

University of Tennessee

**Review of Issues Related to the
Presidency of Dr. John Shumaker**

October 2003

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STATE OF TENNESSEE
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John G. Morgan
Comptroller

October 9, 2003

The Honorable Phil Bredesen, Governor
and Chairman
Board of Trustees
The University of Tennessee
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243
and
Dr. Joseph Johnson, President
The University of Tennessee
831 Andy Holt Tower
Knoxville, Tennessee 37996-0180

Ladies and Gentlemen:

On August 15, 2003, the internal audit staff of the University of Tennessee issued a report on Dr. John W. Shumaker, the former president of the university, entitled, "The University of Tennessee, Office of the President, Special Report." This report detailed the internal auditors' findings with regard to several issues relating to Dr. Shumaker's activities as president, during the period June 1, 2002, to June 30, 2003.

As summarized in the transmittal letter to the internal audit report, the internal auditors identified questionable expenditures totaling \$31,885.75 related to personal travel and other expenses incurred by Dr. Shumaker or on his behalf, the majority of which were not reimbursed to the university in a timely manner. The internal auditors also stated that certain expenses associated with the president's residence and receptions were substantial and may not have been prudent. In addition, the internal auditors indicated that contracts with associates of Dr. Shumaker may not have been wise business decisions, were not always awarded in accordance with policy, and had given the appearance of favored treatment.

Division of State Audit staff assisted the internal audit staff during their review. The internal auditors conducted many interviews during their review and examined a substantial amount of documentation in the one-month period from the start of the internal audit to the issuance of the internal audit report. Although State Audit staff did not participate in all of those interviews, they did participate in several interviews of Dr. Shumaker and others at the university and reviewed much of the documentation developed by the internal auditors.

Based on our limited review of the work of the internal auditors, it appears that their findings were based on adequate supporting documentation and their conclusions were appropriate.

As part of our overall review of these matters, we were particularly concerned with the issues related to (1) the sole source contract with Mr. Charles Fishman; (2) the search process that resulted in the selection of Dr. Shumaker as the university's president and the subsequent hiring of the two search administrators by Dr. Shumaker; (3) the controls over Dr. Shumaker's credit card purchases; (4) the controls relating to expenditures for renovating and refurbishing the executive residence and for entertainment and receptions; (5) Dr. Shumaker's apparent misrepresentations to the auditors; (6) the Board of Trustees' governance practices and control structure; and (7) the potential use of the foundation to divert public funds and circumvent laws.

The problems identified by both UT internal audit and State Audit staffs involve processes as well as structural inadequacies that need to be addressed immediately by the Board of Trustees and the administration of the university. Based on our review, there are four overriding circumstances that set these problems into motion, or at least facilitated them.

First, without the improper and questionable actions of Dr. Shumaker, none of the problems identified by UT's internal auditors would have occurred. During interviews with Dr. Shumaker it became clear that he attempted to blame others for these problems, rather than accepting responsibility for them.

With regard to internal controls, the most important of all controls is the control environment established by upper management and, in particular, the chief executive officer of the organization. The control environment reflects the tone at the top. When there is a strong commitment to proper accountability by the chief executive officer, there is less pressure on the controls to "catch" mistakes and irregularities because staff realize that such actions will not be tolerated. In short, when there is a strong control environment, weaknesses in other controls can be mitigated. However, when the control environment is weak, the risks resulting from an inadequate tone at the top cannot be adequately offset by other compensating controls. In situations where the controls are not as strong as they should be, the ease with which upper management can circumvent them is facilitated.

Rather than recognizing that there were control weaknesses in certain key areas in his operations and taking steps to improve them, Dr. Shumaker took advantage of these situations. His reaction to practically every question regarding his misuse of state resources was that he didn't know it was a problem, no one at the university had raised a red flag, and it was merely a procedural matter. Based on his approach, he apparently had a very different concept of what was reasonable, particularly when it came to expending money for things that benefited him, notwithstanding the

context of the financial hardships facing the state, the university, its students, and those individuals supporting the students. Unless there was a clear line that he couldn't cross, he apparently felt that it was his prerogative to do as he pleased. No amount of internal controls can effectively compensate for such an attitude.

In addition to the problem of Dr. Shumaker's apparent lack of sensitivity for his fiduciary responsibilities as the chief operating officer of the university, upper management of the university and members of the university's Board of Trustees, perhaps because of the circumstances surrounding the resignation of the prior president, Dr. Wade Gilley, were apparently willing to give Dr. Shumaker great latitude in his requests for special treatment. This approach, without the balancing concepts of fiscal reality, fiscal restraint, and financial accountability, in effect enabled Dr. Shumaker to take actions unchecked by concerns for fiscal responsibility and good judgment.

As an example, the UT treasurer and vice president, Mr. Charles Peccolo, explained his acquiescence in the unusual arrangement he approved for Dr. Shumaker's American Express card as an effort to make sure that the process (treatment of the cards and payments) mirrored that which Dr. Shumaker operated under at the University of Louisville in Kentucky. When Mr. Peccolo was informed by his staff that Dr. Shumaker was not turning in receipts related to his credit card charges, Mr. Peccolo apparently discussed the importance of receipts with Dr. Shumaker on at least three occasions, but his discussions had no effect, and Mr. Peccolo took no further action to resolve the matter. In fact, Mr. Peccolo told the auditors that he felt it was Dr. Shumaker's responsibility to provide receipts and to identify any personal charges. When Dr. Shumaker failed to do so, Mr. Peccolo indicated that his responsibility was simply to inform Dr. Shumaker of the situation and to do nothing further. The abdication of appropriate fiscal control by Mr. Peccolo and his staff enabled Dr. Shumaker to continue to misuse his university-sponsored American Express card for months. After the initiation of the internal audit, it took significant university resources to obtain receipts for Dr. Shumaker's credit card charges and to examine them for appropriateness.

As another example, with regard to the improvements to the residence, an acknowledgement by the vice chairman of the university's Board of Trustees that the residence needed some work was stretched by Dr. Shumaker to encompass renovations, furniture, and other items costing \$493,137. Items such as a \$4,822 gas grill and a \$7,000 Persian rug were purchased because no UT official wanted to make any waves for the new president. According to the testimony before the Fiscal Review Committee on August 21, 2003, Mr. Philip Scheurer, the UT vice president for operations and the UT official responsible for overseeing the renovation projects, stated that his primary concerns related to whether Dr. Shumaker had the authority to (1) order the renovations, and (2) direct that the renovations be paid from unrestricted gift income funds. Apparently absent from Mr. Scheurer's concerns was the question of the propriety of spending any additional funds on the president's residence in light of the state's and the university's fiscal crisis, the concept of a limit to the amount that should be spent, or the notion of propriety related to the items that Dr. Shumaker requested that the university purchase. As a result, the nature and extent of the renovation work circumvented the limits established by the university's Board of Trustees, the Tennessee Higher Education Commission, and the State Building Commission for review of major projects.

Part of the backdrop of Dr. Shumaker's arrival as president of the university was the significant generosity afforded Dr. Shumaker in his compensation package. Dr. Shumaker's regular salary as president was substantially increased over the prior president's salary to \$365,000 per year plus a \$20,000 expense allowance, for a total of \$385,000. At the time of his resignation, Dr. Wade J. Gilley, the prior president, was earning \$258,750, plus a \$12,000 expense allowance, for a total of \$270,750. Thus, Dr. Shumaker's salary and expense allowance represented a 42% increase over Dr. Gilley's.

Moreover, Dr. Shumaker's contract provided for a maximum bonus of 27% (\$98,550) per year as an annual performance incentive award, as determined by the university's Board of Trustees. Thus, his total potential earnings amounted to \$483,550. Dr. Gilley's contract did not include incentive awards. The university also provided housing and a car for Dr. Shumaker's use as they had for Dr. Gilley.

Further, the university's Foundation, a relatively new organization, provided Dr. Shumaker with other benefits. The Foundation had not provided any benefits for Dr. Gilley. The Foundation's benefits package for Dr. Shumaker included life insurance; disability insurance; long-term care insurance; a deferred annuity; target bonuses; executive option grants; an allowance for attorney and financial planning fees; and an expense allowance. The Foundation also provided for a one-time payment to Dr. Shumaker for \$92,000 in executive option grants, which Dr. Shumaker had forfeited at the University of Louisville when he left that institution to accept the UT presidency.

According to information the University of Tennessee provided to the Tennessee Higher Education Commission, the Foundation estimated the annual cost of its benefits at \$275,000. Thus, the estimated potential value of the combined compensation packages was \$758,550. According to Foundation staff, actual payments by the Foundation on Dr. Shumaker's behalf through September 2003 totaled \$315,809.11, which included the one-time payment of \$92,000.

According to a survey by the *Chronicle of Higher Education*, Dr. Shumaker's compensation was the second highest among public university leaders in the United States in 2002-2003. The highest paid university president of a public university is the president of the University of Texas, with a total compensation package amounting to at least \$787,319. Based on the information provided by the Tennessee Board of Regents, Dr. Shumaker's compensation package far exceeded the compensation package of the Chancellor of the Tennessee Board of Regents, which was \$215,529 in fiscal year 2003. Such a high level of compensation for Dr. Shumaker, in combination with the absence of both strong fiscal controls and responsible guidance relative to fiscal matters, evidently fostered an attitude of entitlement and a disregard for fiscal restraint. The Board of Trustees bears a share of the responsibility for Dr. Shumaker's actions for approving such a lucrative compensation package and for failing to establish parameters for his spending or monitor his performance.

Another contributing factor to these matters not being recognized as problems earlier is that after the interim president, Mr. Emerson Fly, retired, no one was named to his former position of vice president for business. Mr. Fly had served in that position prior to his being named the acting president after the resignation of Dr. Gilley. When Mr. Fly became acting president, he did not fill

the vice president for business position. When he was named president, he split the duties that he had had as vice president for business among three vice presidents. According to staff, since there was no one in the position of vice president for business, there was no one to see the "bigger picture." However, this should not be considered an excuse for upper management's failure to appropriately react to Dr. Shumaker's improper actions. In terms of operational realities, it does not appear that there was such a high degree of compartmentalization on the part of upper-level staff that they were really unable to see problems with Dr. Shumaker's actions. Rather, the situation was such that there was no one in the administrative staff who felt secure enough in his or her position to hold Dr. Shumaker accountable for violations of policy and unbridled spending and, perhaps more importantly, senior staff did not appear to realize the significance of the problems.

A fourth circumstance that contributed to the failure of university officials to promptly disclose inappropriate activity on the part of the president was the lack of effective channels to communicate concerns to the Board of Trustees. Upper management indicated that Dr. Shumaker had instructed them that no one was to communicate with board members except through his office. Additional weaknesses were that the Board of Trustees lacked an audit committee and that the university's internal audit staff reported directly to the president. Combining these factors with a mind-set that difficulties should be resolved within the UT community rather than being publicized meant that Dr. Shumaker was not restricted in his activities and his improper acts were not disclosed and addressed at the time they occurred.

The matters discussed in this report have been referred to the Office of the Attorney General, and where applicable, to the District Attorney General for the 6th Judicial District (Knox County).

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

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Special Report

University of Tennessee

**Review of Issues Related to the
Presidency of Dr. John Shumaker**

October 2003

ORIGIN OF THE REVIEW

In late June 2003, local media in Knoxville, Tennessee, questioned the use of the University of Tennessee's (UT) airplane by UT's then-president, Dr. John Shumaker. On July 2, 2003, Dr. Shumaker sent a letter to state senator Jerry Cooper stating that he had made a request for an audit by the Comptroller's Office of the use of the UT plane. The letter was copied to the Comptroller's Office and a number of other individuals. On July 15, 2003, Mr. Clayton McWhorter, vice chairman of the UT Board of Trustees, requested that UT's audit and consulting services office (internal audit) conduct a review of Dr. Shumaker's travel and other transactions initiated by or related to the Office of the President.

On August 15, 2003, the internal audit staff issued their report entitled, "The University of Tennessee, Office of the President, Special Review." The report detailed the internal auditors' findings with regard to several issues relating to Dr. Shumaker's activities as president from the commencement of his presidency on June 1, 2002, to June 30, 2003. On August 21, 2003, Mr. Mark Paganelli, UT's internal audit director, presented the results of the internal audit review before the legislature's Fiscal Review Committee. At this hearing, Mr. Paganelli and other UT officials gave testimony under oath. Further testimony was given under oath by UT officials at a subsequent Fiscal Review Committee hearing on September 4, 2003.

Dr. Shumaker submitted his resignation by letter to Governor Phil Bredesen, effective August 8, 2003.

The Division of State Audit commenced its review of Dr. Shumaker's activities upon receipt of a copy of Dr. Shumaker's July 2, 2003, letter to Senator Cooper.

OBJECTIVES OF THE REVIEW

Our review had the following objectives:

- to determine, based on presently available information, whether funds were misused, possible illegal acts occurred, or administrative matters were mismanaged;
- to make recommendations related to strengthening UT's internal financial controls and administrative processes; and
- to refer the results of our review, if necessary, to the appropriate authorities.

SCOPE OF THE REVIEW

The review included further examination of areas reviewed by internal audit including the contract with Mr. Charles Fishman, and control issues related to expenditures for the executive residence and entertainment. We reviewed credit card activities for the periods not considered by internal audit (before June 1, 2002, and after June 30, 2003). We also reviewed additional areas that came to our attention including the presidential search process and appointment of administrators, misrepresentations by Dr. Shumaker, issues related to the Board of Trustees, and issues related to the UT Foundation. We conducted interviews with current and former UT staff and members of the UT Board of Trustees as well as with individuals associated with but not employed by UT. We examined relevant documentation related to the areas under review as well as correspondence and relevant information obtained from computers and e-mail systems.

RESULTS OF THE REVIEW

The primary findings of the review are the following:

I. Contract with Mr. Charles Fishman

- A. The contract with Charles Fishman, attorney, was initially a verbal contract and was not memorialized in writing until later. With regard to the characterization of the contract as one for legal services, if that is true, the issues related to practicing law without a license are raised. On the other hand, if the contract was not for legal services, it did not qualify for the exception to the bid requirement.
- B. An inadequate amount of professional research and due diligence was performed on the front-end of the project. As a result, UT expended more funds than would have been necessary if the project had been adequately researched at its inception.
- C. University officials had numerous opportunities to question the project but did not because they did not want to oppose Dr. Shumaker's wishes.

II. The Presidential Search Process and Appointment of Administrators

- A. The review did not substantiate Lucy Shumaker's (Dr. Shumaker's former wife) allegation regarding Dr. Shumaker receiving the interview questions in advance.
- B. Korn-Ferry's search appeared adequate and the search committee appeared to act reasonably in its reliance on the efforts of Korn-Ferry.
- C. As the candidate from the private search, Dr. Shumaker received preferential treatment. Before announcing his candidacy, Dr. Shumaker requested assurance that he would be selected as the next UT president. The presently available information suggests that he received some form of assurance. Dr. Shumaker, as the candidate from the private search, also received the benefit of meeting with board members to discuss a compensation package prior to the conclusion of the process. Furthermore, Dr. Shumaker had Mr. Funk, in his role as search coordinator, to assist in communications with search administrators.
- D. Appointment of Administrators to Executive Positions

From presently available information, it appears that during the search process Dr. Shumaker established a working relationship with both search administrators and approached them about executive positions after his acceptance of the presidency at UT. In the hiring of Cathy Cole, Executive Assistant, it was determined to be proper for Dr. Shumaker to be granted an exception to the hiring procedures. From Steve Leonard's e-mails and letter, Mr. Leonard, Executive Vice President, certainly took on the role of an advisor to Dr. Shumaker, even after the search had concluded, including advising him on the timing, possible adversarial board members, and even a strategy to have board members convince him to join the university staff. However, Mr. Leonard stated that these communications were not formal and stated he was simply exploring his job opportunities at that time. Mr. Leonard's position was advertised, and the search process for the Executive Vice President position appeared to have been conducted appropriately. In both cases it would appear that Dr. Shumaker had an interest in their abilities. This review did not uncover any conclusive evidence that either Dr. Cole's or Mr. Leonard's appointment was improper.

III. Credit Cards

- A. The UT treasurer's office, in an effort to accommodate Dr. Shumaker, authorized the use of an American Express credit card that was billed directly to and paid by UT without implementing clear written procedures to establish controls over the card.
- B. Dr. Shumaker failed to provide the necessary receipts for determining business and personal charges on the American Express card, and the UT treasurer's office failed to take appropriate action when informed of this. As a result, UT paid a total of \$4,964.92 for Dr. Shumaker's personal charges. Dr. Shumaker did not reimburse UT for most of these charges until they were brought to his attention by the internal auditors.
- C. The American Express statements were not reconciled with Dr. Shumaker's incidental expense claims due to a breakdown in the reconciliation process, and UT overpaid Dr. Shumaker a total of \$246.87 in per diem.

- D. Due to an apparent misunderstanding on the part of UT's corporate travel manager, Dr. Shumaker received authorization to stay in hotel rooms that exceeded the limits set forth in UT's travel policies. As a result, Dr. Shumaker's hotel rooms exceeded the allowable rate by \$3,354.86.

IV. Lack of Controls

- A. \$493,137 was spent on renovations and items for the executive residence at the request of Dr. Shumaker. The scope of the renovations was not determined at the outset and the projects were completed piecemeal, thereby avoiding the necessary approvals from the UT Board of Trustees, the Tennessee Higher Education Commission, and the State Building Commission. In addition, the necessity of the renovations and some of the items that were purchased for the house were questionable. Budgets were not established for the renovations and items purchased, and UT's management did not question the renovations and purchases or attempt to set limits on the spending.
- B. UT spent \$319,346.63 for entertainment and receptions during Dr. Shumaker's tenure as president. Dr. Shumaker admitted that some of the expenses were excessive, but he stated that he was told that no budget existed for these events. Several of the events appeared to involve primarily UT employees rather than being directed at potential donors to the school.

V. Misrepresentations by Dr. Shumaker

- A. When questioned by the internal auditors as to why Dr. Carol Garrison's name appeared on his hotel bill from San Antonio, Texas, Dr. Shumaker initially stated that he had given his room to Dr. Garrison for her convenience at a conference they were both attending, and he stayed with friends. Dr. Shumaker later admitted that he and Dr. Garrison actually shared the hotel room and arranged with the hotel to split the bill, and that he initially misrepresented the situation in an effort to protect Dr. Garrison.
- B. Dr. Shumaker stated in his initial interviews with the internal auditors and state auditors that he provided all receipts associated with his credit card charges to his secretary. However, when confronted with statements from UT staff that he routinely failed to provide necessary receipts, he stated that he was actually sloppy with receipts and did not always obtain receipts or keep them or turn them in.
- C. When the news media requested copies of Dr. Shumaker's calendar records in the spring of 2003, Dr. Shumaker instructed his secretary to make changes to his calendar that included material omissions of trip information that would have been unfavorable to him. The altered calendar records were then provided to the news media and to the internal auditors on the pretense of being accurate and complete records.
- D. Dr. Shumaker initially stated that all of his plane trips were primarily business related and that any personal travel would have been incidental to his overall business travel. However, review and analysis of his travel indicated that on at least four occasions, the trips were wholly or primarily personal in nature, and any business aspects of the trips were incidental.

VI. Board of Trustees

- A. While the Board members do not appear to have had any knowledge of Dr. Shumaker's questionable activities or to have condoned his activities, several members of the university's upper management appear to have known about some of Dr. Shumaker's questionable activities but failed to take effective action, including notifying the Board of Trustees.
- B. The presence of an audit committee would provide upper management a means to report questionable activities. Such a presence would encourage the reporting of issues by upper management and should serve as another control over the president's discretion.

VII. The University of Tennessee Foundation

- A. Without appropriate oversight, the University of Tennessee Foundation can serve as a technically legal vehicle to divert public funds and circumvent laws providing for accountability and controls over public funds and assets.

"Audit Highlights" is a summary of the special report. To obtain the complete special report, please contact

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UNIVERSITY OF TENNESSEE
REVIEW OF ISSUES RELATED TO THE
PRESIDENCY OF DR. JOHN SHUMAKER

October 2003

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
Origin of the Review	1
Objectives of the Review	1
Scope of the Review	2
Summary of Internal Audit Report	2
DETAILS OF THE REVIEW	6
Finding 1 Contract for nearly \$300,000 with Mr. Charles Fishman was mishandled by university officials, and the performance of the contract lacked due diligence on the front-end.	6
Finding 2 The presidential search process provided advantages to the private search candidate and had the appearance of impropriety as both search administrators were given executive positions with UT.	13
Finding 3 Procedures governing Dr. Shumaker's university-sponsored American Express credit card, which was directly billed to the university, were inadequate, and Dr. Shumaker failed to follow the procedures that had been established to regulate his travel expenses.	25
Finding 4 Controls over the approval of renovating and refurbishing the executive residence were circumvented, and controls over entertainment and receptions were insufficient in that budgets were not established and the appropriateness of proposed expenditures was not considered particularly in light of the fiscal environment of the university.	36

TABLE OF CONTENTS (Cont.)

	<u>Page</u>	
Finding 5	Dr. Shumaker misrepresented his actions to the university's internal auditors and audit staff of the Division of State Audit. Such misrepresentations may have violated Tennessee statutes that require public officials to cooperate with the auditors and that prohibit tampering with or fabricating official records.	42
Finding 6	The Board of Trustees did not have an adequate system in place to effectively monitor the activities of Dr. Shumaker or to effectively solicit information from top university officials about Dr. Shumaker's questionable actions.	53
Finding 7	Without appropriate oversight, the University of Tennessee Foundation can serve as a technically legal vehicle to divert public funds and circumvent laws providing for accountability and controls over public funds and assets.	59
EXHIBITS		
A	Preliminary Due Diligence Report	66
B	February 19, 2002, e-mail from Dr. Shumaker to Mr. Funk requesting assurance of UT's commitment to his selection as president	70
C	February 20, 2002, e-mail from Mr. Funk to Mr. Leonard regarding "comfort" for Dr. Shumaker	71
D	April 4, 2002, e-mail from Mr. Leonard to Dr. Shumaker regarding working for UT as executive vice president or consultant	72
E	Mr. Leonard's February 25, 2002, letter to Dr. Shumaker thanking him for his interest in Mr. Leonard joining the university	74
F	Birmingham Trips on UT Plane	75
G	Louisville Trips on UT Plane	82
H	Chattanooga Trips on UT Plane Identified as Personal by Dr. Shumaker	85
I	Commercial Flights	86
J	Charter Flights	91
K	Communication with Dr. Shumaker's Attorney	93
L	Response to Dr. Shumaker's Attorney	95

UNIVERSITY OF TENNESSEE

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PRESIDENCY OF DR. JOHN SHUMAKER**

October 2003

INTRODUCTION

ORIGIN OF THE REVIEW

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SUMMARY OF INTERNAL AUDIT REPORT

On July 15, 2003, Mr. Clayton McWhorter, vice chairman of the university's Board of Trustees, requested that the university's internal auditors conduct a review of Dr. Shumaker's travel as well as other transactions initiated by or related to the Office of the President. One month later, on August 15, 2003, the university's internal auditors issued their report on Dr. John W. Shumaker, the former president of the university, entitled, "The University of Tennessee, Office of the President, Special Report." This report detailed the internal auditors' findings with regard to several issues relating to Dr. Shumaker's activities as president during the 13-month period from June 1, 2002, through June 30, 2003.

As summarized in the transmittal letter to the internal audit report, the internal auditors identified questionable expenditures totaling \$31,885.75 related to personal travel and other expenses incurred by Dr. Shumaker or on his behalf, the majority of which were not reimbursed to the university in a timely manner. The internal auditors also stated that certain expenses associated with the president's residence and receptions were substantial and may not have been prudent. In addition, the internal auditors indicated that contracts with associates of Dr. Shumaker may not have been wise business decisions, were not always awarded in accordance with policy, and have given the appearance of favored treatment.

According to the internal auditors, some of these situations occurred because exceptions were made or policies were violated to accommodate Dr. Shumaker's requests. The internal audit report included recommendations to help prevent similar matters from recurring.

The most significant findings related to Dr. Shumaker's activities as president are presented below.

- Dr. Shumaker improperly used the UT plane, commercial flights, and charter flights for personal travel to such destinations as Birmingham, Alabama; Louisville, Kentucky; Chattanooga, Tennessee; Sedona, Arizona; and Cincinnati, Ohio. The estimated cost of Dr. Shumaker's personal travel was \$14,491.46. Of this amount, \$8,869.76 was associated with his use of the UT plane; \$4,785.16 was associated with his commercial flights; and \$836.54 was associated with his charter flight.
- At Dr. Shumaker's request, his travel was processed as an exception to university policy. Under the exception, the university paid American Express directly for all expenses charged on his university-sponsored American Express credit card instead of requiring him to submit travel expense reports and supporting receipts for each trip. Dr. Shumaker's record keeping and documentation regarding his travel expenses were inadequate because he did not provide supporting receipts for the majority of his travel expenses, despite repeated requests by the university's treasurer to do so.
- Dr. Shumaker failed to identify and reimburse all his personal expenses charged to his university-sponsored and university-paid American Express credit card. His unidentified personal expenses totaled \$1,886.11. Dr. Shumaker's total personal charges amounted to \$4,616.01, of which he had reimbursed \$2,729.90 (59%) to the university prior to the initiation of the internal audit on July 15, 2003.
- Dr. Shumaker charged a non-university trip to Greece on his university-sponsored credit card. In October 2002, Dr. Shumaker charged a \$6,016.90 airline ticket to Athens, Greece, to his credit card, and the charge was paid by the university. The purpose of his trip was to attend a board meeting at New York College in Athens. However, New York College did not reimburse the university for the airfare until July 30, 2003, nine months later, in effect receiving an interest-free loan. Dr. Shumaker did not take effective action to ensure that the university received prompt reimbursement for his personal expense. Dr. Shumaker also did not disclose his membership on this board on his "outside interests disclosure form" as required by university policy.
- Dr. Shumaker stayed in hotel rooms at higher rates than allowed by university policy. The additional cost to the university was \$2,952.84.
- Dr. Shumaker improperly charged the university \$6,291.27 for moving items from his house in Sedona, Arizona, to Knoxville, Tennessee.
- Dr. Shumaker authorized the expenditure of \$493,137 for refurbishing the executive residence, including three renovation projects. Because each of the various projects fell below the \$100,000 threshold for submission to the university's Board of Trustees, the Tennessee Higher Education Commission, and the State Building Commission, none of these entities were involved in reviewing or approving the renovations.

- Questionable expenditures related to the executive residence included \$16,163 for furniture for the upstairs living quarters; \$7,175.27 for an entertainment system for the sun room; \$4,822 for a gas grill; \$7,000 for a Persian rug; \$12,297 for two armoires, one of which was placed in a warehouse and never used; and \$1,361 for an invisible fence for dogs, although Dr. Shumaker did not own a dog.
- Dr. Shumaker's staff improperly used their procurement cards to split purchases and to buy items not permissible under the procurement card policy. Three procurement cards were used to purchase entertainment system components for the executive residence. The total cost of the purchases made through the use of the procurement cards was \$7,175.27.
- Dr. Shumaker authorized the installation of a more expensive telecommunications system than necessary in the executive residence. Overall, the university spent \$64,429.72 on telecommunications items related to Dr. Shumaker's tenure as president.
- Dr. Shumaker authorized the expenditure of \$319,346.63 for entertainment and receptions for both athletic and non-athletic events. Of this total, \$165,024.08 was for 10 athletic events costing more than \$1,000 each; and \$136,197.15 was for 17 non-athletic events costing more than \$1,000 each. The university spent \$18,125.40 for 101 entertainment and reception events costing less than \$1,000 each.
- Dr. Shumaker hired Mr. Charles Fishman, an attorney, for an expensive international venture involving the proposed establishment of a joint American-Chinese high school in Beijing, China. The university ultimately withdrew from the project after spending \$279,823.32. The university improperly classified the contract as a legal service contract when in fact most of the services provided related to a specific educational partnership proposal, not legal services.
- Dr. Shumaker's procurement of the services of Dr. Charles Gervase gave the appearance of favoritism in that Dr. Gervase was the dean of the College of Education at Central Connecticut State University while Dr. Shumaker was president of that institution, and the university entered into a non-competitive contract with Dr. Gervase for the purpose of making him special consultant to Dr. Shumaker for Italian affairs. The university paid Dr. Gervase \$11,550 through June 30, 2003, the end of the contract period.
- Dr. Shumaker improperly entered into a verbal agreement with Dr. Yanan Ju, a faculty member at Central Connecticut State University, where Dr. Shumaker once served as president, and Dr. Shumaker failed to justify the noncompetitive procurement of Dr. Ju's services, as required by university policy. The verbal agreement was for Dr. Ju to provide an assessment of educational opportunities in China. Dr. Ju billed the university \$3,919.71 for his travel expenses to Washington, D.C., and Wuhan and Shanghai, China. The university had not paid Dr. Ju's bills as of June 30, 2003.

- Dr. Shumaker improperly overbilled \$602.90 for entertainment expenses and \$249.87 for meal allowances. Dr. Shumaker's spending practices resulted in the university paying \$440.05 for commercial Internet service and \$764.35 for personal long distance telephone calls that he should have paid personally. In addition, the university paid \$1,661.00 for transactions not supported by receipts.

Division of State Audit Review

Division of State Audit staff assisted the internal audit staff during their review. The internal auditors conducted many interviews during their review and examined a substantial amount of documentation in the one-month period from the start of the internal audit to the issuance of the internal audit report. Although State Audit staff did not participate in all of those interviews, they did participate in several interviews of Dr. Shumaker and others at the university and reviewed much of the documentation developed by the internal auditors.

Based on our limited review of the work of the internal auditors, it appears that their findings were based on adequate supporting documentation and their conclusions were appropriate.

DETAILS OF THE REVIEW

- 1. Contract for nearly \$300,000 with Mr. Charles Fishman was mishandled by university officials, and the performance of the contract lacked due diligence on the front-end.**

Finding

As a matter of public policy, contracts with government entities, including state universities, should be handled in such a way as to provide the maximum amount of disclosure and to provide for the maximum number of potential vendors to ensure that the government entity receives the fairest price for the best product or service. Exceptions to the general solicitation of bid processes should be viewed with appropriate sensitivity to the appearance that the contract in question is being handled in such a way as to circumvent the controls over contracts. Exceptions to the general solicitation of bids process should be viewed with even greater care when the contract in question is presented by the chief operating officer or other top official of the entity. This level of scrutiny should be even greater when the contract is with a vendor that has had a prior relationship with the top official who is presenting the contract.

Consistent with sound public policy, the University of Tennessee requires that all contracts be obtained through competitive bidding. An exception to this policy, at the time, was contracts for legal services. Additionally, contracts requiring special or expert services were also exempt from competitive bidding. However, such sole-source contracts required a justification or description of the expertise or specialty needed. Currently, the university's policies have changed to adopt the new regulations contained in Public Chapter 413, Public Acts of 2003. Under this new law, all procurement requests referred to as "non-competitive contracts" (sole source) shall be contemporaneously filed with the Fiscal Review Committee of the General Assembly and the Commissioner of Finance and Administration.

