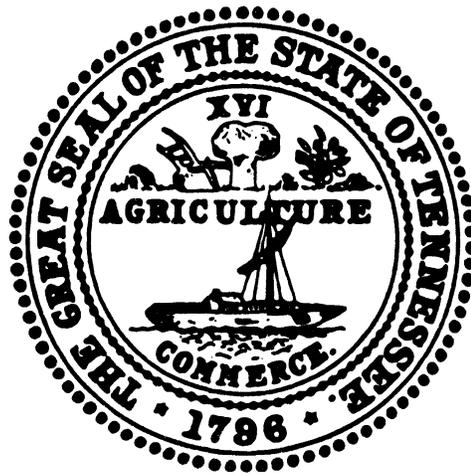


SPECIAL REPORT

Tennessee Human Rights Commission

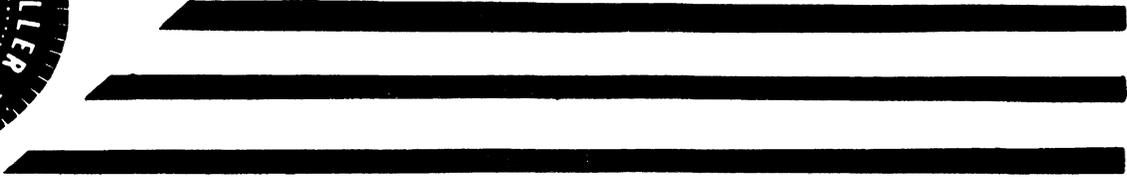
Review of Falsified Case Documents

August 2008



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY

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Division of State Audit



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COMPTROLLER OF THE TREASURY
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John G. Morgan
Comptroller

August 6, 2008

The Honorable Phil Bredesen, Governor
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

and
The Honorable Beverly Watts, Executive Director
Tennessee Human Rights Commission
710 James Robertson Parkway, Suite 100
Nashville, TN 37243-1219

Ladies and Gentlemen:

Transmitted herewith is a special report on the review of case documents falsified by Mr. Leonard Madu, an investigator with the Tennessee Human Rights Commission (THRC). On July 13, 2007, Comptroller John Morgan and staff from the Division of State Audit met with Lieutenant Governor Ron Ramsey to discuss the issue. According to Lieutenant Governor Ramsey, one of his constituents had contacted him concerning an employment discrimination complaint she had filed with THRC. Her complaint had been assigned to Mr. Madu. After being told by THRC that her complaint was without merit, she obtained a copy of her case file through a Freedom of Information Act request filed with the EEOC. The case file contained notes of telephone interviews that Mr. Madu claimed to have conducted with her witnesses. She was surprised to note that her witnesses did not support her claim. When she spoke with her witnesses, they told her that Mr. Madu had not contacted them. We began our review of this issue in July 2007.

Based on presently available information, we determined that Mr. Madu did not make the phone calls to the witnesses in the case brought to our attention by Lieutenant Governor Ramsey. Further, Mr. Madu created paperwork to make it appear that he had made the calls, and he placed the misleading paperwork in the case file.

On August 7, 2007, Mr. Madu was placed on administrative leave by THRC and was given an Intent to Terminate letter. THRC officials gave him an option to resign before his termination became effective August 10. On August 9, Mr. Madu submitted his resignation

letter, effective August 10. Mr. Madu's annual leave, which totaled 400.5 hours and was worth \$7,861.82, was forfeited under Section 8-50-807(d), *Tennessee Code Annotated*, because he resigned in lieu of termination for gross misconduct, and his employment record was coded "not eligible for rehire within state government."

The employment discrimination case in question, which was originally dual filed with EEOC, was referred to the EEOC Memphis office and is currently under review.

THRC undertook a review of all of Mr. Madu's 36 open cases at the time of his resignation, as well as a review of all 84 of his closed cases for the fiscal year ended June 30, 2007. The 36 open cases were reassigned to other investigators with instructions to verify complainant and witness contact and to report any abnormalities. One case contained falsified documentation related to a witness that was listed as having been contacted by Mr. Madu but was not. The witness was subsequently interviewed by THRC staff.

THRC's review of Mr. Madu's 84 closed cases found that 13 additional cases contained falsified documentation. In addition, for ten cases, THRC staff were unable to verify that witnesses had in fact been contacted for a variety of reasons: there was no witness list in the file; there was no complaint in the file; based on notes in the file, the complainant allegedly told Mr. Madu that they didn't want their witnesses to be contacted; based on notes in the file, Mr. Madu informed the complainant that the witnesses would not be contacted because they did not have any personal knowledge of the events; based on notes in the file and comparison of address information between the witness and the company against whom the complaint had been filed, Mr. Madu informed the complainant that the witness would not be contacted because the witness worked for the company against whom the complaint had been filed; or the witness contact information was not valid when THRC staff tried to contact the witness because the witness was no longer at the number provided, and no forwarding information had been given. THRC staff found no issues with the notes in the files during their review.

For the 13 cases where falsified documentation was found, and for the 10 cases that could not be verified, THRC performed additional reviews and determined that the cases were either no cause or administrative closures. The cases that were dual-filed with the EEOC were reviewed and closed out by EEOC.

In addition to this examination of Mr. Madu's closed cases, THRC staff also reviewed 10 percent of all employment and housing cases closed during the period July 1, 2006, through June 30, 2007, which had been assigned to other investigators. The total number of cases reviewed was 56: 44 employment cases and 12 housing cases. THRC did not report any findings related to its review of cases closed by THRC investigators other than Mr. Madu.

Our review resulted in six recommendations to THRC designed to strengthen controls over case file documentation.

The issues discussed in this report were referred to the Office of the District Attorney General, 20th Judicial District, and to the Law Enforcement and Special Prosecution Division of the Office of the Attorney General.

Sincerely,

A handwritten signature in black ink that reads "John G. Morgan". The signature is written in a cursive style with a long horizontal flourish at the end.

John G. Morgan
Comptroller of the Treasury

JGM/mdb
08/01

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Special Report

Tennessee Human Rights Commission

Review of Falsified Case Documents

August 2008

ORIGIN OF THE REVIEW

On July 13, 2007, Comptroller John Morgan and staff from the Division of State Audit met with Lieutenant Governor Ron Ramsey to discuss an issue related to the Tennessee Human Rights Commission (THRC). According to Lieutenant Governor Ramsey, one of his constituents had contacted him concerning an employment discrimination complaint she had filed with THRC. Her complaint had been assigned to Mr. Leonard Madu, an investigator with THRC. After being told by THRC that her complaint was without merit, she obtained a copy of her case file through a Freedom of Information Act request filed with the EEOC. The case file contained notes of telephone interviews that Mr. Madu claimed to have conducted with her witnesses. She was surprised to note that her witnesses did not support her claim. When she spoke with her witnesses, they told her that Mr. Madu had not contacted them.

We began our review of this issue in July 2007.

OBJECTIVES OF THE REVIEW

Our review had the following objectives:

- to determine whether Mr. Madu falsified phone call documentation related to the case noted above;
- to review work performed by THRC staff to determine whether phone call documentation had been falsified for Mr. Madu's other cases, as well as for cases assigned to other staff; and

- to refer the results of our review to the appropriate authorities.

SCOPE OF THE REVIEW

Our review included interviews with personnel from THRC as well as witnesses noted in the case file for Lieutenant Governor Ramsey's constituent. We reviewed relevant documentation related to the case, such as phone call documentation prepared by Mr. Madu and long-distance phone records for Mr. Madu's office phone. In addition, we reviewed documentation obtained through forensic analysis of the state computer used by Mr. Madu as well as his state GroupWise e-mail account.

RESULTS OF THE REVIEW

Based on presently available information, we determined that Mr. Madu did not make the phone calls to the witnesses in the case brought to our attention by Lieutenant Governor Ramsey. Further, Mr. Madu created paperwork to make it appear that he had made the calls, and he placed the misleading paperwork in the case file.

On August 7, 2007, Mr. Madu was placed on administrative leave by THRC and was given an Intent to Terminate letter. THRC officials gave him an option to resign before his termination became effective August 10. On August 9, Mr. Madu submitted his resignation letter, effective August 10. Mr. Madu's annual leave, which totaled 400.5 hours and was worth \$7,861.82, was forfeited under Section 8-50-807(d), *Tennessee Code Annotated*, because he resigned in lieu of termination for gross misconduct. His state employment record was coded "not eligible for rehire within state government."

