he gave the benefit of the doubt to LIFT in allocating costs and relied heavily on Alma Hill's directions. Hill, however, claimed that Kelley made the expense allocations largely on his own.

Kelley told the SCI that while attempting to construct LIFT's financial records he constantly requested Alma Hill's cooperation in attempting to locate various receipts. He said Hill always had excuses and never actually rendered any assistance. This attitude adversely affected the audit process, as Watson, Rice had to suspend its audit at least six times because the records were not available. Kelley also related that when he raised at a LIFT Board meeting the fact that LIFT owed payroll withholding taxes, Hill became furious with him for disclosing this to the Board. Hill stated that she merely objected to the timing of the disclosure.

At a minimum, as indicated in the Watson, Rice audit of DOH grant # 1, DOH should have more seriously considered whether to

require LIFT to return \$10,514 of the \$63,683 which it had received. Based on the then-existing grant budget, the audit recommended reimbursement of expenses totaling only \$53,169. Nonetheless, on June 27, 1989, Alma Hill wrote to William W. Congdon, Director, Financial and General Services, DOH, promising that LIFT would "completely satisfy all payroll tax liabilities for the year ending December 31, 1988," and issue "a check to [DOH] in the amount of \$2,712.00 for a disallowance of expenditures in [the initial grant]."

In a memorandum, dated June 28, 1989, to Alfred T. Guido, Assistant Commissioner, Division of Management and Administration, DOH, Congdon even noted that the Department "received written assurances that the tax liability will be paid from the [continuation grant] money this department will disburse [to LIFT]."

Despite LIFT's poor fiscal accountability, its seeking numerous reimbursements for unauthorized expenditures and its failure to completely achieve rather simple grant objectives, on June 30, 1989, DOH paid LIFT the \$38,569 balance of funds from DOH grant # 2. That same day DOH gave LIFT (as it did all other grantees) \$10,000 in supplemental funding infused by CDC.

Meanwhile, DYFS, which had discontinued its grant to LIFT before the Watson, Rice audit began, relied on the Watson, Rice audit to demand a refund of \$40,907 from LIFT. In a letter to Hill, dated September 19, 1989, Scott Gordon, Supervising Contract Administrator of the Central Regional Office of DYFS, advised that if LIFT disagreed with the figure, it could submit "documented evidence" to the contrary. If the matter was not resolved, Gordon noted, DYFS would institute an action to recoup the balance due.

For the nearly \$20,000 which it was paid to conduct the special audits, Watson, Rice confirmed what was already substantially known about LIFT's lack of fiscal accountability, reporting that LIFT, in addition to other shortcomings:

1. Failed to submit, or submitted late, monthly expenditure reports acceptable to DOH and DYFS for the DYFS grant and DOH grant # 1 and monthly fixed price contract service and fee reports for the DYFS grant;
2. Did not prepare and submit to DOH or DYFS on-time quarterly reports of grant expenditures;
3. Could not provide a breakdown of an invoice received from its consultant accountant in order to allow allocation of portions of his \$2,280 bill between DOH and DYFS.
4. Had unrecorded expenses, unbudgeted expenses and

- expenses exceeding account budgets totaling \$10,199 for DOH grant # 1;
5. Purchased computer software and accessories for \$4,824 and sought reimbursement from DOH grant # 1 although no money was budgeted for equipment;
 6. Had not remitted some payroll taxes to the IRS as of the time of the audits;
 7. Had not posted its general ledger on a regular basis in order to allow the preparation of monthly trial balances;
 8. Did not maintain a cash receipts journal to record cash collected from clients, etc. (the bookkeeper did not record any cash receipts until after Watson, Rice had started its audit);
 9. Did not prepare bank reconciliations on a monthly basis as required by its grant contracts;
 10. Used DYFS funds to pay the salaries of the staff in the DOH-funded AIDS program during the first quarter of 1988;
 11. Did not file the first quarter 941 and UC 27 payroll tax returns due April 30, 1988, until May, 1988;
 12. Did not reconcile the first quarter gross salary information, as indicated in the 941 payroll tax return, with the general ledger amount;
 13. Paid petty cash expenditures of the AIDS program from DYFS funds;
 14. Did not show evidence of supervisory approval on purchase orders and paid invoices;
 15. Did not pay payroll taxes on time (penalties and interest were paid out from the AIDS and DYFS grants);
 16. Did not prepare payroll worksheets prior to the writing of payroll checks;
 17. Had no schedule of fixed assets indicating additions and disposals; and
 18. Charged 100% of insurance expenses in June, 1988, to DYFS when they should have been allocated among DYFS, AIDS and LIFT.

The Watson, Rice audit conclusions present a rather prosaic summary of what the SCI has learned was the blatant misallocation of expenses in order to apply AIDS grant funds to expenditures incurred by LIFT in those of its operations not related to AIDS education. Even a cursory inquiry by DOH should have revealed further serious transgressions by LIFT in its use of public funds. Moreover, the DOH audit, in determining questioned costs, ignored significant implications of the disparities between the amounts LIFT attributed to certain expense categories in its end-of-grant report to DOH and the amounts found by Watson, Rice to have been expended in those categories.