As part of this review, we requested a listing of legal service contracts and those categorized as "sole source." A computerized listing of legal services and those categorized a "sole source" could not be produced because the university's procurement system has not been programmed to distinguish these specific contracts from other contracts. For the year ended June 30, 2003, the university's general counsel identified ten contracts for legal services, all of which had been obtained through a non-competitive bidding process. The contract with Mr. Charles Fishman was one of the ten identified.

State auditors contacted the Board of Professional Responsibility and determined that Mr. Fishman was not licensed to practice law in Tennessee. When asked about his lack of a license to practice law in the state of Tennessee, Ms. Catherine Mizell, UT general counsel, stated that there was no conclusive answer as to whether Mr. Fishman could be considered to have practiced law in Tennessee. She stated that from her perspective, Mr. Fishman was a lawyer in

Washington, D.C., and was handling transactions in China. However, Mr. Fishman was in Knoxville for nine days of his contract.

State auditors also contacted the board regarding the nine additional attorneys providing legal services for the university. Of those nine, four were not licensed to practice law in Tennessee. Ms. Mizell stated that the attorneys not licensed in Tennessee were not required to be licensed because they were not conducting transactions or participating in courtroom litigation in Tennessee.

The state of Tennessee prohibits its citizens and non-citizens from engaging in a law business unless the individual is currently licensed by the state to conduct such business. Under this law, “an individual that is advising or counseling for valuable consideration as to any secular law, or the drawing or procuring of or assisting in the drawing for a valuable consideration of any paper affecting secular rights, or the doing of any act for a valuable consideration in a representative capacity, by obtaining or tending to secure any property or property rights must be licensed to do so by the state” (*Tennessee Code Annotated*, Sections 23-3-101 and 23-3-103). There are exceptions to the law such as representation by an attorney who is under the supervision of an attorney licensed in Tennessee.

According to the terms of the September 26, 2002, contract signed by Mr. Fishman and Mr. Charles Peccolo, University of Tennessee Treasurer, Mr. Fishman agreed to make himself available to “provide advice and counsel to the university . . . consult with third parties on behalf of the university . . . [and] provide all legal services required for the project, including . . . negotiating and drafting or reviewing any agreements or other legal documents required for this project.” In addition, the contract sets forth the consideration for those services. The university agreed to pay the legal fees of Mr. Fishman at \$300 per hour while in Washington, D.C., and \$3,000.00 per day while outside Washington, D.C.

According to Mr. Fishman, he understood his role to be that of an attorney-at-law on this project. Mr. Fishman stated that he was not currently licensed to practice law in the state of Tennessee. If, as Mr. Fishman stated, the contract he signed with the University of Tennessee was for the provision of legal services, there may be an issue regarding unauthorized practice of law. Issues of unauthorized practice of law turn on the particular facts presented in each case, and due to the uncertainties involving multiple jurisdictions in this case, the pursuit of an ethics opinion from the Board of Professional Responsibility may be warranted.

The contract with Mr. Fishman stands in sharp contrast to the other contracts the university had for legal services during the period in question. First, Mr. Fishman’s services were not sought out by the university. Mr. Fishman solicited business with the university after he called president-elect Shumaker in May 2002 and presented his Sino-U.S. high school proposal. Upon meeting the Chinese in Beijing, China, in early June 2002, Dr. Shumaker and Mr. Fishman came to a verbal agreement that the university would pursue Mr. Fishman’s proposal and retain his services. Secondly, after considerable charges to the university were claimed by Mr. Fishman under this verbal agreement, Mr. Peccolo was requested to formalize the contract with Mr. Fishman. This formal contract language was drafted per Mr. Fishman’s instructions without modification. Thirdly, neither the finalized contract nor the amendment to

the contract were reviewed by the university's legal counsel. Finally, the contract was quickly amended to expand the scope of services to include a Korean proposal and \$125,000 was added to the budget, which then set the maximum expenditures to Mr. Fishman at \$300,000. This amendment was approved sometime in November 2002, after approximately \$95,000 in expenditures had already been charged by Mr. Fishman (June through October 2002) and without any measurable success on the Sino-U.S. high school project.

Mr. Fishman stated that he chose to present his Sino-U.S. high school proposal to the University of Tennessee because of his acquaintance with Dr. Shumaker. Mr. Fishman acknowledged that he did not take his proposal to any other universities. He stated that after he and Dr. Shumaker discussed the proposal and met the Chinese parties involved, that Dr. Shumaker verbally contracted with him to represent the university in the joint venture.

Mr. Fishman and Dr. Shumaker both stated that their former business venture, the American International Education Group (AIEG) was a business idea in 1997 that never materialized. It should be noted that this former business relationship was not disclosed by either Mr. Fishman or Dr. Shumaker to university officials during the initiative. Had the former business venture been disclosed to university staff or to the Board of Trustees, it should have prompted questions and scrutiny of the proposal, the scope of the contract, and the contract terms.

Mr. Fishman had already claimed to have provided services for two months before his July 23rd letter to Dr. Shumaker outlining their agreement. In his letter, Mr. Fishman agreed to be available to consult with the university and with third parties on behalf of the university. After receiving this letter, Dr. Shumaker referred it to Ms. Sylvia Davis, Vice President of Budget and Finance, who apparently forwarded it to UT's legal staff. According to Ms. Mizell, once she received Mr. Fishman's July 23, 2002, letter, she drafted a proposed contract for legal services. Ms. Mizell's draft left no doubt that this was a contract for legal services. According to Ms. Mizell, many of Mr. Fishman's proposed legal activities were difficult to separate clearly from those of brokering the deal with the Chinese. She stated that her draft of the contract was written to ensure that Mr. Fishman was responsible for all legal services. Ms. Mizell sent the draft contract to the president's office.

In regard to Dr. Shumaker's referral of Mr. Fishman's letter to her, Ms. Davis stated that Dr. Shumaker briefly discussed Mr. Fishman's proposal with her but she did not recall any specific conversations about a contract with Mr. Fishman. She stated that she did not recall forwarding Mr. Fishman's letter to Ms. Mizell.

Regarding the contract with Mr. Fishman, Mr. Peccolo stated that it was anything but routine. The normal process for such contracts was for the general counsel of the university to request the additional legal services and identify the vendor to provide the services. He stated that the contract was initiated by the president's office and that office had already forwarded several monthly invoices to his office before he had even received the draft contract. According to Mr. Peccolo, Dr. Shumaker told him to process the contract so that Mr. Fishman's invoices could be paid. Therefore, Mr. Peccolo worked with Mr. Fishman in confirming the agreement. Because the draft contract had been prepared by Ms. Mizell, Mr. Peccolo stated he considered it

a legal services contract, exempt from the policies governing non-competitive contracts.

Mr. Peccolo stated that he sent Ms. Mizell's draft to Mr. Fishman. According to Mr. Fishman, someone at the university did not like the flat monthly fee, therefore it was changed to an hourly rate. Mr. Peccolo confirmed this stating that he had reservations about just paying Mr. Fishman a flat fee. Mr. Peccolo stated that Mr. Fishman suggested he bill the university at his normal hourly rate of \$300 an hour. Mr. Peccolo stated that the amount appeared to be a standard rate and a reasonable fee for such services. Mr. Fishman also suggested the provision that he receive \$3,000 a day that he worked outside his Washington, D.C., office. Mr. Peccolo stated that he had no point of reference to make a comparison as to whether this was a reasonable rate. On the other hand, Mr. Peccolo stated that his experience has been that work hours on days he travels generally are greater than eight and therefore paying for a 10-hour day seemed reasonable.

During the period June 1, 2002, through May 30, 2003, the university paid Mr. Fishman approximately \$290,000 under the contract. Of that amount, \$67,500 was paid for 22.5 days spent in China plus \$13,500 in travel expenses, and \$27,000 for nine days spent in Knoxville plus approximately \$4,000 in travel expenses.

The contract between Mr. Fishman and the university was executed on September 26, 2002, and was signed by Mr. Peccolo. Neither Ms. Mizell or Ms. Davis were consulted on the final contract. Mr. Peccolo stated that the contract was not required to be reviewed further but acknowledged that further review would have been prudent. Before the finalization of the contract on September 26, Mr. Fishman's billings to the university already totaled \$63,897.

The continuation of the China initiatives increased by \$125,000 towards the end of October or early November. According to Mr. Peccolo, someone from the President's Office contacted him in regard to expanding the scope of UT's contract with Mr. Fishman. Mr. Peccolo stated that he drafted an amendment to the contract to include Korea in the scope and to increase the amount by \$125,000. Mr. Peccolo drafted the amendment and sent it to the President's Office as requested. Mr. Peccolo acknowledged that he did not discuss the amendment with Mr. Philip Scheurer, UT Vice President of Operations, or Ms. Mizell.

In regard to why he did not perform a "due diligence" review on the Beijing Bohua Educational Investment and Management Co., Ltd. (Bohua) entity on the front-end, Mr. Fishman stated that his original contact was with officials from the China Electronics Corporation (CEC). He stated that he knew them, had worked with them before, and trusted them. Therefore, according to Mr. Fishman, there was no need for him to check on CEC as they were a long-standing firm, owned by the Chinese government. He stated that as the discussions progressed, Bohua officials gradually became the more interested party and CEC took the role of an investor. Mr. Fishman stated that he trusted Bohua because of the fact that CEC had brought them to the table.

Mr. Fishman stated that Mr. Scheurer was worried about the Bohua officials and the lack of financial information provided after repeated requests. Therefore a Chinese lawyer, Mr. Li Qian, was retained by Mr. Fishman under Mr. Scheurer's direction in December 2002. Mr.

Fishman stated that he was somewhat surprised by the information in Mr. Li's due diligence report (Exhibit A) but didn't necessarily believe everything reported. Mr. Fishman admitted, however, that the additional information was enough to raise doubts about the viability of the project.

At this point, the university has basically nothing to show for nearly \$300,000 in payments to Mr. Fishman. It appears that preliminary research into similar projects, advice from the U.S. government, an inquiry of the Chinese Minister Counselor for Commercial Affairs and inquiries of U.S. professors currently teaching in China would have been far more beneficial and cost efficient than using Mr. Fishman. In performing this research, it appears critical information was available to indicate that such a project would not be viable. If, as Dr. Shumaker stated, Mr. Fishman's proposal eventually would increase university revenues from foreigners taking undergraduate courses at UT, then the granting of visas to these foreigners would appear critical. In fact, as later presented to university officials, there were complications with the visas and it was determined that it was unlikely that Chinese students would be able to obtain visas.

As part of this review, we performed a limited reference check on Mr. Fishman and his service to other universities, specifically from Temple University, Southern Illinois University, and Carnegie Mellon University. Although those universities were unwilling to release contracts, specific information on payments to Mr. Fishman, and information on whether his assistance in international initiatives were profitable for those universities, this review was able to substantiate that Mr. Fishman had in fact assisted them in some capacity. It was also determined that Mr. Fishman's rate of pay from UT was not out-of-line with what he had received from these other universities.

Conclusions on Contract Between UT and Mr. Fishman

Having shared a vision for international initiatives, Dr. Shumaker verbally contracted with Mr. Fishman and then requested a formal contract from his staff on the back-end. Mr. Peccolo was instructed by Dr. Shumaker to process the contract with Mr. Fishman and later to amend the contract. Mr. Peccolo followed those instructions but did not seek advice or approval from the university's legal counsel. The contract with Mr. Fishman was initially a verbal contract and was not memorialized in writing until later. With regard to the characterization of the contract as one for legal services, if that is true, the issues related to practicing law without a license are raised. On the other hand, if the contract was not for legal services, it did not qualify for the exception to the bid requirement.

Contrary to expectations one would have in hiring an expert for \$300,000 as was the scenario with Mr. Fishman, there was not adequate professional research and due diligence performed on the front-end of the project by Mr. Fishman. The unsolicited proposal by Mr. Fishman was more an "idea," rather than a highly developed proposal. Unfortunately, Mr. Fishman's idea never materialized. In the case of the Sino-U.S. high school, the idea never materialized because of facts of which Mr. Fishman should have been aware.

Despite seven months of negotiations with the Chinese, pro-forma statements prepared by staff, and the development of a high school curriculum, the initiative was terminated after a much needed background check on the Chinese principal company was performed—a background check that could have saved the university a significant share of the \$300,000.

University officials had numerous opportunities to question the project but did not because it was initiated by the president and they were apparently more concerned about not opposing a new president's wishes.

Recommendations

For purposes of these recommendations, the term contractor includes anyone other than an employee of the university providing goods or services to the university.

1. Staff should immediately establish an effective method to identify sole source contracts, including those currently in place.
2. Upper management, other than those responsible for the contracts, should immediately review the sole source contracts and ensure that they were approved and are being executed in compliance with applicable policies, laws, and regulations and with contractors who are duly licensed to practice in Tennessee. Upper management, independent of the initiative or approval of these sole source contracts for professional services should determine that the firm or individuals purporting to provide the professional services are duly licensed to practice any related profession in Tennessee and take immediate remedial action if they are not so licensed. This action should include advising the audit committee of the board, the office of the Comptroller of the Treasury, and the related professional board. This requirement for proper licensure should apply not only to the principal contractor, but to any and all subcontractors or independent contractors or others that the principal contractor uses to meet any of the obligations to the university under the contract.
3. Any sole source contracts that are not in compliance with applicable policies, laws or regulations should be immediately reported to the audit committee of the board and to the office of the Comptroller of the Treasury.
4. In light of the issues noted in this report, upper management, independent of these sole source contracts, should also review the circumstances surrounding the initiation, approval, and any amendments to these contracts, such as retroactive approvals and inadequate review of amendments. These reviews should be documented, in writing, in terms of their scope and extent, and the documentation should be retained for review by audit. If any questions exist after this review, the issues should be immediately reported to the audit committee and the office of the Comptroller of the Treasury.
5. Upper management should immediately establish written policies that clearly require anyone employed by the university or serving the university in any capacity who are involved in the initiation, review, approval, amendment or any other process relating to the contract who has any potential conflict of interest, or appearance of a conflict, such as, but not limited to prior

business or personal relationships with the contracting party or any party related to the contracting party, to clearly disclose the entire nature of the conflict or potential conflict before the university takes any action on the contract, including preliminary discussions about possible contracts with the university.

6. When entering into any contract, but particularly sole source contracts, the contract should be written and contain clear language that it is the contractor's sole responsibility to perform any and all due diligence work reasonably required for that kind of contract.
7. All contracts and requests for proposals by the university should contain clear, unequivocal language that the university is not obligated for payment of any costs whatsoever that might be incurred by the contracting party before the contract is finally approved.
8. All university staff involved in the contract process should be mindful of the fiscal situation of the university and exercise due care in determining if the costs of the contract are expected to be a reasonable expense for what the university is expected to gain from the contract. Such due care should include detailed financial information from the firm or individual proposing the contract, including budgets that are supported by reasonably verifiable data. Staff should confirm that data and maintain complete documentation relating to the data provided by the proposer and the review performed by the university staff.
9. University staff should review the various types of contracts the university enters, including sole source contracts, and immediately develop clear, written policies regarding the initiation, review, approval and amendment of the contracts, in light of the issues raised in this report. It is essential that the process is clarified and that there is clear documentation of the process, including identification of all parties involved in the process and their recommendations or questions about the contract.
10. University officials need to remember that they cannot avoid responsibility by out-sourcing certain functions. For example, if the university seeks legal services, which obviously must involve the university's rights and obligations, the work obtained should be under the auspices of the university's internal legal staff and should be reviewed adequately by the university's legal staff.
11. When the university contracts with other parties for services, particularly through sole source processes, university staff should be assigned to make sure that the contractor provides frequent updates related to the progress of the work and the expenditure of university funds. University staff should also establish benchmarks for progress on the contract and consider achievement of those benchmarks when payments are made to the contractor. This information should be reported to the appropriate committee of the board at each meeting of the committee.
12. University officials should look at each legal service contract case by case and refer any issues of unauthorized practice of law to the Board of Professional Responsibility.

2. The presidential search process provided advantages to the private search candidate and had the appearance of impropriety as both search administrators were given executive positions with UT.

Finding

An issue that emerged from the university's internal audit review of the President's Office was whether the search process that ultimately selected Dr. Shumaker had been conducted properly and fairly. The search process was questioned after testimony of Ms. Lucy Shumaker in divorce proceedings in Louisville, Kentucky, was made public. Her testimony alleged that Dr. Shumaker was given an advantage in the final candidate interview in that he had received a copy of the interview questions in advance. In addition, other matters regarding Dr. Shumaker's past activities also raised questions concerning the adequacy of the background check conducted by the search firm on Dr. Shumaker. Further questions were raised about the search process from the fact that the only two administrators appointed to facilitate the presidential search in the fall of 2001 were subsequently hired by Dr. Shumaker to UT executive positions directly reporting to Dr. Shumaker. Furthermore, our review uncovered information that suggested Dr. Shumaker may have been provided an assurance that he would be the next UT president by Board members prior to the conclusion of the search process. In light of this information, our review was expanded to include other possible advantages the candidate from the private search may have had.

Scope

To address the questions about the search process, we interviewed Ms. Lucy Shumaker, former wife of Dr. Shumaker. We interviewed Mr. Steve Leonard, former UT Executive Vice President and Chief Operating Officer; Dr. Cathy Cole, UT Executive Assistant; Mr. Clayton McWhorter, Vice Chairman of the UT Board of Trustees; and Ms. Catherine Mizell, UT Vice President, General Counsel and Secretary. We reviewed the depositions of Dr. Cole and Mr. James Haslam, UT Board of Trustees, taken as part of Dr. Shumaker's divorce proceedings. We interviewed Mr. William Funk, National Managing Partner for the educational practice at Korn-Ferry International. The statements of Mr. Leonard, Dr. Cathy Cole, Ms. Johnnie Amonette, UT Board of Trustees, and Mr. Funk, during the September 4, 2003, fiscal review meeting and Dr. Cole's statements before the fiscal review committee meeting in August were reviewed. We interviewed Dr. Marlene Strathe, UT presidential candidate and currently the Provost and Senior Vice President of Oklahoma State University. The state's e-mail accounts available for Mr. Leonard and Dr. Cole were reviewed for pertinent information. The available e-mail accounts of Dr. Shumaker, Mr. Leonard and Dr. Cole during their employment at the University of Tennessee were reviewed. The available hard drives from the state or university-owned computers assigned to Dr. Shumaker, Mr. Leonard, and Dr. Cole were reviewed. In light of information obtained from e-mails and computer hard drives, we interviewed Ms. Amonette and Mr. Haslam.

Background

According to UT's General Counsel, Ms. Mizell, the presidential search for the 21st president of UT was initiated by former Governor Don Sundquist in the summer of 2001. Ms. Mizell stated that the past presidential search had been performed by her office. From presently available information, the governor's office asked Dr. Cathy Cole, formerly the Deputy Executive Director with the Tennessee Higher Education Commission, to assist in facilitating the search process along with Mr. Steve Leonard, who at that time was a Deputy Commissioner with the Department of Finance and Administration and Special Assistant to the Governor. The search committee members consisted of the eleven members of the UT Board of Trustees noted below, including Governor Sundquist as Chairman; Mrs. Johnnie D. Amonette–Memphis; James Haslam, II–Knoxville; Dr. Carolyn Hodges–Knoxville; Mrs. Rhynette Hurd–Memphis; Mr. Jerry Jackson–Dyersburg; Ms. Andrea Loughry–Murfreesboro; Mr. Clayton McWhorter–Franklin; Dr. Verbie Prevost (Faculty)–Chattanooga; Ms. Tiffany Smith (Student)–Chattanooga; and Mr. John C. Thorton–Chattanooga.

According to Ms. Mizell, there were two parallel searches for the 21st president of UT. One candidate was chosen from a public search and one from a private search. The search committee of the UT Board of Trustees was involved with the private search. In regard to the public search, an Advisory Council made up of 25 representatives from the system constituency that included administration, staff, students, faculty, alumni, citizens, and the various campuses was appointed by the governor. Mr. Leonard stated that he assisted in the design of the private search and helped to coordinate interviews of private search candidates. Dr. Cole stated that, on a full-time basis, she assisted in coordinating the public search. Neither Mr. Leonard nor Dr. Cole, as administrators for the search process, were involved in voting for a candidate. Both searches were coordinated with the search firm Korn-Ferry.

On August 3, 2001, the search committee met and heard proposals from three search firms: Spencer-Stuart in Atlanta, Georgia and Chicago, Illinois; Witt/Kieffer from Atlanta, Georgia and Nashville, Tennessee; and Korn-Ferry International from Dallas, Texas. Mr. Leonard stated that during the interview process, each interviewee was asked about their fee structure, which was considered by the committee in their selection. Mr. Leonard stated that Governor Sundquist tallied the votes of the search committee members. According to Mr. Steve Leonard, Korn-Ferry was chosen by the search committee because it was a national firm with a proven track record.

Mr. Leonard stated that he had no prior association with Mr. Funk, who headed Korn-Ferry's higher education efforts, but that Mr. Funk had been recommended to Mr. Leonard by a recruiter from the airline industry, Mr. Jose Oller. Mr. Leonard stated there might have been telephone interviews with about ten search firms, but the list was cut down to three by August 3, 2001. According to Mr. Leonard, the governor asked him to call Mr. Funk that same day after the interviews of the firms to determine whether Mr. Funk could personally conduct the search and whether he could agree not to be involved in any other major university search during the contract period. Mr. Funk met with the governor the next day and agreed to perform the search.

According to Mr. Leonard, he negotiated the contract with Mr. Funk to perform the search for \$90,000 plus expenses. Mr. Funk initiated plans for the selection process soon afterward and reported to the Advisory Council on August 29 and to the search committee on September 1, 2001. The contract called for Korn-Ferry to recruit a president on behalf of the university. The fees and expenses were not contingent upon placing a candidate with the university. Mr. Funk was responsible for both the public and private searches.

The university contract for the search was signed by Ms. Mizell on November 13, 2001. Although the university files do not contain documentation of the solicitation of competitive bids, it does appear that at least three firms were compared by the search committee.

During the early stages of the search process in late fall 2001, a website was created to assist in finding candidates through the public search. Additionally, a presidential job description was developed and a plan for the search was developed and approved by the Advisory Council and the search committee. During September 2001, numerous public hearings were held at the various UT campuses to obtain input from faculty and student groups. On November 1, 2001, the Advisory Council reported to the search committee on its results and input from the website, focus groups, and public hearings. By the middle of November, the public screening process had begun of those candidates identified through the Advisory Council's website or advertisements. According to Mr. Funk, he prepared advertisements for the private search and sent out approximately 600 personal letters to individuals on his proprietary mailing list. According to an e-mail dated December 20, 2001, from Ms. Krisha Creal at Korn-Ferry to Mr. Leonard, seven candidates from both the private and public processes had emerged at that point, including Dr. Shumaker.

By mid-January 2002, several other candidates apparently emerged from the private search. Mr. Funk's memorandum to Governor Sundquist on January 16, 2002, refers to having received feedback from three of the four candidates of the private search. Mr. Funk's memorandum to Governor Sundquist on January 18 mentions the response from the fourth candidate from the private search that was interested in the position. Dr. Shumaker was the only interested candidate out of the original candidates from the private search.

On January 18, 2002, Dr. Cole sent a memorandum to the Advisory Council stating that Tennessee Commissioner of Finance and Administration, Warren Neel, had removed his name from consideration as a candidate from the public search process. The memorandum also stated that at that point, there were four candidates remaining from the public search. Dr. Marlene Strathe was one of those four candidates. By late February 2002, through further screening, Dr. Shumaker and Dr. Strathe were chosen as the final candidates from the private and public searches, respectively.

On February 27, 2002, Dr. Shumaker and Dr. Marlene Strathe, former Provost and Vice President for Academic Affairs at the University of Northern Colorado, interviewed with the search committee in Nashville. On March 5, 2002, the UT Board of Trustees met and ratified the search committee's recommendation of Dr. Shumaker as the university's 21st president.

Allegation That Dr. Shumaker Received the Interview Questions in Advance

In our interview with Dr. Shumaker's former wife, Ms. Lucy Shumaker, she stated that Dr. Shumaker had received the presidential interview questions prior to the final candidate interview on February 27, 2002. Ms. Shumaker stated that on February 26, Dr. Shumaker was scheduled to fly to Washington, D.C., from Louisville. According to Ms. Shumaker, early that morning Dr. Shumaker told her that he had to stop by his office at the University of Louisville to obtain the questions for the next day's interview. According to Ms. Shumaker, when she asked him what he was referring to, Dr. Shumaker stated that Mr. Steve Leonard was sending him the questions. Ms. Shumaker stated that she asked Dr. Shumaker if the other candidate was also receiving the questions in advance and he stated that she was not.

According to Ms. Shumaker, she accompanied Dr. Shumaker to his office where he obtained 2-3 pieces of paper. Ms. Shumaker stated that when she asked Dr. Shumaker whether those pieces of paper contained the questions, he stated that they were the questions and placed them in his coat pocket. Ms. Shumaker acknowledged that she was not certain whether the paper did in fact contain the interview questions. She also stated that she thought he received the documents through an e-mail but it may have been sent to his office fax machine.

In reviewing the available e-mail activity from Mr. Leonard's state Groupwise account while he was with the Department of Finance and Administration, no e-mails were found regarding the list of questions. In reviewing the out-going calls from telephone and fax lines located in Mr. Leonard's former office, we noted one telephone call that occurred on February 25, 2002, 9:39 a.m. to Louisville, Kentucky. The duration of the call was 11.2 minutes. Additionally, out-going calls from the fax machine included a facsimile to Louisville at 3:58 p.m. on February 25 and two to Greeley, Colorado around 5:40 p.m. that same day. Based on the short duration (under one minute) of the three calls, it would appear that both candidates received approximately the same amount of information on February 25. When asked about what she received from Mr. Leonard's office on February 25, 2002, Dr. Strathe stated that she did not recall what her office had received. Mr. Leonard stated that he did not specifically recall what was sent to the candidates that day.

The questions asked of the two candidates on February 27, 2002, were prepared by Mr. Funk. The questions used by the search committee were printed on five pages, one for general questions and four others, one for each of the categories of leadership, financial and management skills, fundraising and development, and teaching, research, and public service. Mr. Funk and his assistant, Ms. Stewart, have stated that they sent the questions via Federal Express to Mr. Leonard's assistant Ms. Connie Cantrell, Administrative Aid. Mr. Funk stated that he would have sent the questions approximately one month in advance of the final interviews.

In regard to the interview questions, Dr. Cole stated that the targeted list of questions was confidential and the property of Korn-Ferry and that she thought Korn-Ferry had controlled the questions to provide for credibility of the search process. She stated that she prepared the packets that the search committee used to evaluate the candidates, and those packets contained the interview questions received from Korn-Ferry.

Mr. Leonard stated that the booklets given out to the search committee members by Ms. Stewart, Mr. Funk's assistant, may have contained the questions but he did not recall.

According to Mr. Funk's attorney, Mr. Courtney Pearre, Mr. Funk has no idea whether the questions were controlled after they were given to UT. According to Mr. Pearre, Ms. Floyd Stewart "has no independent recollection of the meeting (the February 27th final interview of candidates) or what was in the packages (booklets) that were handed out."

In interviews with state auditors and in fiscal review committee meetings, Mr. Funk, Mr. Leonard, and Dr. Cole have denied providing the interview questions in advance to Dr. Shumaker. Dr. Shumaker has also denied receiving the questions in advance.

Ms. Shumaker also alleged that Ms. Vickie Hibbs, Dr. Shumaker's secretary at the University of Louisville, had communicated to her that she was aware that Dr. Shumaker had been given the questions in advance. According to Ms. Shumaker, she and Ms. Hibbs watched the interviews together in Ms. Hibbs' office. Ms. Shumaker stated that during Dr. Shumaker's answering of questions, she made reference to Dr. Shumaker having received the questions in advance. According to Ms. Shumaker, Ms. Hibbs stated that she knew that Dr. Shumaker had received the questions in advance. We contacted the University of Louisville in an effort to interview Ms. Hibbs. We were referred to Ms. Angela Koshewa, University of Louisville's General Counsel. According to Ms. Koshewa, Ms. Hibbs stated she had no knowledge that Dr. Shumaker had received the questions prior to the final interview session.

Questions Concerning the Adequacy of the Background Check Conducted by the Search Firm

Matters regarding Dr. Shumaker's past activities raised questions concerning the adequacy of the background checks conducted by the search firm, Korn-Ferry. In Dr. Shumaker's divorce litigation in Louisville, two questionable actions in Dr. Shumaker's past were brought to light. First, he approved a training contract with a South Korean company while he was president of Central Connecticut State University and subsequently accepted a \$10,000 cash gift from the company. The gift was made in two \$5,000 checks. Secondly, he applied for a marriage license with a Chinese woman in 1995 in Oldham County, Kentucky, to help her remain in the U.S. Dr. Shumaker married another woman, Lucy Craig Shumaker on January 1, 1996, in Jefferson County, Kentucky.

According to the documents obtained from the university's presidential search files and from the search firm, Korn-Ferry, the background checks of Dr. Strathe and Dr. Shumaker consisted of a Lexis-Nexis search, which basically searches for newspaper, periodicals, and magazine articles. Financial information (similar to a credit report), litigation, and a criminal background search on both candidates was outsourced by Korn-Ferry to a company called Fidelifacts of New York City.

At some point in the search process, staff from Korn-Ferry performed a verification of Dr. Shumaker's education. According to Mr. Funk, his staff also performed a reference check on

Dr. Shumaker. Additionally the Tennessee Bureau of Investigation performed a criminal background check on Dr. Shumaker at the request of the governor's office. This background check was the lowest level check provided by the Bureau and basically consisted of a criminal history search. The Bureau has two higher-level background checks. Level two, which is routinely performed on all appointees for Tennessee Commissioner positions, includes reference checks and a criminal history check. Level one, which is routinely performed on candidates for Bureau special agents, additionally includes interviews of various individuals associated with the candidate not limited to employers, employees, friends, and family members.

These checks and educational verification did not reveal any questionable actions or concerns regarding Dr. Shumaker.

Mr. Funk stated that neither the vendor gift nor the attempted marriage was revealed in his research of Dr. Shumaker. Mr. Funk also stated that no negative information was revealed during the search process. Mr. Funk additionally stated that once it was announced that Dr. Shumaker was leaving Louisville, the Governor of Kentucky and the University of Louisville Board released statements of disappointment that he was leaving and high praise for his services.

During the fiscal review meeting on September 4, Mr. Funk was asked if he had been involved in other searches whereby Dr. Shumaker was an active candidate. Mr. Funk replied that he did not recall. He stated that as for the Arizona State and the University of Texas searches that Dr. Shumaker may have been nominated but he did not recall whether Dr. Shumaker had been an active candidate. Mr. Funk additionally stated that he did not specifically remember whether he had informed Governor Sundquist that Dr. Shumaker had been a candidate at other universities.

