



State of Ohio
Office of the Inspector General

THOMAS P. CHARLES, Inspector General

REPORT OF INVESTIGATION

FILE ID NUMBER: 2008125

AGENCY: Ohio Attorney General's Office

BASIS FOR INVESTIGATION: Legislative Authority

ALLEGATIONS: Misuse of Campaign and Transition
Account Funds, Misuse of State Resources,
Mismanagement, Improper Hiring Practices

INITIATED: May 14, 2008

DATE OF REPORT: December 22, 2008



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The Office of the Inspector General would like to thank the members of the 127th General Assembly, Governor Ted Strickland, the public and the media for entrusting us with the investigation of the Attorney General's Office. Today, we present you with our report of investigation.

Substitute Senate Bill 3 directed us to complete two tasks: First, to conduct our own investigation into allegations of wrongdoing committed by either the former Attorney General or his employees; and second, to coordinate other state investigations of those same individuals. As we worked toward completing those tasks, we were assisted by the Ohio State Highway Patrol. The appointed Attorney General and her staff also provided valuable assistance. In fact, all of the members of the task force – including the Auditor of State, the Ohio Ethics Commission, the Secretary of State and local prosecutors – worked cooperatively to finish this daunting undertaking. When necessary, we also consulted with federal authorities.

During our investigation, we issued numerous subpoenas. We gathered thousands of paper documents, reviewed thousands of electronic messages, confiscated 24 computer hard drives and 26 BlackBerry devices, and reviewed documents kept on the Attorney General's computer server. In addition, we interviewed 110 people and gathered 220 items of evidence. We reviewed financial and campaign finance records and, in the end, made referrals to the Ohio Elections Commission, the Ohio Supreme Court Disciplinary Counsel, the Ohio Ethics

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Commission, the Ohio Department of Taxation, the Internal Revenue Service, and to local and county prosecuting attorneys.

Without teamwork, we could not have accomplished our goals. More so, without your support and confidence, this chapter in Ohio history could not have been closed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas P. Charles".

Thomas P. Charles
Inspector General

EXECUTIVE SUMMARY

File ID No. 2008125

On May 13, 2008, Governor Ted Strickland signed Substitute Senate Bill 3, amending the statutory authority of the Office of the Inspector General (“OIG”) to give the OIG one-time authority to investigate the office of then-Attorney General Marc Dann. The joint agreement by Governor Strickland and members of the General Assembly to support such an amendment came after the Attorney General defied demands by the Governor and other senior state officials that he resign from office following the issuance of an administrative report that harshly criticized Dann’s handling of a sexual harassment investigation and revealed serious misconduct and unprofessional behavior by some of Dann’s top managers. The calls for Dann’s resignation also followed his admission that he had engaged in an extramarital affair with a young female subordinate.

On the following day, the OIG and the Ohio State Highway Patrol (“Patrol”) seized computers, personal-information devices and numerous paper records from the Attorney General’s Office. Dann was present during the morning search and seizure, and he resigned just hours later. A task force comprised of investigators from several agencies was then formed to examine a wide range of allegations, including violations of campaign finance laws; the misuse of state property and equipment; abuses in promotions and hiring; and violations of Equal Employment Opportunity laws pertaining to sexual harassment and hostile work environment.

Our investigation determined that shortly after his election in 2006, Dann incorporated the Marc Dann OAG Transition Corporation, an unregulated non-profit business that quickly banked more than \$195,000 in undisclosed donations from businesses, corporate political action committees and individuals. To date, all but \$8,838 has been drained from the Transition Corporation’s account. Included among the recipients of that money were Feisty Dishes, a dinnerware sales firm controlled by Dann’s wife, Alyssa Lenhoff, which received more than \$12,000; Lenhoff, who personally received a \$9,955 check that ended up in the Dannels’ personal bank account;

Anthony Gutierrez, Dann's former Director of General Services, who received a \$5,000 check for unspecified "consulting" services; and Progressive Solutions Group, a political consulting firm operated by Leo Jennings III, Dann's former Director of Communications. Progressive Solutions received seven payments totaling more than \$9,500 from the Transition Corporation account. None of these payments was publicly disclosed or fell under the regulation of any entity. We obtained the records via subpoena.