In reports prepared for Mosley and Hill on May 12, 1988, Raye Williams, who served as the bookkeeper for LIFT from August, 1987, until May, 1988, concluded that \$21,554 of the \$63,683 received by LIFT under DOH grant # 1 had not been spent on grant-authorized expenditures. Williams told the Commission that shortly thereafter Hill directed her to prepare a grant expenditure report and cash status report that would indicate that all of the DOH grant # 1 money had been spent. Williams prepared and signed the bogus reports, dated May 18, 1988, and May 19, 1988, respectively, and submitted them to Mosley. Williams told the SCI, "I know I should not have done it; it was wrong, but I needed the job." According to Williams, the conflicting reports prompted a meeting at DOH offices between Hill and Mosley, which Williams attended. Williams recalled that Mosley wanted any excess funds returned to the State, but Hill insisted that all of the DOH grant # 1 funds had been spent. About a week after submitting the bogus reports, Williams resigned from LIFT.

Hill denied directing Williams to prepare a bogus "zero-balance" report. She claimed that Mosley and Williams created the figures that would indicate that all of the funds had been expended for the AIDS program. This is simply not credible, however, in light of available records, the absent of other records and contrary statements from Mosley, Davis, Williams and Kelley.

Although LIFT's final expenditure reports had been provided to Mosley much earlier and had been referred to by Mosley in his May 25, 1988, memorandum to his superior, Eileen Bonilla (with a copy indicated to Dolores Ignas, the Grant Management Officer) the report relied on by Watson, Rice was date-stamped by that firm on January 30, 1989. An attached note by Ignas with the same date stamp stated: "Two final reports appeared. One was signed by the bookkeeper from LIFT, one was unsigned. Neither the department nor I accepted either final report. The agency (Mr. Kelley) is preparing a new final report." Actually, neither Kelley nor anyone else at LIFT prepared a final report to supersede the ones that LIFT submitted to DOH.

Not only did Ignas deny that she had received Mosley's May 25 memorandum to Bonilla, but she denied receiving a letter, dated May 11, 1988, addressed to her from Alma Hill (copy to Mosley) purporting to forward the reports in question. Mosley stated that Ignas gave him the original letter, along with the attached reports, and told him to review them prior to the initial grant being closed. Ignas said she could not recall doing this but admitted that it was a possibility. In any event, if she had not received the reports until late 1988, then she and other DOH officials were derelict in officially approving DOH grant # 2 to LIFT without having demanded and reviewed the reports that would have been long overdue by that time.

LIFT's volunteer accountant, Richard Kelley, told the SCI that Alma Hill instructed him to allocate expenditures in order to show that all of the DOH grant # 1 money had been spent on LIFT's AIDS program. In doing so Kelley did not try to reconcile the figures on his cash disbursements journal with those contained in LIFT's bogus zero balance expenditure report. Thus, when Watson, Rice totaled Kelley's figures, the sums in several expense categories differed substantially from those which LIFT had earlier presented to DOH in the elusive expenditure reports. Some of the differences (and budgeted amounts) are summarized in the following chart. The Kelley/Watson, Rice column indicates "amounts per records" according to Watson, Rice.

<u>Account</u>	<u>Kelley/Watson, Rice</u>	<u>5/18/88 Exp. Report</u>	<u>Budget</u>
Travel	\$3,050	\$1,157	\$1,200
Postage & Off.			
Supplies	420	3,355	2,700
Printing	590	1,388	3,000
Telephone	1,097	1,761	1,761
Education & Audio-			
Visual Supplies	526	2,117	1,117
Utilities	1,013	1,400	1,400
Consultants	1,695	5,000	5,000
Salaries	43,330	41,011	41,011

The Watson, Rice audit noted "that it cannot be identified which [expenditure] report is to be relied upon to be used in the audit." It continued, "We were unable to identify which of the Reports of Grant Expenditures submitted by the agency are to be used for our report since neither the agency nor the Department of Health could identify which is the correct report." Watson, Rice recommended that LIFT "when preparing and submitting revisions to the required reports should indicate which report, i.e. report dated 5-18-88, is being revised, to avoid confusion in the future." The most cursory of inquiries by DOH would have revealed the real problem: that the second grant expenditure report that LIFT furnished to demonstrate its complete expenditure of grant funds was an obvious fabrication.

In a June 28, 1989, memorandum to DOH Assistant Commissioner Guido, Director of Financial Services Congdon stated that "the questioned costs identified [in the DOH audit which was based on the Watson, Rice audit] have been resolved." However, the expenditures in categories not authorized in the grant budget and overexpenditures in certain other categories seem to have been resolved by simply amending the budget after-the-fact to sanction the expenditures claimed by LIFT. There was no critical assessment of the expenditures, no comment on the failure to obtain advance approval for budget changes and no evaluation of deviations in expenditure report figures from those provided to Watson, Rice by LIFT's volunteer accountant, Richard Kelley.