It would appear from the available information obtained from Mr. Leonard's state-owned computer that Mr. Funk should have been aware that Dr. Shumaker was an active candidate at another university. In e-mails between Mr. Funk and Dr. Shumaker dated February 19, 2002, eight days before the final interview session, Dr. Shumaker informed Mr. Funk that he (Dr. Shumaker) was one of the final three candidates in the Arizona State search. Mr. Funk shared the e-mails with Mr. Leonard and Dr. Cole. In a subsequent interview, Mr. Funk stated he had forgotten that Dr. Shumaker was a candidate in the Arizona State search for a president. He additionally stated that the Arizona State search was performed by another search firm and not Korn-Ferry.

One untapped source of information regarding Dr. Shumaker's past performance was the prior internal audit reports from the University of Louisville during Dr. Shumaker's presidency. Our office obtained the internal audit report for the University of Louisville for the year ended June 30, 1997. The report on the President's Office revealed that credit card receipts were not maintained by Dr. Shumaker and several instances were noted where he and his wife did not completely document entertainment expenses. This information would appear to be relevant in assessing the fiscal responsibility of a sitting university president.

As the Candidate from the Private Search, Dr. Shumaker Was Given Preferential Treatment

On February 20, 2002, Dr. Shumaker made a public announcement that he was a candidate for the president's position at the University of Tennessee. As part of the private search, Dr. Shumaker was considered a candidate by the search committee as early as December 2001. Under the confidentiality of the private search, Dr. Shumaker did not have to announce his candidacy until just prior to the public interviews of the two final candidates. Without having to commit to remaining in the search, Dr. Shumaker was able to remain a candidate for the president's position and wait for the process to unfold. In fact, during this recruitment period the other four candidates from the private search basically removed themselves from contention. This being the situation, UT Board of Trustee leaders spent most of the recruitment period keeping Dr. Shumaker's interest in the position.

In contrast to Dr. Shumaker's treatment, Dr. Strathe generally met with members of the Advisory Council rather than UT Board members. The Advisory Council announced their selection of Dr. Strathe as one of the final five candidates from the public search on December 19, 2001. With Dr. Strathe's interest in the UT presidency known, there was no reason for the ultimate decision-makers (UT Board of Trustees) to continue to recruit her. On February 27, 2002, the search committee interviewed Dr. Shumaker and Dr. Strathe. These interviews and the selection of Dr. Shumaker that same day, concluded the search process. The presently available information suggests that before Dr. Shumaker publicly announced his candidacy, he might have received assurances from UT Board members that he would be selected as the next UT president. Dr. Shumaker, as the candidate from the private search, also received the benefit of meeting with board members to discuss a compensation package prior to the conclusion of the process. Furthermore, Dr. Shumaker had Mr. Funk, in his role as search coordinator, to assist in communications with search administrators.

For many good reasons, sitting presidents and other potential candidates do not wish to make their candidacy for another position public knowledge. For presidential and other searches, this presents a problem of confidentiality. If one concedes that the best pool of candidates should include those individuals from the population of sitting presidents and other prominent employees of other universities, then it would appear that this could only be possible through a private search.

With a dual-track search process that provides different treatment of the candidates and a historically poor success rate for public candidates, it would appear that the process is inherently flawed, at least to the extent that the process is represented to treat public and private search candidates equally. According to Dr. Strathe, she was well aware of her position as the public candidate. Dr. Strathe stated that ultimately, she did not expect to be selected above the private candidate. However, she stated that it was beneficial for her to go through the process.

In regard to the meetings she had with council or committee members, Dr. Strathe said that most of her contact was with Advisory Council members. However, she stated that she met briefly with several board members including Ms. Amonette, Mrs. Rhynette Hurd, and possibly

with Ms. Andrea Loughry. In addition, she stated that she had breakfast with the Governor and the first lady on the day of the final interviews.

Dr. Strathe stated that she had no communications with Mr. Funk nor was she given any assurances that she would be the ultimate selectee. Dr. Strathe also stated that the compensation package was not discussed with her.

Unlike Dr. Strathe, Dr. Shumaker had Mr. Funk to assist him in communicating with Mr. Leonard and Dr. Cole. On February 19, 2002, prior to announcing his candidacy, Dr. Shumaker sent Mr. Funk an e-mail (Exhibit B) requesting assurance that UT was fully committed before he took himself out of contention for his possible candidacy for the presidency at Arizona State. Dr. Shumaker also commented that the “exact terms of the offer from UT would be important.” Mr. Funk responded with an e-mail that same day and copied Mr. Leonard and Dr. Cole. In his e-mail, Mr. Funk stated that Governor Sundquist and Mr. Jim Haslam understood Dr. Shumaker’s need for assurances and that he was hopeful that Mr. Leonard could relay the direct assurance from the governor and that Mr. Haslam would present a compelling compensation package.

According to Mr. Funk, he understood the e-mail to mean that Dr. Shumaker was wanting assurances that he was the top candidate of the five that emerged from the private search and was not asking for assurances that he (Dr. Shumaker) would be the next president. Mr. Funk stated that it was possible that certain board members gave Dr. Shumaker assurances but he was not aware of any such assurance.

In the morning of February 20, 2002, Mr. Leonard e-mailed Mr. Funk and stated that he had spoken with Dr. Shumaker and that he had the “comfort” he needed. When asked about this e-mail (Exhibit C), Mr. Funk stated that Dr. Shumaker obviously received some comfort but did not recall any details.

When asked about his e-mail, Mr. Leonard stated that it was clear at that point that the leaders of the UT Board of Trustees were interested in Dr. Shumaker and that he talked with Dr. Shumaker to keep him engaged in the process. When asked about his actions after receiving the forwarded e-mails regarding assurances, Mr. Leonard stated that he would have taken some action in response to the e-mails but he did not recall any specific action on his part. He stated that he did not recall talking to Governor Sundquist about this issue.

Mr. Haslam stated that he was not aware of anyone giving Dr. Shumaker any absolute assurances. However, Mr. Haslam stated that it was obvious that Dr. Shumaker was a clear favorite at that point and that Mr. Funk may have told Dr. Shumaker that he was the leading or the only candidate from the private search. Mr. Haslam also stated that with this information and Dr. Shumaker’s experience and track record, which was superior to the other candidate (Dr. Strathe), Dr. Shumaker had the assurances he needed.

During the day on February 20th, Dr. Shumaker made a public statement announcing his candidacy for the position of UT president.

On the evening of February 20th, Dr. Shumaker and his wife met with Mr. Haslam, Mr. Clayton McWhorter, and Ms. Johnnie Amonette for dinner in Louisville, Kentucky. From interviews with the three board members, the dinner meeting was an opportunity for board members to meet Ms. Lucy Shumaker for the first time and to discuss the compensation package desired by Dr. Shumaker. From the presently available information, the task of developing the compensation package after Dr. Shumaker was unanimously selected by the full UT Board of Trustees on March 5, 2002, was delegated to these three board members.

Mr. Leonard's e-mail to Mr. Funk on February 20 also included a statement that Mr. Leonard and Mr. McWhorter had spoken the day before and discussed the compensation package for Dr. Shumaker. In his e-mail, Mr. Leonard tells Mr. Funk that he and Mr. McWhorter developed a compensation package that would include more money in Dr. Shumaker's base salary. According to Mr. Leonard, he recalled that Mr. McWhorter was concerned about the size of the compensation package and appeared to take the lead in developing the compensation package. Mr. Leonard stated that he was trying to do whatever was needed and asked of him at that time. He said that the board was interested in keeping Dr. Shumaker in the process. Mr. Leonard stated that he did not recall who asked him to assist in discussing the compensation package with Mr. McWhorter.

Mr. McWhorter did not recall discussing Dr. Shumaker's compensation package with Mr. Leonard. He stated that Mr. Leonard probably discussed the compensation package with Governor Sundquist. According to Mr. McWhorter, the governor was leading the oversight of the compensation package.

From interviews with the three board members delegated to develop the compensation package, it appears that Mr. Leonard was a liaison between Dr. Shumaker, Mr. Funk, board members, and the governor's office in developing the compensation package for Dr. Shumaker. However, the extent of Mr. Leonard's involvement in this process did not appear substantial.

The contract with Dr. Shumaker was approved by the full UT Board of Trustees during their meeting in May 2002.

Both Search Administrators Were Later Hired for UT Executive Positions

Additional questions about the fairness of the presidential search were raised by Dr. Shumaker's hiring of the two search administrators appointed by Governor Sundquist to UT executive positions. On April 8, 2002, Dr. Cole was hired as UT Executive Assistant and Chief of Staff, at an annual salary of \$116,500. Prior to facilitating in the search process Dr. Cole had been employed with the Tennessee Higher Education Commission with an annual salary of \$85,248. The other search administrator, Mr. Leonard, was hired later as UT Executive Vice President and Chief Operating Officer on January 16, 2003, at an annual salary of \$225,000. Mr. Leonard's annual salary with the Tennessee Department of Finance and Administration was \$102,420.

Dr. Cole stated that immediately after the UT Board of Trustees met in early March 2002, she, Dr. and Mrs. Shumaker, and several staff of the Governor's Office boarded a plane and flew to Memphis. She stated that she had dinner at the Peabody Hotel in Memphis with UT Chancellor Bill Rice, Mr. and Mrs. Amonette, Governor and Mrs. Sundquist, and Dr. and Lucy Shumaker. According to Dr. Cole, Dr. Shumaker asked her to join his staff at UT that night. Dr. Cole stated that the position was not required to be advertised by UT. Dr. Cole stated that Acting UT President, Mr. Eli Fly, initially hired her at the request of Dr. Shumaker. When asked about the failure to advertise the Executive Assistant position, Ms. Catherine Mizell, UT Vice President, General Counsel and Secretary, stated that Dr. Cole was hired by UT in an acting capacity during Dr. Shumaker's transition period in April of 2002. Ms. Mizell stated that advertising was not necessary for acting positions. According to Ms. Mizell, in June of 2003, Dr. Cole became a permanent employee and her executive assistant position should have been advertised. Ms. Mizell stated that she thought Dr. Shumaker had asked for an exception to advertising procedures, which she understood Dr. Shumaker had the authority to request.

In regard to the advertisement of the executive assistant position, Mr. Theotis Robinson, UT Vice President for Equity and Diversity, stated that in May 2003, he received a letter from Dr. Shumaker stating that an exception to the university's search procedures was warranted for the Chief of Staff position. Mr. Robinson stated that he perceived the letter as a demand rather than a request for an exception and his lack of a response to Dr. Shumaker implied that the exception was granted.

With regard to Mr. Leonard, on September 4, 2003, during the fiscal review meeting, Mr. Leonard (under oath) testified that a Board member, Mr. Clayton McWhorter, first suggested that Mr. Leonard should seek the job he later obtained as UT Executive Vice President and Chief Operating Officer. When asked about the timing of this conversation, Mr. Leonard stated that it was approximately a year ago, or in August 2002. When asked about the first conversation Mr. Leonard had with Dr. Shumaker about this position, Mr. Leonard did not recall when the conversation took place but believed that it was also around August 2002.

However, on April 4, 2002, Mr. Leonard had sent Dr. Shumaker an e-mail regarding working with Dr. Shumaker as the executive vice president or as a consultant. In regard to this e-mail (Exhibit D), Mr. Leonard stated that he was still certain that Mr. McWhorter, not Dr. Shumaker, was the first person with which he had discussed the executive vice president position. He stated that he recalled sending the April 4th e-mail and stated that he was not specifically looking for that job. He acknowledged that he and Dr. Shumaker had had previous conversations and stated that the e-mail was probably his response to Dr. Shumaker's question about what it would take to gain Mr. Leonard's interest. Mr. Leonard stated that these remarks were meant as casual conversation and he did not consider these as formal communications. He stated that he was looking at other positions and had inquired about other positions to Mr. Funk and to Mr. McWhorter.

A week later, he sent another e-mail to Dr. Shumaker stating that he discussed issues with Dr. Cole but that Dr. Shumaker would need some time before pursuing things further (presumably hiring Mr. Leonard). When asked about these e-mails, he stated that he recalled Dr. Cole urging him to join the UT staff but he said that at that point it did not mean anything

because he was still looking for a job that would be a good fit for him. He said there were many problems with taking a job in Knoxville because he lived in Hendersonville, Tennessee.

According to a document dated July 25, 2002, (Exhibit E) found on Mr. Leonard's laptop computer, Mr. Leonard typed a letter to Dr. Shumaker stating that he was thankful for Dr. Shumaker's interest in having Mr. Leonard join the university. In this letter, Mr. Leonard suggests a recruiting strategy for Dr. Shumaker to recruit him. Mr. Leonard states that Dr. Shumaker ought to "engage a few other Board members to help you recruit me. It will give you some cover if there is any blowback on anything and you will get a unified Board to help you spin. You might ask Cathy's advice on this, but I would have Haslam, Stokely and Thornton all call me to "convince" me to join you guys and/or others you might deem more appropriate."

In an interview with Mr. Leonard regarding this letter, he stated that he wanted Dr. Shumaker to have a unified board on the selection of the Executive Vice President position. He stated that he anticipated concerns from certain board members and wanted Dr. Shumaker to be prepared by discussing the matter with various board members.

UT officials organized a search committee chaired by Ms. Sylvia Davis, Vice President of Budget and Finance, that ultimately selected Mr. Leonard for the Executive Vice President position. From reviewing the files from that search, it appears that initially, some 36 candidates were considered from the original advertisement of the position. It should be noted that the search for the Executive Vice President position was requested on October 23, 2002, and was approved on December 2, 2002. The files did not contain documentation of personal reference checks but there was documentation to support how the committee arrived at the strengths and weaknesses noted for the three primary candidates.

From presently available information, it appears that during the search process Dr. Shumaker established a working relationship with both search administrators and approached them about executive positions after his acceptance of the presidency at UT. In the hiring of Dr. Cole, it was determined to be proper for Dr. Shumaker to be granted an exception to the hiring procedures. From Mr. Leonard's e-mails and letter, Mr. Leonard certainly took on the role of an advisor to Dr. Shumaker, even after the search had concluded, including advising him on the timing, possible adversarial board members, and even a strategy to have board members convince him to join the university staff. However, Mr. Leonard stated that these communications were not formal and stated he was simply exploring his job opportunities at that time. Mr. Leonard's position was advertised, and the search process for the Executive Vice President position appeared to have been conducted appropriately. In both cases it would appear that Dr. Shumaker had an interest in their abilities.

Conclusions on Presidential Search Process and the Hiring of Search Administrators

The review did not substantiate Ms. Shumaker's allegation regarding Dr. Shumaker receiving the interview questions in advance.

Although information was subsequently developed that called into question the suitability of Dr. Shumaker to be president of the university, at the time of his recruitment and hiring, it did not appear that there was any reason to disqualify him from consideration. The search committee appeared to act reasonably in its reliance on the efforts of Korn-Ferry. Furthermore, the efforts of Korn-Ferry staff involved in the search appeared to adequately assess the background of the final candidates and appropriately assisted the UT Board of Trustees in the process of finding a president.

Before announcing his candidacy, Dr. Shumaker requested assurance that he would be selected as the next UT president. The presently available information suggests that he received some form of assurance. Dr. Shumaker, as the candidate from the private search, also received the benefit of meeting with board members to discuss a compensation package prior to the conclusion of the process. Furthermore, Dr. Shumaker had Mr. Funk, in his role as search coordinator, to assist in communications with search administrators.

Although the hiring of both search administrators gave the appearance of impropriety, this review did not uncover any conclusive evidence that either Dr. Cole's or Mr. Leonard's appointment was improper.

Recommendations

1. In future presidential searches, current financial and compliance audits prepared by internal or external auditors should be obtained from the candidates' universities. The UT Board of Trustees should review these audit reports and any issues should be addressed with the candidates.
2. The UT Board of Trustees should take advantage of Korn-Ferry International's pledge that the search firm will redo the search for no additional fees if the elected candidate leaves the position in less than two years.
3. The UT Board of Trustees should consider requesting a level two or level one background check from the Tennessee Bureau of Investigation on the final candidates.
4. The UT Board of Trustees should reconsider the use of the dual-track search process. The process should be structured to remove even the appearance of preferential treatment between candidates. Perhaps the Board should consider selecting the administrators of future searches. Regardless of who is responsible for selecting future search administrators, there should be a clear prohibition against those administrators being eligible for future appointments by the new president, at least for a reasonable period.

3. Procedures governing Dr. Shumaker's university-sponsored American Express credit card, which was directly billed to the university, were inadequate, and Dr. Shumaker failed to follow the procedures that had been established to regulate his travel expenses.

Finding

Dr. Shumaker granted an exception for himself with regard to the university-sponsored American Express credit card, resulting in American Express directly billing the university for his credit card charges. As described in detail below, Dr. Shumaker did not submit many of the required receipts and he did not promptly and completely identify and reimburse his personal expenses, which he had charged to the credit card. Further, Dr. Shumaker overstated his incidental (non-credit card) expenses and stayed in hotel rooms at rates higher than those allowed by university policy.

We reviewed Dr. Shumaker's use of the credit card provided to him by UT for the period from the announcement of his selection as UT's new president on March 5, 2002, to his resignation 17 months later on August 8, 2003. We interviewed Dr. Shumaker and other university officials and staff. Our review included an examination of Dr. Shumaker's credit card statements; available supporting receipts related to his credit card charges; completed travel expense forms for his credit card charges; completed travel expense forms for his incidental (non-credit card) expenses; billing memoranda regarding his personal charges; and receipts for payments made by him to UT for his personal charges. We also reviewed the work conducted by UT's internal auditors in this area.

University Policies

The university has two policies that pertain to Dr. Shumaker's credit card use and travel: the corporate travel card program policy and the travel policy. The university's corporate travel card program policy provides for credit cards (called travel cards) to be issued to eligible university employees. The university-sponsored credit card is the American Express credit card. The relationship between the university and American Express Travel Related Services Company, Inc., is memorialized by an agreement signed in 1987. Pursuant to the university's travel card policy, a university employee is personally responsible for paying his or her credit card bill, and the credit card may be used for both business and personal expenses. According to the policy, the travel card is to be used primarily for university travel expenses.

Under the university's travel policy, the university employee is responsible for submitting his or her legitimate travel expenses and all supporting receipts to the university for reimbursement. The university's treasurer's office is responsible for reviewing the travel claims for compliance with the university's travel policy limits, particularly with reference to travel costs, hotel rates, per diem rates, and incidental expenses.

Prior to May 2003, the two policies discussed above were combined in a single travel policy. After May 2003, the policies were separate. The single policy provided that exceptions could be made to the policy with the approval of the president or the vice president for budget and finance.

Credit Card Issued to Dr. Shumaker

When Dr. Shumaker was selected as UT's new president in March 2002, an American Express credit card was made available to him at that time pursuant to the university's corporate travel card program policy, which clearly stated that the credit card charges were the personal responsibility of the credit card holder. However, Dr. Shumaker stated during the review of his expenses that his assumption was that his UT credit card would be administered in the same manner as his University of Louisville credit card in that the university foundation would pay his business-related credit card charges directly and he would pay his personal charges. Dr. Shumaker stated that his assumption was based on assurances given him by members of the university's Board of Trustees that his compensation package at the University of Tennessee would mirror the compensation package he had had at the University of Louisville, where a university foundation paid all his business-related credit card charges. Dr. Shumaker stated that when he received his University of Tennessee corporate credit card, he was not aware of the University of Tennessee's corporate travel card program policy and also that he was not aware that his credit card charges were being treated differently than when he was at the University of Louisville.

As an additional complication, Dr. Shumaker stated that he did not receive his first two credit card bills (for the billing periods ending in the months of April and May 2002). Dr. Shumaker's first credit card charge was on March 30, 2002. We could not determine what happened to Dr. Shumaker's first two credit card bills. According to university staff in Knoxville, Dr. Shumaker's mail was forwarded to Dr. Cathy Cole in Nashville once a week. According to Dr. Cole, she did not recall receiving Dr. Shumaker's mail or forwarding his mail to him. Moreover, Dr. Shumaker stated that he may not have received his credit card bills, even if they had been mailed to him, because either his former wife, Ms. Lucy Shumaker, held or destroyed any mail from UT, or the mail was lost in transit since he changed his residence twice in Louisville after he was selected as UT's new president.

Exception to University Corporate Credit Card Policy

Because Dr. Shumaker did not pay his credit card bills, his account became delinquent, and American Express cancelled his credit card number. Dr. Shumaker stated that he did not become aware of his past due credit card bills until he received his credit card bill for the 30 days ending June 13, 2002, after he had moved from Louisville to Knoxville. According to Dr. Shumaker, when he received his June 2002 credit card bill, he noted that it was for \$3,929.03, including \$51.73 in late charges. As indicated above, Dr. Shumaker stated that he had presumed that the university had been paying his credit card charges. He also stated that he could not afford to pay \$3,929.03 at that time. Dr. Shumaker stated that he then met with Mr. Charles

Peccolo, Vice President and Treasurer, and asked him if the University of Tennessee could provide him the same credit card arrangement as the one that he had had at the University of Louisville, where the university foundation paid all of his business-related credit card charges.

Mr. Peccolo confirmed meeting with Dr. Shumaker and the contents of their discussion. Mr. Peccolo stated that he arranged for Dr. Shumaker's credit card bills to be sent directly to the treasurer's office to be paid by the university, and that he acquiesced in the change in an effort to accommodate Dr. Shumaker in his new role as president. Mr. Peccolo stated that he did not inform the Board of Trustees of Dr. Shumaker's actions.

The treasurer's office issued a check to Dr. Shumaker for the amount due (minus the late fee), which was \$3,877.30. The subsequent American Express bill for the period ending July 14, 2002, showed payment of the \$3,929.03.

Dr. Shumaker's Responsibilities Under the New Arrangement

According to both Dr. Shumaker and Mr. Peccolo, Dr. Shumaker's responsibilities under this new arrangement included submitting all applicable receipts, identifying all personal charges, and promptly reimbursing the university for all personal charges. Both Dr. Shumaker and Mr. Peccolo indicated that Dr. Shumaker was responsible for signing his credit card statements and his completed travel expense reports. According to Mr. Peccolo, Dr. Shumaker's signature on both documents signified that he approved payment of his credit card bill and that he had reviewed his bill and had identified all of his personal charges. Mr. Peccolo stated that a member of his staff, Ms. Carol Baker, the university's corporate travel manager, was responsible for sending a written bill to Dr. Shumaker for any amounts he owed the university. Of course, this process would only be for self-reported personal charges.

Increased Risk

It should be noted that the arrangement described above was unprecedented in the history of the university and that it completely reversed the normal process for handling reimbursements for legitimate business-related expenses. It should not have been done. The establishment of stringent controls should have accompanied such an extraordinary arrangement by the treasurer's office management providing for rigorous monitoring by treasurer's office staff because the principal risk was that Dr. Shumaker would fail to identify his personal charges. Since responsibility for identifying his personal charges rested with Dr. Shumaker, the university would pay all charges not identified by him as personal. Under these circumstances, if Dr. Shumaker failed to identify a personal charge, either intentionally or unintentionally, the university would pay that charge and Dr. Shumaker thus would receive an improper benefit. In the worst case scenario, intentional failure to identify personal charges could be considered theft in that public resources would be diverted to pay personal expenses.

However, the treasurer's office management agreed to this process and failed to implement clear written procedures to establish effective controls for this new process. In

addition, when treasurer's office management and staff were faced with Dr. Shumaker's non-compliance with the practices that evolved, they failed to take corrective action. Moreover, because procedures were not written down, communicated, and enforced, some treasurer's office staff were confused about their responsibilities, and essential activities necessary for appropriate control of Dr. Shumaker's credit card were not performed. Of course, the ultimate responsibility for the correct treatment of his credit card charges remained with Dr. Shumaker.

Dr. Shumaker's Credit Card Charges

Dr. Shumaker's first charge on his university-sponsored American Express credit card occurred on March 30, 2002. That charge was for a \$659.00 Delta Airline ticket for his then-wife, Ms. Lucy Shumaker, for a flight from San Antonio, Texas, through Cincinnati, Ohio, to Louisville, Kentucky. The flight reflected Ms. Shumaker's return home after attending the NCAA Women's Basketball Tournament, which took place in San Antonio. The university paid this expense for Ms. Shumaker.

Dr. Shumaker's last charge on his American Express credit card occurred on July 11, 2003. That charge was for \$105.93 at the Sheraton Downtown Hotel in Nashville. The credit card statement indicates the nature of the charge as lodging. The closing date on the credit card statement was August 11, 2003.

Overall, American Express sent 17 credit card statements related to Dr. Shumaker's American Express credit card to him or the university. The total amount of those 17 statements was \$77,024.91.

Missing Receipts

Our review disclosed that Dr. Shumaker submitted only a small percentage of the receipts for which he was responsible. Of the 46 hotel receipts that Dr. Shumaker should have submitted for the period March 2002 through June 2003, he only submitted 13, or 28%.

Ms. Baker, the university's corporate travel manager, stated that when she noted the lack of receipts, she informed her superior, Mr. Peccolo. Mr. Peccolo stated that Ms. Baker had brought her concerns about missing receipts to him, but that he was unaware, until the internal audit, of the extent of the missing receipts.

Mr. Peccolo stated that he discussed the necessity for receipts with Dr. Shumaker in person at least three times, once in the presence of Ms. Baker. According to Mr. Peccolo's testimony before the Fiscal Review Committee on August 21, 2003, he discussed the need for receipts with Dr. Shumaker in July 2002, when they first set up the new arrangement for him. Mr. Peccolo stated that he provided Dr. Shumaker with a copy of the university's policies related to travel at that time. Mr. Peccolo said that later in December 2002, and then again in January 2003, he mentioned to Dr. Shumaker that the treasurer's office was not receiving all of his receipts. Mr. Peccolo stated that during his December 2002 meeting with Dr. Shumaker, Dr.

Shumaker indicated that he had all the receipts and that he would look again for them and turn them in. Ms. Baker confirmed that she was present at one meeting between Mr. Peccolo and Dr. Shumaker where the lack of receipts was discussed. In contrast to the statements of Mr. Peccolo and Ms. Baker, Dr. Shumaker stated that he did not recall any discussions with Mr. Peccolo about missing receipts. Apparently, the issue of missing receipts was discussed with Dr. Shumaker at least once. However, Mr. Peccolo and Ms. Baker did not put their concerns in writing to Dr. Shumaker.

Despite the discussion (or discussions) about missing receipts, Dr. Shumaker did not provide the missing receipts, and he continued to fail to provide a substantial percentage of receipts associated with his credit card charges. Faced with Dr. Shumaker's continued non-compliance, Mr. Peccolo took no further action and he did not inform any members of the university's Board of Trustees, the university's internal auditors, or the Office of the Comptroller of the Treasury.

When asked about his lack of action in this matter, Mr. Peccolo stated that he felt that his responsibility was to inform Dr. Shumaker about the missing receipts and that it was Dr. Shumaker's responsibility to submit all applicable receipts. Mr. Peccolo also stated that the university did have a record of Dr. Shumaker's charges in the form of his credit card statements, although he acknowledged that the statements lacked sufficient detail necessary for a competent review. Mr. Peccolo further stated that the matter of the missing receipts was not concluded in that his office was awaiting further receipts from Dr. Shumaker.

The abdication of appropriate fiscal control by the treasurer's office enabled Dr. Shumaker to continue his misuse of his university-sponsored American Express credit card for months. After the initiation of the internal audit in July 2003 (16 months after Dr. Shumaker first received his university-sponsored credit card), significant university resources were expended to obtain receipts for Dr. Shumaker's credit card charges and to examine them for appropriateness.

Dr. Shumaker's Disregard for His Responsibility to Identify Personal Charges

With regard to identifying personal charges, Dr. Shumaker shifted that responsibility to his executive secretary, Ms. Jane Pullum, and to the university's corporate travel manager, Ms. Carol Baker. According to Ms. Pullum and Ms. Baker, they worked together to prepare Dr. Shumaker's travel expense forms for his credit card charges, and they also collaborated in trying to identify obvious personal charges.

However, Ms. Pullum and Ms. Baker acknowledged that they were frustrated in their efforts because Dr. Shumaker provided few receipts and the credit card statements lacked sufficient detail. For instance, the credit card statement would contain a hotel charge but would not provide any detail as to the components of the charged amount. In the absence of detail on the statement, and without the receipt, neither Ms. Pullum nor Ms. Baker could make a determination as to whether that total charge contained non-allowable charges, such as personal phone calls, gift shop purchases, or charges for room service, laundry, mini-bar, or movies.

Obviously, the absence of necessary information significantly impaired the process of identifying personal charges.

When asked about his role in identifying his personal charges, Dr. Shumaker stated that he relied on Ms. Pullum and Ms. Baker, and that his review of his credit card statements was cursory in nature. Dr. Shumaker's approach exhibited a flagrant disregard for his direct personal fiduciary responsibility for promptly identifying all his personal charges and reimbursing the university.

For several months prior to the commencement of the internal audit on July 15, 2003, Ms. Pullum, Ms. Baker, and Dr. Shumaker had identified nine charges totaling \$2,729.90 as his personal charges. Dr. Shumaker's personal charges included a coat from Marshall Fields in Chicago; several shirts from M.S. McClellan in Knoxville; flowers from Crouch Florist in Knoxville; rental cars from Hertz in Birmingham, Alabama, and Louisville, Kentucky; a Delta Airlines trip from Louisville, Kentucky, to Cincinnati, Ohio, and then to Birmingham, Alabama; and an American Airlines trip from Charlotte, North Carolina, to Chicago, Illinois, to Champaign, Illinois, and return from Champaign to Chicago to Nashville.

After Ms. Pullum and Ms. Baker identified Dr. Shumaker's personal charges as best they could, Dr. Shumaker reviewed the charges and indicated his concurrence each time. Based on this information, Ms. Baker sent five memoranda to Ms. Pullum requesting reimbursement from Dr. Shumaker, and Ms. Pullum sent the memoranda on to Dr. Shumaker. The memoranda were dated September 6, 2002; September 9, 2002; and March 21, 2003; and two were dated May 15, 2003. Dr. Shumaker reimbursed the university the full amount identified. In each instance, he wrote a check payable to the university. It should be noted that although Dr. Shumaker shifted the responsibility for the initial identification of his personal charges to Ms. Pullum and Ms. Baker, he was responsible for the thorough review of his credit card charges.

Dr. Shumaker's participation in this process of identifying his personal charges, receiving a billing memorandum for the amount due, and paying the amount billed, confirmed that he understood that he was responsible for reimbursing the university for his personal expenses.

The university's internal auditors identified \$1,886.11 in additional personal charges beyond those identified by Dr. Shumaker for the period from June 1, 2002, through June 30, 2003. These additional personal charges included food and beverage, telephone calls, and other expenses. The other expenses included charges for laundry, executive salon, gift shop, transportation, Internet service, and a room-upgrade charge. The amounts in the internal audit report did not include personal charges incurred prior to June 1, 2002, or subsequent to June 30, 2003.