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THRC undertook a review of all of Mr. Madu's 36 open cases at the time of his resignation, as well as a review of all 84 of his closed cases for the fiscal year ended June 30, 2007. The 36 open cases were reassigned to other investigators with instructions to verify complainant and witness contact and to report any abnormalities. One case contained falsified documentation related to a witness that was listed as having been contacted by Mr. Madu but was not. The witness was subsequently interviewed by THRC staff.

THRC's review of Mr. Madu's 84 closed cases found that 13 additional cases contained falsified documentation. In addition, for ten cases, THRC staff were unable to verify that witnesses had in fact been contacted for a variety of reasons: there was no witness list in the file; there was no complaint in the file; based on notes in the file, the complainant allegedly told Mr. Madu that they didn't want their witnesses to be contacted; based on notes in the file, Mr. Madu informed the complainant that the witnesses would not be contacted because they did not have any personal knowledge of the events; based on notes in the file and comparison of address information between the witness and the company against whom the complaint had been filed, Mr. Madu informed the complainant that the witness would not be contacted because the witness worked for the company against whom the complaint had been filed; or the witness contact

information was not valid when THRC staff tried to contact the witness because the witness was no longer at the number provided, and no forwarding information had been given. THRC staff found no issues with the notes in the files during their review.

For the 13 cases where falsified documentation was found, and for the 10 cases that could not be verified, THRC performed additional reviews and determined that the cases were either no cause or administrative closures. The cases that were dual-filed with the EEOC were reviewed and closed out by EEOC.

In addition to this examination of Mr. Madu's closed cases, THRC staff also reviewed 10 percent of all employment and housing cases closed during the period July 1, 2006, through June 30, 2007. The total number of cases reviewed was 56: 44 employment cases and 12 housing cases. THRC did not report any findings related to its review of cases closed by THRC investigators other than Mr. Madu.

The issues discussed in this report were referred to the Office of the District Attorney General, 20th Judicial District, and to the Law Enforcement and Special Prosecution Division of the Office of the Attorney General.

RECOMMENDATIONS

Our review resulted in six recommendations to THRC designed to facilitate better review of investigative work by management and to strengthen controls over case file documentation.

Tennessee Human Rights Commission

Review of Falsified Case Documents

August 2008

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Tennessee Human Rights Commission

Review of Falsified Case Documents

August 2008

INTRODUCTION

ORIGIN OF THE REVIEW

On July 13, 2007, Comptroller John Morgan and staff from the Division of State Audit met with Lieutenant Governor Ron Ramsey to discuss an issue related to the Tennessee Human Rights Commission (THRC). According to Lieutenant Governor Ramsey, one of his constituents had contacted him concerning an employment discrimination complaint she had filed with THRC. Her complaint had been assigned to Mr. Leonard Madu, an investigator with THRC. After being told by THRC that her complaint was without merit, she obtained a copy of her case file through a Freedom of Information Act request filed with the EEOC. The case file contained notes of telephone interviews that Mr. Madu claimed to have conducted with her witnesses. She was surprised to note that her witnesses did not support her claim. When she spoke with her witnesses, they told her that Mr. Madu had not contacted them.

We began our review of this issue in July 2007.

OBJECTIVES OF THE REVIEW

Our review had the following objectives:

- to determine whether Mr. Madu falsified phone call documentation related to the case noted above;
- to review work performed by THRC staff to determine whether phone call documentation had been falsified for Mr. Madu's other cases, as well as for cases assigned to other staff; and
- to refer the results of our review to the appropriate authorities.

SCOPE OF THE REVIEW

Our review included interviews with personnel from THRC as well as witnesses noted in the case file for Lieutenant Governor Ramsey's constituent. We reviewed relevant

documentation related to the case, such as phone call documentation prepared by Mr. Madu and long-distance phone records for Mr. Madu's office phone. In addition, we reviewed documentation obtained through forensic analysis of the computer used by Mr. Madu as well as his GroupWise e-mail account.

BACKGROUND

Section 4-21-202, *Tennessee Code Annotated*, grants authority for THRC to promote the creation of local human rights commissions and enter into working cooperative agreements with them; receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging civil rights violations; furnish technical assistance on request to help organizations further their compliance with civil rights laws; and to cooperate with the U.S. Equal Employment Opportunity Commission in its enforcement of the Civil Rights Act of 1964 and with the U.S. Department of Housing and Urban Development in its enforcement of the Fair Housing Act of 1968. Under Section 4-12-905, *Tennessee Code Annotated*, a person alleging discrimination by state agencies receiving federal funds may file a complaint with the state agency or with THRC.

THRC has 15 members appointed by the Governor, five from each of the three grand divisions of the state (East, Middle, and West). The members are to be appointed on a nonpartisan basis and be broadly representative of employees, proprietors, trade unions, religious groups, human rights groups, and the general public. Commissioners are appointed for six-year terms and may be reappointed. The members meet bimonthly.

Section 4-21-202(3), *Tennessee Code Annotated*, gives THRC the authority to appoint an Executive Director annually and set the Director's compensation, as well as to maintain offices in Shelby, Davidson, Knox, and Hamilton counties and other offices as necessary.

The central office is located in Nashville, with regional offices in Memphis, Chattanooga, and Knoxville. THRC has 12 full-time investigators and 14 other staff providing administrative and support services. Some investigators handle employment and housing cases, some handle employment and housing cases as well as mediations, and others handle only employment cases or only housing cases.

DETAILS OF THE REVIEW

OVERALL CONCLUSIONS

Based on presently available information, we determined that Mr. Madu did not make the phone calls to the witnesses in the case brought to our attention by Lieutenant Governor Ramsey. Further, Mr. Madu created paperwork to make it appear that he had made the calls, and he placed the misleading paperwork in the case file.

INFORMATION BROUGHT BY LIEUTENANT GOVERNOR RAMSEY

The issue was brought to us on July 13, 2007, by Lieutenant Governor Ron Ramsey. According to the allegation brought by one of Lieutenant Governor Ramsey's constituents, an employment investigator at Tennessee Human Rights Commission (THRC), Mr. Leonard Madu, had not contacted six witnesses in an employment discrimination case but had placed documents in the case file to make it appear that he did make the calls. According to documentation from the case file provided by Lieutenant Governor Ramsey, one of the calls took place on July 14, 2006; two other calls took place on September 25, 2006; and three other calls took place on October 6, 2006.

Based on a review of Mr. Madu's personnel file, we noted that he received a law degree from the University of Tennessee College of Law in June 1988. He began his employment as an investigator at THRC on November 1, 1993. Prior to his employment with THRC, Mr. Madu was employed by the Tennessee Department of Human Services as a disability claims examiner for three years.

INTERVIEWS WITH WITNESSES

Using phone numbers obtained from the case file as well as additional phone numbers provided by Lieutenant Governor Ramsey's office, we attempted to contact each of the six witnesses. We reached five of the six witnesses listed in the case file and interviewed them by phone. We were unable to reach the sixth witness. Each of the five witnesses we contacted stated verbally that he or she had never been contacted by Mr. Madu or by anyone at THRC. In addition, each of the five witnesses formalized his or her statements in writing and transmitted them to us by fax, mail, or both.

FIRST INTERVIEW WITH MR. MADU

We conducted our first interview with Mr. Madu on August 1, 2007, at our offices in Nashville. He stated that he made the calls and did not understand why someone would say he had not. When we told him that the witnesses had stated that he did not contact them, he said

that sometimes witnesses in discrimination cases would say that they had not spoken with investigators when in fact they had, particularly if they were unable to support the complainant. He stated that he prepared the documentation of the phone calls and would not have placed the phone call documentation in the file if he had not made the calls. Mr. Madu stated that, given the time lapse, he could not recall the specifics of the calls.