Under the terms and conditions for grants, grantees desiring post-award budget changes, such as the addition of line items not approved in the original budget, must obtain prior written approval from DOH, unless the requirement is waived. The request must contain a narrative justification for the proposed revision. Although LIFT sought credit for expenses in several nonbudgeted line items, it had never sought prior approval. Except for computer expenses, DOH allowed budget revisions for all the additional line items without sufficient explanation or critical scrutiny. Regarding budgeted line items, DOH personnel told the SCI that grantees could increase expenditures in a category by five percent of the total approved budget without having to obtain advance approval. Nonetheless, they acknowledged that during 1988 the five percent allowance had been suspended. With all of the concern about LIFT's inability to account for expenditures and the allegations of improprieties, these budget revisions should not have been granted without much closer examination.

When DOH expanded on the Watson, Rice audit in order to determine which costs to question for DOH grant # 1, it used the May 18, 1988, expenditure report for comparison purposes. When the DOH auditors encountered a category in which the expenditure report amount exceeded the amount which Watson, Rice was able to connect to records, they blandly and naively stated:

This situation appears to be universal in the overall system of reporting[;] it indicates possible weaknesses in internal controls relating to the reporting process. The system relating to preparation of expenditure reports should be reviewed to insure proper reporting in the future.

The audit results are based on CPA [Watson, Rice] figures as opposed to expenditure report figures, therefore, there are no questioned costs resulting.

Had there been even a cursory review of LIFT's "system relating to preparation of expenditure reports," DOH would have

been well-prepared to conclude that LIFT's reports were not only sparse but a sham. Where public funds are involved, whether state or federal, a grantee engaged in such gamesmanship (and possible fraud) should not be allowed to continue to receive funds.

As DOH should have done at some point, the SCI critically examined expenditures which were the subject of allegations. In addition, the Commission scrutinized LIFT's achievement of program objectives for DOH grants # 1 and # 2 and concluded that DOH also overlooked significant failures to even complete some of the rudimentary tasks called for by the grants.

1. Computers

LIFT attempted, for example, to allocate the cost of expensive computer hardware and programs entirely to the AIDS grant, although only a small portion of the planned computer function was to be devoted to AIDS education. On April 28, 1988, LIFT paid \$4,200 to C. Houston Associates, Inc. (CHA) of Princeton, in return for software dealing with outreach services, the day care center, LIFT administration and AIDS education word processing. In addition, Claude Houston of CHA arranged for LIFT to lease two computers and two printers from Citi-Lease of Burlington for two years starting on June 1, 1988, at a monthly rental of \$312.20. The initial payment of two months rent brought the total that LIFT attempted to charge to DOH grant # 1 to \$4,824.

The Watson, Rice audit listed the software and first two rent payments as "Equipment Purchased" (an unbudgeted account) and noted that it was "[n]ot in the possession of the program and under litigation." The SCI's inquiry revealed that around May, 1988, one of the computers had been delivered to the LIFT offices. CHA retained the other at its facilities.

Finally, in late December, 1988, LIFT decided that the software was not adequate, confirmed that it would make no more than the initial two payments under the equipment lease and sought the return of the \$4,200 which it had paid for the software. One computer remained at Houston's facility, and Citi-Lease retrieved the other from LIFT's office. Citi-Lease sued LIFT for the balance of rent payments, and LIFT sued Houston for breach of contract.

2. Salaries and Hiring Practices

LIFT requested, and DOH approved, the expenditure of \$43,330 for salaries for DOH grant # 1, even though the original budget called for salaries of \$41,011. This was to pay for five months worth of services from a program coordinator, two trainer educators, a clerk typist, a writer/editor (part time) and two

literature distribution aides (part time).

Based on its review of payroll checks to the personnel occupying the above positions during the grant period, the SCI determined that only approximately \$20,000 was paid for salaries for the five months in question. This includes the salary paid to a third trainer educator. (Although DOH grant # 1 called for two trainer educators and DOH grant # 2 called for one, LIFT employed three as of May, 1988). The SCI figure logically follows from the fact that it took some time for LIFT to hire the employees called for by the grant, as well as the fact that staff turnovers resulted in temporary vacancies during which salaries were not being paid. Neither LIFT, Watson, Rice nor DOH has supplied an adequate explanation, under these circumstances, for concluding that LIFT had incurred salary expenses of \$43,330.

DOH grant # 2 (for an eight-month period) budgeted salaries totaling \$51,279 to pay for the same personnel called for under the initial grant plus a part time bookkeeper. The SCI's review of payroll from the cash disbursements journal prepared by LIFT's volunteer accountant, Richard Kelley, for the period in question revealed that only \$39,085 could be accounted for by salaries paid to the personnel occupying the authorized positions. Nonetheless, the DOH audit showed "CPA-Audited Expenditures" of \$57,380 for salaries. Thus far, neither LIFT, Watson, Rice nor DOH has supplied documentation to account for the disparity.