After the internal auditors issued their internal audit report on August 15, 2003, they continued to review Dr. Shumaker's travel expenses. Their review included Dr. Shumaker's credit card charges for the period July 1, 2003, through Dr. Shumaker's last credit card transaction, which occurred on July 11, 2003. The closing date for the credit card statement was August 11, 2003. The internal auditors determined that Dr. Shumaker had placed an additional \$149.75 in personal charges on his American Express credit card. His personal charges included

room service, minibar, gift shop, phone calls, and gasoline expenses. In addition, Dr. Shumaker's hotel rate exceeded the allowable rate by \$397.02.

As noted above, the university's internal auditors examined Dr. Shumaker's credit card charges for the period June 1, 2002, through June 30, 2003. However, the internal auditors did not examine Dr. Shumaker's credit card charges for the period from his first charge, which occurred on March 30, 2002, through May 31, 2002, a 63-day period. According to the university's internal audit director, Dr. Shumaker's credit card charges prior to June 1, 2002, were referred to this office for review.

Based on the credit card statements, Dr. Shumaker incurred 15 charges totaling \$1,881.00 in the 63-day period from March 30 through May 31, 2002. The total included one airline charge for \$659.00; five hotel charges for \$667.69; two restaurant charges for \$408.01; and seven other charges for \$146.30. The other charges were for Internet connections and one airphone call.

During this 63-day period, Dr. Shumaker incurred \$199.16 in personal expenses, which he had not identified or reimbursed the university. These non-allowable charges included two room service charges, two restaurant charges, a gift shop charge, and a personal phone call. Further, Dr. Shumaker's hotel room rate exceeded the allowable rate by \$5.00. Overall, the university paid \$1,294.16 more than it should have because Dr. Shumaker failed to identify and reimburse non-university related expenses and failed to follow the university's travel policy related to room rates. Although the reviews of the bills by Ms. Pullum and Ms. Baker represented some process for examination of the bills, the process was ineffective because they could not ascertain what the charges represented. Such an ineffective ad hoc process is clearly no substitute for a proper review on the front end by Dr. Shumaker.

Dr. Shumaker's failure to completely identify all his personal charges indicated that he was negligent in complying with an arrangement that he had initiated and in which he participated, as evidenced by the existence of several billing memoranda and reimbursement checks.

Lack of Reconciliation Between Credit Card Statements and Incidentals Expense Claims

Our review disclosed that no university staff person performed a reconciliation of Dr. Shumaker's credit card charges, as shown on his American Express statements and available receipts, with the separate travel expense reports related to his non-credit card expense (incidental expenses). Incidental expenses typically include per diem, parking, and taxis. Dr. Shumaker submitted 16 incidental expense claims totaling \$4,258.80. The first claim was dated July 18, 2002, and the last claim was dated April 30, 2003.

We determined that Ms. Pullum and Ms. Pam Warwick, an administrative services assistant in the president's office, prepared Dr. Shumaker's travel expense reports for his incidental expenses based on his calendars and their knowledge of his travel. Dr. Shumaker signed the incidental expense claims. They both stated that they did not compare the information

they placed on the incidentals expense claims with Dr. Shumaker's credit card statements and receipts because they had been told that Ms. Baker, the corporate travel manager, was responsible for such reconciliations. Ms. Baker confirmed that she was responsible for the reconciliations, but she stated that she only received a few incidentals expense claims at the beginning of Dr. Shumaker's tenure, and when she did not receive any further claims, she incorrectly assumed that Dr. Shumaker was not claiming reimbursement for incidental expenses.

Based on our interviews with staff of the president's office and the treasurer's office, it appears that Dr. Shumaker's incidental expense claims were actually transmitted to the accounts payable section in the treasurer's office, rather than to Ms. Baker. Accounts payable staff indicated that they were not responsible for reconciling the incidentals expense claims with Dr. Shumaker's credit card statements because Mr. Peccolo had told them that Ms. Baker had that responsibility. They said that when they received the incidentals expense claims, they incorrectly assumed that Ms. Baker had completed her reconciliation.

The importance of conducting a comparison of credit card statements and supporting receipts with incidentals expense claims would be to identify instances where Dr. Shumaker was eligible for per diem, but also charged food and beverage on his credit card. In that situation, Dr. Shumaker should have received the authorized per diem amount and he should have identified the credit card charge as a personal expense and reimbursed the university. However, even if treasurer's office staff had attempted to perform such a reconciliation, he or she would have been materially limited in that the credit card statements did not contain sufficient detail. Moreover, Dr. Shumaker provided few receipts, which might have contained relevant information.

Additionally, accounts payable staff who were responsible for reviewing Dr. Shumaker's incidental expense claims needed to know when meals were provided for Dr. Shumaker by third parties. For example, the university's travel policy for executive staff includes procedures for calculating partial per diems where other parties provide meals. Without access to Dr. Shumaker's calendars, treasurer's office staff would have been unable to identify instances where such meals were provided and thus would not have been able to make the appropriate adjustments.

The university's internal auditors compared Dr. Shumaker's incidentals expense claims with his credit card statements, available receipts, and calendars. Based on their review, they determined that Dr. Shumaker had been overpaid \$246.87. The internal auditors determined that Ms. Pullum and Ms. Warwick made errors in calculating the appropriate rates and accounts payable staff did not detect the errors. It should be noted that in some instances, Dr. Shumaker was underpaid. As an example, the incidentals expense claim would sometimes include an in-state per diem rate for an out-of-state trip, resulting in a claim for a lower amount than authorized by policy. In other situations, the expense claim included the total allowable per diem, but would not show appropriate adjustment for meals provided by third parties, resulting in a claim for a higher amount than authorized by policy. The internal auditors calculated the overpayment and underpayment and reported the net amount, which was the overpayment of \$246.87.

According to Mr. Neal Wormsly, the assistant treasurer, the accounts payable staff incorrectly assumed that the incidental expense claims submitted to them already reflected

deductions for meals provided by third parties. In the circumstances described above, no university employee was responsible for confirming that all personal credit card charges had been identified and that all per diem expenses were appropriate.

Hotel Rates

Ms. Baker, the corporate travel manager, stated that she understood that Dr. Shumaker had been granted an exception to the hotel rates specified in the university's travel policy by Mr. Peccolo. She stated that she based this on her recollection that on one trip, Dr. Shumaker traveled to Washington, D.C., and was scheduled to stay at a Hampton Inn or similar hotel. According to Ms. Baker, Dr. Shumaker was not satisfied because he was there on a fund-raising trip and did not think that his staying at the Hampton Inn would look good to the potential donors he was meeting, who were staying at the Hyatt Regency at Capitol Hill.

According to Ms. Baker, she spoke with Mr. Peccolo and Mr. Eli Fly, president of the university foundation, and they decided to give a blanket exception to Dr. Shumaker. Ms. Baker said that she was verbally instructed by Mr. Peccolo and Mr. Fly to try to get as low a rate as possible for club or concierge level rooms. Ms. Baker stated that she recalled that Mr. Fly felt that club or concierge level rooms were acceptable in some circumstances. Ms. Baker stated that she recalled that Dr. Shumaker was moved to the Hyatt Regency at Capitol Hill.

However, Mr. Peccolo stated that he did not recall the conversation with Ms. Baker and Mr. Fly regarding Dr. Shumaker's hotel in Washington, D.C. Mr. Peccolo stated that he did not have the authority to approve any blanket exception pertaining to Dr. Shumaker's lodging, and neither did Mr. Fly because he was not a university employee. Mr. Peccolo stated that the president, under the university's executive travel policy, could approve exceptions, but that such exceptions should be documented in writing. Mr. Peccolo stated that he recalled discussing Dr. Shumaker's expectations regarding hotel rooms with Ms. Baker. According to Mr. Peccolo, he conveyed to Ms. Baker his opinion that she should endeavor to obtain club or concierge level rooms for Dr. Shumaker, as he requested, but only if she could obtain the rooms through free upgrades or through UT's relationship with hotel chains, without additional costs to UT. Mr. Peccolo stated that he did not intend for UT to pay room rates higher than those authorized by the university's travel policy. With regard to free upgrades, Mr. Peccolo explained that Dr. Shumaker participated in various hotel points programs and that those points could be used for free upgrades, if there were rooms available. No written exception relating to Dr. Shumaker's Washington, D.C., trip could be found in his travel files in the treasurer's office.

Mr. Fly stated that he did not recall Dr. Shumaker's Washington, D.C., trip, Dr. Shumaker's request for a room at a more prestigious hotel, or any conversation about the trip or making an exception for him. Mr. Fly stated that he did not doubt that the conversation took place and he stated that he would have agreed that such an exception would have been appropriate, if a one-time situation. Mr. Fly noted that some donors are well-to-do individuals who are used to upscale accommodations, and it would be appropriate in some circumstances for the president to also stay in upscale accommodations when meeting with such donors. However, Mr. Fly pointed out that he was not a university employee at that time and thus he did not have

authority to approve Dr. Shumaker's actions. Mr. Fly had retired from the university and was president of the UT foundation. Mr. Fly further noted that all of Dr. Shumaker's travel was paid through the university, not the foundation. Mr. Fly said that if Dr. Shumaker had asked him about staying at upscale hotels or in club or concierge level rooms on a regular basis, he would have told him that he should pay the difference between the higher rate and the allowable rate himself. Mr. Fly said that he did not, and would not, have given any indication that Dr. Shumaker routinely could stay in more expensive rooms than allowed by university policy.

As a result of her apparent confusion regarding club or concierge rooms, Ms. Baker routinely made reservations for Dr. Shumaker at the more expensive room rates and she routinely completed, with Ms. Pullum, Dr. Shumaker's travel expense claims without regard for the hotel room rates charged. Evidently, what started as a one-time exception evolved into the norm in regard to Dr. Shumaker's hotel reservations.

The university's internal auditors analyzed all of Dr. Shumaker's hotel stays that he charged to his university-sponsored credit card which was paid by the university. Their review covered the period from June 5, 2002, through June 8, 2003. For that period, Dr. Shumaker's hotel rate per day exceeded the allowable rate by a total of \$2,952.84. Notwithstanding Ms. Baker's misunderstanding, Dr. Shumaker should have known and adhered to the university's policies, and he should have ensured that she also followed the applicable policies.

The internal auditors identified 36 nights where Dr. Shumaker's hotel room cost more than the university's allowable rate. The largest difference was for a night at the Hilton Hotel in Washington, D.C. The university's allowable rate is \$135, while Dr. Shumaker's room cost \$338, a difference of \$203. The next largest difference was for a night at the Peabody Hotel in Memphis, Tennessee. The university's allowable rate is \$77 per night, while Dr. Shumaker's room cost \$225 per night, a difference of \$148. The third largest difference was for three nights at the Hilton Hotel in New Orleans, Louisiana. The university's allowable rate is \$135 per night, while Dr. Shumaker's room cost \$279 per night, a difference of \$144. The extra cost to the university for Dr. Shumaker's New Orleans hotel stay was \$432. In contrast, the smallest difference was \$13 per night for the Sheraton Hotel in Nashville, Tennessee. The university's allowable rate was \$77 per night, while Dr. Shumaker's room cost \$90 per night.

Travel Comparison

Based on information obtained during the recent Fiscal Review Committee hearings, we compared Dr. Shumaker's travel with that of Dr. Carol Garrison, former Provost at the University of Louisville and currently President of the University of Alabama at Birmingham. Based on our examination of the records identified above, we determined that Dr. Shumaker and Dr. Garrison were in the same cities at the same time in four instances. Dr. Shumaker and Dr. Garrison did not bill UT and UAB for the same hotel expenses or actual meal charges.

Conclusion on Procedures Governing Credit Cards

The UT treasurer's office, in an effort to accommodate Dr. Shumaker, authorized the use of an American Express credit card that was billed directly to and paid by UT without implementing clear written procedures to establish controls over the card. This credit card was an exception to UT's corporate credit card policy, which states that the UT employee receiving the card is responsible for all charges and must submit an expense form to obtain reimbursement for travel expenses. Dr. Shumaker failed to provide the necessary receipts for determining business and personal charges on his American Express card, and the UT treasurer's office failed to take appropriate action when informed of this. As a result, UT paid a total of \$4,964.92 for Dr. Shumaker's personal charges. Dr. Shumaker identified and reimbursed UT for \$2,729.90 (55%) of these charges prior to the initiation of the internal audit on July 15, 2003. The personal charges not identified by Dr. Shumaker totaled \$2,235.02.

Because of a lack of communication within the treasurer's office and the failure to implement clear written procedures establishing controls over the credit card, the American Express statements were not reconciled with Dr. Shumaker's incidental expense claims. Consequently, UT overpaid Dr. Shumaker a total of \$246.87 in per diem.

Due to an apparent misunderstanding on the part of UT's corporate travel manager, Dr. Shumaker was allowed without question to stay in hotel rooms that exceeded the limits set forth in UT's travel policies to satisfy his desire to stay only in upper class hotel rooms. As a result, Dr. Shumaker's hotel rooms exceeded the allowable rates by \$3,354.86.

A comparison of Dr. Shumaker's and Dr. Garrison's travel expenses disclosed no duplicate claims for the same expenses.

Recommendation

Because of the obvious risks and demonstrated deficiencies associated with an individual's university-sponsored credit card that is directly billed to the university, university management should immediately adopt a policy prohibiting the issuance of this type of card under any circumstances. In addition, the university's Board of Trustees should adopt a policy that requires the university's president to obtain advance approval from the Board of Trustees for any exceptions to the university's policies that pertain to the president or the president's office. Exceptions should be documented and the documentation should be retained for historical and audit purposes. Under no circumstances should the treasurer's office process payment without the required supporting receipts. Further, treasurer's office staff should strictly apply university requirements related to per diem, hotel room rates, and other allowable travel expenses, and the treasurer's office should ensure staff understand their respective roles and avoid assumptions about the process and/or their roles.

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4. **Controls over the approval of renovating and refurbishing the executive residence were circumvented, and controls over entertainment and receptions were insufficient in that budgets were not established and the appropriateness of proposed expenditures was not considered particularly in light of the fiscal environment of the university.**

Finding

In addition to the breakdowns in controls over Dr. Shumaker's credit card use, discussed in finding 3 on credit cards, we found insufficient controls relating to renovating and refurbishing the executive residence and providing entertainment and receptions. In both areas, the critical deficiencies were the failure to establish budgets of any kind, an attitude of entitlement on the part of Dr. Shumaker, and a mindset of accommodation of the new president on the part of senior-level university staff. In these circumstances, despite the continuing budget crisis faced by the state and the university, little attention was paid to the issues of the scarcity of resources or the need for fiscal restraint.

A shortcoming on the part of upper level university staff was the failure to establish budgets for renovations and entertainment. Dr. Shumaker did not establish any budgets himself, nor did he direct any university staff to develop budgets, and no university senior level staff took it upon themselves to develop budgets. In the absence of budgets, Dr. Shumaker's spending essentially was uncontrolled. Typically, construction projects include estimated costs and the university staff develop an annual budget for entertainment events.

It is evident that Dr. Shumaker's tenure as the university's president brought into play four threads whose cumulative effect was a breakdown in accountability and fiscal controls. First, Dr. Shumaker exhibited an attitude in certain areas that cost was not a primary consideration. Second, Dr. Shumaker was aggressive in pursuing his agenda of renovating the executive residence and promoting entertainment events and receptions. Third, no university official considered a budget to be necessary or advocated the formulation of a budget. Fourth, the tier of university officials below Dr. Shumaker displayed an attitude of accommodation towards him. No university official expressed reservations regarding Dr. Shumaker's spending levels or indicated concerns to the university's internal auditors, members of the university's Board of Trustees, or the Office of the Comptroller of the Treasury.

Renovating and Refurbishing the Executive Residence

With reference to the renovations, a series of three relatively small projects, each under \$100,000 meant that none of the projects were submitted to the university's Board of Trustees, the Tennessee Higher Education, or the State Building Commission. By university policy, any project exceeding \$100,000 must be approved in advance by all three entities. Once it became clear that the total work would exceed the \$100,000 limit, the nature and scope of the renovation and refurbishing should have been submitted to the three governing entities in advance of any

additional work for review and approval. The university's failure to disclose these projects negated the purpose for which the requirement of advance review and approval was created, which was to determine the propriety of the proposed expenditures and the appropriate level of expenditures.

According to the internal audit report, the university had completed major renovation work on the executive residence in the summer of 2001, prior to the hiring of Dr. Shumaker. The total cost of this renovation was \$787,597. When Dr. Shumaker was hired in June 2002, Mr. Clayton McWhorter, the vice-chairman of the university's Board of Trustees, indicated that Dr. Shumaker was told that further improvements would be made to the residence. According to Dr. Shumaker, it was explained to him that phase one of the renovation project had been completed, and the university was waiting for the next president before initiating phase two, which would deal more with the interior and would depend upon the size of the new president's family and their preferences for certain items.

However, an acknowledgement by Mr. McWhorter that the residence needed some work was stretched by Dr. Shumaker to encompass renovations, fixtures, furnishings, furniture, and other items costing \$493,137. Dr. Shumaker initiated three separate renovation projects: (1) the conversion of the third floor into two bedrooms for his sons, who did not live with him, and other guests, at an estimated cost of \$77,270; (2) the construction of a second floor sun room and an enlarged master closet at an estimated cost of \$97,350; and (3) the addition of a kitchenette on the second floor at an estimated cost of \$20,000 so that his sons would not have to intrude on the caterers or guests when a function was being held downstairs. The total estimated cost of these three projects was \$194,620. Additional questionable expenditures related to the executive residence, also highlighted in the internal audit report, included \$32,326 for furniture for the upstairs living quarters; \$7,175.27 for an entertainment system for the second floor sun room; \$7,000 for a Persian rug for the downstairs area; \$4,822 for a gas grill for the patio; \$12,297 for two armoires, one of which was placed in a warehouse and never used; and \$1,361 for an invisible fence for dogs, although Dr. Shumaker did not bring a dog with him from Louisville nor did he acquire a dog during his tenure as president. According to the internal audit report, Dr. Shumaker agreed that he intended to pay for the invisible fence, but had not because he had not been billed for it.

Further, the internal audit report questioned Dr. Shumaker's authorization for the installation of a more expensive telecommunications system than seemed necessary in the executive residence. Overall, the university spent \$64,429.72 on telecommunications items related to Dr. Shumaker's tenure as president. The internal audit report also questioned the university's payment of \$440.05 for commercial Internet connection to the residence because Dr. Shumaker's contract specifically stated that the university would not provide such services. However, the university staff who reviewed and authorized payment were not familiar with the contract terms and thus did not identify the Internet service charge as an unallowable charge.

The university official responsible for overseeing the renovations was Mr. Phillip Scheurer, the UT vice president for operations. In that role, Mr. Scheurer was responsible for telling and did tell Dr. Shumaker that the renovation projects and other expenses related to the

executive residence needed to be presented to the university's Board of Trustees, the Tennessee Higher Education Commission, and the State Building Commission.

According to his testimony before the Fiscal Review Committee on August 21, 2003, Mr. Scheurer stated that his primary concerns related to whether Dr. Shumaker had the authority to (1) order the renovations, and (2) direct that the renovations be paid from unrestricted gift income funds. Before the Fiscal Review Committee, Mr. Scheurer stated that he believed that the answer to both questions was the Dr. Shumaker did have the appropriate authority to order the renovations and to direct that the renovations be paid from unrestricted gift income. Mr. Scheurer also stated that in retrospect, the projects should have been forwarded to the university's Board of Trustees for review and approval. Dr. Scheurer referred to a "cascade" of projects coming from Dr. Shumaker, each costing less than the \$100,000 threshold, as an explanation for why these projects were not submitted to the State Building Commission.

In his subsequent interview with auditors, Mr. Scheurer expanded on his two concerns cited above. He explained that he applied four criteria. First, did Dr. Shumaker have the authority to order the renovations? Second, did Dr. Shumaker have the authority to direct that the renovations be paid from unrestricted gift income? Third, did the unrestricted gift income account contain sufficient funds to cover the estimated costs? Fourth, did the proposed renovations detract from the asset value of the executive residence? According to Mr. Scheurer, because the answer to the first three questions was yes and the answer to question four was no, he did not object to the renovations. Mr. Scheurer pointed out that he had objected, and had succeeded in carrying his objection, to Dr. Shumaker's desire to have the mahogany woodwork painted white. Mr. Scheurer also pointed out that Dr. Shumaker had suggested several other projects, such as extending and screening in the deck, and renovating the boathouse, which were not undertaken.

Absent from Mr. Scheurer's concerns were the question of the propriety of spending any additional funds on the president's residence in light of the state's and the university's fiscal crisis, the concept of limits on the amounts that should be spent, or the notion of propriety related to the items that Dr. Shumaker requested that the university purchase on his behalf. What was missing on the part of Mr. Scheurer was an understanding of his role and responsibility for controlling costs or even for providing a cautionary voice regarding the proposed expenditures.

Entertainment and Receptions

During Dr. Shumaker's tenure, the university spent \$319,346.63 for entertainment and receptions for both athletic and non-athletic events. Of this total, \$165,024.08 was for 10 athletic events costing more than \$1,000 each; and \$136,197.15 was for 17 non-athletic events costing more than \$1,000 each. The university spent \$18,125.40 for 101 events costing less than \$1,000 each. The smaller events (less than \$1,000) hosted by Dr. Shumaker were typically meals for meetings or smaller groups of individuals. The internal auditors pointed out that a large number of these events appeared to involve university employees only rather than potential donors to the university. In addition, the cost exceeded \$85 per person for four events. The calculated cost per person was \$126.61 at the Orangery in Knoxville, Tennessee; \$104.68 at Bobby Van's

Steakhouse in Washington, D.C.; \$91.77 at the Brown Palace Hotel in Denver, Colorado; and \$87.96 at the Park City Café in Nashville, Tennessee.

The internal audit report provided additional information indicating possible excessive purchases associated with entertainment and receptions. The internal auditors reported that alcohol purchases for events held at the president's residence totaled \$8,945.66, and alcohol purchases for other entertainment events, as identified on invoices, totaled \$13,001.10. According to the internal auditors, Dr. Shumaker stated that the practice of stocking the president's residence with alcoholic beverages was customary for college presidents and that the large quantities of wine and beverages still at the residence would be available for use for upcoming events.

In an interview, Dr. Shumaker acknowledged that some of the entertainment expenses were excessive; he specifically identified the cost of tailgate parties as excessive. Dr. Shumaker indicated that he was unaware of the cost of the entertainment events and that he had delegated responsibility for those events to Dr. Cathy Cole, his chief of staff.

With regard to the level of entertaining, Dr. Shumaker told the internal auditors that he felt that it was critical during his first year as president to meet as many people as possible and to begin establishing important relationships with alumni, legislators, staff, and other friends of the university. Dr. Shumaker also indicated that he wanted to make full use of the executive residence and to host as many functions as possible. Dr. Shumaker explained to the internal auditors that he attempted to host the types of events that had been traditionally held at the University of Tennessee and that he introduced university-funded tailgate events before football games. He stated that he was aggressive in hosting receptions and other events and that he felt that he had been successful in doing so. Dr. Shumaker stated that he asked for a budget for these events and Ms. Sylvia Davis, the university's vice president for budget and finance advised him, that one did not exist. Dr. Shumaker stated that he was unaware of the cost of the university-funded entertainment and receptions until the internal auditors showed him a schedule they had prepared of the total cost and breakdown by events. He stated that Dr. Cole had not provided him cost information related to those events.

According to the internal audit report, Dr. Cole stated that she had verbally informed Dr. Shumaker of the status of these events, including the costs. She also indicated that Dr. Shumaker would occasionally make changes resulting in additional costs, such as requesting wine, fruit, and sandwiches instead of cookies and punch. Dr. Cole explained that some of the apparent high cost of events could be attributed to ordering food and beverages for the maximum number of people anticipated to attend the event. This often resulted in large amounts of leftovers and unnecessary costs since everyone invited usually did not attend. Both Dr. Shumaker and Dr. Cole indicated to the internal auditors that they believed that ARAMARK, the university's caterer, was more expensive than other caterers were and that ARAMARK's costs increased the overall costs of some of the events.

In a subsequent interview with the auditors, Dr. Cole stated that she had discussed cost issues with Dr. Shumaker related to some of the events, the use of ARAMARK, and the purchase of office food supplies. Dr. Cole indicated that Dr. Shumaker was receptive to her concern about

the amount of entertaining and that the level of entertaining decreased beginning January 2003. Dr. Cole stated that Dr. Shumaker never set a budget for events and never asked what the budget was or if there was a budget. Dr. Cole indicated that she did not put together an events budget herself. Dr. Cole explained that there was a real effort on her part to accommodate a new president with a different style and mode of leadership in his first year. Dr. Cole also stated that she had discussed her concerns about costs with Ms. Sylvia Davis, Mr. Butch Peccolo, and Mr. Mark Paganelli, but that her concerns did not rise to the level where she felt she needed to inform members of the Board of Trustees or the Comptroller of the Treasury. Dr. Cole stated that she had total confidence in Ms. Davis and Mr. Peccolo and in the processes and structure that were in place to control costs. According to Dr. Cole, in her mind, Dr. Shumaker was in contact with the Board of Trustees and she trusted that he was communicating with the Board members and that they knew what he was doing and approved of his activities.

Ms. Sylvia Davis, the university's vice president for budget and finance, stated that she did not provide Dr. Shumaker with a budget for entertainment and receptions or with information regarding the actual cost of such events. Ms. Davis indicated that her office received information about entertainment costs only after the events had occurred. Ms. Davis said that she questioned some expenditure levels, such as the cost for flowers and for the Christmas receptions, by speaking with Dr. Cole. She said that her observations were along the lines of items appearing to cost more than they should and the need to look for ways to reduce costs the next time. Ms. Davis explained that she understood that Dr. Shumaker had received a mandate from the university's Board of Trustees to meet and greet as many university supporters, internally and externally, as possible. Ms. Davis further explained that the expectation was that Dr. Shumaker would spend more in his first year than in subsequent years and consequently his first year's spending would be used as a benchmark for budgeting for subsequent years. Further, Ms. Davis said that Dr. Shumaker was hired for his abilities as a fund-raiser, and if these were activities that Dr. Shumaker deemed necessary to accomplish his responsibilities relating to fund raising, then the university staff supported those activities and the level of expenditures that he indicated he felt appropriate.

Conclusion on Controls Over Executive Residence Renovations and Entertainment Expenditures

The university spent \$493,137 on renovations and items for the executive residence at the request of Dr. Shumaker. The scope of the renovations was not determined at the outset and the projects were completed piecemeal, thereby avoiding the necessary approvals from the UT Board of Trustees, the Tennessee Higher Education Commission, and the State Building Commission. In addition, the necessity of the renovations and some of the items that were purchased for the house were questionable. Budgets were not established for the renovations and items purchased, and UT's management did not question the renovations and purchases or attempt to set limits on the spending.

UT spent \$319,346.63 for entertainment and receptions during Dr. Shumaker's tenure as president. Dr. Shumaker noted that some of the expenses were excessive, particularly the university-funded tailgate parties, but he stated that he was told that no budget existed for these

events. Several of the events appeared to involve primarily UT employees. Some of the high cost may be attributable to an apparent tendency to overestimate the number of people that would be attending, which often resulted in large amounts of leftovers. In addition, invoices indicated that \$21,946.76 of alcohol was purchased for social functions during Dr. Shumaker's tenure as president, and large amounts of this alcohol are currently stored at the executive residence.

Recommendation

The total scope of building projects should be determined at the onset of the projects to ensure that the proper approvals are obtained. Projects that are initially below the amount for approval should be carefully monitored and reevaluated if the projects show signs of exceeding the amount requiring approval. Requests for construction-type changes as well as those for household and decorative items for the executive residence should be carefully evaluated for propriety and necessity before funds are expended. Budgets should be created and strictly adhered to for all expenditures related to the executive residence. Entertainment functions should be kept to a reasonable level, and a budget should be established and strictly adhered to for these functions. Parameters should be established for functions primarily involving university employees. The university should consider the propriety of using state appropriations or donor funds to stock the executive residence with alcohol for entertainment functions. The university should establish a chief financial officer position to provide a strong fiscal oversight function for the university and to ensure that necessary corrective actions are taken for identified fiscal deficiencies. The chief financial officer should have dual reporting responsibilities to the university's Board of Trustees and the university's president.

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5. **Dr. Shumaker misrepresented his actions to the university's internal auditors and audit staff of the Division of State Audit. Such misrepresentations may have violated Tennessee statutes that require public officials to cooperate with the auditors and that prohibit tampering with or fabricating official records.**

Finding

During the course of our review, we identified four clear situations in which Dr. Shumaker misrepresented his actions to the auditors. In misrepresenting his actions, Dr. Shumaker may have violated Tennessee statutes that require public officials to cooperate with the auditors and that prohibit tampering with or fabricating official records. Dr. Shumaker misrepresentations involved a trip to San Antonio, Texas, where he shared a hotel room with a female conference attendee; his repeated failure to provide credit card receipts; alterations to his calendar; and the existence of personal trips, which were purported to be business trips. The four situations are discussed below.

San Antonio

As noted during the fiscal review committee meeting on August 21, 2003. Dr. Shumaker was in San Antonio to attend the 2002 annual meeting of the Commission on Colleges of the Southern Association of Colleges and Schools, scheduled for December 7-10, 2002. As the internal auditors reviewed the documentation for Dr. Shumaker's trips, they noted the bill for the hotel was in the name of Carol Garrison rather than Dr. Shumaker. When the internal auditors and Dr. Shumaker first discussed the bill, he stated that he had given his room to Dr. Garrison and had stayed somewhere else with friends. He later acknowledged that he and Dr. Garrison had shared the same room at the hotel.

Receipts

In an interview with Dr. Shumaker on July 24, 2003, the university's internal auditors asked Dr. Shumaker about his practice related to his receipts associated with his credit card charges. At that time, Dr. Shumaker stated that he provided all receipts associated with his credit card charges to his secretary, Ms. Jane Pullum, by either handing them to her directly or by placing them in his out box on his desk for her to pick up. When the internal auditors asked Dr. Shumaker about missing receipts, he expressed surprise that any receipts were missing and stated that this was the first that he had heard about any of his receipts being missing. Dr. Shumaker also stated that he well knew the importance of receipts, since he had been a business traveler for over 25 years, and stated that he didn't need a primer on receipts. Dr. Shumaker acknowledged that he might not have submitted a few receipts, but he indicated that that he felt that he had provided almost all the required receipts.

After the interview with Dr. Shumaker, we interviewed Ms. Pullum with the internal auditors. Ms. Pullum confirmed that Dr. Shumaker provided her receipts either by giving them to her directly or by placing them in his out box on his desk for her to pick up. Ms. Pullum stated that she noted at the time that Dr. Shumaker was providing few receipts related to his business expenses charged on his university-sponsored American Express credit card, but that she didn't say anything to him about missing receipts because she did not feel that it was her place as his secretary to do so. Ms. Pullum stated that she and Ms. Carol Baker, the corporate travel manager, would collaborate on completing Dr. Shumaker's expense claims related to his credit card charges and that she provided Ms. Baker all available receipts. Ms. Pullum stated that to her knowledge no receipts had been lost in transit from Dr. Shumaker to her and that she had not lost or discarded any of his receipts.