Mr. Madu stated that he was troubled on a personal level to understand the motivations of these individuals in saying that they did not talk to him because he took pride in his work, and he believed in the cause of human and civil rights. He stated that he did the best job he could because he cared about individuals' cases. He stated that he was not calling the witnesses liars, but they might have been remiss in their recollections of the conversations. He stated that the complainant never gave him any indications that her witnesses had not been contacted, and she never contacted the THRC office to state that her witnesses had not been contacted and she wanted reconsideration of her case. Mr. Madu stated that the closure letter sent to the complainant clearly stated that she could call the director within 30 days if she felt that her witnesses had not been contacted. We obtained a copy of the letter, which was dated January 9, 2007. Mr. Madu said that he wondered why she waited this long to bring her complaint forward.

We told Mr. Madu that we would be reviewing his phone records, and we asked if all the telephone interviews in question were placed from his office phone. He said that they were. He further stated that he welcomed the review of his phone records because it would prove that he had made the calls.

REVIEW OF PHONE RECORDS

Because the witnesses in the case were located in eastern Tennessee, we reviewed the long-distance phone records for Mr. Madu's Nashville office phone for the time period July 2006 through October 2006. We searched for phone numbers obtained from the witness list in the case file as well as for additional phone numbers provided by Lieutenant Governor Ramsey's office. Review of the long-distance phone records for Mr. Madu's office phone did not show any calls to any of the six individuals.

SECOND INTERVIEW WITH MR. MADU

We conducted a second interview with Mr. Madu on August 7, 2007, again at our Nashville office. When confronted with the absence of the phone calls from the long-distance phone records for his office phone, he admitted that he did not make the phone calls and that he put paperwork in the case file to make it appear that he did make the calls. He stated that he did not know why he did this. He stated that it was an "aberration" and it should not have happened. He stated that his actions were "outrageous, nauseating, and egregious." He stated that he did not intend to harm the complainant, and he had no malice toward her. He further stated that he had never done this on any other cases.

On August 7, Mr. Madu was placed on administrative leave by THRC and was given an Intent to Terminate letter. THRC officials gave him an option to resign before his termination became effective August 10. On August 9, Mr. Madu submitted his resignation letter, effective August 10. Mr. Madu's annual leave, which totaled 400.5 hours and was worth \$7,861.82, was forfeited under Section 8-50-807(d), *Tennessee Code Annotated*, because he resigned in lieu of termination for gross misconduct. His state employment record was coded "not eligible for rehire within state government."

The employment discrimination case in question, which was originally dual filed with EEOC, was referred to the EEOC Memphis office and is currently under review.

REVIEW OF STATE COMPUTER AND E-MAIL ACCOUNT

We performed a forensic review of the hard drive from Mr. Madu's state computer. Using a variety of keywords related to the case brought to us by Lieutenant Governor Ramsey, we searched Mr. Madu's hard drive for evidence of work on this case. We located a document titled "Evidence/Rationale Determination" that outlined the complaint, the respondent's position, jurisdiction, witness statements, a summary of available evidence, and the conclusion. In the section under witness statements, Mr. Madu wrote that the complainant's witnesses stated that they did not have any relevant information about the complainant's case. Mr. Madu lists five of the six witnesses shown on the paperwork in the case file provided by Lieutenant Governor Ramsey. The sixth witness is not listed. Mr. Madu also wrote that another witness declined because of a conflict of interest because she was a member of a selection committee. This witness was not included on the paperwork in the case file provided by Lieutenant Governor Ramsey.

During the review of Mr. Madu's hard drive, we also noted a large amount of material, including e-mails, conference materials, and articles, relating to Mr. Madu's work with human rights organizations in Africa. The materials listed Mr. Madu in various capacities as the president of an organization and as the coordinator for conferences and meetings.

WORK PERFORMED BY THRC STAFF

In response to the issue with Mr. Madu, THRC officials made the decision to undertake a review of all of Mr. Madu's 36 open cases at the time of his resignation, as well as a review of all 84 of his closed cases for the fiscal year ended June 30, 2007. In addition, a sample of closed cases for the other investigators was reviewed. THRC chose this time period because of the number of cases to review and the availability of staff to review the cases. The results of their review of Mr. Madu's closed cases and the sample of cases for the other investigators, including a description of the methodology used in conducting the review, are included in Exhibit A, "Summary of 2007 THRC Internal Audits," dated January 29, 2008. The results of their review of Mr. Madu's open cases are included in Exhibit B, "Summary of Findings on Open Cases," dated July 7, 2008.

THRC staff examined all 84 of the cases closed by Mr. Madu during the period July 1, 2006, through August 17, 2007. According to THRC's summary, 13 additional cases contained falsified documentation relating to interview records. No other types of falsified records were noted. In 12 of these cases, the claims had originally been denied (referred to as a finding of "no cause," which means that there was insufficient evidence that discrimination had occurred), and one case was an administrative closure (which means that it was dismissed for procedural reasons not based on findings of fact as to whether there had been discrimination, such as the complainant withdrew the complaint; the complainant failed to cooperate with the investigation; the complainant could not be located; or the allegations had already been disposed of in a duplicate charge filed with EEOC). In this particular case, based on notes in the file, the case was administratively closed because a case with the same allegations had been filed with and investigated by EEOC.

Eleven of the 13 cases had been dual-filed with EEOC. For a case to be dual-filed with EEOC, the employer in question must have 15 or more employees, the case must be timely, and the case must meet other criteria outlined in the Tennessee Human Rights Act as well as the EEOC Contracting Principles.

In addition, for ten cases, THRC staff were unable to verify that witnesses had in fact been contacted for a variety of reasons: there was no witness list in the file; there was no complaint in the file; based on notes in the file, the complainant allegedly told Mr. Madu that they didn't want their witnesses to be contacted; based on notes in the file, Mr. Madu informed the complainant that the witnesses would not be contacted because they did not have any personal knowledge of the events; based on notes in the file and comparison of address information between the witness and the company against whom the complaint had been filed, Mr. Madu informed the complainant that the witness would not be contacted because the witness worked for the company against whom the complaint had been filed; or the witness contact information was not valid when THRC staff tried to contact the witness because the witness was no longer at the number provided, and no forwarding information had been given. THRC staff found no issues with the notes in the files during their review.

The method of verification included review of telephone records of long-distance calls for witnesses who were not local to the Nashville calling area, and telephone calls to the witnesses, or the complainants themselves, if they were local to the Nashville calling area.

For the 13 cases where falsified documentation was found, and for the 10 cases that could not be verified, THRC performed additional reviews and determined that the cases were in fact either no cause or administrative closures. The cases that were dual-filed with the EEOC were reviewed and closed out by EEOC.

The 36 open cases were reassigned to other investigators with instructions to verify complainant and witness contact and to report any abnormalities. One case contained falsified documentation related to a witness that was listed as having been contacted by Mr. Madu but was not. The witness was subsequently interviewed by THRC staff.

During their review of Mr. Madu's open and closed cases, THRC noted no patterns of falsification based on employer, industry, race, age, or gender.

In addition to this examination of Mr. Madu's open and closed cases, THRC staff also reviewed 10 percent of all employment and housing cases closed during the period July 1, 2006, through June 30, 2007. The total number of cases reviewed was 56: 44 employment cases and 12 housing cases. The purpose of THRC's review was to ensure that the investigators were producing "a consistent, good quality product" and to assist THRC Executive Staff in determining "the strengths and weaknesses of the agency's operations." THRC's review focused on the efficiency and accuracy of the investigative process by paying special attention to case file organization and proper documentation. In conducting their review, THRC staff used an Internal Guidance checklist that was created in October 2007 by THRC's Deputy Director, with input from THRC's General Counsel, to identify and clarify the issues that needed to be reviewed with each. THRC's summary did not report any findings related to its review of cases closed by THRC investigators other than Mr. Madu.

MEASURES IMPLEMENTED BY THRC

According to THRC management, prior to the discovery of the issue with Mr. Madu, case files were reviewed by the investigator's supervisors (the Deputy Director and the Housing Director) as well as the Legal Department. The cases were reviewed to make sure that the file was in the proper order, there was proper documentation, there were minimal grammatical and typing errors, and the case was legally sufficient. Cases that fell under federal jurisdiction were also reviewed by staff from EEOC and HUD. THRC management stated that they depended on the honesty and integrity of their investigators, and they did not check behind the investigators for falsified work.