Executive Director Alma Hill has adamantly insisted that she should have the ability to "fully integrate the functions of the AIDS staff with the overall philosophy, functions and purpose" of LIFT, including housing, food distribution, child care and employment and guidance counseling. According to Katherine Davis, this meant that Hill would assign employees who were supposed to work full time on the AIDS grant to work on LIFT's other projects. Hill indicated that in this manner the AIDS grant employees could develop a rapport with LIFT's clientele, who would become more receptive to the AIDS prevention message.

DOH officials seemed sympathetic to this concept but acknowledged that too much work on other LIFT projects would hamper AIDS education. Nonetheless, they have offered no guidelines or strictures whereby LIFT or any other community-based organization may strike the proper balance so as to develop rapport with child care, food distribution and housing clients without neglecting others in the community in need of AIDS risk reduction. Meanwhile, LIFT's volunteer accountant, Richard Kelley, told the SCI that he tried unsuccessfully to convince Alma Hill to require employees to list on time sheets the amount of their time spent on various programs.

Silas Mosley reported that Davis alleged that she could find no written material at LIFT which would justify the part-time

salary paid to the editor/writer, Julius Campbell, hired with AIDS grant money. According to Mosley, Campbell said that he was directed by Alma Hill to write proposals to solicit additional AIDS grants instead of preparing understandable AIDS literature and advertisements. Campbell, a full time state employee with the Arthur Brisbane Child Treatment Center, confirmed that he spent the majority of his part time job seeking funding for LIFT rather than preparing AIDS educational materials as specified in the grant. Alma Hill did produce about a half dozen pamphlet pages which she attributed to Campbell.

The five-month initial grant budget allowed the payment of \$6,000 to the editor/writer; however, LIFT's records showed that \$6,877 paid to Campbell was charged against DOH grant # 1. During the eight months of DOH grant # 2, Campbell netted \$8,961 from a budget-authorized amount of \$10,000. Thus, Campbell received more than \$1,000 per month during the period of his part time employment under the initial and first continuation grants. In return, he generated a few pages of copy in the assignment called for by the grant. Meanwhile, he accomplished many other tasks for LIFT having little to do with AIDS education and prevention.

Davis alleged that Hill's son flew round-trip to Philadelphia from Atlanta at the expense of DOH grant # 1. Davis also alleged that, while in Trenton between flights, Hill's son was paid some \$1,400 from DOH grant # 1 as a "consultant" to provide custodial service for the LIFT building, although he had no consultant contract with LIFT. Invoices of Glen Roc Travel of Ewing Township confirmed that a round trip ticket for \$273 was purchased by Hill for her son, Samuel Milligan, on April 28, 1988. The cancelled check bore the notation "Travel - AIDS, Samuel Weston Milligan."

Hill told the Watson, Rice auditors that she was under pressure from the Trenton building inspectors to clean out the building's basement as soon as possible. She claimed that city-referred welfare recipients whom she had originally hired for the job stole things from LIFT and could not be trusted with the job. Milligan worked for about two weeks at the rate of \$15 per hour cleaning the basement at 225 N. Warren Street where LIFT's offices are located. On May 6, 1988, a check from LIFT's AIDS account for \$631.25 was made payable to Samuel Milligan. On May 13, 1988, a check from the DYFS account for \$700 was made payable to Samuel Milligan. These were posted by LIFT's volunteer accountant Richard Kelley in the cash disbursements journal under the "Consultants" heading.

LIFT also employed another of Hill's sons, Jeffrey Milligan, as a "consultant" and as a salaried employee under DOH grant # 2. His primary duties consisted of AIDS literature distribution.

Both the Watson, Rice audit of DOH grant # 1 and the DOH audit of that grant and DOH grant # 2 contain the statement, "The agency [presumably Alma Hill] indicated that they [sic] have not entered into any transactions with persons who are related to individuals (employees) involved in the program."

3. Utilities

Although \$1,097 in telephone expenses out of a budgeted amount of \$1,761 were charged to DOH grant # 1, Davis contended that LIFT's AIDS program staff did not have access to sufficient telephones to conduct their business. Meanwhile, the cash disbursement sheets prepared by Richard Kelley, LIFT's volunteer accountant, for the Watson, Rice audit showed a 50/50 allocation between the DOH and DYFS grants. No person or record at LIFT could differentiate any AIDS program calls from those of LIFT's day care operation.

In addition, Davis alleged that Hill, citing the expense of electricity, did not allow AIDS program staff to use a fan in the small room in the LIFT offices where four of them worked. According to the Watson, Rice audit, LIFT wound up spending \$1,013 of DOH grant # 1 money for utilities out of a budgeted amount of \$1,400. Again, there was no attempt to determine an accurate allocation of such expenses among LIFT's programs. Even though the AIDS grant office occupied nominal space in comparison to the entire LIFT building, utility expenses were allocated 50 percent to the AIDS grant (one third while the DYFS grant was in effect).

4. Conference/Travel Expenses

According to the Watson, Rice audit, LIFT claimed conference/travel expenses under DOH grant # 1 totaling \$3,050, even though just \$1,200 was budgeted for this purpose. LIFT's volunteer accountant, Richard Kelley, told the SCI that he could not find documentation to support the \$3,050 total. Kelley said that, as with other unsubstantiated expenditures, he allocated the travel costs among grant programs as directed by Alma Hill.