Ms. Baker confirmed that she collaborated with Ms. Pullum on preparing Dr. Shumaker's expense claims related to his credit card charges and that Ms. Pullum provided her Dr. Shumaker's receipts.

Dr. Shumaker was interviewed again about his credit card use and the receipts on July 31, 2003. In that interview, Dr. Shumaker substantially modified his initial statement. He said that when he stated in his first interview that he had provided all, or almost all, his receipts, what he meant was that he had provided all the receipts that he had. Dr. Shumaker acknowledged that he was sloppy about receipts and that he didn't always obtain receipts, retain them, or turn them in. When presented with the statements of Ms. Pullum and Ms. Baker, Dr. Shumaker said that he did not doubt their statements that many of his receipts were missing.

On September 25, 2003, the Audit Services Department of the University of Louisville issued two internal audit reports that established that Dr. Shumaker should have been well aware of the necessity to obtain and turn in receipts and that he should have been knowledgeable about the importance of identifying and reimbursing personal expenses charged to a credit card. One report is entitled *University of Louisville Research Foundation, Inc., General Funds, Executive Expenditures*, and the other is entitled *University of Louisville Foundation, Inc., Executive Expenditures*. Both reports cover the same time period, January 1, 1999, through June 30, 2002, and both focus exclusively on credit card transactions.

Included in both University of Louisville internal audit reports is the information that an earlier University of Louisville internal audit, performed as of June 30, 1997, and issued in 1998, while Dr. Shumaker was president of the University of Louisville, reported that credit card receipts were not maintained for any credit card transactions tested. The president's office concurred with the audit finding. At that time, the president's office agreed to keep original receipts on file. According to the 1999 University of Louisville follow-up audit report, the situation had been corrected.

Also included in both reports is the information that a small number of personal expenses totaling \$217 were charged to the Foundation credit card and not reimbursed by Dr. Shumaker. At that time, the University of Louisville's internal auditors recommended that the president use a personal credit card for personal expenses, and, if that was not practical, the president should review the Foundation's credit card statements and initial business-related expenses, and submit

a reimbursement for any expenses that are personal in nature. The president's office concurred with the audit finding. According to the 1999 University of Louisville follow-up audit report, the situation had been corrected.

Both University of Louisville internal audit reports stated that the internal auditors determined that Dr. Shumaker charged \$35,716 in personal expenses to the Foundation credit card and he reimbursed \$33,670. According to the internal audit report, there was an additional \$2,046 in personal expenses that should have been reimbursed by Dr. Shumaker. The internal audit reports stated that the personal items that were not reimbursed appeared to be isolated errors and oversights. The internal audit reports noted that a payment from Dr. Shumaker had been received to reimburse the University of Louisville Foundation, Inc. The internal audit reports noted that there were 262 travel, meal, and other transactions without receipts during the three-and-one-half year period.

Calendars

At the commencement of their audit, UT's internal auditors requested Dr. Shumaker's calendar records and the president's office provided a hard copy of his calendars to the internal auditors. Based upon a preliminary comparison of the flight logs for the UT plane with the calendars, the internal auditors determined that the calendars contained incomplete information. Therefore, the internal auditors decided to rely on the flight logs, not the calendars, as the most accurate and complete record of Dr. Shumaker's travel on the university's plane.

After Dr. Shumaker had resigned as president on August 8, 2003, internal audit staff assisted the university's facilities staff in reviewing the items in the president's office and separating personal effects from university property and documents. During that review, the internal auditors discovered a partial hard copy of Dr. Shumaker's calendars. Based on the knowledge that the internal auditors had gained from their analysis of the calendars initially provided by Dr. Shumaker, the internal auditors immediately determined that this newly discovered set of calendars contained more detailed information about Dr. Shumaker's activities, including his travel. In particular, the internal auditors noted that the calendars initially provided by Dr. Shumaker did not contain information pertaining to his travel to Birmingham and Louisville but that the newly discovered set of calendars did contain this information. The internal auditors immediately copied the new set of calendars for comparison purposes. Nearly two weeks later, on August 22, Dr. Shumaker's secretary, Ms. Jane Pullum, provided the internal auditors the remainder of the recently discovered calendars, which she said she had discovered while removing her files related to Dr. Shumaker.

Referral to Comptroller

Because their audit had been completed and issued, the internal auditors referred the matter of the discrepancies between the calendars initially provided by Dr. Shumaker and the more detailed calendars found in his office after his resignation to the Comptroller of the Treasury.

Interview with Jane Pullum

We interviewed Ms. Pullum about the calendars found in Dr. Shumaker's office after he had resigned. Ms. Pullum stated that in late April or early May the president's office received a public information request from a news media organization for Dr. Shumaker's calendars. Ms. Pullum stated that Dr. Shumaker requested that she print out his calendars for his review. According to Ms. Pullum, Dr. Shumaker personally reviewed his calendars and deleted information from them by lining through items with a black pen. According to Ms. Pullum, the changes included removal of doctor's appointments, haircuts, donor names, and the detail of trips. Ms. Pullum stated that Dr. Shumaker told her that this was information that the public did not need to know. Ms. Pullum stated that she did not specifically recall deleting entire trips from Dr. Shumaker's calendars. However, Ms. Pullum emphasized that she just did what Dr. Shumaker told her to do. Ms. Pullum indicated that other university staff had access to Dr. Shumaker's calendars, including Dr. Shumaker himself, Dr. Cole, Executive Assistant, and Ms. Butts, an administrative service assistant in the president's office.

Ms. Pullum stated that she posted Dr. Shumaker's changes to the electronic calendars maintained on their computers. Ms. Pullum stated that she only made the changes that Dr. Shumaker specified, and that she did not add or subtract any information on her own initiative. She stated that after she had made the changes, she threw away the calendars that Dr. Shumaker had marked. She stated that she then printed out a revised copy of Dr. Shumaker's calendars and gave them to him.

Ms. Pullum stated that she understood that the revised calendars had been provided to the university's public relations office, and the public relations office had then provided them to the news media organization that had requested them. Ms. Pullum further stated that she provided the revised calendars to the university's internal auditors when they requested Dr. Shumaker's calendars. She said that she did not indicate to the auditors that the calendars had been revised. Ms. Pullum stated that as far as she was concerned, the revised calendars were the official calendars, and if someone asked for Dr. Shumaker's calendars, she provided them the revised calendars.

Dr. Cole stated that she did not make any changes to Dr. Shumaker's calendars regarding his flights. Dr. Cole stated that she was unaware that Dr. Shumaker's calendars had been redacted. Ms. Butts stated that she was not involved in making any of Dr. Shumaker's changes to his calendars.

Information provided by the university's public relations office shows that four media organizations requested Dr. Shumaker's calendars: the *Knoxville News-Sentinel*; WATE-TV in Knoxville; *The Tennessean* in Nashville; and NewsChannel 5 in Nashville. The first request was submitted on June 2, 2003, and the fourth one on June 19, 2003. According to e-mail documentation retained by the public relations office, the reporter for the *Knoxville News-Sentinel* was informed on June 10, 2003, that the calendars, totaling 55 pages, were ready for review. On June 11, the reporter inquired, "Were parts of the calendar, specifically those dealing with the AD search, redacted?" The response, also on June 11, was "PER CATHY: JWS says records were not redacted. If J.J. is looking for information on the AD search, the code word

was SEC.” The response also stated, “President’s Office said the calendar was not redacted. Some of the ‘SEC’ notations pertained to the AD search.”

Analysis of Calendars for UT Plane Flights

For purposes of illustration, the calendars discovered in Dr. Shumaker’s office after he had resigned will be referred to as “Calendar A” because they reflect the original unaltered information. The calendars initially provided to the media and to the university’s internal auditors will be referred to as “Calendar B,” because they reflect deleted information. (For a comparison of Calendar A and Calendar B entries for various flights, see Exhibit F, Birmingham Trips; Exhibit G, Louisville Trips; Exhibit H, Chattanooga Trips; Exhibit I, Commercial Flights; and Exhibit J, Charter Flights.)

Our comparison between Calendar A and Calendar B disclosed that Dr. Shumaker apparently substantially revised Calendar A by deleting almost all references to his travel to Birmingham and Louisville. Calendar A recorded three flights to Birmingham, seven flights from Birmingham, and one flight from Louisville. Calendar B reflected the same three flights to Birmingham, but it did not record any flights from Birmingham or Louisville. In addition, the flight logs disclosed flights to Birmingham or Louisville on 10 additional dates, but those flights are not reflected on either Calendar A or Calendar B.

For instance, Calendar A showed that Dr. Shumaker departed on the UT plane from Birmingham on November 18, 2002. The entry on Calendar A is, “UT plane departs Birmingham—Jet Center.” However, on Calendar B, the entry is “To Nashville.” According to the flight logs, the UT plane flew empty from Knoxville to Birmingham, picked up Dr. Shumaker, and took him to Nashville and then to Memphis on that day. As a second example, Calendar A showed that Dr. Shumaker departed from Birmingham on November 30, 2002. The entry on Calendar A is, “UT plane from Birmingham—6:30 a.m. CT.” However, Calendar B does not contain any reference to a flight on that day. According to the flight logs, the UT plane flew empty from Knoxville to Birmingham, picked up Dr. Shumaker and his son, and returned them to Knoxville. In both cases cited above, references to Birmingham were deleted on Calendar B. The first instance retained a reference to a flight, but the second instance deleted any reference to Dr. Shumaker’s travel.

As a third example, the internal auditors noted that Dr. Shumaker returned from a meeting in Washington, D.C., to Birmingham via a commercial flight on March 7, 2002, and remained in Birmingham until March 9. For March 7, Calendar A records Delta Flight 623 from Washington to Atlanta (Arrive Atlanta 4:02 PM)” and Delta Flight 1815 from Atlanta to Birmingham (Arrive Birmingham 5:21 PM).” Calendar B contains no reference to these flights. On March 9, according to the flight logs, the UT plane flew Dr. Shumaker and Dr. Garrison to Little Rock, Arkansas, for the women’s SEC basketball tournament and returned them to Birmingham on the same day. With reference to this trip, the entry in Calendar A is “UT Plane from Birmingham to Little Rock (Central Flying Service). UT Plane from Little Rock to Birmingham.” The corresponding entry in Calendar B is, “To Little Rock.” In this case, all references to Birmingham were deleted from Calendar B. According to the flight logs, the UT

plane flew empty from Knoxville to Birmingham, picked up Dr. Shumaker and Dr. Garrison, flew them to Little Rock, returned them to Birmingham, and then returned empty to Knoxville.

Commercial Flights, Limousine Services, Demonstration Flight

Dr. Shumaker's revisions to his calendars extended to his commercial flights (as noted above), limousine service, and a demonstration flight of a King Air 350 aircraft.

To illustrate another alteration relating to commercial flights to Birmingham, Calendar A showed that Dr. Shumaker flew from Knoxville through Atlanta to Birmingham on January 10, 2003, on Delta Airlines. The entry on Calendar A is, "Delta flight 1069 from Knoxville to Atlanta (arrive Atlanta—3:50 p.m.) Delta flight 1815 from Atlanta to Birmingham (arrive Birmingham—5:21 p.m.)." In contrast, Calendar B makes no mention of any travel by Dr. Shumaker on that day.

With reference to limousine services, Calendar A showed that a limousine service provided transportation from the Birmingham airport to Birmingham-Southern College on May 2, 2003. The entry on Calendar A is, "UT plane to Birmingham—Jet South (transportation to Birmingham-Southern—Ambassador Limo Service) Ambassador Limo Service—Transportation." However, the entry on Calendar B is, "To Birmingham." Calendar B makes no mention of the limousine service. According to the flight log, Dr. Shumaker and Ms. Joan Cronan, the women's athletics director, flew from Knoxville to Birmingham on that day. The flight log also indicates that Ms. Pat Summitt, the women's head basketball coach, and her husband also flew to Birmingham on the UT plane. However, an invoice from Aviation Strategies Group, Inc., that the Summitts flew to Birmingham on a charter flight.

Later that day, Ms. Cronan and the Summitts returned to Knoxville on the UT plane, while Dr. Shumaker remained in Birmingham. The reason for the trip, according to Dr. Shumaker, was that Ms. Summitt was to receive a "Woman of Distinction" Award from Birmingham-Southern College. Dr. Shumaker stated that he stayed the weekend in Birmingham with Dr. Garrison and that he drove his car, which had been left in Birmingham at Dr. Garrison's residence, back to Knoxville.

The evident reason for the omission was to hide the fact that the president's office had arranged for an up-scale limousine to transport the UT delegation from the airport to the awards ceremony and back at a cost of \$645, which was placed on Dr. Shumaker's university-sponsored American Express credit card. According to the internal audit report, it appeared that the limousine wait time caused much of the cost. The limousine service receipt showed that the limousine was rented for six hours at \$107.50 per hour, including tax and required gratuity.

Based on information in the internal audit report, the arrangement for a limousine appeared to have been a result of misunderstandings on the part of Ms. Pam Warwick, an administrative services assistant in the president's office, and Ambassador Limousine Service. Apparently, Ms. Warwick thought that she had arranged for a car or a van. However, Ambassador Limousine Service, which provides upscale transportation services, sent a limousine. Both Dr. Shumaker and Ms. Cronan indicated that they were extremely surprised to

be picked up in a limousine and each thought the other had ordered it. The limousine transported Dr. Shumaker and Ms. Cronan to the reception and returned to the airport with Ms. Cronan and the Summitts after the reception. According to Dr. Shumaker, on the return trip to the airport, he had the limousine driver drop him off at Dr. Garrison's residence.

With regard to the demonstration flight, Calendar A showed a demonstration flight from Knoxville to Birmingham with a stop in Nashville on November 26, 2002. The reason for the demonstration flight was to assess the suitability of the King Air 350 aircraft. The entry on Calendar A is, "Demo Plane to Nashville. Depart Nashville to Birmingham. Arrive Birmingham—Jet South—Hertz Rental Car Reserved." Calendar B makes no reference to any travel by Dr. Shumaker. As noted above, Dr. Shumaker, accompanied by his son, returned to Knoxville on November 30, 2002, on the UT plane. Although Calendar A recorded this trip, Calendar B omitted all reference to this flight. In his interview before the more complete calendars were discovered, Dr. Shumaker stated that his reason for traveling to Birmingham was to celebrate the Thanksgiving holiday with Dr. Garrison and their respective family members.

Louisville

Calendar A, which starts on June 24, 2002, contains only one reference to a UT plane flight to and from Louisville, which occurred on January 21, 2003. According to the flight logs, the UT plane flew empty from Knoxville to Nashville; picked up Mr. Steve Leonard, the newly appointed executive vice president, and Dr. Cathy Cole, Dr. Shumaker's chief of staff; and continued to Louisville. The UT plane picked up Dr. Shumaker in Louisville, and all three UT officials flew to Tullahoma and then on to Knoxville. The entry on Calendar A is, "UT Plane – pick up in Louisville – to Tullahoma." Calendar B makes no mention of any flights on January 21.

The same pattern recurs with reference to Dr. Shumaker's commercial flights to and from Louisville. Calendar A showed that Dr. Shumaker flew from Knoxville to Washington, D.C., on January 27, 2003, on Delta Airlines, and that he continued on to Louisville by way of Cincinnati. The entry on Calendar A is, "Delta flight 730 from Knoxville to Washington, D.C. (via Atlanta) (arrive Washington 11:04 a.m.) Delta flight 5014 from Washington (arrive Cincinnati—10:18 p.m.) Delta flight 5499 from Cincinnati to Louisville (arrive Louisville—11:31 p.m.)." In contrast, on Calendar B, the entry is "Flight to Washington." All reference to Dr. Shumaker's flight from Washington through Cincinnati to Louisville was deleted.

The pattern also repeats with reference to Dr. Shumaker's charter flights from Louisville. Calendar A showed that Dr. Shumaker flew from Louisville to Knoxville by way of Union City on January 7, 2003, on a charter flight. The entry on Calendar A is, "Gulf Charter from Louisville (AV Center) to Union City. Gulf Charter from Union City to Knoxville (Transportation to airport by Nick Dunagan)." Comparatively, the entry on Calendar B is, "To Union City." Dr. Shumaker had another charter flight from Louisville on January 9, 2003. The entry on Calendar A regarding this trip is, "Depart Louisville – AV Center to Knoxville." Calendar B makes no mention of any flights on January 9.

Personal Plane Trips

We determined that Dr. Shumaker evidently was less than truthful when he stated that all his trips were primarily business related and that any of his personal travel would have been “embedded” within his overall business travel. The UT internal audit report and our review disclosed four occasions where his travel appeared to be wholly or primarily personal in nature.

Chattanooga

The flight logs showed that the UT plane flew Dr. Shumaker from Knoxville to Chattanooga on January 31, 2003, and returned to Knoxville empty. The flight logs also showed that on February 3, 2003, the UT plane flew empty from Knoxville to Nashville, picked up Dr. Cathy Cole, Mr. Steve Leonard, Ms. Florence Butts, and Mr. Scooter Clippard, a UT trustee, and continued on to Chattanooga. At Chattanooga, the UT plane picked up Dr. Shumaker and flew the five UT officials to Knoxville. Dr. Shumaker acknowledged that his trip to Chattanooga was entirely personal in nature. He stated that he “acted the tourist” in Chattanooga. Neither Calendar A nor Calendar B mentioned this trip.

Demonstration Flight

As noted in the section on the demonstration flight, Dr. Shumaker flew on a King Air 350 aircraft from Knoxville to Birmingham with a stop in Nashville on November 25, 2002. The purpose of the trip was to assess the suitability of the aircraft. According to the UT internal audit report, the university paid \$1,171.58 for the flight. The flight logs record that on November 30, 2002, the UT plane flew empty from Knoxville to Birmingham, picked up Dr. Shumaker and his son, and returned to Knoxville. Dr. Shumaker acknowledged in his interview before the more complete calendars were discovered that he traveled to Birmingham to celebrate Thanksgiving with Dr. Garrison and their respective families. Calendar A included both trips, but Calendar B deleted reference to them.

Dinner in Birmingham

The flight logs showed that on April 15, 2003, the UT plane flew Dr. Shumaker and Dr. Cole from Knoxville to Nashville and dropped off Dr. Cole in Nashville. Dr. Shumaker continued on the UT plane to Birmingham on April 15. According to the flight logs, the UT plane remained in Birmingham overnight and returned Dr. Shumaker to Nashville and then to Knoxville, all on April 16. According to Dr. Shumaker, he made the trip to Birmingham to attend a dinner at Dr. Garrison’s residence. Dr. Shumaker stated that Dr. Garrison had indicated that one of her invitees to dinner was a UAB faculty member with whom Dr. Shumaker had expressed interest with regard to this individual contracting with UT. Dr. Shumaker indicated that his trip was business-related in that he was able to converse with this UAB faculty member. However, when asked for the name of the UAB faculty member, Dr. Shumaker declined to provide the individual’s name. In the absence of additional information, which Dr. Shumaker declined to provide, the alleged business purpose appears incidental to his personal reasons for making the trip. Neither Calendar A nor Calendar B included any reference to Birmingham.

UAB Football Game

On November 15, 2002, Dr. Shumaker flew from Knoxville to Birmingham on Delta Airlines using a one-way ticket. Calendar A noted the Delta flight, but not the Birmingham destination on November 15. However, Calendar B contained no reference to any flights on November 15. According to the flight logs, the UT plane flew empty from Knoxville to Birmingham, picked up Dr. Shumaker, and flew him to Nashville on November 18, 2002. In Nashville, Dr. Michael Blackwell, Dean of the UT College of Veterinary Medicine, joined Dr. Shumaker and they flew on the UT plane to Memphis on that same day. For November 18, Calendar A noted that the UT plane departed from Birmingham, but provided no information as to the flight's destination. In contrast, Calendar B indicated a flight to Nashville, with no information regarding the origin of the flight or the final destination.

According to Dr. Shumaker, he did not have any university business in Birmingham until the morning of November 18, when he attended an SEC Compliance and Enforcement Subcommittee meeting. He stated that he attended a UAB football game with Dr. Garrison on November 16. Because he was in Birmingham, Dr. Shumaker did not attend the University of Tennessee's football game against Mississippi State University in Starkville, Mississippi, or a related UT alumni event that weekend. Clearly, the trip on November 15 was wholly personal in nature. Dr. Shumaker could have traveled to Birmingham and back on the university plane on November 18.

Attempt to Interview Dr. Shumaker

We attempted to interview Dr. Shumaker about the issues contained in this report, including this section, in late September 2003, after he had resigned as president of the University of Tennessee. General Counsel for the university identified Mr. Mark S. Ament, an attorney with the law firm of Greenbaum Doll & McDonald, PLLC, in Louisville, as Dr. Shumaker's attorney. We contacted Mr. Ament on September 25 and requested an interview with Dr. Shumaker. Mr. Ament indicated that Dr. Shumaker was travelling and that he would contact our office on September 30. On September 30, Mr. Ament informed us that Dr. Shumaker was represented locally in Knoxville by Mr. Wade V. Davies, an attorney with the law firm of Ritchie, Fels & Dillard, P.C.

We contacted Mr. Davies on October 1, and he promptly arranged with Dr. Shumaker for a personal interview in Knoxville on October 2. Later in the day on October 1, we requested that Dr. Shumaker be interviewed under oath, in the presence of a court reporter, due to the complexity of the issues involved and the importance of preserving a complete and accurate record of the questions and answers in a live interactive interview. That same day, Dr. Shumaker, through his attorney, declined to be interviewed under those conditions. In a letter from Mr. Davies dated October 1, 2003, he summarized Dr. Shumaker's reasons for not being interviewed (see Exhibit K). Our response to Mr. Davies was sent on October 8, 2003 (see Exhibit L).

At that point, in an effort to obtain answers to some or all of our questions and to include that information in our audit report, we proposed to interview Dr. Shumaker without the presence of a court reporter. We were informed by Mr. Davies at that time that Dr. Shumaker was returning to Virginia and that his travel schedule, which could not be cancelled, precluded a personal interview prior to October 9. Mr. Davis proposed written questions and answers, which he indicated could be accomplished within our timeframe. However, in our view, that procedure would not be adequate for our purposes. Because of the nature of the issues and the public interest involved, we believe that a live recorded interview would best serve the public interest and the interests of all parties.

Relevant Statutes

Four Tennessee statutes may pertain to the misrepresentations by Dr. Shumaker described above. The first, Section 8-4-208, *Tennessee Code Annotated*, entitled, “Cooperation of state agencies in investigations,” requires state agencies to honor requests by the Comptroller of the Treasury. The statute also requires state agencies to give full aid, support and cooperation to, the Comptroller of the Treasury in investigations of alleged irregularities or discrepancies involving state revenue or state funds. The second, Section 39-16-402, *Tennessee Code Annotated*, entitled, “Official misconduct,” prohibits the intentional or knowing violation of any law relating to the public servant’s office or employment. The third, Section 39-16-504, *Tennessee Code Annotated*, entitled, “Destruction of and tampering with governmental records,” makes it unlawful for any person to intentionally and unlawfully destroy, conceal, remove or otherwise impair the verity, legibility or availability of a governmental record. The fourth statute, Section 39-16-503, *Tennessee Code Annotated*, entitled, “Tampering with or fabricating evidence,” makes it “unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to alter, destroy, or conceal any record, document or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding.” The statute also makes it unlawful for any person, knowing that an investigation or official proceeding is pending or in progress, to “make, present, or use any record, document or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation of official proceeding.”

The statute pertaining to cooperation does not specify a penalty. The following penalties apply to the other statutes: for official misconduct, a Class E felony; for destruction of and tampering with governmental records, a Class A misdemeanor; and for tampering with or fabricating evidence, a Class C felony.

Referral

The matters discussed in this section were referred to the Office of the State Attorney General and the District Attorney General for the Sixth Judicial District.

Conclusion Relating to Apparent Misrepresentation

When questioned by the internal auditors as to why Dr. Carol Garrison's name appeared on his hotel bill from San Antonio, Texas, Dr. Shumaker initially stated that he had given his room to Dr. Garrison for her convenience at a conference they were both attending. Dr. Shumaker later admitted that he and Dr. Garrison actually shared the hotel room and arranged with the hotel to split the bill, and he acknowledged that initially misrepresented the situation in an effort to protect Dr. Garrison.

Dr. Shumaker stated in his initial interviews with the internal auditors and state auditors that he provided all, or almost all, his receipts associated with his credit card charges to his secretary. However, when confronted with statements from UT staff that he routinely failed to provide necessary receipts, he stated that he was actually sloppy with receipts and did not always obtain receipts or keep them or turn them in.

When the news media requested copies of Dr. Shumaker's calendar records, Dr. Shumaker instructed his secretary to make changes to his calendar that included material omissions of trip information. The altered calendar records were then provided to the news media and to the internal auditors on the pretense of being accurate and complete records. The changes were not communicated to recipients of the altered calendars.

Dr. Shumaker initially stated that all of his plane trips were primarily business-related and that any personal travel would have been embedded within his overall business travel. However, review and analysis of his travel indicated that on at least four occasions, the trips were wholly or primarily personal in nature, and any business aspects of the trips were incidental.

Recommendation

All employees should be made aware in writing of the impropriety of altering official government documents, including records such as calendars, and employees should be instructed to immediately notify the university's internal auditors if they are asked to make any alterations beyond the normal course of business. The notification to employees should include all levels within the university and should be documented. The documentation should be maintained for historical and audit purposes.

The purpose of all trips taken on the UT plane should be documented to lessen the likelihood that the plane will be used for personal business. Currently, the nature of trips taken on the UT plane is not documented.

6. The Board of Trustees did not have an adequate system in place to effectively monitor the activities of Dr. Shumaker or to effectively solicit information from top university officials about Dr. Shumaker’s questionable actions.

Finding

The Board of Trustees did not have an adequate system in place to effectively monitor Dr. Shumaker’s activities or to effectively solicit information from top university officials about his questionable actions. As a result, Dr. Shumaker’s habits and practices continued unquestioned.

The By-Laws of the University of Tennessee contain the following provisions relating to the Board of Trustees:

- Article I, Section 1, provides that “the Board of Trustees, which is the governing body of the University of Tennessee, shall have full and complete control over its organization and administration, also over its constituent parts and its financial affairs.”
- Article I, Section 2(a), provides that the board shall “establish policies controlling the scope of the educational opportunities to be offered by the university and also policies determining its operation in general; however, the planning and development of curricula shall be the function of the faculties.”
- Article I, Section 2(b), provides that the board shall “have full authority to determine and to control the activities and policies of all organizations and activities that bear, or that may be carried under, the name of the university.”
- Article I, Section 2(c), provides that the board shall “not undertake to direct matters of administration or of executive action except through the President.”
- Article I, Section 3, provides that “each trustee, so far as time will permit, shall keep informed as to the work of the university and its several campuses, colleges, schools, departments and activities, both educational and business.”
- Article III, Section 1(a), establishes the following standing committees:

Executive Committee

Academic Programs and Planning Committee

Finance and Administration Committee

The University of Tennessee at Chattanooga Liaison Committee

The University of Tennessee at Martin Liaison Committee

The adequacy of oversight of boards of directors has been at the center of the reforms being suggested in the corporate world to improve accountability of public businesses. Congress enacted the Sarbanes-Oxley Act of 2002 to improve the oversight of public companies by their boards of directors. In addition, the New York Stock Exchange has developed additional recommendations for boards of directors.

The typical criticisms of the boards at companies which have experienced accounting scandals are that the board lacked independence in its oversight role and that the board failed to exercise adequate oversight of the company's operations.

With regard to independence, frequently members of the boards have been appointed to their positions by the CEO of the company, or there have been other prior relationships between board members and the top management of the entity which have created at least an appearance of a lack of independence by the board member. Many times these problems are highlighted by compensation issues in which the CEO is provided with compensation and other perks by a board or a committee which appears to be otherwise beholden to the CEO. Sometimes the issue is a "revolving door" practice of naming new board members who have an association with the president or the naming of a president or other members of top management who have an association with the board. Clearly if there is some sort of quid pro quo between the board members and top management that can appear to affect compensation decisions, the independence of the board is in doubt. In other situations involving independence, the board members may have had other relationships with the company, such as contracts or other connections by which the board members were obtaining compensation from the company, in addition to the normal compensation that board members are entitled to receive as board members. There have also been situations in which board members have relationships with other entities that are doing business with the company, so that their loyalty to the company they are overseeing is divided in the sense that they might find their personal financial interests conflict with their duty to act in the best interest of the company.

Although independence has been a major problem for some boards of directors, failure to adequately oversee the activities of the entity is usually an even greater issue in those entities that have experienced accounting scandals. There is always the potential for tension between the board and top management of the entity. Since the top management is physically present in the company on a day-to-day basis, it clearly takes more effort for the board members to assume a more involved role in the management of the company. In addition, members of some boards have deemed their appointment to the boards as more of an "honorary" position rather than one requiring their direct involvement in the operations and activities of the entity.

Obviously a balance needs to be preserved between the level of involvement of the board in the day-to-day business of the entity and the need for management to have the authority and discretion to run the day-to-day operations of the entity. However, due to the typical structure of most organizations, top management is not directly accountable to anyone but the Board of Trustees. Although there are always legal and ethical responsibilities to other stakeholders, there is no one else in the structure of the entity who has the standing to question decisions of top management. On the other hand, the board is usually not in a position to know the details of those actions and decisions they should be questioning.

As recent scandals have shown, the primary risks that an entity faces with regard to inappropriate activities by top management involve either misappropriation or abuse of assets and/or financial misrepresentations. To this end, the focus of the board should be more on the discretion and activities of top management which relate to possible abuse or misappropriation of assets and improper financial reporting than on the actual day-to-day activities of the entity taken as a whole. This focus reflects the reality that top management, due to their inherent authority, can override internal controls intended to safeguard assets and provide for accurate financial reporting.

In light of the organizational structure of most entities, the board is in a relatively passive position with respect to the entity and its officers and staff. Although the board can, and should, make certain inquiries of the officers and staff about the operations and financial information of the entity, most of the information flow is directed to the board by management and staff. There are steps, as noted below, that a board can take to increase the flow of information to it and to focus that information on the financial activities of the entity.

Although the University of Tennessee is obviously not a publicly traded company, the lessons learned in the private sector can be used to improve the oversight of the officers and staff of the university by the board. And since the university is a state institution, the fiduciary responsibilities of the board and the officers and staff of the university to the taxpayers, students and other stakeholders in the university are, arguably, higher than those of a publicly traded company in which individual investors can elect to invest their funds.