As a result of the issue with Mr. Madu, THRC expanded current practices and implemented new measures to lessen the likelihood that such an issue would happen in the future. Reviews of case files were expanded to include verification of witness contacts on a random basis. Investigators are now asked to sign a verification statement certifying they took specific actions on cases, including interviewing witnesses. A memo to remind investigators of their ethical obligations and to outline the new procedures was issued to investigators on August 13, 2007. A training session on September 9 that was scheduled before the improper actions of Mr. Madu arose was amended to include discussion of the concerns raised by the actions of Mr. Madu and the resulting new procedures.

In addition, THRC's standard operating procedures manual, which was under review prior to this incident, was also updated to reinforce the procedures to be used during the investigation of employment and housing complaints. Furthermore, a customer satisfaction survey has been developed to determine the level of customer service that THRC provides and also to aid in preventing and identifying any future issues with THRC staff during the course of an investigation. THRC has put a procedure in place where staff from THRC's communications division randomly contacts parties to a complaint to determine the overall level of service and to identify problems in the investigative process, including contacting individuals involved in cases.

REFERRAL

The issues discussed in this report were referred to the Office of the District Attorney General, 20th Judicial District, and to the Law Enforcement and Special Prosecution Division of the Office of the Attorney General.

RECOMMENDATIONS

Our review resulted in the following recommendations:

1. The Commission should ensure that witness contacts are verified on a random basis as per the newly expanded review of case files. All reviews and verifications should be adequately documented. Swift, appropriate action should be taken whenever any discrepancies are noted in the verification process. These actions should include taking all steps necessary to make a final determination of whether an investigator misrepresented information in the case file and, if so, taking prompt, appropriate personnel action and referring the matter to appropriate officials, including the Division of State Audit.
2. The Commission should establish other procedures, in writing, for additional effective, timely review of case files to identify any other inconsistencies or other indicators of problems and take appropriate, prompt action to resolve the problems.
3. The Commission should ensure that the new practice of asking investigators to sign a verification statement certifying they took specific actions on cases, including interviewing witnesses, is implemented. This statement should be included as part of the case file, and its existence should be verified during the review of the case file. Management should fully investigate any situations in which the statements are not signed.
4. The Commission should continue to remind investigators of their ethical obligations and the importance of their work.
5. The Commission members, and particularly the Audit Committee, should carefully review this report and the related internal audit report and take measures to ensure that top management has effectively identified and appropriately documented all risks related to the issues discussed in these reports, as well as any other risks of fraud, waste, or abuse facing the entity. Furthermore, they should review and, if satisfied with them, approve management's documented internal controls designed and implemented to mitigate all of these risks.
6. Since the Commission is ultimately making significant decisions about fundamental rights of Tennessee citizens based on the sufficiency of the information developed by Commission investigators, the Commission members should ensure that management is effectively reviewing case files and taking responsibility for the accuracy and completeness of the information presented to the Commission for their consideration. If the Commission members determine that management is failing to meet their responsibilities to the Commission and the individuals seeking assistance from the Commission, they should take all measures necessary to correct such situations.

EXHIBIT A



TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE
CORNERSTONE SQUARE BUILDING, SUITE 305
530 CHURCH STREET
NASHVILLE, TENNESSEE 37243-0745
(615) 741-5825 FAX (615) 253-1886
www.state.tn.us/humanrights

MEMORANDUM

TO: Melissa Boaz, Comptroller's Office
FROM: Beverly L. Watts, Executive Director
DATE: January 29, 2008
RE: Summary of 2007 THRC Internal Audits

The following is an explanation of the process used by the THRC to conduct an internal audit in response to the Comptroller's special investigation of a complaint processed by one of our (THRC) investigators. THRC General Counsel along with other legal staff conducted a review of all cases regarding this investigator to determine whether witnesses were contacted in all of the investigations. This process is described in number 1 below.

At your request, we provided you information regarding our audit of all of the other employment investigators. It was and is the policy of THRC to conduct an annual audit of investigations in employment and housing.

The information under item 2* below outlines that process. Please note this review was not a 100% review but the annual random sample audit. This review was more comprehensive and based on the attached internal audit guidance. This process, as is noted below, is in addition to our ongoing monthly review of every case prior to closure. We are continuing to review and adjust all of our procedures on an ongoing basis

1. Internal Audit of Investigator #1's Cases

Purpose of Audit: To determine if there was sufficient witness contact by the investigator (identified by the comptroller's office); therefore, the audit was limited to this issue. This audit was conducted in response to a request by State Audit's Special Investigations Section.

Audit covered: All of the investigator's cases closed from July 1, 2006 to August 17, 2007.

Number of cases reviewed: 84

Process:

Legal reviewed each case and divided the cases into two categories:

EXHIBIT A (Cont.)

- 1) Cases in which it appeared witnesses were not contacted or witness interviews were not documented by the Investigator in sufficient detail, and
- 2) Cases which contained witness statements submitted by the witnesses, witness interviews were documented with sufficient detail, or no witnesses were identified by the Complainant. If there were any questionable entries in a case, it would fall into the first category.

The cases which were determined to be in the first category were then each verified by Legal. Verification was done by using telephone records (for long distance witnesses), and for local witnesses, telephone calls were made to the witnesses themselves or the complainants. Not all witnesses or complainants returned telephone calls, 13 were falsified and we were unable to verify 10 other cases.

2. Internal Audit of All Investigators' Cases

Purpose of Audit: To ensure that the investigators are producing a consistent, good quality product and to assist Executive Staff in determining the strengths and weaknesses of the agency's operations. This audit was more extensive than the special investigation audit because the cases were being reviewed as a whole versus a specific issue.

This annual audit was conducted in the normal course of business. Periodic audits are also conducted throughout the fiscal year by the Housing Director and the Compliance Officer. In accordance with procedures that were later implemented in Section 5.6 of the agency's Standard Operating Procedures, this audit focused on the efficiency and accuracy of the investigative process by paying special attention to case file organization and proper documentation.

Audit covered: Ten percent (10%) of employment and housing cases closed between July 1, 2006, through June 30, 2007.

Number of cases reviewed: Employment: 44 cases were audited. Housing: 12 cases were audited.

Process: An IMS case printout was used, and cases were pulled randomly - essentially by pulling every 9-10th case. Cases were also audited based on the percentage of cases closed by each investigator, so more files were audited for investigators who closed out more cases for the fiscal year.

An Internal Guidance checklist was used to identify and clarify the issues that needed to be reviewed with each case. This checklist is based on the issues which are required by HUD and EEOC, and are considered legally sufficient to process. Additionally, the items on the checklist were ones that are consistently reviewed with the investigators, on an ongoing basis, especially during trainings, monthly discussions and prior to closure.

In response to your special investigation, THRC has emphasized existing policies and explained fraud and the penalty to all investigators in a September 2007 training session and memo.

Please feel free to contact me if you need additional information and clarification on the above information.

COPIES FOR LEGISLATIVE FILE

{ATTACHMENT 3}

COMPLAINT PROCESSING – 90 day timeline

CASE NAME:

CASE NUMBER:

INVESTIGATOR:

FILING DATE:

	Action	Date Action Completed	Supervisor's Initials
Day 1	90 Day Clock starts – TEAPOTS Date Received		
Day 1-5	Date Investigator receives case		
Day 6-9	Investigator conducts initial interview w/Complainant(s)		
Commence Investigation Day 9-20	Prepare preliminary investigative plan & discuss with supervisor		
	Identify Complainant(s) witnesses		
	70 th day anticipated case closure will be:		
	Insert anticipated 70 th day closure in supplemental check list:		
	Assess data needs and documentary evidence		
	Define comparable or similarly situated persons		
	Determine if onsite is needed: Yes or No		
	Develop Interview questions for Complainant(s)		
	Develop Interview questions for Respondent(s)		
	Prepare & mail Data Request letter to Complainant(s)/certified mail		
	HUD 903 sent to Complainant(s)		
	Prepare & mail Data Request letter to Respondent(s)/certified mail		
	Receive Respondent(s) position statement		
	Investigator conducts preliminary interview with Respondent(s)/Attorney		
	Investigators conducts		

EXHIBIT A (Cont.)