In a memorandum to DOH Auditing Program Chief Robert Cartwright, dated June 26, 1989, Doreleena A. Sammons, Director of the AIDS Division, listed \$1,200 as "the only allowable costs" in the travel account for DOH grant # 1. Nonetheless, on June 23, 1989, Cartwright sent a copy of the DOH audit to Hill and to Sammons' boss, Assistant Commissioner Robert Hummel. That audit contained a budget revision request form which anticipated that \$3,050 would be allowed for travel. Cartwright's boss, William Congdon, wrote to Hill on June 29, 1989, that subsequent to Cartwright's June 23 letter he had "received Budget Revisions signed by you which constitute acceptance of the audit report." Without indicating why the discrepancies were never resolved

among the various DOH offices, Congdon's boss, Assistant Commissioner Alfred Guido, wrote to the SCI, "It is speculated that these documents might have crossed in the mail. Neither the budget revision nor the justification for the revision in allowable travel costs were approved by this Division."

Despite Guido's attempt to sidestep responsibility on behalf of his office, the fact remains that DOH grant # 1 was officially closed with LIFT receiving funds for the entire \$3,050 that it claimed in travel expenses. Apparently no one at DOH felt the need to reconcile the different stances taken by DOH offices responsible for the grant.

Payments for several service station bills were allocated to the AIDS grants. In comparing these bills to all such expenses paid by LIFT, it became clear that about half were charged to the AIDS program. The minimal vehicle mileage necessary to accomplish the AIDS grant's objectives could not have justified the hundreds of dollars allocated to it. In any event, LIFT did not maintain sufficient records upon which accurate gasoline bill allocations could be based.

Alma Hill and several other people traveled to a mission in Africa from January 27 through February 24, 1988. The owner of Glen Roc Travel confirmed the purchase by LIFT of tickets for a January 27 flight from New York to Dakar, Senegal, with a connection to Monrovia, Liberia, and return flights on February 24. Hill's group planned to take donated food and blankets to a remote mission in the Liberian jungle.

On April 21, 1988, LIFT received a \$341.37 refund check from Glen Roc Travel for a subsequent fare reduction on the Africa trip. The following day a check from LIFT's AIDS account for \$341.37 was made payable to Alma Hill. Later, when travel expenses were allocated to the AIDS grant, this amount was included within the \$3,050 which LIFT attributed to AIDS program travel charged to the DOH grant. If DOH auditors had closely examined why LIFT sought to almost triple its travel account budget they would have logically inquired why a travel expense check was paid to Hill personally. They then could have readily determined that the check had nothing to do with a reimbursable expense, and they could have disallowed it.

5. Educational Supplies and Audio Visual Equipment

DOH grant # 1 budgeted \$505 for audio visual aids. According to Mosley, LIFT reported expenditures of \$505 for audio visual aids even though he was told by Davis that none had been purchased by LIFT for its AIDS program between September 1, 1987, and April 30, 1988. The Watson, Rice audit noted "amounts per records" of \$526 for educational supplies and materials, which included audio visual aids. The budgeted amount for educational

supplies was \$612 for a total of \$1,117 (\$505 + \$612) budgeted for both audio visual supplies and educational supplies. Incredibly, no one seriously challenged the obvious \$1,000 error when LIFT claimed educational expenses of \$1,612 on its May 18, 1988, expenditure report. Meanwhile, with no apparent basis in LIFT records, Watson, Rice made "adjustments and reclassifications" adding \$1,461 to the educational supplies and materials account for a total of \$1,987 (\$526 + \$1,461), \$870 over the budgeted amount for audio visual aids and educational supplies. DOH revised the LIFT budget to include the additional \$870, further reducing the amount that LIFT was required to reimburse to the department.

Not until 1989, when it obtained \$10,000 from a supplemental CDC grant, did LIFT acquire any significant audio visual equipment (as authorized by the supplemental grant).

6. Achievement of Program Objectives

Consistent with the view that little AIDS programmatic work was being accomplished is the Watson, Rice audit's statement of revenues and expenditures for DOH grant # 1, which shows far less than budgeted amounts being spent in such revealing categories as consultants (\$5,000 budgeted vs. \$1,695 spent), postage (\$600 vs. \$141), educational supplies & materials (\$1,117 vs. \$526), printing expenses (\$3,000 vs. \$590) and office supplies (\$2,100 vs. \$279).

Several of the official objectives of DOH grant # 1 were either not accomplished, not completed by the required deadline or lacked documentation to prove their completion. According to LIFT officials, the dates on which literature provided by DOH had been distributed could not be determined. LIFT did not complete its development of "culturally sensitive literature" by March 20, 1988, as called for by the grant. Also LIFT did not train five "trainers" by March 28, 1988, as required. In addition, pre- and post-program surveys, as called for in the grant, were not conducted. Instead of maintaining records of the number of people in attendance at all AIDS functions, LIFT only kept partial records regarding literature distribution. Monthly progress reports required by DOH were not produced. Mandated monthly action plans could not be located. Neither could an assessment of "levels of knowledge, attitudes and behaviors of at least 200 individuals within the local black community" be found.