We also found that Dann made similarly lavish payments from his campaign account, which does fall under the jurisdiction and review of the Secretary of State. Those payments include checks that were written to employees who were already on his state payroll – money that significantly augmented their income. Jennings, who was paid \$102,000 a year, received the \$9,500 from the Transition Corporation and another \$36,131 from the *Dann for Ohio* campaign during Dann's administration. Other recipients of campaign account funds were M&R Land Company, owned by Dann's longtime friend and political confidant, Michael Harshman; and Mary Beth Snyder, who continued to receive monthly payments for consulting work after Dann gave her a \$52,000-a-year job as public affairs coordinator in the Attorney General's Youngstown office.

Dann for Ohio campaign funds also were used to pay for more than \$40,000 in security improvements at Dann's home in Liberty Township. That sum includes \$5,524.76 that Dann spent for new windows at his home. Acting as an intermediary for Dann, Gutierrez picked up and installed the windows. When presented with the invoice, Gutierrez asked the window fabricator to change the responsible party for the bill from Dann to the *Dann for Ohio* campaign and to increase the amount of the invoice by \$5,000. Gutierrez then asked the vendor to use the \$5,000 that he had misappropriated from the campaign fund to pay three creditors of his private business, MTV Construction Company. It is unclear whether Dann was aware of this scheme.

Our review of the campaign account found that Dann spent more than \$30,000 for food and beverages, and that he used money donated by campaign contributors as a personal honey pot – an account that he used to pay his everyday living expenses. No food purchase was too small to charge to the campaign's debit card. We found one debit card payment of 35 cents that was

made at a McDonald's restaurant in Ravenna. The campaign also equipped Lenhoff and the couple's two children with cell phones, spending more than \$7,000 for these three phones between January 2007 and May 2008.

We also found that Dann and senior staff in his office misused state resources. Gutierrez, who was fired in May 2008 after an administrative investigation found that he sexually harassed two young women in his office, repeatedly damaged state vehicles and failed to file police reports. At least one of those accidents, we were told, involved the use of alcohol. Separately, Dann commandeered aircraft owned by the Ohio Department of Transportation ("ODOT") on 16 occasions, unnecessarily driving up the cost of those flights by ordering ODOT pilots to pick him up or drop him off at his Youngstown-area home on nine occasions. The "deadhead" legs of those flights – in which ODOT pilots flew without passengers – cost state taxpayers an additional \$8,175.

Dann's office squandered tens of thousands of dollars more by issuing expensive BlackBerry wireless devices to nearly one-quarter of his staff, a perk that cost the state nearly \$30,000 a month. He also ballooned the size of the Attorney General's fleet by 99 vehicles at a cost of more than \$1.9 million. A Special Audit conducted by the State Auditor found that 16 of those vehicles – costing a total of \$308,968 – were purchased with money that Dann's office appropriated from improper funding sources.

Our review of management issues stemming from the sexual harassment investigation that resulted in Gutierrez's dismissal found that the working conditions in the Attorney General's Office during most of the 17 months that Dann held office were marked by abusive and vulgar language, excessive flirtatiousness and a failure by Dann and other managers to maintain professional boundaries. Dann hired into his office a coterie of young women who were dubbed "the Dannettes." So unprofessional was the dress and conduct of some of these women that a project assistant in the office was assigned to conduct etiquette classes for them.

While it is appalling that the office of the "people's lawyer" should have to conduct classes on civility and decorum, we find it even more appalling that Dann hired friends and acquaintances

into key management positions despite the fact that the people were unqualified or faced serious legal problems that should have raised red flags. Several of those hires were people whose sole qualifications were their friendships with, and loyalty to, Dann.