	conciliation discussions with Respondent(s)		
	HUD 903 Form Received from Complainant(s)		
	On-Site notification letter to Complainant(s)/certified mail		
	On-site notification letter to Respondent(s)/certified mail		
	Insert Revised Investigative Plan		
Day 20	Supervisory Meeting with Investigator		
Day 21-37	Interview & Discuss conciliation Complainant(s)		
	Interview Complainant(s) witnesses		
	Interview & Discuss conciliation w/Respondent(s)		
	Interview Respondent(s) witnesses		
	Interview Other witnesses		
	Obtain other evidence		
	Amend Complaint (if necessary)		
Day 37	Supervisory Meeting with Investigator		
Day 37-53	Gather any needed remaining documents/evidence		
	Complete final interviews with Complainant(s) and Respondent(s)		
	Insert Final Investigative Plan		
	Commence writing the FIR and Determination		
Day 53-62	Housing Director Reviews Case		
Day 60	60 day narrative		
Day 63 BUBBLE CASE	Case returned to Investigator with comments/corrections from Housing Director		
	Supervisory Meeting with Investigator		
Day 63-70	Corrections made by Investigator.		
Day 70	First Case Submission		
Day 70-75	Case forwarded to Legal for review		
Day 75-80	Housing Director notified of changes, etc., by Legal		
Day 80-85	Legal concurs/Investigator makes revisions/Close case in TEAPOTS		
Day 85-88	Legal non-concurrence with recommendation/2 nd review requested		

EXHIBIT A (Cont.)

	Supervisory Meeting with Investigator		
	Investigator makes corrections per Legal Memorandum		
Day 88-90	Resubmit to Legal – 3 rd review (if applicable)		
Day 90	Case returned to Housing Director		
<u>CRITICAL PHASE</u> Day 90 plus days	Legal concurs with Recommendation		
	Narrative Required from Investigator		
	Investigator makes corrections per Legal Memorandum		
	Close case in TEAPOTS Closure letters signed and mailed to parties to case		

{ATTACHMENT 4}

HOUSING CASE SUPPLEMENTAL CHECKLIST

1. Was the case reviewed for jurisdictional elements upon receipt?

Yes _____ No _____

2. Was interview with complaint(s) conducted within 3 working days?

Yes _____ No _____

3. Was the jurisdiction tabs in TEAPOTS checked to ensure that the date FHAP received case entry was filled in?

Yes _____ No _____

4. Have you completed the date regarding when the signed 903 was received to ensure that the "notarized" section in "FHAP" Date referral is accurate?

Yes _____ No _____

5. Did you present the housing director with a hard-copy of your preliminary investigative plan before beginning the investigation?

Yes _____ No _____

6. Did you discuss whether or not an on-site is needed with the housing director within five (5) working days of completing your preliminary investigative plan?

Yes _____ No _____

7. Were acceptance letters and notification and request for information and documents prepared and mailed by certified mail to complainant(s) and respondent(s), respectively within three (3) working days of receipt of complaint?

Yes _____ No _____ **Acceptance Letter sent to the Complainant on _____.**

Notification sent to the Respondent _____.

8. Have you identified when the 70th day for your case to be submitted to the housing director occurs on the calendar?

Yes _____ No _____ **The Day is _____.**

9. Did you monitor this case weekly?

EXHIBIT A (Cont.)

Yes _____ No _____

10. Did you use the correct format when putting your file together?

Yes _____ No _____

11. Did you conduct a property search?

Yes _____ No _____

12. Were there unanticipated/uncontrollable delays that impacted your investigation of this case? If so, explain on a separate sheet and attach to this checklist.

Yes _____ No _____

13. Do you believe this case is novel, complex or systemic?

Yes _____ No _____

14. Did you include the age of this case in the chronology of events when submitted to the housing director?

Yes _____ No _____

15. Were all the witnesses interviewed related to the case? If not, why not?

Yes _____ No _____

16. Were all the respondents to the case identified? If not, why not?

Yes _____ No _____

17. Was conciliation and/or mediation or settlement agreement offered in this case?

Yes _____ No _____

18. Did you give the complainant and respondent an opportunity to rebut the each other's position before submitting the case to the housing director for closure? If not, why not?

Yes _____ No _____

19. Did you require any assistance from the housing director and/or general counsel to aid the investigative process? If yes, explain the extent of the assistance needed.

Yes _____ No _____

20. Did you notify the housing director by e-mail that the case was completed in TEAPOTS and ready for review within one (1) day of completing the investigation?

EXHIBIT A (Cont.)

Yes _____ No _____

21. Was this case returned for additional work by the housing director and/or the general counsel?

Yes _____ No _____

22. Was the additional work completed and returned to the housing director and/or the general counsel within 10 workdays? If not, why not?

Yes _____ No _____

23. Did you prepare a closure letter, (not required for recommended Reasonable Cause cases), for review by housing director and transmittal to the general counsel at the same that the case was submitted for closure?

Yes _____ No _____

24. Without regard to the 90-days provided for investigating cases in this agency, do you believe that you investigated and closed this case as quickly as possible?

25. If narrative is required due to 100th day?

Yes _____ No _____ Please provide narrative:

INVESTIGATOR SIGNATURE

DATE

FIRST SUBMISSION DATE: _____

2ND SUBMISSION DATE: _____

3RD SUBMISSION DATE: _____

115 Day Investigative Case Processing Checklist

Investigator's Initials: _____

THRC# _____
 EEOC # _____

CP _____
 RP _____

<u>DAYS</u>	<u>PROCESS</u>	<u>DATE</u>
Days 1-5	Investigator receives cases	_____
	Case Review	_____
	Prepares Investigative Plan (Including Process)	_____
	Acknowledgement letter sent (Include Investigators Business Card)	_____
	Define Comparables or similarly situated persons	_____
Days 6-13	Investigator conducts initial interview with CP	_____
	Position Statement discussed	_____
	Investigator conducts interview with RP/Attorney	_____
	Witness Letters sent	_____
	Investigator's Meeting with Deputy and Legal to discuss cases	_____
Days 14-30	Request Personnel Files	_____
	Request Additional Information	_____
	Interview Witnesses	_____
	E-Mail Investigator's log to Deputy Director	_____
Days 31- 60	Review information received from CP and RP	_____
	Conduct follow up interview with CP	_____
	Prepare for on-site, if necessary	_____
	Assess information (Analyze Evidence)	_____
	Supervisory Meeting with Investigator	_____

EXHIBIT A (Cont.)

Days 61-80	Conduct pre-determination interview/or send letter Write ER Review files to ensure: All contents are inside Both files are tabbed Proof read the Rationale	_____ _____ _____
Days 80-83	Submit/mail case for closure and review	_____
Day 84	Case received, reviewed and coded by Compliance Officer	_____
Days 86-100	Case in Legal for review	_____
Days 101-103	Cases sent back for corrections and Update IMS (e-mail preferably)	_____
Days 103-106	Corrections made and resubmitted to legal	_____
Days 107-110	Legal approves case and sends to Compliance Officer	_____
Days 111-115	Determination Letters signed/mailed and submits for Closure	_____
Days 115	Case closed and sent to EEOC	_____

EXHIBIT A (Cont.)



TENNESSEE HUMAN RIGHTS COMMISSION
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NASHVILLE, TENNESSEE 37243-0745
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www.state.tn.us/humanrights

MEMORANDUM

TO: Intake & Employment Investigators
FROM: Tiffany Baker Cox, Deputy Director
DATE: August 13, 2007
RE: Case file integrity and ethical concerns

The purpose of this memo is to reinforce THRC training and procedures governing interviewing procedures and the maintenance of case files.

Pursuant to the Tennessee Human Rights Act, the Tennessee Human Rights Commission is charged with the responsibility of safeguarding all individuals in the state from discrimination in employment, public accommodations and housing. Tenn. Code Ann. §4-21-101(3). We are often a person's last defense against illegal discrimination and we are sought out to conduct impartial, thorough and honest investigations.

It is imperative that we interview every relevant witness that a complainant names during the course of investigating a complaint. Investigators should discuss a complainant's witness list with the complainant during the initial interview to determine relevance. If it is determined that a witness is irrelevant (ex: a complainant's mother offered as character witness and who has no first hand knowledge of the respondent's alleged discriminatory conduct) then that should be explained to the complainant so they understand why you will not be interviewing that witness. All of this should be documented in the complainant's interview notes form and explained in the rationale.