Similar inability to account for completed official grant objectives occurred for DOH grant # 2. No report was prepared summarizing baseline data and the content of counseling sessions based on the results of a survey of teens' AIDS awareness. Although presentations were made in four Trenton area schools, no records reflected that surveys of students' pre- and post-session knowledge, attitudes and behaviors were conducted. Also, no

summary report of such data was supplied to DOH. Attendance records documenting the attendance of 500 community adults at awareness sessions were to have been maintained. However, DOH documentation existed for only 129, and LIFT could produce no records. Although LIFT staff received drug abuse trainer instruction, there were no records of pre- and post-testing, compilation of results or report to DOH as required. Also, no records indicated that the training was provided to potential trainers within community groups. No summary report of literature distribution was submitted to DOH, and records reflected that only 1,541 pieces of literature were disseminated, instead of the mandated 5,000 pieces. No publicity log was found, although records of four contacts with radio stations in December, 1988, were produced. Finally, mandated fiscal reports were not submitted.

Following the Watson, Rice audit, Alma Hill indicated her intention to correct all of the deficiencies noted in the report. Meanwhile, the accounting firm of Galletta and Galletta Associates was retained on April 27, 1989, at an annual fee of \$8,000, to serve as LIFT's comptroller and to create a computerized accounting system.

However, at present, the computerized accounting system is not on-line. A budget revision is being processed to allow the purchase of additional software necessary to make the system serve the needs of the program.

Although it has been required by DOH to submit receipts to justify any costs incurred, LIFT failed to provide such receipts at the time it presented its reports of grant expenditures for the first two quarters of 1989. Indeed, these two reports indicated that with one half of the grant period remaining LIFT claimed to have spent over 60% of its personnel line, nearly 100% of accounting, over 90% of equipment rental, and 100% of telephone, office supplies and occupancy.

On September 12, 1989, Alina Salvat Wright, Supervising Community Service Officer with the AIDS Division, reported to her supervisor, Angel Roca, Chief of the Prevention Unit, on the latest program review status of LIFT. The Commission quotes extensively from this report because it indicates continuing fiscal irresponsibility on the part of LIFT, despite its promises to DOH:

Furthermore, LIFT's receipts/bills and their "unofficial" agency budget show other irregularities (i.e., the fringe benefit rate doesn't add up to correct amount, etc.). Thus far, the total agency budget which Mr. Galletta, LIFT's comptroller, has supplied to us have all been "unofficial." When you consider that the accounting line item is 100% expended and, therefore, the comptroller has been paid in

full (with the exception of \$1,000 for single-audit) questions should arise regarding Mr. Galletta's function. The computer-generated budgets he prepares look very nice but if they're "unofficial" what purpose do they serve?

The Telephone line is 100% expended, yet this agency is in default of item 18 in their attachment "C" [program specifications] which reads as follows: "LIFT will install a phone line for the agency AIDS Prevention Project by 8/31/89."

Furthermore, upon reviewing the phone bills, a vast number of long distance calls are/were made daily. Being that LIFT's HIV/AIDS prevention project is supposed to service Mercer County, and Trenton specifically, there should be a minimum of long-distance phone calls. Also, no telephone line for the agency's AIDS prevention project was installed. Thus, there is no way to separate & document the AIDS project calls from non AIDS project calls. [Note: After this report a telephone for the AIDS program was installed.]

The Personnel line is 100% expended. The reasons for this are as follows: a) the agency was paying the salary of someone who is not on the contract from this grant. b) Mrs. Hill's son, Jeff Milligan, received all the money for his position for the year as opposed to receiving it pay period by pay period. When we pointed out to Mr. Galletta & Mrs. Hill that an individual who is not on the contract cannot be paid from this grant, they simply replied, "we'll remove her." This still left the ethical question this raised unaddressed. Regarding Mrs. Hill employing her son, this may not raise conflict of interest or ethical questions. However, the fact that he has received all of his salary by the second quarter does raise questions.

Office Supplies -- This line item has also been expended by 100%. What is particularly disturbing about this is that, contrary to the suggestions made in the single-audit report, LIFT has not established any recordkeeping system which differentiates expenses regarding the AIDS prevention project from their other programs. Thus, there is no method to trace/ account for supplies used by which program and, therefore, the actual expense incurred by that program. ...

Equipment Rental -- Expended at 90%. Even allowing for maintenance costs, with the AIDS project only using one small room, what type of equipment expenses could justify a 90% expenditure by the second quarter?

To summarize, the overall problem remains that LIFT does not have an accounting record-keeping system in place through which expenses incurred by the AIDS project can be traced,

documented and accounted for.

Among the recommendations by Salvat Wright was one that should have been implemented by DOH since the early days of the initial grant: "If the agency meets with division staff, agrees to a corrective action plan but does not implement this, their payments should be held up until such time as they do adhere to [a] corrective action plan." Instead, DOH has consistently continued to fund LIFT upon the mere promise that LIFT would do better.