In a departure from our normal format, we have included our findings and recommendations at the end of each section of the report instead of summarizing them at the end. We also are appending to this report the Special Audit conducted by State Auditor Mary Taylor, a report from the Ohio Ethics Commission, two reports of the Advisory Committee to Attorney General Nancy H. Rogers, and a Summary Report of Investigation prepared by the Ohio Bureau of Workers' Compensation.

Copies of this report are being forwarded to the Franklin County Prosecutor's Office, the Columbus City Attorney's Office, the Internal Revenue Service, the Ohio Department of Taxation, the Ohio Supreme Court's Disciplinary Counsel, the Ohio Elections Commission and the Ohio Ethics Commission.

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I. BACKGROUND INFORMATION

The People's Lawyer

Marc Dann's political career began in 2000 with an unsuccessful run for the Ohio Senate. Upon Tim Ryan's election to Congress in 2002, Dann was appointed to fill Ryan's state Senate seat. Dann was then elected to serve a full term as state senator in 2004.

While in the Ohio Senate, Dann became a strident critic of former Governor Bob Taft and the Ohio Bureau of Workers' Compensation ("Bureau") for permitting Tom Noe's unorthodox investment of state money in rare coins – a scandal that came to be dubbed "Coingate." At one point, Dann even filed suit against Governor Taft in an effort to challenge the Governor's claim that some communications between his office and other state agencies, like the Bureau, were privileged and, therefore, not subject to disclosure under Ohio's Public Records Act.¹

Nonetheless, Dann was still considered a relative newcomer to statewide politics when he announced his candidacy for the Office of Ohio Attorney General in the fall of 2005. Running on a platform that pledged openness and transparency in state government, he vowed to clean up state government if elected. Although Dann handily won the Democratic primary in 2006, few anticipated a similar outcome in the general election, which pitted him against former Attorney General Betty Montgomery, who was then State Auditor. Nevertheless, Dann upset Montgomery to become Ohio's 47th Attorney General. In his inaugural address,² Dann pledged that, as "the people's lawyer," he would be a tireless advocate for justice and would uphold the highest standards of honesty and integrity:

¹ Dann filed a pair of lawsuits. The first, "Dann I," State ex rel. Dann v. Taft, 109 Ohio St. 3d 364, 2006 – Ohio – 1825 was a mandamus action seeking communications between the Bureau of Workers' Compensation and the Governor. In "Dann II," Dann claimed a particularized need to view the records, since he was a taxpayer and the Bureau's investments were public funds. State ex rel. Dann v. Taft, 110 Ohio St. 3d 252, 2006 – Ohio – 3677. Governor Taft voluntarily released hundreds of records to Dann. The Ohio Supreme Court disagreed with Dann, and denied a writ of mandamus in Dann II.

² Attached as Exhibit A.

...[T]he Office of Attorney General does not belong to...Marc Dann, but to the People of the State of Ohio.... With that realization, I decided if I had the good fortune to serve in this office, I would be sworn in not as the Attorney General for the state and its institutions, but as the Attorney General for the millions of Ohioans those institutions exist to serve...[W]e are going to make a difference, ...we are going to make history, ...we are going to make Ohio the best place to live, work, and raise a family in the United States.... And that, truly, will make my time as your Attorney General an altogether satisfying endeavor worthy of the public trust you have placed in me and that I have sworn today to uphold.

- Excerpted from Dann's Inaugural Address, January 8, 2007

After his election, the Attorney General-Elect appointed a transition team³ that included several people who would become permanent staff once Dann took office. Greg Beswick, Dann's campaign manager, was appointed as transition team director. He would later become the Attorney General's Director of Policy and Legislative Affairs. Leo Jennings III, a campaign consultant for the *Dann for Ohio* campaign, was drafted as Dann's transition team senior advisor. Jennings subsequently accepted a full-time position as Director of Communications in the Dann administration. Beverly Staten, Chris Geidner, and Craig Mehall, tapped to serve as transition team deputy directors, likewise assumed inner-circle duties once Dann was sworn in as Attorney General. As transition team members, each of the aforementioned staffers was required to sign a "Code of Ethical Conduct."