Again, the proper and complete documentation of case files is of the utmost importance. Not only for internal THRC purposes but also because all case files are subject to review by EEOC and by courts of law. It is equally important that you also remember that THRC case files are not only official State of Tennessee documents but any dual filed case is also an official federal document as well. Inappropriate maintenance of your case files can have serious consequences both at the state and federal level.

Along those lines, all chronology logs, interview notes and rationales must be accurate, legible, and free of typographical and grammatical errors. Furthermore, the date and a brief description of every action taken during the investigation of a case should be documented in the Case Chronology Log and in IMS. It is important to document your

EXHIBIT A (Cont.)

actions in both places because unlike the actual case file that is in an individual investigator's possession, many people have access to IMS. Therefore, if you are absent from the office and someone needs to know what has occurred in one of your cases they can simply access the case through IMS and quickly find the answer to their question.

Additionally, every interview conducted during the course of an investigation must be documented on an Interview Notes Form. These interview notes should impart the substance of an interview with a complainant, respondent or witness. They may be in question/answer or in paragraph form, whichever the individual investigator feels comfortable with. However, regardless of the format of the interview, it is imperative that the reviewer be able to read the interview notes and understand exactly what was discussed during the interview.

Therefore, in an effort to establish quality control measures we will be requiring all intake officers and investigators to verify the accuracy of their chronology logs and interview notes. The templates of these documents will be amended to provide for the investigator's signature and placed on the H drive by the end of the day. Please save a copy of these new documents to your own drive and use them from this day forward. Additionally, each month, Compliance will randomly select files from each investigator to verify witness contact and ascertain overall quality of service. Through implementing these measures we hope to generate an improved work product and better serve the public.

Should you have any questions about this memorandum please feel free to see me.

EXHIBIT A (Cont.)

THRC Employment Division Training
September 6, 2007
8:00 a.m. – 4:30 p.m.

8:00-8:30	Continental Breakfast/Sign in
8:30-8:45	Opening Tiffany Cox, Deputy Beverly Watts, Executive Director
8:45-9:45	Records Management/Evidentiary Concerns Pat Ladd, Paralegal
9:45-10:45	EEOC Feedback Paulette Wilson, State and Local Coordinator Audrey Bonner, Supervisory Investigator
10:45-11:00	BREAK
11:00-12:00	Jurisdictional and Confidentiality Issues Shay Rose, General Counsel
12:00-1:00	LUNCH
1:00-3:00	Overview of New Employment Procedures Manual Tiffany Cox, Deputy
3:00-3:15	BREAK
3:15-4:00	Interviewing Techniques Tiffany Cox, Deputy
4:00-4:30	Miscellaneous/Question & Answer Tiffany Cox, Deputy Shay Rose, General Counsel

EXHIBIT A (Cont.)
Internal Audit – Guidance

1. Case Processing
 - a. Employment Cases
 - i. Should follow the 115-day investigative timeline
 - b. Housing Cases
 - i. Should be following the 90-days case processing checklist
 - c. The timelines are filled out and the dates correspond to the log & correspondence?
2. Review the following:
 - a. Complaint – is the Complaint Signed? Timely?
 - b. Interviews with the parties and witnesses
 - i. Was the Complainant interviewed in detail? There should be more than one interview – initial interview, rebuttal interview, pre-determination interview (rebuttal and PDI can be done together if necessary).
 - ii. Was the CP given the opportunity to rebut the RP's position (pretext)?
 - iii. Was the RP given the opportunity to rebut the CP's showing of pretext?
 - iv. Are the interviews noted in sufficient detail on the proper interview forms?
 - v. Were all of the relevant witnesses contacted, and if not, is there documentation indicating the reason for not being contacted? Is it an acceptable reason?
 - vi. If witness statements were submitted, were they verified (either by calling the witness or notarized or in affidavit form)?
 - vii. Were the witnesses asked questions that are relevant to the investigation or were the witnesses asked Legal conclusions?
 - c. Notice of Determination or Administrative Closure
 - i. Are the CP and RP named properly in the Notice of Determination?
 - ii. Do the subject/verbs/pronouns agree?
 - iii. Are the options correct if it is a no-cause determination (3 options for dual-filed, 2 for THRC only)?
 - iv. Correct Font/Font size/Letterhead?
3. Organization/Presentation of the file:
 - a. Are checklists and logs legibly filled out, completed and accurate (dates correspond with other dates in the file – such as interview memos, etc.)?
 - b. Are all documents signed and dated?
 - c. Are all the documents securely placed in the file under the correct tab?
 - d. Is the log on the left, inside front cover?
 - e. Are assignment and receipt dates noted in the log (by Intake, Deputy, Investigator, Legal, etc.)?
 - f. Are documents date-stamped and those dates entered into the log?
 - g. There are no typos/misspellings in the rationale, NOD and correspondence to parties?
 - h. Font and font size are consistent?
 - i. Are the documents in order – aka there are no misplaced documents (from another case file) or incorrectly placed documents (backwards or upside down)?
 - j. If case is in litigation, is the file noted as such for records management purposes?
 - k. Case Review Checklist filled out by investigator, compliance officer, and Legal (when necessary)?
 - l. Right to Sue in file (employment cases)?

EXHIBIT A (Cont.)



STATE OF TENNESSEE
HUMAN RIGHTS COMMISSION
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530 Church Street
Nashville, TN 37243-0745
(615) 741-5825 Fax (615) 253-1886
www.state.tn.us/humanrights

INTEROFFICE MEMORADUM

To: Director Watts
From: Shay V. Rose, Esq.
Date: September 4, 2007
RE: Regarding Auditing Employment and Housing Files (FY 2006-07)

This memo is in response to your request that Legal get back to you a proposal with regard to internally auditing Employment and Housing Files (FY 2006-07).

A breakdown of the employment and housing cases closed last fiscal year:

Employment - Cases Closed: Total 529	Housing - Cases Closed: Total 107
1. Investigator #2 - 83	1. Investigator #13 - 34
2. Investigator #1 - 78	2. Investigator #12 - 26
3. Investigator #3 - 66	3. Investigator #10 - 19
4. Investigator #4 - 49	4. Investigator #3 - 14
5. Investigator #5 - 45	5. Investigator #14 - 8
6. Investigator #6 - 41	6. Investigator #15 - 6
7. Investigator #7 - 38	
8. Investigator #8 - 34	
9. Investigator #9 - 23	
10. Investigator #10 - 18	
11. Investigator #11 - 18	
12. Investigator #12 - 36 (mediations)	

EXHIBIT A (Cont.)

Legal proposes that it conduct an internal audit based on the proportion of cases closed out by each investigator as follows:

Employment - Number of cases to be audited:	Housing - Number of cases to be audited:
52 cases (approximately 10%)	13 cases (approximately 10%).
1. Investigator#2 - 9	1. Investigator #13 - 4
2. Investigator#1 - 8 (already audited)	2. Investigator #12 - 3
3. Investigator #3 - 7	3. Investigator #10 - 2
4. Investigator #4 - 5	4. Investigator #3 - 2
5. Investigator #5 - 5	5. Investigator #14 - 1
6. Investigator #6 - 4	6. Investigator #15 - 1
7. Investigator #7 - 4	
8. Investigator #8 - 4	
9. Investigator #9 - 2	
10. Investigator #10 - 2	
11. Investigator #11 - 2	
12. Investigator #12 - 0 - all settlements	

PROPOSED COMPLETION DATE:

Legal can begin auditing 65 cases as soon as possible and no later than October 15, 2007. While you indicated that you prefer have this internal audit completed by the end of September, Legal has some hurdles that might prevent us from finishing this before the end of the month, but we will definitely try to do so.

- We have to close out 55 employment cases by September 30;
- We have to close out at least 5 housing cases which are aging;
- We have to close out at least 3 reconsiderations which are time-sensitive;
- Shay will be in Atlanta the third week of September (from Sept 15-21);
- Hard copies of housing cases must be shipped to Nashville from Knoxville and that process will probably take 3-5 days.

EXHIBIT A (Cont.)