Meanwhile, DOH has thus far continued unable or unwilling to demand a full accounting from LIFT of its expenditures for the AIDS program. This is to some degree attributable to the personnel vacancies in the AIDS Division. Beyond the question of resources, however, it is apparent that DOH does not attach a high priority to dealing with flagrant violators of grant requirements. If it did consider compliance to be important, it would not have continued LIFT's grant. It seems that a grantee need only promise an overworked DOH staff that it will improve in the future, and even severe transgressions and misrepresentations will be forgotten, regardless of what they indicate about the grantee's intent to dupe the program. Under such circumstances, the Commission wonders if there is any misconduct that would warrant termination of a grant in the minds of DOH administrators.

CONSULTING, GIFTS AND HONORARIA

Your Committee received allegations that certain AIDS Division employees had formed a consulting firm to advise homosexual groups on how to apply for AIDS grants administered by the Division. The SCI could find no evidence of any such consulting firm.

There was an attempt in late 1987 and early 1988 by E. Steven Saunders, Chief of the AIDS Division's Training and Education Unit, to start a consulting firm, AIDS Information Resource, to provide AIDS education and training to businesses and to assist them in developing company guidelines for handling AIDS issues. On January 20, 1988, Saunders wrote a memorandum to Kenneth J. Black, Chief of the HIV Counseling and Testing/Notification Assistance Program, attaching an advertising brochure for the firm and adding that since it was "in the preliminary stages of development," he had "not yet accepted any commitments." Saunders further wrote, "Because of the conflict of interest regulations that exist, and because of my own convictions on the issue, my activities will be restricted as follows:

1. Only out-of-state agencies will be considered for providing services;
2. All provisions will be done on my own time, not the Department's;
3. My representation will be that of my own and not as a representative of the NJSDH; and
4. Financial compensation will not be requested of any agency, even those out-of-state, who seek my services directly by initially contacting me on the job."

Saunders noted that "in order to facilitate the marketing of my services, I have teamed up with ... an employee of the Hyacinth Foundation[,] under the name of AIDS Information Resource."

On July 5, 1989, after being reminded by the SCI that DOH had not taken an official position on the issue, Charlotte Kitler, Director of DOH's Office of Legal Services and its Ethics Liaison Officer, approved Saunder's outside enterprise in a memorandum reading, in part, as follows:

According to the plans you submitted, the services would be provided on your own time and only to persons and/or agencies from out-of-State. None of these persons or agencies would have any dealings before the Department. You will not indicate that you represent this Department in your contacts with any potential client. In addition, you will not charge for any services if a potential client should call you at your State office rather than your outside business telephone number.

I note that the services you plan to offer do not involve use of any confidential information or of other official information which is restricted to internal Departmental use, nor do they involve use of even generalized knowledge which is available only from or through the Department. Hence there does not appear to be any personal gain derived from information acquired exclusively through your State position. Further, your plan to make no charge of persons who may contact you at work should ensure proper separation of your State and private activities.

Therefore, please be advised that I agree that your plans for outside employment do not present any conflict of interest.

The Commission does not fault Kitler's disposition of the matter.

It has also been alleged that various employees of the AIDS Division's training and education unit had received honoraria for speaking to school boards and PTA groups regarding AIDS education contrary to Division policy. Saunders acknowledged that he

received and cashed a \$150 check from a Medford teachers group for speaking to them on Columbus Day, 1987, a State holiday. Saunders claimed that he received no compensatory or adjusted time for this speaking engagement and that it was the only instance in which he accepted any payment.

One DOH employee received an unsolicited check, dated May 19, 1988, for \$50 from a cable television company after his appearance on a television program entitled "AIDS: Questions and Answers" during the evening of May 10, 1988. The cable company also forwarded a copy of the videotape of the show. Having received the check on May 26, 1988, the employee sent a memorandum to his supervisor on May 31, 1988, pointing out that the tape and honorarium "were unsolicited and never discussed" and indicating that he would await "a decision of this matter." After lengthy consideration within the DOH hierarchy, the Department adopted the employee's suggestion that he donate the honorarium to Monmouth Ocean AIDS Information Group, Inc. The employee sent that organization a personal check for \$50 on August 24, 1988.

Three other employees who had been accused of accepting honoraria denied ever accepting checks or cash for speeches. One said that she had received coffee mugs and pens from various civic organizations which she had addressed about AIDS. She documented one occasion in which she received an unsolicited \$100 honorarium in early November, 1987, for addressing 600 professionals attending an AIDS symposium sponsored by the New Jersey Public Health Association. Within a few days she returned the check, explaining in a letter: "Since AIDS education is my work role here at the Department, our Code of Ethics does not allow us to accept payment for services which are an integral part of our work responsibilities." [Emphasis in original]. Another employee said she accepted an automobile first aid kit for lecturing to a church organization in November, 1987.

