
Payments Made by the House of Assembly to Certain Suppliers

Introduction

Section 15(1) of the *Auditor General Act* requires the Auditor General to report to the Lieutenant-Governor in Council instances the Auditor General becomes aware of during the course of an audit which may involve improper retention or misappropriation of public money or another activity that may constitute an offence under the *Criminal Code* or another Act.

Matters of this nature came to my attention during my audit of the House of Assembly.

Findings

On 27 June 2006 I reported through the Minister of Finance, to the Lieutenant-Governor in Council, that a review of expenditures at the House of Assembly identified the following:

1. Circumstances surrounding payments totalling \$2,651,644, made from April 1998 to December 2005, to three companies (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International), which have led me to question the legitimacy of at least a portion of these payments.
2. Inappropriate payments totalling \$170,401, made during the period April 2001 through to December 2005, to Unique Keepsakes, a company owned by the former Director of Financial Operations at the House of Assembly, and/or his spouse.

Details relating to these two matters follow:

1. Payments totalling \$2,651,644 to Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International

I am concerned that certain payments made to these three companies may be the result of activities which involve improper retention or misappropriation of public money or another activity that may constitute an offence under the *Criminal Code* or another Act. This conclusion is based on the following information:

The three companies:

- The three companies appear to be related:
 - the Registry of Companies file for JAS Enterprises Limited and the City of St. John's property roll for the telephone number referenced on Zodiac Agencies invoices indicate references to the same surname;

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- two of the companies (Zodiac Agencies and Cedar Scents International) have the same bank account;
 - there is a reference to JAS Enterprises Limited on Cedar Scents International's website; and
 - all three companies had similar invoices.
- There was no contact information available for Zodiac Agencies - the telephone number on the sales invoices was not active.

Payments to the three companies:

- Payments to the three companies were indicated as being for the purchase of similar items - many were low value novelty items such as lapel pins, fridge magnets and key chains; however, I also identified some more expensive items such as 79 “*Customized MHA Gold Rings (Newfoundland Coat of Arms)*” costing \$750 plus HST each and a one-time set-up fee of \$750 plus HST for a grand total of \$69,000. As outlined in Schedule 1, significant quantities of the items were indicated as being purchased (481,775 items from April 1998 to December 2005 with at least 342,000 of these items indicated as being purchased during the 21 month period from 1 April 2004 to 31 December 2005).
- All officials questioned at the House of Assembly indicated surprise with the significant cost and the extent of the quantities indicated as being purchased. One official who was in a position to observe deliveries to the House of Assembly was at a loss as to how the quantity of products could be received without his knowledge.
- As Schedule 1 indicates, total payments each year to the three companies has increased dramatically since 1999. For example, in just under four years there was a 282% increase in payments to these companies from total payments of \$170,570 for the 12 months ended 31 March 2002 to total payments of \$652,293 for just the nine months ended 31 December 2005.

Actions of the former Director of Financial Operations of the House of Assembly:

- Internal controls relating to purchases were basically non-existent:
- no segregation of duties - the former Director of Financial Operations ordered goods, indicated receipt of goods and approved company invoices for payment; and
 - although payment authorization was made on the Government's financial management system, it was most often performed by an official without seeing the original documentation.

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- Contrary to Government rules:
 - no tenders were called and no quotes or other reasonable basis were documented to support prices being charged on company invoices; and
 - purchase orders were not always issued, especially in more recent years.
- In many instances there was inadequate documentation provided on the invoices to support either which Member of the House of Assembly the goods were purchased for or whether payments were correctly charged to other parts of the House of Assembly. More than half (52% - \$1,389,324) of the total payments of \$2,651,644 were charged to various House of Assembly accounts other than Constituency Allowances for Members.
- Each year the former Director of Financial Operations indicated he would overwrite the spreadsheets used to record Members' constituency allowance payments. As a result, the audit trail relating to the spreadsheet was effectively eliminated. Although overwriting the spreadsheet files slowed the audit process, by reviewing cancelled cheques and other documentation my staff was able to reconstruct total payments made to and/or on behalf of Members of the House of Assembly relating to their constituency allowances.