STATE OF TENNESSEE
HUMAN RIGHTS COMMISSION
CENTRAL OFFICE
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Phone 615/741-5825 Fax 615/532-2197

INTEROFFICE MEMORADUM

TO: Beverly L. Watts, Executive Director
FROM: Shay V. Rose, THRC General Counsel
DATE: October 29, 2007
RE: Internal Audit Results

Sent by hardcopy and via e-mail.

**THRC INTERNAL AUDIT
OCTOBER 2007**

PROCEDURE

Legal audited approximately 10% of cases closed by THRC from July 1, 2006 through June 30, 2007. A case printout was used, and cases were pulled randomly - essentially by pulling every 10th case. Cases were also audited based on the percentage of cases closed by each investigator, so more files were audited for investigators who closed out more cases for the fiscal year.

In employment, 44 cases were audited (11 investigators, but Investigator #1's cases were not reaudited).

In housing, 12 cases were audited (6 investigators). Noted below are some problem areas as well as the number of cases in which these issues were found.

Please let me know if you have any questions or if you would like more information.

EXHIBIT A (Cont.)

OBSERVATIONS

Employment Cases: 44 case files audited.

Observation	Number of Cases Affected
1. Loose documents in file [not secured]: Such as Right to Sue, Notice of Determination, Case Review Checklist, Copy request documents; Two files were completely unsecured (investigative case was combined with base file, but not put in proper order).	36
2. Notice of Determination (NOD) Issues: Such as: <ul style="list-style-type: none"> • Parties (especially Respondent) are not identified properly • Addresses are incorrect • Font size too small: less than 10 pt font • Used incorrect pronoun ("he" instead of "she") • Duplicate copies of NOD in file • NOD stamped sloppy - with regard to date & signature stamps 	27
3. Case review checklist not filled out by Compliance Officer	25 (4 files did not have Case review checklist)
4. Chronology Log Issues: Such as <ul style="list-style-type: none"> • Not used at all by the Investigator or used very little (incomplete) • Entries are cryptic (uses abbreviations that are unknown)/illegible • There are entries in the log regarding interviews done but no interview memos in the file and vice versa (there are interview memos in the file, but no entry in the log). 	18
5. Unsigned Correspondence: Letters in file is not signed with regard to letters from Intake or by the Investigator	17
6. No 115-day timeline in the file	14
7. No Right to Sue Letter in the file	12
8. No documentation in file regarding interviews with a party (or both parties) or witnesses (Such as no documentation of initial interview, no rebuttal interview, no PDI interview - impossible to determine if one was conducted).	12
9. No Case Review Checklist	10
10. No evidence that the file was given to Legal (no assignment on Case Review Log) for review especially with regard to Administrative Closures/No evidence that Legal reviewed the file.	9
11. Improper Tabbing: Documents in the file are not under the correct tab (this occurred most with regard to placement of interviews with the CP, however it also occurred with regard to separating exhibits which were filed with the position statement - these exhibits should be under the same tab as the position statement, not separated.)	9
12. Case idle of over 3 months (according to the Chrono Log)	5
13. Interviews are not in sufficient detail - very basic	5

EXHIBIT A (Cont.)

14. Complaint issues:	4
• Possibly nonjurisdictional (untimely)	
• Complaint signed on October 2005 but date stamped December 2005	
15. No witness list in file (don't know if one wasn't submitted with the complaint or went missing thereafter)	3
16. Misplaced Documents: There are documents in the file which are unrelated to the case at hand	3
17. Use of different fonts or font sizes within the same document	2
18. NOD was returned to the agency but no attempt was made to verify the address to resend	2
19. Case investigated in less than 1 month	1
20. Investigative Plan incomplete	1

Housing Cases: 12 case files audited

Observation	Number of Cases Affected
1. Loose documents in file [not secured] (one over 200 pages, another over 50): such as NOD, Teapots printout of case, memos.	5
2. Letters/Correspondence not signed by investigator	3
3. No 90-Day timeline	2
4. No Case Supplemental Checklist	2
5. Documents in the file which are not appropriate to be in file (Ex. Letter from HUD regarding payment of several cases (raises confidentiality issues))	2
6. Signed HUD 903 is not in the file	1
7. Excess copies of Notice of Determinations in file	1
8. No Notice of Determination	1
9. Unsigned Notice of Determination	1
10. No Table of Contents	1
11. Tabs not correct	1

EXHIBIT A (Cont.)



STATE OF TENNESSEE
HUMAN RIGHTS COMMISSION

INTEROFFICE MEMORADUM

To: Beverly L. Watts, Director
From: Shay V. Rose, General Counsel
CC: Tiffany Baker Cox, Deputy Director
Date: August 23, 2007
RE: Audit of Investigator #1's closed files from July 1, 2006 to August 17, 2007

Attached is a report done by the Legal department which outlines our findings in cases closed by Investigator #1 from July 1, 2006 to August 17, 2007. The report was run through August 17, 2007, even though Investigator #1 was no longer at the agency. It appears that the last case closed with the agency occurred on July 27, 2007. For this period, Investigator #1 closed out 84 cases.

Thirteen of Investigator #1's closed files in this period did not correspond with phone records as well as follow-up calls made to witnesses by Legal. Ten of Investigator #1's files were questionable; however for various reasons, Legal was unable to verify whether the witnesses were contacted in those cases. These reasons include the following: there was no witness list in the copy file; there was not a complaint in the copy file; the Complainant allegedly told Investigator #1 that they didn't want their witnesses to be contacted; Investigator #1 informed the Complainant that the witnesses wouldn't be contacted because they did not have any personal knowledge of the events or because they worked for the Respondent, and the witness contact information was not valid.

Essentially, 15% of Investigator #1's files appear to have been falsified. If the ten files which we were unable to verify are included in the calculation, then the percentage increases to 27%.

- 84 Number of Cases Audited
- 13 Number of Cases where it appears Witnesses were not contacted, but Memo to file indicates otherwise
- 10 Cases where we were unable to verify witness contact for various reasons

Cases where it appears Witnesses were not contacted, but *** Memo to file indicates witnesses were contacted (13 cases)**

THRC No.	Case Name	Case Closed	Witness Number	What witness said	What Investigator said in file
516A	Complainant v. Respondent (redacted)	27-Sep-06	***.*	*** called Witness - has a vague memory of talking to someone about CP, long time ago	Interview dated 8/23/06 - Witness stated that CP was a good person who treated everybody well. He state that he never had any problems with CP. He states that he did not know why CP was discharged.
			.*	wont be in until after 6 pm	Interview note 8/23/06: she has been retired for over 5 years and so does not know what was going on with CPs job. Does not know anything to be a witness.
			.*	not home, call back late in evening	Interview note 8/23/06: she was discharged in March that year, she does not know what happened with his job, but stated that he was a good person. She stated that the supervisor did not treat black people well. Since she was not at work when CP was discharged she could not speak on the reason why he was discharged.
			.*	not home	Interview note 8/23/06: retired since 10 to 12 years, so does not know what happened with CP. She just knows that they didn't treat people right. She could not be a reliable witness since she was not working at the center when CP was discharged.
			.*	did not call - no contact noted in file	Nothing documented by Investigator in file
285A	Complainant v. Respondent (redacted)	9-Jan-07		*** did not call any of the witnesses in this case because it was our impression that this had already been done. did check the long distance call log and did not find any charges that correspond with the witness contacts documented in the file.	

15

EXHIBIT A (Cont.)

THRC No.	Case Name	Case Closed	Witness Number	What witness said	What Investigator said in file
516A	Complainant v. Respondent (redacted)	11-Jan-07	***_*	He had asked CP to put him down as a witness but does not recall ever having been contacted by anyone about the case	Interview dated 12/5 states witness knew CP but did not work with him and did not know what transpired at CP's workplace
			_*	remembers someone contacting him about case- he asked a few questions but he felt he did not ask the right questions	He was not there when CP was terminated and was not in a position to state if it was due to his age or race.
			_*	Does not recall anyone having contacted him about the case, it was last year, he may have just forgot, but he doesn't remember being interviewed.	Interview notes: he held the position that Cp was applying for He stated that when he resigned from the company he recommended CP for position, he does nto know why CP was not given the position.
			_*	Does not recall anyone having contacted him about the case- did not appear to have any knowledge that there was a charge filed.	Interview dated 12/5 states witness knew CP but did not work with him and did not know what transpired at CP's workplace
			_*	work #, no longer works there	Interview dated 12/5 states witness knew CP but did not work with him and did not know what transpired at CP's workplace
			_*	no longer works there, could not confirm if interviewed.	Nothing documented by Investigator in file.
316A	Complainant v. Respondent (redacted)	11-Jan-07	***__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
156A	Complainant v. Respondent (redacted)	29-Jan-07	***__****	Number does not appear on long distance phone records	Memo in file: Investigator stated this witness has no relevant information.
			__****	Number does not appear on long distance phone records	Memo in file: Investigator stated this witness has no relevant information.
			__****	Number does not appear on long distance phone records	Memo in file: Investigator stated this witness has no relevant information.
396A	Complainant v. Respondent (redacted)	29-Jan-07	***__****	**** left voice mail message; Has not called back.	Memo in file. Investigator stated this witness has no relevant information.
			__**** OR ***_***_****	**** called - Witness stated that no one from THRC contacted him.	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.