No evidence came to our attention that indicated any board member knowingly condoned any of Dr. Shumaker's questionable actions. For the most part, it appears that the board members had no knowledge of any of these activities. In some situations, such as the improvements to the residence, Dr. Shumaker mentioned in general terms to some board members that he wanted to make some improvements to the house, but he did not discuss specifics and the board members did not question him further about them.

Clearly several members of upper management knew about some of Dr. Shumaker's questionable activities but failed to take effective action, including notifying the board of their concerns. Although the board and upper management may have hoped for the best with regard to Dr. Shumaker's intentions and may have given him the benefit of the doubt, in retrospect it is clear that earlier reactions to indications of serious problems should have been taken.

In light of the problems surrounding Dr. Shumaker's activities, it is imperative that the board take steps to create a system in which upper management, including internal audit, can more easily bring issues to the attention of the board and that the board members, collectively and individually, assume a more active oversight role in the activities of the university's upper management, particularly in the areas of honesty, integrity, and compliance with internal controls.

Conclusion on Board of Trustee Controls

The Board of Trustees did not appear to have any knowledge of Dr. Shumaker's questionable actions, and there is no evidence that any board members knowingly condoned Dr. Shumaker's questionable actions. However, several members of the university's upper management appear to have known about some of Dr. Shumaker's questionable activities but failed to take effective action, including notifying the Board of Trustees.

The presence of an audit committee would provide upper management a means to report questionable activities. Such a presence would encourage the reporting of issues and should promote greater fiscal responsibility and ownership of fiscal matters with the president.

Recommendations

1. The university's Board of Trustees should review the matters noted in this report as well as other information available to them regarding Dr. Shumaker's questionable activities and consider steps that can be taken to ensure that each member is committed to providing active and effective oversight of the actions of the university's upper management. In this regard, the board may want to amend its by-laws to delineate more clearly those responsibilities.
2. The board should develop specific written policies to require that all board members are independent in their roles as board members of the university. Board members should not have any other financial or non-financial interests or relationships with the university, its officers or other board members that constitute or give the appearance of constituting a conflict of interest. In developing its conflict of interest policy, the board should also consider the impact of potential conflicts of relatives on the board members.
3. The university's Board of Trustees should establish an audit committee as a standing committee.
4. The audit committee should be composed of at least five members.
5. The chair of the audit committee should have a strong accounting or financial management background and each member of the committee should have an adequate background and education to enable them to understand the information presented in the financial statements of the university and the comments of auditors with regard to internal controls and compliance findings.
6. The audit committee should have a written charter that addresses the committee's purpose, which should, at a minimum, be to assist the board in its oversight of the integrity of the university's officers and staff, the integrity of the university's financial statements and other financial reports, establishment and maintenance of strong internal controls, compliance with legal requirements and applicable rules and the performance of the university's internal audit function. The board should establish procedures for the director of internal audit to report directly to the audit committee. The charter should include guidelines and policies on how

the board will identify risks of fraud and financial reporting irregularities and monitor and control those risks.

7. The audit committee should meet at least four times a year. These meetings may take place during dates for other board meetings, but the committee should meet separately from those other meetings.
8. The audit committee should meet at least annually to review the audit of the university by the Comptroller's office and to consider what actions are necessary in response to any findings of those audits.
9. The audit committee should meet, as appropriate, to review investigative reports and other reports issued by the Comptroller's office relative to the university. The audit committee should regularly review with the Comptroller's office any difficulties encountered in the course of the audit, including any restrictions on the scope of the activities of the auditors or access to requested information or any other significant disagreements with management.
10. The board should reiterate in its charter that the President and senior management are primarily responsible for assessing the university's exposure to risks of fraud and financial reporting irregularities, and those responsibilities should be regularly restated to top management of the university.
11. Notwithstanding the responsibilities of the President and senior management noted above, the audit committee is also responsible for discussing with the internal auditors and the Comptroller's office how the board independently determines major risks of fraud and financial reporting irregularities and the steps independently taken by the board to monitor and control the university's exposure to such risks.
12. The audit committee should establish policies and procedures for encouraging officers and staff of the university who have knowledge of questionable actions of any employee of the university or board member, relating to fraud or abuse of university assets or funds or financial reporting irregularities, to report that information to the board. The audit committee should immediately inform the Comptroller's office of any such information they receive.
13. The audit committee should develop a written code of conduct to recommend to the full board for publication to the faculty and staff of the university which reminds all university employees of the public nature of the university and the need to protect university assets from waste, abuse and fraud and to avoid engaging in activities which bring dishonor on the university.
14. In future searches for top university officials, the board should take steps to stress to candidates the importance of avoiding activities which bring dishonor on the university.
15. In future contracts, the university should include specific language stating that if the individual engages in actions which bring dishonor to the university, such actions will constitute a breach of the contract, and the individual will be dealt with accordingly.

16. The board should establish a formal orientation program for new board members which includes emphasis on the need for an active board with regard to the oversight of the university's officers, staff and operations.
17. The legislature should consider enacting provisions to protect the confidentiality of internal audit working papers. Such a provision would encourage the reporting of information regarding inappropriate activity by offering a measure of protection for individuals who report such information.
18. Although this review does not conclude any inappropriate conduct on the part of current board members, the legislature should consider enacting provisions to allow the governor to remove trustees for cause. Current law makes no provision for the removal of University of Tennessee Board of Trustee members (or for that matter, the State Board of Regents).

7. Without appropriate oversight, the University of Tennessee Foundation can serve as a technically legal vehicle to divert public funds and circumvent laws providing for accountability and controls over public funds and assets.

Finding

The University of Tennessee is a state institution. It receives funds from various sources, including substantial direct state appropriations of taxpayer dollars. Regardless of the source of its funding, the university, as a state entity, receives all of these funds with fiduciary responsibilities. As such, the university and its staff and board have a duty to safeguard its assets and properly account for its assets and operations, in compliance with state laws intended to give the taxpayers assurances that their resources are not being wasted or abused.

The issues discussed in this report reflect negatively on the leadership of the university. These issues arose in an environment fostered by the university's leadership that de-emphasized accountability and control, based on the rationale that fund raising is the main priority of the university's chief operating officer and that to achieve that priority, the end justified the means.

This emphasis on short-term fund raising activities was heightened by the perceived urgency to name a new president to restore stability to that office after the resignation of Dr. Wade Gilley. The identification of a candidate for president who had a reputation for highly successful fund raising efforts contributed to the focus on fund raising as the key element needed in a new president.

These circumstances served to create additional pressure to increase the total compensation package of the new president. As a result, the total compensation package of Dr. Shumaker was \$758,550, or almost three times that of the preceding president, Dr. Gilley. Since it appeared that Dr. Shumaker would deliver on increased fund raising, his compensation looked like a great investment, even though it far exceeded not only the pay of his predecessor, but also the compensation of all but one other president of all the public universities in the United States. And he was paid this amount even though the full package would not be paid directly through the university. Under the circumstances, all that was needed was an alternative way to pay him, with university funds.

In order to meet Dr. Shumaker's compensation requirements, university leadership turned to the university foundation as another conduit of university funds to pay him.

The use of the foundation for such "off the books" payments was modeled on the arrangements Dr. Shumaker had at the University of Louisville and with that university's foundation. Apparently, Dr. Shumaker also invoked his University of Louisville Foundation arrangements when the credit card issues arose, as noted in this report. Apparently, there were several references by Dr. Shumaker and others to the University of Louisville Foundation

arrangements, in the context that he was expected to have the same arrangements at the University of Tennessee that he had had at the University of Louisville.

By using the foundation as a means of supplementing the pay of the president of the University of Tennessee, the foundation was viewed as an easy and convenient way to handle an otherwise difficult situation.

Regardless of the stated purpose of the foundation, the result of using foundations to carry out activities in furtherance of the university's mission is that funds and operations which would otherwise run through the university and therefore would be subject to oversight or review as public funds and operations of public entities, are less transparent and are removed from the regular review and oversight of the funds and activities of the university by state officials and other oversight bodies.

The challenge of holding the foundations just outside the reach of state oversight and yet still having the foundation funds and operations subject to the control of the university is difficult. In fact, for accounting purposes, the Government Accounting Standards Board (GASB) has studied the nature of the relationships between the universities and their foundations for several years.

The GASB has established certain tests to determine how closely the foundations are associated with their institutions, in order to ensure that readers of financial statements are not misled by the omission of the foundations from the basic financial statements of the institutions.

Beginning in the 2004 fiscal year, the foundation is considered a component unit of the University of Tennessee for financial reporting purposes because the foundation exists mainly to support the various purposes and activities of the university system (reporting entity) and the nature and significance of their relationship with the university system are such that exclusion would cause the university's financial statements to be misleading or incomplete (GASB 14, ¶12). Furthermore, the economic resources received or held by the foundation are entirely or almost entirely for the direct benefit of the university, its component units, or its constituents. Next, the university, or its component units, is entitled to, or has the ability to otherwise access, a majority of the economic resources received or held by the foundation. Finally, the economic resources received or held by an individual foundation that the specific university, or its component units, is entitled to, or has the ability to otherwise access, are significant to the University (GASB 39, ¶5). In addition, according to the foundation charter (¶13), in the event of permanent dissolution or liquidation of the foundation, "all remaining assets of the Corporation shall be transferred or conveyed to The University of Tennessee or its successor."

The University of Tennessee has three foundations. Each is a non-profit corporation established pursuant to IRS regulation 501(c)(3). The foundations are

1. University of Chattanooga Foundation. This foundation maintains an endowment fund for the University of Tennessee at Chattanooga, which is the sole income beneficiary. The foundation also forwards other support to the university as determined by its board of directors.

2. University of Tennessee Research Foundation. This foundation obtains patents and copyrights for the university's intellectual properties. Based on university policy, intellectual property developed by university staff members accrues to the university under sponsored agreements or where there has been substantial use of university funds or facilities (unless related agreements state otherwise). Licenses to the patents and copyrights are then sold to outside commercial interests for consideration. The consideration may be a one-time fee (very rare), periodic payments (royalties, etc.), or consideration in the equity of a newly formed or existing company. The foundation pursues the applications for patents and registers copyrights. It then conducts negotiations with outside parties in developing licensing agreements. The resulting revenues flow through the foundation to the university and are used to sponsor research. A percentage of the revenue is also shared with the developer. The foundation also receives research grants on behalf of the university in situations when contractual stipulations cause problems for the university, and conducts other activities in support of the university's research activities.
3. University of Tennessee Foundation. This foundation receives all private gifts on behalf of the university and then forwards restricted gifts and endowments accruing to the university; determines the ultimate disposition of unrestricted private gifts to the university; and holds all endowments created after July 1, 2001 (these endowment agreements have been written with the foundation as trustee).

According to staff of the university, the notion of a fund raising foundation for the university had been considered for about ten years before it was created in the fall of 2000, after Dr. Gilley became president. In fact, the legislation permitting the establishment of the foundation was enacted in February 1965. Dr. Gilley took the initiative to establish the foundation, and the foundation was incorporated in September 2000.

The foundation is governed by a board of directors. Some of the directors of the foundation are also members of the Board of Trustees of the university.

The university with board approval has given the following grants to the foundation: \$150,000 in January 2002; \$300,000 in June 2002; and \$400,000 in June 2003. There is no repayment required. The grants came from the university's accumulated unrestricted gift funds.

Since the foundation has been active, it has engaged in four primary actions.

- Payment of an annual salary of \$150,000 to Mr. Emerson Fly as president of the foundation.

Mr. Emerson Fly, at that time the executive vice president of the university, was named president of the foundation in March 2001. He served as the foundation president from that time until June 2001, when Dr. Gilley resigned as president of the university. During the period March to June 2001, Mr. Fly served as president of the foundation without pay.

After Dr. Gilley's resignation, Mr. Fly left his positions as executive vice president of the university and president of the foundation and became the acting president of the university. He served in that role until Dr. Shumaker was named president of the university in June 2002. During that period, he was paid an annual salary of \$258,750.00 as acting president of the university.

In July 2002, Mr. Fly returned to the position of president of the foundation. His annual salary as president of the foundation was set at \$150,000. This pay was in addition to his annual retirement pay of \$72,009 as a member of the Tennessee Consolidated Retirement System.

In September 2003, Mr. Fly left his position as president of the foundation and was once again named executive vice president of the university, by the interim president, Dr. Joe Johnson, pending the search for a permanent president of the university. Mr. Fly's salary, upon returning to the university, is \$209,000 per year. Mr. Fly ceased receiving his salary as president of the foundation upon his return to service at the university. In addition, he is not receiving his pension from the Tennessee Consolidated Retirement System.

It is not envisioned that Mr. Fly will receive any additional retirement payments from the foundation for his services to the foundation.

Mr. Robert Harrill was promoted to acting assistant director of the foundation in September 2003.

- Through a subsidiary of the foundation formed as a limited liability corporation, the foundation is building a student housing complex on behalf of the university. The foundation has incurred approximately \$60 million in debt to fund the project.

The limited liability corporation was formed in March 2002, debt was issued to fund student housing construction in September 2002, and construction began on the student housing project in October 2002. The projected student housing completion date is August 2004. The decision to build Knoxville Place was made by the board of directors of the foundation. The student housing will have 218 housing units and 14 townhouses, and it will have 5 stories for parking and 7 stories for housing.

- Payments to the UT National Alumni Association.

The foundation provided grants of \$748,593.71 and \$970,939.45, respectively, during its 2002 and 2003 fiscal years, to the UT National Alumni Association to provide funds for the Association's budget. The Association funds various scholarships, faculty awards, and other programs which benefit the University of Tennessee. The funds provided came from unrestricted contributions.

The association is a separate legal entity from the university. It is operated by university employees and has its own board.

The association receives other gifts from alumni and others and funds from various seminars they conduct. The majority of the association's funding, however, comes from the foundation's grant. Previously, this grant came directly to the association from university unrestricted gifts.

- Dr. Shumaker's current status as to future receipts from the foundation.

As of today, the foundation has funded \$60,919.28 of expenses on behalf of Dr. Shumaker, including life insurance, long-term care insurance, disability insurance, financial consulting fees, telephone costs, and other itemized business expenses.

There is a possibility he could receive the following executive options which were set aside by the foundation for the dates shown below. These amounts were invested in mutual funds. These options do not vest per the employment agreement until July 1, 2005.

\$75,000 – June 30, 2002

\$75,000 – June 30, 2003

\$92,000 – June 30, 2002

Conclusion on the University Foundation

Although there are some limited situations in which foundations can serve to assist universities in fulfilling their missions, the very structure and nature of foundations are such that they can be used to improperly circumvent controls over operations and conceal the true substance of transactions. Some steps have been taken to improve the transparency of the operations of the foundation, at least with regard to opening the foundation records and making the foundation subject to audit by the Comptroller's office. However, audits are conducted after the fact and open records do not ensure that actions of the foundation and its officials are subject to adequate oversight as decisions are made and implemented.

The potential problems with foundations are even greater when public resources are involved. In every instance, whether it is the name of the foundation, its mission, its location, its board of directors, and certainly its assets, it is very difficult to draw a line between the foundation and the university. The line that is drawn is basically a legal construct that frequently ignores the reality of the situation that the foundation functions as a part of the university and controls assets, including funds that are university funds, without the controls over university operations that afford the public an appropriate level of assurance that the assets will not be misused.

In addition to the accounting issues raised by the utilization of a foundation for a public institution, the operations of a foundation bearing the name of the university can adversely affect

the reputation of the university through actions that, because they were not subject to the ordinary controls of the university, give the appearance of impropriety or at least waste.

The relationship of the foundation to the university can also result in conflicts of interest between the university and the foundation. For example, the construction of student housing by the foundation will not only generate a profit for the foundation, and not the university, presuming they are separate legal entities, based on charges to students of the university, but the housing will be competing to some degree with the other housing offered by the university to students.

Finally, the creation of any alter-ego of the university involves additional administrative costs and additional processes. It is always important for the university's leadership to consider these additional costs and the benefits that are derived from those additional costs, but particularly when resources are scarce. Included in such considerations should be the recognition that as the university seeks to make the foundation more open, accessible and accountable, then the legal distinction between the foundation and the university narrows, to the point that the fundamental rationale for using a foundation may become more difficult to express.

This is a critical time for the leadership of the university to revisit the purpose and need for the foundation, considering the recent turnover of presidents and the related questions of accountability, the activities of the foundation to this point, and the integral role the foundation was to play in Dr. Shumaker's vision for his office. Before a new president is selected, the role of the foundation should be absolutely clear and, if it is determined that the foundation should continue, its use as an indirect payment vehicle for the president or any university staff should be carefully weighed against the interest of the public and the public's perceptions of the university's use of public resources.

Recommendations

1. The Board of Trustees of the university should review the continuing necessity for the university foundation, as well as its activities, structure, mission, purpose and the results of its operations to date. This review should be in the context of the need for improved accountability by the university and its staff and officials and the need for greater, not lesser, transparency in its actions and transactions and its use of all assets provided to it from whatever source as a state entity.
2. The foundation may need to continue until the student housing project is completed, unless some other legal entity can be utilized to carry out its legal responsibilities. However, if those responsibilities can be met through a more transparent and accountable method, such an alternative should be explored.
3. In the future, the board should carefully consider its method of constructing student housing to ensure that the best approach is taken, both in terms of the economics of the project and the impact on students. In this case, the project is expected to generate a cash flow in excess

of the costs of construction. That excess cash flow will increase the fund balance of the foundation. However, it should be remembered that it is anticipated that all costs of capital and operating costs will be paid by students through charges for the housing.

4. It is particularly important that the board take appropriate action with regard to the foundation before a search is initiated for a new president. The board should avoid the temptation to utilize the foundation or a similar entity for the purposes of providing supplemental compensation to the new president. The foundation, or a similar entity, should not be used to afford a way for the university to circumvent the laws and policies in place to safeguard public assets from abuse and waste. The board should recognize its responsibility and that of the university to safeguard all assets held by the university as a public institution and not endeavor to make technical distinctions between various types of funds the university holds just to facilitate “flexibility” in the use of university funds.
5. The board should consider the wisdom and legality of permitting and enabling another body, even one composed of some of the members of the board, to sit in a position in which that body has control over assets of the university, which are supposed to be the responsibility of the Board of Trustees of the university.
6. The board should study the issues presented in this report relative to the foundation and the actions and attitudes that may serve to undercut the necessary commitment to accountability and compliance with applicable laws and policies and take steps to ensure that these mistakes do not recur and that an environment conducive to such errors is not tolerated.
7. The General Assembly may wish to explore the activities of the foundation further and reconsider the statute authorizing the establishment of the foundation. Similar entities are proposed to the General Assembly from time to time, and there are many such entities associated with other state departments and agencies. The General Assembly may wish to consider the negative impact these foundations can have on internal controls and accountability for public funds, assets, and operations when future requests for foundations are presented to it for consideration.

PRELIMINARY DUE DILIGENCE REPORT

On February 12, 2003, Li Qian, as the local counsel retained by Mr. Charles L. Fishman of Intectran, Inc., visited Beijing Bohua Educational Investment & Management Co., Ltd. ("Bohua") and conducted a due diligence investigation on Bohua for the cooperative high school project between the University of Tennessee and Bohua. Li Qian had a meeting with Wang Zha-jun, Sun Zhan-qi, and Xiao Jin-bao of Bohua, in presence of Bohua's lawyer, to clarify the issues as follows:

1. Corporate Standing

Business License A copy of Bohua's business license is provided. The company was registered with Haidian District Bureau for Industry and Commerce Administration. The legal representative is Wang Zhan-jun, the registered capital is RMB 10 million. The business scope is defined as "the enterprise may choose and conduct any business activities except for those prohibited by laws or regulations or those subject to legal approval before the approval is obtained." The company was established on December 6, 2001, and the term is for twenty years through December 5, 2021. The company has passed the annual government review for 2002 on April 12, 2002, and the annual review for 2003 has not been done and the deadline is April 30, 2003. Our company search at Beijing Bureau for Industry and Commerce Administration did not reveal any irregularities of Bohua as of date of today.

Registered Capital A copy of Capital Verification Report issued by Zhong Ye Accountant Co. Ltd on December on December 5, 2001 was provided. The Report indicated that all three shareholders, i.e. Wang Zhan-jun, Sun Zhan-qi, and Zhao Cai-ru (Wang's wife), had deposited their share capital in amounts of RMB 4 million, RMB 3 million and RMB 3 million, respectively, or RMB 10 million in total, to Bohua's bank account with Beijing Xuanwu Branch of Pudong Development Bank on December 3, 2001. Three copies of bank receipts for each of shareholder's deposit were also provided to confirm the capital status. According to Wang, there is no change to the shareholding position ever since.

Articles of Association A copy of the Articles was provided. Three persons signed as shareholders, Wang Zhan-jun, Sun Zha-qi, and Zhao Cai-ru. Wang has four votes, Sun has three votes and Zhao has three votes. Wang is the managing director as the legal representative and responsible for convening the shareholders meetings with 15 days notice. The resumes provided by Bohua shows that the Bohua management includes Sun as the GM, Fu Yan-feng, retired from MOE and hired by Bohua as Deputy GM as interface with the MOE and other governmental agencies and a consultant regarding cooperation with foreign parties, and Xiao Jin-bao, a senior construction engineer and Deputy GM for construction matters. There is no written appointment letter for the managers.

Shareholders of Bohua In the Articles, Bohua is held by Wang, Wang's wife and Sun as

Exhibit A (Cont.)

shareholders. However, according to Wang Zhan-jun, the capital invested to Bohua all come from the No. One Company of China Airport Construction Group Corporation, a company reformed from a construction regiment of the Air-force, in which Wang is also one of the prime shareholders. As the investment arm of this No. One Company, the shareholders of Bohua do not have right to profit distribution under the Articles.

Company Resolutions Four copies of company resolutions numbered as 1, 3, 5 and 6 signed by Wang Zhan-jun as Chairman were provided. The resolutions authorized the company activities as follows: making RMB 3 million investment in CEC for the Software Engineer Training Program with Carnegie-Mellon University as the second largest shareholder (March 16, 2002); starting the cooperative high school project with CEC and UT (June 1, 2002); dispatching a delegation to negotiate with UT for the cooperative high school (August 16, 2002); and selecting the Chicken Farm at Shunyi District as the school site and pay the price (October 18, 2002).

2. Land Use Right

Contract for Land Use Right Bohua signed a contract with the current user, a village, for a fifty years use as the school site. Since Bohua did not want me to have a copy, I reviewed and contract and cites the key terms as follows:

- 1) The site space covers a chicken farm structure of 63,000 sq. meters, ancillary facility of 12,000 sq. meters, and neighboring farm land of 78,800 sq. meters;
- 2) The village agreed to deliver the land to Bohua as the school site for fifty years in January 2003;
- 3) The land is classified as the Collective Land for the purposes of construction. In order to enable Bohua to use the site for a school, the land has to be first converted to become the state owned land. The Village agrees that in eight years after the delivery, it will assist Bohua to apply for such conversion and a granted land use right certificate to Hohua Foreign Language School but the cost will be for Bohua's account.
- 4) The total contract price is RMB 29.8 million, including RMB 1 million for compensation of the existing property on the land, and RMB21.8 million for the land use right. The down payment is RMB 18 million and the rest is due by September 1, 2003.

Price Payment Bohua said the down payment of RMB 18 million has been made, and Wang showed me a copy of Bohua's bank account balance statement which indicated a sum of RMB 18 million was paid out on January 5, 2002. without identification of the payee. According to Wang, the money was channeled from No. One Company and the fund for paying the remaining portion will be in the same manner. No written contract is between Bohua and the No. One Company.

Land Use Right Certificate A photo copy of Collective Land Use Right Certificate issued by Shunyi District Bureau for State Land, Resources & Real Estate Administration ("Land Bureau") on January 3 2003 was provided. The certificate is issued to Bohua Foreign

Exhibit A (Cont.)

Language School ("Bohua School") for education purposes, and the total space is 63,000 sq. meters. Bohua also showed me a blue print of the school site on which the land space not covered in this land use right certificate is marked as "Under Planning for the Same Project". Bohua explained that the Shunyi District Land Bureau has re-zoned this area as the education zone, and agreed to issue the land use right certificate to Bohua School for education purposes.

Status of Site The contract that Bohua signed with the village is invalid because a village is not a competent party to enter into a land contract under the current law of China. Even if the contract could be somehow legalized which I really doubt, Bohua will face difficulty to obtain the proper land use right certificate with the national land authorities because the space of the land exceeds the authority a district land bureau has. I did not challenge the legality of the contract in their face but only raised the issue that the state land use right may cause Bohua to incur huge amount payment for the land use fee besides the money paid to the village. Wang and Bohua's lawyer said a developer of a school site will not pay any fee for the land use right and this school will definitely enjoy the same treatment. I know it is true for a public school but it is may not be true for a cooperative private school since the new rules have not been promulgated and the existing law does not have such provision. Therefore the status of the land use right is still a big question.

3. Bohua's Investment

According to Wang, Bohua is an investment entity of the No. One Company in education related projects. One project is a RMB 3 million investment in CEC for Software Engineers Training Program hosted by Carnegie-Mellon University (the bank balance indicated a sum of RMB 3 million was paid out in March 2002), and another one is this cooperative high school with UT. Wang said Bohua has no other business or commercial investment whatsoever.

4. Assets & Debts

According to Wang, Bohua has no fixed asset. The office space Bohua is currently using is Wang's private property and the vehicles used by Bohua are the cars borrowed from the No. One Company. No contract for leasing the office or car rental is in existence. Wang said Bohua did not and will not borrow money from banks or provide guaranty for the other's borrowings on its own behalf, and all capital need was, is and will be funded by No. One Company exclusively.

5. Presentations & Statements

Bohua made written statements on the following issues:

Tax Compliance Since Bohua has no profit in its operation, no company income tax is payable. The individual income tax on Bohua's employees and directors is complied as required by the law.

Exhibit A (Cont.)

Environmental Compliance Bohua has no activities with environmental impact.

Litigation There is no litigation pending or threaded against Bohua.

Warranty Liability Bohua has no accident whatsoever.

Trademark & IP Bohua has no dispute involving trademark or IP rights.

I have asked Bohua to retain an outside accountant to prepare an audit report for their overall financial statement but they said it will incur a lot of money (over RMB 10,000), and they do not want to spend that at this stage. I hope the UT delegation will press this issue in their face and ask further for their lawyer to issue a legal opinion on the legal status of Bohua, its operation model and the land contract. I am currently conducting DD on the No. One Company and CEC and I will debrief you the progress when we meet on Sunday.

This report is prepared based on the documents provided by Bohua and the information verbally disclosed by Bohua's top directors and managers. I assume the photo copies of the documents are authentic and accurate as the originals and prepared by the persons with proper qualification.

This report is made for your internal review and discussion only.

Li Qian
Zhong Lun Law Firm

Source: UT Internal Audit files.
Purpose: To show February 14, 2003 draft of the Preliminary Due Diligence Report on Bohua.

Exhibit B

----- Original Message-----

From: John W Shumaker [mailto:shumaker@louisville.edu]

Sent: Tuesday, February 19, 2002 5:04 PM

To: Bill.Funk@kornferry.com

Subject: Dear Bill,

Dear Bill,

All is well and seems to be on track with UT. Had an excellent session with Cathy Cole and the last board member today. Jim HAslam and two other board members come in for a business dinner with Lucy and me tomorrow night.

One emerging issue: as soon as Cathy left today I got a call from Bill Bowen of H & S telling me that Arizona State had reduced its list to three: me and two provosts, that my position was "very strong" and that they wanted me to interview in Tempe on February 28.

My lot has been cast with UT and I'm thrilled to be in such a strong position with them--but I need to know that the UT situation will not unravel at the last minute. I have no evidence that it will....but you never know. I'm fully prepared to tell ASU "no"--but just need to have virtually absolute confidence that the UT folks are as fully committed as I am before I cut ASU loose. Of course, the exact terms of the offer from UT will be important as well, but all signals suggest that their offer will be just fine.

I told Bill that I would get back to him on Thursday after my "summit" meeting with Jim et al. I'm not wavering at all in my commitment to UT and will not seek to use it as leverage against UT....but I hope all is as secure as it seems to be....

Any thoughts?

Thx. jws

Source: State GroupWise account.

Purpose: To exhibit a February 19, 2002, e-mail from Dr. Shumaker to Mr. Funk requesting assurance of UT's commitment to his selection as president.

Exhibit C

From: Steve Leonard
To: Funk, Bill
Date: 2/20/02 9:37AM
Subject: RE: Dear Bill,

Bill

Thanks for the info. I have spoken with John and believe he has the comfort he needs at this point. The group visiting with him regarding comp is lead by Clayton McWhorter and the third member is Johnny. Clayton is very much taking the lead here, as you would expect. Jim is always a force but John's need is to get his satisfaction with Clayton. In fact, I spoke with Clayton yesterday and we cooked a strategy which will put even more in the base portion, so he has moved the thinking along in the right way. That allows a bit more creativity with the other sources of income and makes for a much more appropriate distribution of income sources.

best regards

Steve

Source: State GroupWise account.
Purpose: To exhibit February 20, 2002, e-mail from Mr. Leonard to Mr. Funk regarding "comfort" for Dr. Shumaker.

Exhibit D

From: Steve Leonard
To: utshumaker@yahoo.com
Date: 4/4/02 1:21PM
Subject: follow-up to the scribbled note

John

This will be long and rambling. There are a number of topics to cover. You need more clarity and content on my thinking:

1. Working With the Great Shumaker -

It would be an honor. From the small amount I know and have gathered or sensed, we are highly compatible. Achievement-minded, goal-oriented, energy and action versus inaction - yet we are complimentary in that our backgrounds bring a large and diverse set of experiences together. I would go on, but it already sounds excessive. Now, that is the good part. The bad is all the above as well. Plus what you need to know about me is that I thrive on hard problems. I demand and reward excellence and build strong people in strong organizations. My background goes from the bottom of organizations and dirty, dangerous, menial work clear to the board room -

I'm comfortable in any environment and have to say I enjoy the grit - need to know how things work - who the people are and what they are like - what they think and dream. The fabric. I can be tough - years of heavy union management left me with a street sense I depend on. Years of leading and building and fixing large organizations all over the world have left me with a sensitivity and confidence that most things sensible can be accomplished.

Enough of the I's. Bottom line - we could work well together and we could accomplish a great deal, in my opinion, assuming we can find a way to do it.

2. What Could I DO?

Most anything within the parameters I have set about compensation and the quality of life for my family. Those limits include a level of compensation in the form of cash salary and long-term wealth accumulation which are fair based on my market value and the strongest consideration for the 5 most important people in my life who have moved with me 7 times - and to whom I am pledged to make our current home the last one we purchase and live in permanently. They all need and deserve the continuity, consistency and peace of mind that brings.