2. Payments totalling \$170,401 (\$122,398 + \$48,003) to Unique Keepsakes

I am concerned about a conflict of interest situation identified during the review. In this case, direct payments totalling \$122,398 were made through the House of Assembly during fiscal years 2002 through to 2005 to Unique Keepsakes, a company owned by the former Director of Financial Operations, and/or his spouse. I note that a significant portion of these payments were approved by persons without seeing the original documentation.

Furthermore, the Clerk of the House of Assembly indicated that, after writing all staff including the former Director in February 2004 advising that they had a responsibility to disclose any conflict of interest activity, he received written notification from the former Director that business activity between Unique Keepsakes and the House of Assembly would cease. However, I found that the former Director appeared to circumvent this commitment by having Unique Keepsakes' transactions go from direct payments recorded in Government's financial management system (FMS), to transactions directly with the various Members of the House of Assembly which were then claimed through their constituency allowance and therefore undetectable through FMS.

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I note that two Members presently under review had direct purchases totalling \$48,003 from Unique Keepsakes during the period April 2004 to December 2005 (i.e. subsequent to the commitment by the former Director).

The attached Schedule 2 provides details on the payments made to Unique Keepsakes.

Summary

The above findings indicate that there may have been improper retention or misappropriation of public money or another activity that may constitute an offence under the *Criminal Code* or another Act, as well as a conflict of interest and breach of trust by the former Director of Financial Operations.

Recommendation

I recommended that the Lieutenant-Governor in Council refer to the Department of Justice, the matters surrounding the legitimacy of payments to Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International, as well as the inappropriate payments to Unique Keepsakes.

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Schedule 1 (Zodiac Agencies, JAS Enterprises Limited and Cedar Scents International)

Part A - Details on payments totalling \$2,651,644

Year	Zodiac Agencies			JAS Enterprises Limited			Cedar Scents International			Annual Total
	FMS	H of A	Various	FMS	H of A	Various	FMS	H of A	Various	
1999	\$ -	\$ -	\$ -	\$ 5,945	\$ -	\$ 5,945	\$ -	\$ -	\$ -	\$ 5,945
2000	61,813	52,250	9,563	130,118	29,004	101,114	-	-	-	191,931
2001	97,377	6,000	91,377	35,845	26,790	9,055	-	-	-	133,222
2002	132,076	38,050	94,026	15,379	4,500	10,879	23,115	3,800	19,315	170,570
2003	217,832	90,949	126,883	68,115	42,000	26,115	70,121	39,075	31,046	356,068
2004	323,434	165,972	157,462	154,146	66,600	87,546	57,356	33,250	24,106	534,936
2005	160,051	36,800	123,251	302,188	177,847	124,341	144,440	70,750	73,690	606,679
2006 *	316,333	179,435	136,898	247,646	152,248	95,398	88,314	47,000	41,314	652,293
	\$1,308,916	\$569,456	\$739,460	\$959,382	\$498,989	\$460,393	\$383,346	\$193,875	\$189,471	\$2,651,644

* - nine months to 31 December 2005

Legend:

FMS Government's financial management system

H of A amount charged to Members' Constituency Allowance Account

Various amount charged to expenditure accounts other than Members' Constituency Allowance Account

Part B - Details on quantities indicated as being purchased

Year	Zodiac Agencies	JAS Enterprises Limited	Cedar Scents International	Total Items
1999	-	297	-	297
2000	81	6,770	-	6,851
2001	10,062	925	-	10,987
2002	12,780	232	2,639	15,651
2003	33,269	5,420	4,080	42,769
2004	54,129	6,680	2,355	63,164
2005	70,201	60,048	46,787	177,036
2006 *	108,107	30,971	25,942	165,020
Total	288,629	111,343	81,803	481,775

* - nine months to 31 December 2005

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Schedule 2 (Unique Keepsakes)

Details on payments totalling \$170,401 (\$122,398 + \$48,003)

Year	Direct Payments	
2001	\$ -	Constituency Claims for two MHAs Presently under Review to Identify Payments Made Subsequent to the Commitment by the Former Director of Financial Operations
2002	24,529	
2003	46,596	
2004	47,286	
2005	3,987	
2006 *	-	28,274
Total	\$ 122,398	\$ 48,003

* - nine months to 31 December 2005