EXHIBIT A (Cont.)

THRC No.	Case Name	Case Closed	Witness Number	What witness said	What Investigator said in file
806A	Complainant v. Respondent (redacted)	20-Mar-07	***__****	Number does not appear on long distance phone records	Memo in file: Investigator stated witness was busy and will call him back, witness never returned his call.
			__****	Number does not appear on long distance phone records	Memo in file: Investigator stated witness was busy and will call him back, witness never returned his call.
906A	Complainant v. Respondent (redacted)	21-Jun-07	***__****	Number appears on phone records	In Memo, Investigator noted on 2/7, noone by this name lives there.
			__****	Number appears on phone records	In Memo, Investigator noted on 2/7, witness does not know anything about the case.
			__****	Number appears on phone records	Nothing documented by Investigator.
			__****	Number appears on phone records	In Memo, Investigator noted on 2/7, witness has moved to Germany.
			__****	Number appears on phone records	Nothing documented by Investigator.
			__****	Number appears on phone records	In Memo, Investigator noted on 2/7, witness cannot hear or talk so there is no point in talking to him.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
			__****	Number does not appear on long distance phone records	Nothing documented by Investigator in file.
627A	Complainant v. Respondent (redacted)	26-Jun-07	***__****	Number does appear on long distance phone records	In Memo, Investigator noted that Witness stated he did not want to get involved, that he does not know anything to witness to.
			__****	**** left voice mail message for witness. Has not called back.	In Memo, Investigator noted that Witness stated he does not know anything about the case so he cannot be a witness.
			__****	**** left message with person who answered phone for witness to call me back. Has not called back.	In Memo, Investigator noted that Witness stated she does not want to be a witness because she needs her job.

EXHIBIT A (Cont.)

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THRC No.	Case Name	Case Closed	Witness Number	What witness said	What Investigator said in file
767A	Complainant v. Respondent (redacted)	6-Jul-07	***__****	**** spoke with Witness - she was never contacted.	Did not note anything in Chrono Log or under Witness Tab
THRC Only			***_***_****	Works for RP; **** spoke with Witness. She was contacted.	Noted in Chrono Log and Witness Tab: Interviewed - She does not want to be a witness
			__****	worked for RP; no longer works there. Was unable to confirm contact.	Noted in Chrono Log and Witness Tab: Interviewed - She does not want to be a witness
			__****	**** left voice mail message for witness. Has not called back.	Noted in Chrono Log and Witness Tab: Interviewed - She does not want to be a witness
507A	Complainant v. Respondent (redacted)	17-Jul-07	***__****	Number does not appear on long distance phone records	Investigator noted in Chrono Log: Tried to call [witnesses] but phone does not belong to them.
THRC Only			***_***_****	Number does not appear on long distance phone records	Investigator noted in Chrono Log: Tried to call [witnesses] but phone does not belong to them.
			__****	Number does not appear on long distance phone records	Investigator noted in Chrono Log: Tried to call [witnesses] but phone does not belong to them.
627A	Complainant v. Respondent (redacted)	25-Jul-07	***__****	Number appears on long distance phone records, but on 6/6.	In Memo, Investigator noted on 5/30, he called witness. Detailed statement.
			__****	Number appears on long distance phone records, but on 6/6.	In Memo, Investigator noted on 5/16, he called witness. Witness said she did not have good first hand knowledge of what happened and couldn't be a good witness.
			__****		In Memo, Investigator noted on 5/30, he called witness. Witness said she does not know anything about the case, just gossip.
807A	Complainant v. Respondent (redacted)	27-Jul-07	***__****	Number does not appear on long distance phone records	In Chrono Log, Investigator stated he left messages for 3 witnesses to call him back - in April, May, and June.
			__****	Number does not appear on long distance phone records	In Chrono Log, Investigator stated he left messages for 3 witnesses to call him back - in April, May, and June.
			__****	Number does not appear on long distance phone records	In Chrono Log, Investigator stated he left messages for 3 witnesses to call him back - in April, May, and June.

Cases where we were unable to verify witness contact for reasons as noted (10 Cases)					
***256A	Complainant v. Respondent (redacted)	17-Jul-06		interview w/CP 6/13/06 states: investigator asked CP if any of her witnesses worked at the company or were part of the selection process, or had any first hand knowledge of her case. she stated no. investigator told CP that since her witnesses do not have first hand information about the case, they would not be interviewed. she agreed.	
***586A	Complainant v. Respondent (redacted)	20-Dec-06		note to file dated 11/30/03 (?) CP asked investigator not to call her witnesses after discussing case with investigator she feels that it will not be helpful to interview them.	
***806A	Complainant v. Respondent (redacted)	9-Jan-07		There was no witness list in the copy file.	
***086A	Complainant v. Respondent (redacted)	29-Jan-07		There was no complaint form in the file to obtain witness list.	
407A	Complainant v. Respondent (redacted)	28-Mar-07	***..***	witness retired from the business. No forwarding contact information. There were three witnesses in this case all with the same number.	Investigator stated that ***** did not know anything about the case and did not want to be a witness. *** doesn't believe it was age discrimination, and **** stated ***** does not know anything about the case to be a witness.
***427A	Complainant v. Respondent (redacted)	29-May-07		There was no witness list in the copy file.	
***377A	Complainant v. Respondent (redacted)	22-May-07		7 witnesses, 4 were verified by phone records. The other 3 (local numbers) were not verified as they were management for RP.	
***457A	Complainant v. Respondent (redacted)	26-Jun-07		There was no witness list in the copy file.	
***537A	Complainant v. Respondent (redacted)	19-Jul-07		There was no witness list in the copy file.	Note: Right to Sue requested so case was closed before investigation final.
***197A	Complainant v. Respondent (redacted)	19-Jun-07		10 witness - all appear to work for RP	Memo to file - Investigator said he spoke with CP and that she only wanted the witnesses on her second page contacted, not the ones on the first page of her witness list. Detailed interview memos with 5 witnesses.

EXHIBIT A (Cont.)

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EXHIBIT B



STATE OF TENNESSEE
HUMAN RIGHTS COMMISSION

TO: Melissa Boaz, Audit Manager
FROM: Tiffany Baker Cox, Deputy Director
CC: Beverly L. Watts, Executive Director
DATE: July 7, 2008
RE: Summary of Findings on Open Cases

Upon the former investigator's departure the Deputy Director, Tiffany Baker Cox, took possession of all of the former investigator's open cases. One case had already been submitted to Ms. Cox for review and Ms. Cox reviewed the case file and verified witness contact for that file. In doing so, it was discovered that one witness listed as having been contacted by the former investigator had not actually been contacted. Ms. Cox interviewed the witness and added the interview note to the file.

The following is an outline of the steps taken with regard to the former investigator's open cases:

1. Ms. Cox took possession of all open cases.
2. All 36 of the open cases were reassigned to one investigator (Investigator 1) who was instructed to verify all party and witness contact in each case and immediately notify Ms. Cox of any discrepancies found.
3. Investigator 1 resigned shortly after joining the agency and, as a result, 24 of the cases were reassigned to Investigator 2. The remaining 12 cases were divided up and reassigned to four other investigators who were also instructed to verify all party and witness contact in each case and immediately notify Ms. Cox of any discrepancies.
4. There were no other discrepancies found with the exception of the one noted above.

Please let us know if you need any additional information.