Does that mean some kind of time-limited work in another location for me is impossible? No. Here is an example. The EVP/COO role there has some attractiveness to me. It is large enough, has enough moving parts to be an interesting challenge, assuming authority it could hold a couple of years worth of interest at the least. So, the question is, if we agree on a 2 year deal, I would need to be able to work here 1-2 days/week when needed and use the plane extensively to get back and forth and actually conduct a lot of business here. That part is just fine with me and I would buy a condo in Ktown to have a real place there but the family would stay here. Not a lot different than any other job I've ever had where a certain amount of travel is involved. Very workable. So, what about the comp? I don't believe you can pay me the salary I would need, and I don't think it would look good for you to do that anyway. So what is the max you can pay? I don't know. Fly made around \$175k in salary. That is less than half market value. If you set it at that, what else could you do? How could you accumulate future dollars for me? Is it possible to give credit in the retirement benefit plan? I don't honestly know the answer. Assuming it is not, what else can be done? Then, I would need a 2 year employment agreement with some relatively firm guarantee at the end of two years about help with future, long-term employment etc.

Even if we can get together on the cash etc. there are potential issues. It will take you some time to figure all this out - obviously I will need to continue to look seriously at other opportunities, so it might be for nothing. You might come under criticism for hiring another from Nashville, another "outsider". It may simply be way more than you need to involve for just one person. I do understand all of that.

Another possibility is for you to hire me as a consultant. I was running my own one-person firm before I joined the Gov. Working about half-time, I was averaging \$35k/month. As a consultant, the relocation

Exhibit D (Cont.)

question is easy and the fees are set. We would define what you want done, when you want it done and set the number of hours to get it done. I have a requirement for minimum monthly and annually and a fee structure which is discounted when longer terms are agreed. Alternatively, you could identify a large-scale project, detail the work to be done, specify the number of years etc. and scope it so that it becomes a one-person type opportunity. The compensation would include some kind of payout from dollars saved or recovered or milestones reached. The real hangup with this approach is the procurement process which confounds me to the point where it makes it unattractive. However, assuming the interest level was there and I could justify the effort and investment, it would certainly be something to evaluate closely.

A final alternative could involved my being hired by a large company or a consortium of companies interested in helping the university, then being placed on loan to you. It could even be an individual. Assuming the very best circumstances, I would have a contract with that company, have a structured compensation package which would meet my needs and be available to you for whatever number of years we could agree upon and have a place to go work after those years. This may actually be the simplest of all, yet the most difficult to do. It would take someone like a Haslam, McWhorter, Stokely or Thornton to make it happen or a group of them could do it.

So, my interest is there, and I have thought about how it could work.

3. The Approach

A workplan should be developed which shows the roadmap to getting UT totally transformed in 2 years. It is imminently do-able. 3 months to evaluate, 3 months to plan and 18 months to implement, work the plan and fine tune. The basis would be "budget reform" and the vehicle, the actual budget review process which would bring a level of introspective activity, evaluation and measurement that would become the new paradigm in the administrative organization while identifying pots of money which can be redeployed for newly prioritized needs. The end result - and this is a guess is between 500-2500 jobs reduced with a target of 1000 for a savings of \$30m plus another \$10m in ancillary savings. That is about 3 % and would be a good starting point, but could range to the max, up to \$100m in total. It is just a gues, but probably has a reasonable probability level.

That is enough for this stage. I would be interested in your thoughts.

Steve

Source: State GroupWise account.

Purpose: To exhibit April 4, 2002, e-mail from Mr. Leonard to Dr. Shumaker regarding working for UT as executive vice president or consultant.

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Exhibit E

President
The University of Tennessee
Knoxville, Tennessee

John,

Thank you. First for accepting the presidency earlier this year. Second for being the leader that you are - we have needed a leader of your stature for so long and that is so obvious to everyone. Third, for the interest in having me join your organization. I am humbled and delighted at the same time. The opportunity to work with you, to move your agenda and to make a contribution combine to create a strong motivation on my part.

Thank you for dinner last night. It was great to be with you and Clayton. It seems obvious you have the right touch - that you are developing the relationships well. 6th and Porter will never be the same, either.

You know I am not shy, so here are a few thoughts on where we are:

1/ Timing - assuming the need to get some traction this fiscal year with reviews and a reallocation plan we are at a critical juncture. Budgets must be completed and submitted to F&A in October with reviews following in November and December.

2/ Recruiting Strategy - it occurs to me that you ought to engage a few other Board members to help you recruit me. It will give you some cover if there is any blowback on anything and you will get a unified Board to help you spin. You might ask Cathy's advice on this, but I would have Haslam, Stokely and Thornton all call me to "convince" me to join you guys and/or others you might deem more appropriate. Hopefully, this does not sound too convoluted. Calls to my office will be either forwarded to me, or I will return promptly while I am away.

3/ I would like to talk comp with you and just get your feel on the best way to put something together. I am sensitive to the situation and will try to be flexible, but need your creative assistance and guidance. It would be good if we could do this before you leave for Nantucket.

Best personal regards,

Source: State owned laptop and GroupWise account.
Purpose: To exhibit Mr. Leonard's July 25, 2002, letter to Dr. Shumaker thanking him for his interest in Mr. Leonard joining the University.

EXHIBIT F

Birmingham Trips on UT Plane

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
1	11/01/02	Friday	Shumaker	Knoxville	17:55	Columbia, SC	18:43	(9:00 AM - 10:00 AM) Loren, Tim Rogers, C. Mizell, Theotis, Victor Collins, Ballard	
			Shumaker	Columbia, SC	21:30	Birmingham	23:05	(10:00 AM - 10:30 AM) Conference Call - Mike Slive (will call us)	(10:00 AM - 10:30 AM) Conference Call - Mike Slive (will call us)
			Empty	Birmingham	23:25	Knoxville		(12:30 PM - 1:30 PM) Gordon Gee (Telephone Call - 10 minutes) (Re: SURA) (2:30 PM - 2:45 PM) Bill Madia - Telephone call (urgent) (Re: Assignment for Madia) (5:15 PM - 6:15 PM) UT Plane to Columbia, SC (7:00 PM - 8:30 PM) Alumni Event - home of Richard and Melba Jackson	(12:30 PM - 1:30 PM) Gordon Gee - Telephone Call (Re: SURA) (2:30 PM - 2:45 PM) Bill Madia - Telephone call (5:15 PM-6:15 PM) To Columbia, SC (7:00 PM - 8:30 PM) Alumni Event - Columbia, SC
2	11/04/02	Monday	Empty	Knoxville	8:35	Birmingham	9:41		(8:00 AM - 9:00 AM) HOLD - SEC
			Shumaker, Slive	Birmingham	10:00	Knoxville	10:54	(11:00 AM - 12:00 PM) Arrive Knoxville - UT Flight Operations	
			Slive	Knoxville	13:46	Birmingham	14:53 *	(12:00 PM - 1:30 PM) Luncheon - East Tennessee College Presidents (940 Cherokee Boulevard)	(12:00 PM - 1:30 PM) Luncheon - East Tennessee College Presidents (940 Cherokee Boulevard)
		Empty	Birmingham	15:23	Knoxville	16:13	(3:00 PM - 3:30 PM) Jack Barkenbus, Sara Surak (Re: Campus Greening) (3:30 PM - 4:30 PM) Faculty Senate Executive Committee (UTK) (Board Room - Andy Holt Tower) Contact: Mike Combs (6:30 PM - 8:30 PM) Great Conversations - University Associates (Ride with Crabtrees) (Home of Florence and Russell Johnston, [*])	(3:00 PM - 3:30 PM) Jack Barkenbus, Sara Surak (Re: Campus Greening) (3:30 PM - 4:30 PM) Faculty Senate Executive Committee (UTK) (Board Room - Andy Holt Tower) (6:30 PM - 8:30 PM) Great Conversations - University Associates ([*])	
							* Flight Log says AT was 15:53; impossible if next DT was 15:23		
3	11/18/02	Monday	Empty	Knoxville	13:40	Birmingham	14:40	(10:00 AM - 1:30 PM) SEC Compliance & Enforcement Subcommittee (SEC Office - Birmingham)	(10:00 AM - 1:30 PM) SEC Compliance & Enforcement Subcommittee (SEC Office)
			Shumaker	Birmingham	15:10	Nashville	16:01	(2:00 PM - 3:00 PM) UT Plane departs Birmingham - Jet Center (SEC (Katherine) arranging transportation to airport)	(2:00 PM - 3:00 PM) To Nashville
			Shumaker, Blackwell	Nashville	18:25	Memphis	19:27	(3:30 PM - 4:30 PM) F&A Higher Education Budget Hearings - Nashville (16th Floor Snodgrass Bldg.) UT Pilots will transport downtown (5:00 PM - 6:00 PM) UT Plane from Nashville to Memphis (accompanied by Michael Blackwell) (6:30 PM - 7:30 PM) Legislative Reception and Dinner - Reception 6:30 dinner 7:15 (Plaza Club - 2nd Floor of Toyota Plaza)	(3:30 PM - 4:30 PM) F&A Higher Education Budget Hearings - Nashville (16th Floor Snodgrass Bldg.) 5:00PM-6:00 PM To Nashville (6:30 PM - 7:30 PM) Legislative Reception and Dinner (Plaza Club - 2nd Floor of Toyota Plaza)

EXHIBIT F

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
							(8:00 PM - 9:00 PM) Overnight - Madison Hotel - Memphis (7393) (79 Madison Avenue - 901/333-1200) The Health Science Center has arranged transportation Contact: 901-484-6306	(8:00 PM - 9:00 PM) Overnight - Memphis	
4	11/30/02	Saturday	Empty				(6:30 AM - 7:30 AM) UT Plane from Birmingham - 6:30 a.m. CT		
			Shumaker (John, Tim)				(8:30 AM - 8:45 AM) Dana McReynolds will pick up at UT Flight Operation		
				Knoxville	6:12	Birmingham	7:14	(9:00 AM - 10:00 AM) Reception - UT Band and Parents (Ballroom - University Center) Florence - cell# [*]	(9:00 AM - 10:00 AM) Reception - UT Band and Parents (Ballroom - University Center)
				Birmingham	7:40	Knoxville	8:28	(10:00 AM - 11:30 AM) Visit Tailgates (Ballard & Williams)	(10:00 AM - 11:30 AM) Visit Tailgates
							(10:30 AM - 10:45 AM) VOL Walk	(10:30 AM - 10:45 AM) VOL Walk	
							(10:50 AM - 11:05 AM) Band marches to Stadium	(10:50 AM - 11:05 AM) Band marches to Stadium	
							(11:50 AM - 12:20 PM) Meet Group On Field - Northwest Corner - for Pre-Game Presentation	(11:50 AM - 12:20 PM) Meet Group On Field - Northwest Corner - for Pre-Game Presentation	
							(12:20 PM - 12:30 PM) Coca-Cola Presentation - On Field	(12:20 PM - 12:30 PM) Coca-Cola Presentation - On Field	
							(12:40 PM - 1:40 PM) UT/Kentucky Football Game (Neyland Stadium)	(12:40 PM - 1:40 PM) UT/Kentucky Football Game (Neyland Stadium)	
							(2:00 PM - 2:15 PM) On Field - Beginning of Half-Time - West Side - Dickey Presentation	(2:00 PM - 2:15 PM) On Field - Beginning of Half-Time - West Side - Dickey Presentation	
							(4:00 PM - 4:15 PM) Dana will transport to 940 Cherokee		
							(6:00 PM - 8:00 PM) Buffet Dinner - 940 Cherokee Boulevard	(6:00 PM - 8:00 PM) Buffet Dinner - 940 Cherokee Boulevard	
5	12/29/02	Sunday	No Flights				(10:00 AM - 11:00 AM) UT Plane to Atlanta (FBO-Peachtree-Dekalb) (Departure time to be determined)	(10:00 AM - 11:00 AM) UT Plane to Atlanta (FBO-Peachtree-Dekalb) (Departure time to be determined)	
				N/A		N/A	(4:00 PM - 5:00 PM) Check-In Hotel (Bowl Gifts can be picked up on the second floor (Atlanta Room) from Rita Wilson or Nancy Cowan)	(4:00 PM - 5:00 PM) Check-In Hotel (Bowl Gifts can be picked up on the second floor (Atlanta Room) from Rita Wilson or Nancy Cowan)	
							(6:45 PM - 10:45 PM) Buses depart for 103 West from main lobby for OFFICIAL PARTY GATHERING--HOTEL (Dinner and Dancing 7:00-11:00)	(6:45 PM - 10:45 PM) Buses depart for 103 West from main lobby for OFFICIAL PARTY GATHERING--HOTEL (Dinner and Dancing 7:00-11:00)	
							(9:00 PM - 10:00 PM) Overnight: J.W. Marriott Hotel - 3300 Lenox Road, NE - Atlanta (404/262-3344)	(9:00 PM - 10:00 PM) Overnight - Atlanta	

EXHIBIT F

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
6	12/30/02	Monday	Empty	Knoxville	12:30	Birmingham	13:32	(6:00 PM - 9:00 PM) PRESIDENT'S RECEPTION/DINNER - Ritz-Carlton Buckhead, 3434 Peachtree Road (Buses depart J.W. Marriott at 6:00 from main entrance) Dress Business Casual	(6:00 PM - 9:00 PM) PRESIDENT'S RECEPTION/DINNER - Ritz-Carlton Buckhead, 3434 Peachtree Road (Buses depart J.W. Marriott at 6:00 from main entrance)
			Shumaker (John, Brian, Tim) Empty	Birmingham Atlanta	13:50 15:00	Atlanta Knoxville	14:30 15:36		
7	12/31/02	Tuesday	Empty	Knoxville	16:38	Atlanta	17:36	(3:00 PM - 5:00 PM) Pre-Game Meal - Phoenix Ballroom - 2nd floor (3:00-5:00)	(3:00 PM - 5:00 PM) Pre-Game Meal - Phoenix Ballroom - 2nd floor (3:00-5:00)
			Shumaker (John, Tim), Fly (Eli, Cathy)	Atlanta	23:02	Birmingham	23:44	(5:45 PM - 6:00 PM) Buses depart for the Georgia Dome	(5:45 PM - 6:00 PM) Buses depart for the Georgia Dome
			Fly (Eli, Cathy)	Birmingham	0:00	Knoxville	0:55	(7:30 PM - 10:25 PM) BOWL GAME--TN VS. MARYLAND--7:30 p.m. (EST)--GEORGIA DOME (10:25 PM - 11:25 PM) SHUMAKER'S PARTY OF 5 RETURNS TO KNOXVILLE (UT Plane from Atlanta - Peachtree Dekalb Airport)	(7:30 PM - 10:25 PM) BOWL GAME--TN VS. MARYLAND--7:30 p.m. (EST)--GEORGIA DOME
8	01/23/03	Thursday	Leonard, Fox Leonard	Knoxville Nashville	12:30 13:25	Nashville Memphis	13:16 14:20	(10:00 AM - 10:30 AM) Cathy Cole - Weekly (4:30 PM - 5:30 PM) UT Plane to Nashville	(10:00 AM - 10:30 AM) Cathy Cole - Weekly (4:30 PM - 5:30 PM) To Nashville
			Leonard	Memphis	17:38	Knoxville	18:48	(6:00 PM - 8:00 PM) Clayton McWhorter Man of Year Dinner - Nashville (Presidential Ballroom - Opryland Hotel) Cocktails - 6:00-7:00 Dinner - 7:00-8:15 Program - 8:15-9:00	(6:00 PM - 8:00 PM) Clayton McWhorter Man of Year Dinner - Nashville (Presidential Ballroom - Opryland Hotel)
			Shumaker, Leonard, Cole	Knoxville	19:17	Nashville	19:59	(7:00 PM - 8:00 PM) Lady Vols/South Carolina @ Knoxville	(7:00 PM - 8:00 PM) Lady Vols/South Carolina @ Knoxville
			Shumaker, Leonard	Nashville	22:50	Birmingham	23:31	(9:00 PM - 10:00 PM) UT Plane from Nashville to Knoxville	
			Leonard	Birmingham	23:50	Knoxville	0:50		
9	02/22/03	Saturday	Shumaker Empty	Knoxville Birmingham	15:45 17:15	Birmingham Knoxville	16:52 18:06	(2:00 PM - 3:00 PM) Vols/Alabama @ (3:30 PM - 4:30 PM) UT Plane to Birmingham	(3:30 PM - 4:30 PM) To Birmingham (6:00 PM - 9:00 PM) HOLD-SEC
10	02/23/03	Sunday	No Flights	N/A		N/A	No Calendar Entry	(1:00 PM - 5:00 PM) HOLD-SEC	
11	02/24/03	Monday	Empty	Knoxville	8:52	Birmingham	9:57	(8:30 AM - 9:30 AM) Birmingham Alumni Leaders (Birmingham Marriott - 3590 Grandview Parkway 205/968-3775)	(8:30 AM - 9:30 AM) Birmingham Alumni Leaders (Birmingham Marriott - 3590 Grandview Parkway 205/968-3775)
			Shumaker	Birmingham	11:13	Nashville	11:57	(10:00 AM - 11:00 AM) UT Plane from Birmingham to Nashville	(10:00 AM - 11:00 AM) To Nashville
			Shumaker	Nashville	16:48	Knoxville	17:21	(1:00 PM - 1:30 PM) Commissioner Matt Kisber (Tennessee Tower - 11th Floor)	(1:00 PM - 1:30 PM) Commissioner Matt Kisber (Tennessee Tower - 11th Floor)

EXHIBIT F

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
							(2:00 PM - 3:30 PM) Fly, Roemer, Edwards, McWhorter (Haslam, maybe) (Nashville Office)	(2:00 PM - 3:00 PM) Meeting - Re: UT Foundation (Nashville Office)	
							(3:30 PM - 4:30 PM) UT Plane to Knoxville		
							(6:00 PM - 9:00 PM) AD Search Committee (University Club) 6:15 6:45 Interview Firm #17:00 7:30 Interview Firm #27:45 8:15 Interview Firm #38:30 9:00 Committee Deliberations/Decision	(6:00 PM - 9:00 PM) AD Search Committee (University Club)	
12	03/03/03	Monday	Empty	Knoxville	7:15	Nashville	8:05	(9:00 AM - 10:30 AM) HOLD - SEC/Slive	(9:00 AM - 10:30 AM) HOLD - SEC
			Leonard, Cole	Nashville	8:40	Birmingham	9:28	(11:00 AM - 12:00 PM) UT Plane from Birmingham (JWS & Leonard)	
			Shumaker, Leonard, Cole	Birmingham	11:55	Knoxville	12:44	(2:00 PM - 2:30 PM) Catherine Mizell (2:30 PM - 3:00 PM) Reorganization-CLC, SDL, Sylvia (3:30 PM - 3:45 PM) David Rector (4:00 PM - 5:00 PM) Siracusa Delegation (6:00 PM - 7:30 PM) Reception @ 940 Cherokee for Sicilian visitors (8:00 PM - 9:00 PM) Dinner at The Orangery Dinner at The Orangery	(2:00 PM - 2:30 PM) Catherine Mizell (2:30 PM - 3:00 PM) Cole, Davis, Leonard (4:00 PM - 5:00 PM) Siracusa Delegation (6:00 PM - 7:30 PM) Reception @ 940 Cherokee for Sicilian visitors (8:00 PM - 9:00 PM) Dinner at The Orangery
13	03/09/03	Sunday	Empty	Knoxville	11:42	Birmingham	12:36	(12:30 PM - 1:30 PM) UT Plane from Birmingham to Little Rock (Central Flying Service) (Joan Cronan will pick up at airport - she has your tickets for game)	(12:30 PM - 1:30 PM) To Little Rock
			Shumaker, Garrison	Birmingham	13:40	Little Rock	15:04	(3:00 PM - 4:00 PM) Women's SEC Tournament - Little Rock, AR Finals - 3:00 p.m.	(3:00 PM - 4:00 PM) Women's SEC Tournament - Little Rock, AR
			Shumaker, Garrison	Little Rock	18:20	Birmingham	19:26	(5:30 PM - 6:30 PM) UT Plane from Little Rock to Birmingham	
			Empty	Birmingham	19:50	Knoxville	20:38		
14	03/10/03	Monday	Empty	Knoxville	6:56	Nashville	7:42	(8:30 AM - 9:00 AM) Pick up Steve Leonard -	
			Leonard	Nashville	8:41	Birmingham	9:26	(9:05 AM - 11:35 AM) Meeting - SEC Office (2201 Richard Arrington Blvd. North - Birmingham 205/458-3000)	(9:00 AM - 11:30 AM) HOLD - SEC
			Shumaker, Leonard	Birmingham	13:20	Knoxville	14:08	(12:00 PM - 1:00 PM) UT Plane to Nashville	(12:00 PM - 1:00 PM) To Nashville
			Shumaker	Knoxville	14:25	Nashville	15:09	(2:30 PM - 3:30 PM) Michael Cass - Tennessean (Nashville City Center Office)	(2:30 PM - 3:30 PM) Michael Cass - Tennessean (Nashville City Center Office)
			Shumaker	Nashville	20:14	Knoxville	20:50	(4:30 PM - 5:15 PM) Senator Randy McNally (301 War Memorial Bldg.) (5:15 PM - 5:45 PM) Meet in Library across from Senate Chamber - for seating on house floor for Gov. address	(4:30 PM - 5:15 PM) Senator Randy McNally (301 War Memorial Bldg.) (5:15 PM - 5:45 PM) Meet in Library across from Senate Chamber - for seating on house floor for Gov. address

EXHIBIT F

79

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
							(5:45 PM - 6:45 PM) Governor's Budget Address - Nashville	(5:45 PM - 6:45 PM) Governor's Budget Address - Nashville	
15	04/15/03	Tuesday	Shumaker, Cole	Knoxville	13:42	Nashville	14:22	(9:00 AM - 10:00 AM) Progressive Student Alliance (Board Room - AHT)	(9:00 AM - 10:00 AM) Progressive Student Alliance (Board Room - AHT)
			Shumaker	Nashville	16:25	Birmingham	17:12	(10:00 AM - 10:30 AM) Barbara Benniston - Federal Relations candidate (10:30 AM - 11:30 AM) Loren Crabtree (11:30 AM - 12:00 PM) Pat Summitt (12:00 PM - 1:00 PM) Schedule/Calendar - JWS, SDL, CLC, JP (1:30 PM - 2:30 PM) UT Plane to Nashville	(10:00 AM - 10:30 AM) Federal Relations candidate (10:30 AM - 11:30 AM) Loren Crabtree (11:30 AM - 12:00 PM) Pat Summitt (12:00 PM - 12:30 PM) Cathy Cole - Weekly (1:30 PM - 2:30 PM) To Nashville
								(6:00 PM - 8:00 PM) HOLD - SEC	
16	04/16/03	Wednesday	Shumaker	Birmingham	9:32	Nashville	10:23	(11:00 AM - 12:30 PM) House Education Committee - Capital Projects/Bond Issues (16 Legislative Plaza)	(11:00 AM - 12:30 PM) House Education Committee - Capital Projects/Bond Issues (16 Legislative Plaza)
			Shumaker	Nashville	14:00	Knoxville	14:38	(1:00 PM - 2:00 PM) UT Plane to Knoxville (3:30 PM - 4:00 PM) Phil Fulmer (4:00 PM - 5:00 PM) Scheurer, Fishman, Rand Corp. (Executive Dining Room) (6:30 PM - 8:30 PM) Rand Corp. Dinner (940 Cherokee Boulevard)	(3:30 PM - 4:00 PM) Phil Fulmer (4:00 PM - 5:00 PM) Scheurer, Fishman, Rand Corp. (Executive Dining Room) (6:30 PM - 8:30 PM) Rand Corp. Dinner (940 Cherokee Boulevard)
17	04/24/03	Thursday	Shumaker	Knoxville	9:30	Chattanooga	9:58	(7:30 AM - 8:00 AM) KACP Board of Directors Meeting (Knoxville Expo Center - Clinton Highway)	(7:30 AM - 8:00 AM) KACP Board of Directors Meeting (Knoxville Expo Center - Clinton Highway)
			Shumaker	Chattanooga	14:00	Birmingham	14:36	(8:00 AM - 8:20 AM) CEO Breakfast - Speak @ 8:15 (Knoxville Expo Center)	(8:00 AM - 8:20 AM) CEO Breakfast - Speak @ 8:15 (Knoxville Expo Center)
			Empty	Birmingham	17:05	Knoxville	18:05	(9:00 AM - 9:30 AM) UT Plane to Chattanooga UTC Security will pick up at TAC Air (9:30 AM - 11:00 AM) UT Foundation Board of Directors Meeting (Ochs Room - The Chattanooga) (11:30 AM - 12:30 PM) Opening Luncheon - Development Council (The Chattanooga) Transportation to UTC by Susan Cardwell (1:00 PM - 1:30 PM) Development Council - Opening Remarks - JWS (UTC Engineering Building)	9:00AM - 9:30AM UT Plane to Chattanooga (9:30 AM - 11:00 AM) UT Foundation Board of Directors Meeting (Ochs Room - The Chattanooga) (11:30 AM - 12:30 PM) Opening Luncheon - Development Council (The Chattanooga) (1:00 PM - 1:30 PM) Development Council - Opening Remarks - JWS (UTC Engineering Building)
								(4:00 PM - 9:00 PM) HOLD - SEC	
18	04/28/03	Monday	Empty	Knoxville	9:10	Nashville	9:55	(9:00 AM - 10:00 AM) Henry Goodrich (The Tutwiler - 2021 Park Place North - Birmingham) Mary Cooley - [*]	(9:00 AM - 10:00 AM) Donor (The Tutwiler - 2021 Park Place North - Birmingham) Mary Cooley - [*]
			Cole	Nashville	10:15	Birmingham	11:00	(10:30 AM - 11:30 AM) UT Plane from Birmingham to Union City	(10:30 AM - 11:30 AM) To Union City

EXHIBIT F

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
		Shumaker, Cole	Birmingham	11:35	Union City	12:34	(11:55 AM - 2:55 PM) UT Martin - Nick Dunagan	(11:55 AM - 2:55 PM) UT Martin - Nick Dunagan	
		Shumaker, Cole	Union City	16:55	Knoxville	17:57	(3:30 PM - 4:30 PM) UT Plane from Union City to Knoxville (Arrive UT Flight - 6:00p.m.) (6:30 PM - 9:30 PM) Jack Williams - Reagan Endowment Reception/Dinner	(3:30 PM - 4:30 PM) UT Plane from Union City to Knoxville (6:25 PM - 9:25 PM) Reagan Endowment Reception/Dinner	
19	05/02/03	Friday	Shumaker, Cronan (Joan), Summitt Cronan (Joan), Summitt (Pat, R.B.)	Knoxville Birmingham	12:15 17:03	Birmingham Knoxville	13:12 18:00	(9:00 AM - 9:30 AM) Tony Holin - EdSouth (9:30 AM - 10:00 AM) Scorecard Meeting (10:00 AM - 11:00 AM) Research Foundation (Board Room - Andy Holt Tower) (11:45 AM - 12:15 PM) UT Plane to Birmingham - Jet South (Transportation to Birmingham-Southern - Ambassador Limo Service) (12:30 PM - 2:30 PM) GALA XVI Women of Distinction Luncheon (Birmingham-Southern, North Campus Center, 3rd Floor, Bruno Great Hall) At entrance (900 Arkadelphia), identify to security - guest of Dr. Berte. They will direct you. Once inside, will seat the you. (2:30 PM - 3:00 PM) Ambassador Limo Service - Transportation	(9:00 AM - 9:30 AM) Tony Holin - EdSouth (9:30 AM - 10:00 AM) Scorecard Meeting (10:00 AM - 11:00 AM) Research Foundation (Board Room - Andy Holt Tower) (11:45 AM - 12:15 PM) To Birmingham (12:30 PM - 2:30 PM) GALA XVI Women of Distinction Luncheon (Birmingham-Southern, North Campus Center, 3rd Floor, Bruno Great Hall)
20	05/06/03	Tuesday	Shumaker, Leonard	Knoxville	17:38	Birmingham	18:37	(9:30 AM - 10:00 AM) Haircut - Stephen Kelly (10:00 AM - 12:00 PM) Senior Staff Meeting (Executive Dining Room - University Center) (12:00 PM - 1:00 PM) Rotary Orientation - Les Lunceford, Frank Addicks, John Bailey (River Room - Cherokee Country Club) Les Lunceford [*] (1:40 PM - 2:10 PM) Marques Stewart - Interview (3:00 PM - 4:00 PM) FYI - UTK Budget Discussions (8th Floor Board Room) Diane 8036 (5:00 PM - 6:00 PM) UT Plane to Birmingham (5:00 PM - 8:00 PM) Automotive News Manufacturing Conference - Reception/Dinner (Wynfrey Hotel - Birmingham) 5:00 p.m. Reception Prearea at top of escalator 6:30 p.m. Gala Dinner Ballrooms A Second Floor Two Seats reserved for JWS at VIP table.	(10:00 AM - 12:00 PM) Senior Staff Meeting (Executive Dining Room - University Center) (12:00 PM - 1:00 PM) Rotary Orientation - Les Lunceford, Frank Addicks, John Bailey (River Room - Cherokee Country Club) (1:40 PM - 2:10 PM) Marques Stewart - Interview (4:30 PM - 5:00 PM) To Birmingham (5:00 PM - 8:00 PM) Automotive News Manufacturing Conference (UT Sponsored) - Reception/Dinner (Wynfrey Hotel - Birmingham; Nissan, Hyundai, Mercedes-Benz)

EXHIBIT F

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
21	05/07/03	Wednesday	Shumaker, Leonard	Birmingham	10:22	Knoxville	11:14	<p>(8:30 AM - 9:30 AM) UT Plane from Birmingham (or later if meetings are scheduled)</p> <p>(11:30 AM - 12:30 PM) UT Retiree Association - JWS Remarks at noon (University Club)</p> <p>(2:30 PM - 4:00 PM) Garden Party (940 Cherokee Boulevard)</p> <p>(5:00 PM - 6:00 PM) UT Plane to Tri Cities (Passengers: JWS, Jack & Frances Britt, Buddy & Penny Mitchell)</p> <p>(6:20 PM - 9:20 PM) Development Dinner - Home of Jim and Sandy Powell - Limestone, TN Reception 6:30 Dinner 7:15</p>	<p>(11:30 AM - 12:30 PM) UT Retiree Association - JWS Remarks at noon (University Club)</p> <p>(2:30 PM - 4:00 PM) Garden Party (940 Cherokee Boulevard)</p> <p>5:00 PM - 6:00 PM To Tri Cities</p> <p>(6:20 PM - 9:20 PM) Development Donor/Dinner</p>

Note 1: A partial calendar was discovered in Dr. Shumaker's office by UT internal auditors on August 8, 2003. The remainder of the calendar was provided to UT internal auditors by Ms. Jane Pullum on August 22, 2003.

[*] Personal telephone numbers, cell phone numbers, and addresses were not included in the auditors' exhibits of Dr. Shumaker's calendars in this report.