At the time these events occurred, DOH employees were operating under a department code of ethics dated November 25, 1986. This code prohibits employees from accepting any gift from any person or organization outside of the Department under circumstances from which it might be reasonably inferred that the gift was given "to influence the employee in the performance of his duties, or reward him for something done by him in the performance of his duties."

In apparent recognition of the ambiguities of this and other codes of ethics promulgated pursuant to the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 through 27, in November, 1987, the Executive Commission on Ethical Standards issued a revised set of guidelines to govern the receipt of gifts, etc. by State employees. These guidelines were distributed to all state employees, and then-Commissioner of Health, Dr. Molly J. Coye, reiterated the Ethics Commission's guidelines in a memorandum to

all DOH employees dated July 15, 1988.

The documents instructed employees that the law does not prohibit the receipt of all unsolicited gifts. The standard is whether, from the perspective of a member of the public having knowledge of the relevant facts, it could reasonably appear that the gift was intended to influence the public employee in the discharge of State responsibilities. Coye reminded her Department's employees that all gifts received by State employees from any person with whom they have had contact in their official capacity must be reported immediately to the Ethics Liaison Officer for DOH. She noted that the reporting requirement did not apply to "the receipt of normal advertising materials of minimal value such as pens, pencils and calendars." [Emphasis in original.]

Regarding honoraria, Coye's memorandum noted: "The Conflicts of Interest Law permits State employees to accept 'reasonable fees for speeches or published works' on matters within their official duties. Thus, an honorarium may be accepted, but only if: 1) the giving of the speech or the publication and the honorarium has been approved by the Department (i.e., the Assistant Commissioner or Deputy Commissioner) and 2) the amount of the honorarium has been approved by the Department's Ethics Liaison Officer as being reasonable. ALL HONORARIA MUST BE REPORTED TO ... [the] Ethics Liaison Officer BEFORE THEY MAY BE ACCEPTED BY ANY EMPLOYEE OF THIS DEPARTMENT." [Emphasis in original.]

The retention of the \$150 honorarium, a first aid kit, coffee mugs and pens probably did not violate ethics guidelines in effect when the events occurred. The honorarium and the first aid kit would have to be reported to the Department's Ethics Liaison Officer under current standards. Thus, ethical requirements have tightened during the period in which DOH has expanded its AIDS grant programs. Moreover, Robert Hummel, Assistant Commissioner in Charge of the Division of AIDS Prevention and Control, assured the SCI, that these ethical obligations had been reiterated at a staff meeting and that a new policy with more specific guidance had been drafted. In any event, the SCI found that DOH employees were generally sensitive to ethical concerns.

UNUSED PRINTED MATERIALS

The following amounts were budgeted and spent from DOH's AIDS program's "Printing and Office" accounts during fiscal years 1986 through 1988:

FISCAL YEAR	BUDGET	DISBURSEMENTS/OBLIGATIONS
1986	\$188,783 (State Funds)	\$166,148
	\$84,321 (Supplemental State Appropriation)	\$77,509
1987	\$175,027 (State/Federal Funds)	\$165,361
1988	\$252,516 (State/Federal Funds)	\$251,864

Certain AIDS education materials were printed but not entirely distributed. In particular, in January, 1989, 23,900 copies of a revised pamphlet, "Women & AIDS," were printed. In February, 1989, 180,000 more copies were produced. The total cost was \$4,800. The revised edition's content had been approved by DOH's Internal Review Committee and the External Program Review Panel. Some community complaints were received regarding the pamphlet's listing of persons of certain national backgrounds in the risk categories. Although that language was obtained from a report prepared by the U.S. Department of Health and Human Services, DOH decided not to disseminate the pamphlet so long as some of its language was deemed offensive. By March 8, 1989, 6,892 of the pamphlets had been distributed. No more have been circulated, but the Department is considering covering the offending three lines with stickers and disseminating the remaining copies.

The SCI found no wholesale wastage of printed materials as has been alleged.

CONCLUSION

In conclusion, the Commission found that many of the allegations brought against the Department of Health and its AIDS grantees were unfounded or exaggerated. However, the fledgling AIDS Division and DOH's Audit Program need to improve their administration of grants and more forcefully ensure that grantees adhere to fiscal and programmatic requirements. In particular, the laxity exhibited in DOH's administration of the LIFT AIDS grants indicates a disturbing unwillingness to inquire into and remedy abuses. Too many DOH officials seem amenable to avoiding effective oversight if it might demonstrate the failure of a particular grantee's program and the need to deny grant funds or to shift them to another organization. Inadequate personnel to

properly scrutinize grantees' operations and finances is, most assuredly, part of the problem. Nonetheless, an overly tolerant attitude is also responsible.

Very truly yours,

HENRY S. PATTERSON, II
Chairman

JAMES R. ZAZZALI
Commissioner

BARRY H. EVENCHICK
Commissioner

W. HUNT DUMONT
Commissioner

c: Honorable Thomas H. Kean, Governor
Honorable John F. Russo, President of the Senate
Honorable Charles L. Hardwick, Speaker of the
General Assembly
Honorable David L. Knowlton, Acting Commissioner,
Department of Health