EXHIBIT G

Louisville Trips on UT Plane

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
1	03/01/02	Friday	Summitt, Cronan	Knoxville	7:40	Nashville	8:22	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Fly, Cole	Nashville	9:50	Louisville	10:34		
			Shumaker, Fly, Cole	Louisville	10:50	Knoxville	11:35 *		
			Shumaker, Fly, Cole, Peccolo, Davis	Knoxville	18:49	Louisville	19:40		
			Fly, Cole, Peccolo, Davis	Louisville	19:57	Nashville	20:43		
			Empty	Nashville	21:14	Knoxville	21:53		
* Flight Log says AT 10:35; impossible if DT 10:50									
2	03/06/02	Wednesday	Fly, Davis, Levy, Clark, Parrott	Knoxville	12:25	Nashville	13:07	* This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Fly, Levy, Parrott	Nashville	16:44	Knoxville	17:20		
			Shumaker (John, Lucy)	Knoxville	21:00	Louisville	21:52		
			Empty	Louisville	22:17	Knoxville	23:04		
* Flight Log has note to charge Max Parrott his part only - not all.									
3	04/04/02	Thursday	Cole	Nashville	7:45	Louisville	8:31	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Shumaker, Cole	Louisville	8:46	Chattanooga	9:41		
			Empty	Chattanooga	10:15	Knoxville	10:40		
			Empty	Knoxville	17:15	Chattanooga	17:41		
			Shumaker, Cole	Chattanooga	21:20	Louisville	22:20		
			Cole	Louisville	22:32	Nashville	23:16		
			Empty	Nashville	23:30	Knoxville	0:07		
4	04/12/02	Friday	Payne, Criss, Stivers	Knoxville	7:40	Memphis	9:04	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Payne, Criss, Stivers	Memphis	14:33	Louisville	15:52		
			Payne, Criss, Stivers, Shumaker (Brian), I.	Louisville	16:10	Knoxville	17:04		
5	04/14/02	Sunday	Shumaker (Brian), Lenardon	Knoxville	10:10	Louisville	11:07	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Empty	Louisville	11:46	Knoxville	12:35		
6	04/22/02	Monday	Empty	Knoxville	12:32	Nashville	13:19	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
			Cole	Nashville	14:04	Louisville	14:42		
7	04/23/02	Tuesday	Shumaker, Cole	Louisville	17:30	Memphis	18:47	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
8	04/26/02	Friday	Shumaker, Cole	Nashville	8:06	Knoxville	8:42	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.

EXHIBIT G

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
		Shumaker, Cole Cole Empty	Knoxville Louisville Nashville	13:47 15:00 15:55	Louisville Nashville Knoxville	14:40 15:44 16:37			
9	05/03/02	Friday	Shumaker Empty	Knoxville Louisville	15:15 16:45	Louisville Knoxville	16:13 17:47	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
10	05/09/02	Thursday	Empty Shumaker	Knoxville Louisville	8:52 10:03	Louisville Knoxville	9:47 11:00	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
11	05/23/02	Thursday	Leonard Shumaker (John, Brian, Tim), Leonard Leonard Empty Shumaker (John, Brian, Tim) Empty	Nashville Louisville Knoxville Nashville Knoxville Louisville	8:38 10:15 14:14 15:22 21:20 22:30	Louisville Knoxville Nashville Knoxville Louisville Knoxville	9:22 11:01 14:55 16:00 22:10 23:23	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
12	06/18/02	Tuesday	Cole, Davis Shumaker, Cole, Davis	Knoxville Louisville	13:10 14:15	Louisville Nashville	14:00 14:59	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
13	06/19/02	Wednesday	Shumaker, Cole, Davis, Stevens Cole, Davis, Stevens	Nashville Louisville	16:23 17:23	Louisville Knoxville	17:10 18:13	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
14	06/21/02	Friday	Empty Shumaker	Knoxville Louisville	9:10 10:30	Louisville Knoxville	9:56 11:21	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
15	01/21/03	Tuesday	Empty Cole, Leonard Shumaker, Cole, Leonard Shumaker, Cole, Leonard	Knoxville Nashville Louisville Tulahoma	14:10 15:45 16:39 19:39	Nashville Louisville Tulahoma Knoxville	14:56 16:23 17:28 20:10	(9:30 AM - 4:30 PM) HOLD - Louisville (9:30-5:00) (4:30 PM - 5:15 PM) UT Plane - pick up in Louisville - to Tullahoma	No Calendar Entry
16	03/20/03	Thursday	Shumaker, McCay Shumaker, McCay Shumaker, McCay, Leonard	Knoxville Louisville Nashville	8:00 14:14 17:47	Louisville Nashville Memphis	8:56 15:03 18:48	(8:00 AM - 3:00 PM) UT Battelle Board of Governors Meeting - Oak Ridge (Spallation Neutron Source (SNS) Office, 701 Scarboro Road, Room 101A) Continental Breakfast available at 7:30 a.m. (8:00 PM - 10:00 PM) Dinner - Charlie Anderson/Jack Williams (The Orangery) (Dorothy Bryson - [*])	(8:00 AM - 3:00 PM) UT Battelle Board of Governors Meeting - Oak Ridge (Spallation Neutron Source (SNS) Office, 701 Scarboro Road, Room 101A) (7:00 PM - 8:00 PM) Dinner - Donor

EXHIBIT G

Date	Day	Passengers	From	DT	To	AT	Calendar A Found in Shumaker's Office on August 8, 2003 (See Note 1)	Calendar B Provided to UT Internal Audit in Mid-July 2003
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Note 1: A partial calendar was discovered in Dr. Shumaker's office by UT internal auditors on August 8, 2003.
The remainder of the calendar was provided to UT internal auditors by Ms. Jane Pullum on August 22, 2003.

[*] Personal telephone numbers, cell phone numbers, and addresses were not included in the auditors' exhibits of Dr. Shumaker's calendars in this report.

EXHIBIT H

*Chattanooga Trips on UT Plane
Identified as Personal by Dr. Shumaker*

Date	Day	Passengers	From	DT	To	AT	Calendar A	Calendar B	
							Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
1	01/31/03	Friday	Shumaker Empty	Knoxville Chattanooga	16:45 17:36	Chattanooga Knoxville	17:13 18:03	(9:00 AM - 9:30 AM) Catherine Mizell (9:30 AM - 10:30 AM) Intl. Development Candidate (11:00 AM - 12:00 PM) Intl. Development Candidate (12:15 PM - 12:30 PM) Barbara Dewey - ACRL Paper (1:00 PM - 1:30 PM) WATE-TV - Interview (Lottery) (2:00 PM - 2:30 PM) Joe Sullivan - Metro Pulse (2:30 PM - 7:30 PM) HOLD JWS	(9:00 AM - 9:30 AM) Catherine Mizell (9:30 AM - 10:30 AM) Intl. Development Candidate (11:00 AM - 12:00 PM) Intl. Development Candidate (12:15 PM - 12:30 PM) Barbara Dewey - ACRL Paper (1:00 PM - 1:30 PM) WATE-TV - Interview (Lottery) (2:00 PM - 2:30 PM) Joe Sullivan - Metro Pulse
2	02/03/03	Monday	Empty	Knoxville	6:17	Nashville	7:04	(10:00 AM - 11:00 AM) Athletics Board Executive Committee (University Club - Room A)	(10:00 AM - 11:00 AM) Athletics Board Executive Committee (University Club - Room A)
			Cole, Leonard, Clippard, Butts	Nashville	7:53	Chattanooga	8:23	(12:45 PM - 1:45 PM) UT Plane to Nashville	(12:45 PM - 1:45 PM) UT Plane to Nashville
			Shumaker, Cole, Leonard, Clippard, Butts	Chattanooga	8:31	Knoxville	8:55	(1:35 PM - 4:35 PM) NCHEMS - Report to Higher Ed. Work Group (30th Floor, Snodgrass Tennessee Tower - Nashville)	(1:35 PM - 4:35 PM) NCHEMS - Report to Higher Ed. Work Group (30th Floor, Snodgrass Tennessee Tower - Nashville)
			Shumaker, Cole, Leonard, Clippard	Knoxville	13:10	Nashville	14:06	(7:00 PM - 8:00 PM) Overnight - Hilton Suites Nashville - Conf.#3166175180 (121 Fourth Avenue South) 615/620-1000 615/620-1001 - Fax	(7:00 PM - 8:00 PM) Overnight - Nashville

Note 1: A partial calendar was discovered in Dr. Shumaker's office by UT internal auditors on August 8, 2003.
The remainder of the calendar was provided to UT internal auditors by Ms. Jane Pullum on August 22, 2003.

[*] Personal telephone numbers, cell phone numbers, and addresses were not included in the auditors' exhibits of
Dr. Shumaker's calendars in this report.

EXHIBIT I

Commercial Flights

Date	Day	Airline	From	To	Calendar A	Calendar B	
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
1	08/23/02	Friday	Delta	Knoxville New York	New York Cincinnati	(8:00 AM - 9:00 AM) Delta Flight 5268 to Cincinnati (10:45 AM - 11:45 AM) Depart Cincinnati Delta 1254 to New York - LaGuardia (12:35 PM - 1:05 PM) Arrive LaGuardia (1:15 PM - 2:15 PM) Meeting with Mark Dean, Dwayne McCay (Figs Restaurant - 1st Floor of Main Terminal near American/United) (3:35 PM - 4:35 PM) Depart New York - LaGuardia to Cincinnati (5:45 PM - 6:45 PM) Arrive Cincinnati	(8:00 AM - 9:00 AM) Flight to New York (1:15 PM - 2:15 PM) Meeting with Possible VP Candidate, Dwayne McCay
2	08/24/02	Saturday	N/A	N/A	N/A	(8:00 AM - 5:00 PM) Cincinnati	No Calendar Entry
3	08/25/02	Sunday	N/A	N/A	N/A	(8:00 AM - 5:00 PM) Cincinnati	No Calendar Entry
4	08/26/02	Monday	Delta	Cincinnati	Knoxville	(9:15 AM - 10:15 AM) Depart Cincinnati Delta Flight 5269B to Knoxville (Arrive Knoxville 10:15) (1:00 PM - 4:00 PM) President's Staff Meeting (413 UT Conference Center) (6:30 PM - 8:00 PM) Dinner - Mayor & Joan Ashe	(9:15 AM - 10:15 AM) Flight to Knoxville (1:00 PM - 4:00 PM) President's Staff Meeting (413 UT Conference Center) (6:30 PM - 8:00 PM) Dinner - Mayor & Joan Ashe
5	11/15/02	Friday	Delta	Knoxville	Birmingham	(9:30 AM - 10:30 AM) Speaker - Black Caucus Legislative Retreat (Paris Landing State Park) (2:40 PM - 3:40 PM) Delta Flight 1069 - depart Knoxville	(9:30 AM - 10:30 AM) Speaker - Black Caucus Legislative Retreat (Paris Landing State Park)
6	01/10/03	Friday	Delta	Knoxville Atlanta	Atlanta Birmingham	(9:45 AM - 10:00 AM) Jack Williams will pick up at 940 Cherokee Boulevard (10:00 AM - 10:30 AM) Mrs. Martha Holt (J. Williams) (* (11:00 AM - 11:30 AM) Bill Fox, Cathy Cole (Teacher Equalization and TennCare Issues) (11:30 AM - 12:00 PM) Loren Crabtree (11:45 AM - 12:00 PM) Butch Peccolo	(10:00 AM - 10:30 AM) Mrs. Martha Holt (11:00 AM - 11:30 AM) Bill Fox, Cathy Cole (Teacher Equalization and TennCare Issues) (11:30 AM - 12:00 PM) Loren Crabtree (11:45 AM - 12:00 PM) Butch Peccolo

EXHIBIT I

Date	Day	Airline	From	To	Calendar A	Calendar B	
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
					(12:30 PM - 1:30 PM) To Airport (2:00 PM - 3:00 PM) Tim - US Airways Flight 4100 - From Knoxville to Charlotte (Depart Charlotte - Flight 50 at 4:15 p.m. - Arrive Washington @ 5:30 p.m.) (2:40 PM - 3:40 PM) Delta Flight 1069 from Knoxville to Atlanta (Arrive Atlanta - 3:50 p.m.) (5:25 PM - 6:25 PM) Delta Flight 1815 from Atlanta to Birmingham (Arrive Birmingham - 5:21 p.m.)		
7	01/27/03	Monday	Delta	Knoxville	Washington, DC	(7:30 AM - 8:30 AM) Delta Flight 730 from Knoxville to Washington, DC (via Atlanta) (Arrive Washington - 11:04 a.m.)	(7:30 AM - 8:30 AM) Flight to Washington
				Washington, DC	Louisville	(1:00 PM - 3:00 PM) Federal Relations Council Meeting (Preston Gates Office - 1735 New York Avenue, NW) (6:00 PM - 8:00 PM) New Member Reception - Tennessee Congressional Delegation (S211 Lyndon Johnson Room - U.S. Capitol) Program - 6:00-6:20 p.m. (8:45 PM - 9:45 PM) Delta Flight 5014 from Washington (Arrive Cincinnati - 10:18 PM) (10:50 PM - 11:50 PM) Delta Flight 5499 from Cincinnati to Louisville (Arrive Louisville - 11:31 PM)	(1:00 PM - 3:00 PM) Federal Relations Council Meeting (Preston Gates Office - 1735 New York Avenue, NW) (6:00 PM - 8:00 PM) New Member Reception - Tennessee Congressional Delegation (S211 Lyndon Johnson Room - U.S. Capitol)
8	02/26/03	Wednesday	Delta	Knoxville	Ft. Myers, FL	(9:00 AM - 9:30 AM) Diane Ballard, Dan Alton - Scorecard for Board meeting (9:30 AM - 10:00 AM) Dr. Charles Manning (10:00 AM - 11:00 AM) Charles Manning, Paula Short - TBR (Crabtree, Levy, Friedl- UTC, Rakes-UTM) (Boardroom - AHT) 615/366 (11:15 AM - 12:00 PM) UTC Liaison Committee Meeting (via telephone) (12:00 PM - 12:15 PM) Sam Harding (Tom James) (2:40 PM - 3:40 PM) Delta Flight 1069 - Knoxville to Atlanta (Arrive Atlanta - 3:50 p.m.)	(9:00 AM - 9:30 AM) Diane Ballard, Dan Alton (9:30 AM - 10:00 AM) Dr. Charles Manning (10:00 AM - 11:00 AM) Charles Manning, Paula Short - TBR (Crabtree, Levy, Friedl- UTC, Rakes-UTM) (Boardroom - AHT) (11:15 AM - 12:00 PM) UTC Liaison Committee Meeting (via telephone) (2:40 PM - 3:40 PM) Flight to Fort Myers

EXHIBIT I

Date	Day	Airline	From	To	Calendar A	Calendar B
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003
					(5:40 PM - 6:40 PM) Delta Flight 2123 from Atlanta to Fort Myers (Arrive 7:21 p.m.)	
					(8:30 PM - 9:30 PM) Overnight - Naples Hilton and Towers (5111 Tamiami Trail North - Naples Telephone - 941/430-4900 Fax-941/430-4901)	(8:30 PM - 9:30 PM) Overnight - Naples
9	02/27/03	Thursday	N/A	N/A	N/A	
					(8:00 AM - 9:00 AM) Naples (12:00 PM - 1:30 PM) Lunch - John Fisher (The Royal Poinciana Golf Club) (3:00 PM - 4:00 PM) Dr. William Eugene Mayberry (Club Pelican Bay) (6:30 PM - 9:00 PM) Cocktail Reception - Naples (Home of John Sorey) (10:00 PM - 11:00 PM) Overnight - Naples Hilton and Towers (5111 Tamiami Trail North - 941/430-4900 Fax-941/430-4901)	(8:00 AM - 9:00 AM) Naples (12:00 PM - 1:30 PM) Lunch - Donor (The Royal Poinciana Golf Club) (3:00 PM - 4:00 PM) Donor (Club Pelican Bay) (6:30 PM - 9:00 PM) Donor Cocktail Reception - Naples (10:00 PM - 11:00 PM) Overnight - Naples
10	02/28/03	Friday	Delta	Ft. Myers, FL	Birmingham	
					(8:00 AM - 11:00 AM) NAPLES (11:25 AM - 12:25 PM) Delta Flight 1942 from Ft. Myers to Atlanta (Arrive Atlanta - 1:13 PM) (2:35 PM - 3:35 PM) Delta Flight 1799 From Atlanta to Birmingham (Arrive Birmingham - 2:28 PM)	(8:00 AM - 11:00 AM) NAPLES - Florida Development
11	03/07/03	Friday	Delta	Atlanta	Birmingham	
					(8:30 AM - 9:30 AM) Chuck Fishman will meet you - lobby of Capital Hilton (10:00 AM - 11:00 AM) Patricia Evans, Executive Director - Council on Education for Public Health (800 Eye Street, NW, Suite 202) (11:00 AM - 11:30 AM) Call to Dominic Brewer - Rand Corp. ([*]) (Fishman's Office - 1130 Connecticut Ave., NW, Suite 425 - 202/293-0150) (11:30 AM - 12:30 PM) Professor Ju @ Fishman's office (2:05 PM - 3:05 PM) Delta Flight 623 from Washington to Atlanta (Arrive Atlanta 4:02 PM) (5:25 PM - 6:25 PM) Delta Flight 1815 from Atlanta to Birmingham (Arrive Birmingham 5:21 PM)	(8:30 AM - 9:30 AM) Chuck Fishman (10:00 AM - 11:00 AM) Patricia Evans, Executive Director - Council on Education for Public Health (800 Eye Street, NW, Suite 202) (11:00 AM - 11:30 AM) Call to Dominic Brewer - Rand Corp. ([*]) (Fishman's Office - 1130 Connecticut Ave., NW, Suite 425 - 202/293-0150) (11:30 AM - 12:30 PM) Professor Ju @ Fishman's office

EXHIBIT I

Date	Day	Airline	From	To	Calendar A	Calendar B	
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
12	03/08/03	Saturday	N/A	N/A	N/A	(6:00 PM - 7:00 PM) Women's SEC Tournament - Little Rock, AR Semi-Finals - Game times - 6:00 and 8:30 p.m.	(7:00 PM - 9:00 PM) Dinner - Donor (Birmingham)
13	03/09/03	Sunday	See Exhibit F				
14	04/05/03	Saturday	Delta	Louisville	Birmingham	(7:15 AM - 8:00 AM) Delta Flight 1608 from Louisville to Cincinnati Confirm #NMS85Q (9:45 AM - 10:00 AM) Delta Flight 5121 from Cincinnati to Birmingham	No Calendar Entry
15	04/12/03	Saturday	American	Charlotte, NC	Champaign, IL	(9:50 AM - 10:05 AM) Barbara Dewey/Hannelore Rader will meet you in lobby to go over to Conv. Ctr. (10:30 AM - 11:30 AM) National Conference for College and Research Libraries (Charlotte Convention Center - Room 203AB) (1:00 PM - 1:30 PM) Transportation to airport - Mike Fox Limo (704/588-3010) (2:40 PM - 3:40 PM) American Airlines Flight 4310 from Charlotte (Arrive Chicago - 3:43 p.m.) (4:30 PM - 5:30 PM) American Airlines Flight 4217 from Chicago (Arrive Champaign - 5:23 p.m.)	(10:30 AM - 11:30 AM) Speak - National Conference for College and Research Libraries (Charlotte Convention Center - Room 203AB) (2:40 PM - 3:40 PM) Flight to Illinois
16	04/13/03	Sunday	N/A	N/A	N/A	No Calendar Entry	No Calendar Entry
17	04/14/03	Monday	American	Champaign, IL	Nashville	(7:20 AM - 8:20 AM) American Airlines Flight 4278 from Champaign (Arrive Chicago - 8:10 a.m.) (10:20 AM - 11:20 AM) American Airlines Flight 4078 from Chicago (Arrive Nashville - 11:52 a.m.) Cole will pick up at AA baggage claim (2:00 PM - 3:00 PM) Meeting with John Morgan (Nashville) (3:30 PM - 4:00 PM) UT Plane from Nashville to Tri Cities (Lynn Johnson will meet at Tri Cities Airport - drive to Richfields Country Club)	(7:20 AM - 8:20 AM) Flight to Nashville (2:00 PM - 3:00 PM) Meeting with John Morgan (Nashville) (3:30 PM - 4:00 PM) To Tri Cities

EXHIBIT I

Date	Day	Airline	From	To	Calendar A	Calendar B
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003
					(6:00 PM - 8:00 PM) Kingsport/Sullivan County Chapter Alumni Meeting (Ridgefields Country Club)	(6:00 PM - 8:00 PM) Kingsport/Sullivan County Chapter Alumni Meeting (Ridgefields Country Club)
					(8:25 PM - 9:25 PM) UT Plane from Tri Cities to Knoxville (Lynn Johnson will drive back to airport) Notes: meeting with Goetz, Winthrow, and Cooley Paige will reschedule the 1:15 meeting for later in the week. Cole will pick up President at AA baggage claim.	

Demonstration Flight

Date	Day	Flight Type	From	To	Calendar A	Calendar B
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003
1	11/26/02	Tuesday	King Air 350 - Demonstration Plane	Knoxville Nashville	Nashville Birmingham	
					(9:30 AM - 10:00 AM) Theotis Robinson (10:00 AM - 11:00 AM) Doug Dickey (sensitive issues)	(9:30 AM - 10:00 AM) Theotis Robinson (10:00 AM - 11:00 AM) Doug Dickey
					(12:15 PM - 12:45 PM) Demo Plane to Nashville	
					(1:00 PM - 1:30 PM) TSAC Board Meeting (12/14 Legislative Plaza)	(1:00 PM - 1:30 PM) TSAC Board Meeting (12/14 Legislative Plaza)
					(1:30 PM - 2:30 PM) Education Lottery Task Force	(1:30 PM - 2:30 PM) Education Lottery Task Force
					(3:00 PM - 4:00 PM) Conference Call - Leonard, Britt, Cole	(3:00 PM - 4:00 PM) Conference Call
					(5:00 PM - 5:45 PM) Depart Nashville to Birmingham	
					(6:00 PM - 7:00 PM) Arrive Birmingham - JetSouth - Hertz Rental Car Reserved	

Note 1: A partial calendar was discovered in Dr. Shumaker's office by UT internal auditors on August 8, 2003.
The remainder of the calendar was provided to UT internal auditors by Ms. Jane Pullum on August 22, 2003.

[*] Personal telephone numbers, cell phone numbers, and addresses were not included in the auditors' exhibits of
Dr. Shumaker's calendars in this report.

EXHIBIT J

Charter Flights

Date	Day	Passengers	From	To	Calendar A	Calendar B	
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
1	05/15/02	Wednesday	Shumaker, Madia, Cole, Stephen	Knoxville Louisville Nashville Louisville	Louisville Nashville Louisville Knoxville	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
2	05/17/02	Friday	Shumaker	Nashville Louisville Union	Louisville Union Nashville	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.	This trip occurred before the establishment of Dr. Shumaker's calendar at UT.
3	09/09/02	Monday	Shumaker, Roberts	Knoxville Memphis	Memphis Knoxville	(9:30 AM - 10:30 AM) Loren Crabtree, Phil Scheurer, Sylvia Davis - Budget (10:45 AM - 11:45 AM) UT Plane to Memphis (12:00 PM - 1:00 PM) UTHSC Chancellors Roundtable (Memphis) (3:30 PM - 4:30 PM) Faculty Senate - UTK (Shiloh Room - University Center) (5:30 PM - 6:00 PM) Reception - Faculty Senate (Crest Room - University Center)	(9:30 AM - 10:30 AM) Loren Crabtree, Phil Scheurer, Sylvia Davis - Budget (10:45 AM - 11:45 AM) Plane to Memphis (12:00 PM - 1:00 PM) UTHSC Chancellors Roundtable (Memphis) (3:30 PM - 4:30 PM) Faculty Senate - UTK (Shiloh Room - University Center) (5:30 PM - 6:00 PM) Reception - Faculty Senate (Crest Room - University Center)
4	01/07/03	Tuesday	Shumaker	Knoxville Nashville	Nashville Knoxville	(6:45 AM - 7:45 AM) Haslam Plane from Knoxville (Cherokee Terminal) to Louisville (Rental Car - Hertz @ AV Center - Conf. #C05635780C6) (2:00 PM - 3:00 PM) Conference Call - Board for Economic Growth - Gov-Elect Bredesen (615/741-8888) Suzanne Mitchell 615/244 (5:30 PM - 6:30 PM) Gulf Charter from Louisville (AV Center) to Union City (6:00 PM - 8:00 PM) Legislative Dinner - UT Martin (UT Martin Chancellor's Residence (Nick Dunagan will pick up at airport)) (9:00 PM - 10:00 PM) Gulf Charter from Union City to Knoxville (Transportation to airport by Nick Dunagan)	(2:00 PM - 3:00 PM) Conference Call - Board for Economic Growth - Gov-Elect Bredesen (615/741-8888) (5:30 PM - 6:00 PM) To Union City (6:00 PM - 8:00 PM) Legislative Dinner - UT Martin (UT Martin Chancellor's Residence (Nick Dunagan will pick up at airport))

EXHIBIT J

Date	Day	Passengers	From	To	Calendar A	Calendar B	
					Found in Shumaker's Office on August 8, 2003 (See Note 1)	Provided to UT Internal Audit in Mid-July 2003	
5	01/09/03	Thursday	Shumaker	Knoxville	Louisville	(7:30 AM - 8:30 AM) Haslam Plane from Cherokee Terminal to Louisville - AV Center (Hertz Rental Car at AV Center - Conf. #15440081233 (Jason))	No Calendar Entry
				Louisville	Union City	(5:30 PM - 6:30 PM) Depart Louisville - AV Center to Knoxville	
				Union City	Knoxville	Notes: Dr. George Kushner (Brian) 502/852502/852 (Office)	

Note 1: A partial calendar was discovered in Dr. Shumaker's office by UT internal auditors on August 8, 2003. The remainder of the calendar was provided to UT internal auditors by Ms. Jane Pullum on August 22, 2003.

[*] Personal telephone numbers, cell phone numbers, and addresses were not included in the auditors' exhibits of Dr. Shumaker's calendars in this report.

Exhibit K

LAW OFFICES OF
RITCHIE, FELS & DILLARD, P.C.

SUITE 300, MAIN PLACE
606 W. MAIN STREET

P. O. BOX 1126
KNOXVILLE, TENNESSEE 37901-1126

865 637-0661

FACSIMILE

865 524-4623

OF COUNSEL
CHARLES W. B. FELS

ROBERT W. RITCHIE
W. THOMAS DILLARD
WAYNE A. RITCHIE II
WADE V. DAVIES
STEPHEN ROSS JOHNSON

October 1, 2003

Glen McKay
Division of State Audit
1500 James K. Polk State Office Building
505 Deaderick Street
Nashville, TN 37243

RECEIVED
OCT 03 2003
STATE AUDIT

Re: John Shumaker

Dear Mr. McKay:

When we originally spoke, you informed me that you would like to interview Dr. Shumaker as part of the audit process. As you know, I told you that Dr. Shumaker was willing to cooperate and provide any necessary information. I suggested a phone interview, but you preferred to drive to my office. We agreed to accommodate your requests and your time frame, and I set up a meeting in my office for tomorrow. Dr. Shumaker has actually already begun traveling to Knoxville for the meeting.

Late this afternoon, the terms of the proposed meeting changed significantly. You called with your legal counsel on the line and stated that you wanted to bring a court reporter to my office. Several things trouble me about the new proposed terms of the meeting. You have declined even to provide to me the subject matter of the questions you desire to ask. Additionally, you were unwilling to tell me whether you have ever brought a court reporter to an audit interview in the past.

This leads me to the conclusion that what is contemplated is not simply an audit interview. Although Dr. Shumaker has been fully cooperative and already met with you and wishes to continue to cooperate, I could not advise any client to agree to an interview under the circumstances you propose.

I am sorry that this is the case because Dr. Shumaker has nothing to hide.

You asked me on the phone whether there are alternative arrangements that could be implemented this week. There certainly are. If you will submit to me the questions you want

Exhibit K (Cont.)

answered, we will answer them in writing right away and get them back to you before your deadline. Having the answers in writing should satisfy your concern about having an accurate record of Dr. Shumaker's answers.

In the event you decline to submit the questions in writing and you finalize the audit without response from Dr. Shumaker, I would request that this letter be made a part of the record of the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Wade V. Davies", with a long horizontal flourish extending to the right.

Wade V. Davies

Source: Ritchie, Fels & Dillard, P.C. files.
Purpose: To exhibit communications with Dr. Shumaker's attorney.



Exhibit L

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF STATE AUDIT
SUITE 1500
JAMES K. POLK STATE OFFICE BUILDING
NASHVILLE, TENNESSEE 37243-0264
PHONE (615) 401-7897
FAX (615) 532-2765

October 8, 2003

Wayne V. Davies, Esq.
Ritchie, Fels & Dillard, P.C.
Suite 300, W. Main Street
P.O. Box 1126
Knoxville, Tennessee 37901-1126

Dear Mr. Davies:

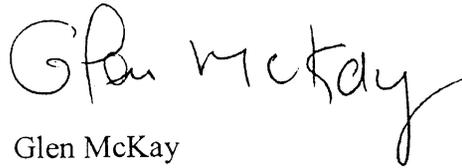
I was disappointed to receive your letter of October 1, 2003, regarding this office's planned interview with Dr. John Shumaker scheduled for October 2, 2003 at 2:00 p.m. at your offices in Knoxville. As you will recall, you informed me that Dr. Shumaker had nothing to hide and was willing to cooperate. In that spirit, you and I had worked together under a tight time frame to arrange a time and place for the interview which would accommodate everyone's schedules. This office regrets that Dr. Shumaker ultimately declined to be interviewed.

I was further disappointed to learn that Dr. Shumaker's travel schedule prevents him from scheduling any other interview before the meeting of the Fiscal Review Committee on October 9, 2003. As you know, Tenn. Code Ann. § 8-4-201 authorizes this office to interview Dr. Shumaker under oath and in the presence of a court reporter. I realize that introducing a court reporter to the process was a significant change in the interview plans. However, as I indicated in our telephone conversation, it would appear that under the circumstances it would be in everyone's best interest to preserve the record of Dr. Shumaker's answers and comments. When Dr. Shumaker declined to voluntarily proceed in this manner, we informed you that we would agree to an interview without a court reporter. I am disappointed that Dr. Shumaker declined this alternative and instead returned to Virginia.

You have indicated that you and Dr. Shumaker would be willing to respond in writing to written questions as an alternative to an oral interview. At one point, you also indicated that you and Dr. Shumaker wanted to be informed in advance about all questions that

would be asked during any oral interview. Neither procedure would adequately serve the public interest. If you have any questions please feel free to contact me at (615) 747-5297.

Sincerely,

A handwritten signature in black ink that reads "Glen McKay". The signature is written in a cursive, slightly slanted style.

Glen McKay
Assistant Director
Division of State Audit

CC: Honorable John Morgan, Comptroller of the Treasury
Honorable Arthur Hayes, Director of State Audit
Honorable Phil Bredesen, Governor
Honorable Paul Summers, Attorney General

Purpose: To exhibit our response to Dr. Shumaker's attorney.