Even as he announced his first administrative appointments – Tom Winters, First Assistant Attorney General; Joyce Chapple, Chief Operating Officer; and Brian Laliberte, Deputy First Assistant Attorney General – Dann reiterated his commitment to high ethical standards, stating, "I am both pleased and humbled that these highly talented individuals have agreed to join me in serving the people of the State of Ohio." He continued, "[E]ach of them shares my commitment to upholding the highest ethical standards and to operating this office in the most effective, efficient, and professional manner possible."⁴

³Copies of Dann's press release announcing the names of the members of his transition team and the team's Code of Ethical Conduct are attached as Exhibit B.

⁴Dann issued a press release on December 2, 2006, naming his initial appointments.

Cronyism and Hiring Missteps

Dann's rhetoric and hard-charging style quickly drew comparisons to former New York governor and attorney general, Eliot Spitzer. Indeed, Dann seemed to elevate Spitzer to hero status. During the Attorney General campaign, Dann received a donation from Spitzer, his former New York counterpart, telling reporters from the *New York Times*, "I almost framed it and didn't cash it."⁵ Few could have predicted in those early days how the two men's promising political careers would end similarly in shame and humiliation.⁶

Dann's reputation as the state's top lawyer came under fire almost immediately. On the day that Dann was sworn in as Attorney General, his office missed an important Ohio Supreme Court filing deadline in a case pertaining to the ability of Medicaid recipients to choose their own service providers. Dann blamed the missed filing on a young staff attorney and a faulty office printer. At about that same time, *The Columbus Dispatch* reported that aides to Dann had used state email accounts to invite employees in the Attorney General's Office to a private Ohio Democratic Party function celebrating Dann's election, as well as the elections of two other newly installed office-holders.

In the ensuing months, Dann made a series of management appointments that would raise serious questions about his judgment, even among members of his own party. At his inaugural address, he announced the hiring of Sgt. Rick Alli, an obscure mid-level manager at the Youngstown Police Department, to become the state's Director of Law Enforcement Operations in the Attorney General's Office. Three months later, in April 2007, Dann fired Alli after learning that he was receiving two paychecks – one from the Attorney General's Office and one from the Youngstown Police Department. Alli had never resigned his police commission.

⁵Karen Donovan, "In Search for a New Sheriff, One Stands Out," May 18, 2007.
<http://www.nytimes.com/2007/05/18/business/18dann.html>

⁶In March 2008, Spitzer resigned from his position as New York's governor after a federal investigation revealed his involvement in a call girl sex scandal.

In February 2007, Dann hired Anthony (“Tony”) Gutierrez, a neighbor and long-time friend in Liberty Township, as the Attorney General’s Director of General Services. Again, friendship appeared to be the primary qualification for Gutierrez’s selection. A background check revealed that Gutierrez and his wife had been the subjects of 27 tax liens and civil judgments between 1997 and 2006. The Gutierrezes also had owed more than \$5,000 in state income taxes, a debt that had been repaid just a month earlier.

Dann’s hiring practices were criticized again in May 2007 after he abruptly fired his part-time driver and deputy security director, David Nelson.⁷ A national criminal history check revealed that Nelson had a 1976 misdemeanor conviction for involuntary manslaughter. Although Nelson had served Dann as a driver during Dann’s campaign for state office, Dann was unaware of Nelson’s criminal record.

The following month, the Ohio Association of Chiefs of Police criticized Dann’s choice for interim superintendent of the Ohio Bureau of Criminal Identification and Investigation (“BCI&I”), Steve Lamantia. The criticism stemmed from a 2002 report by the association on the operations of the Howland Township Police Department, which Lamantia then headed. The report’s findings identified major deficiencies in the handling and security of property and evidence at the small police agency, causing the association to question Lamantia’s ability to manage a statewide law enforcement agency such as BCI&I. In response, Ed Simpson, Dann’s Chief of Policy and Administration, told reporters that it hadn’t known about the association’s report until “an anonymous tipster”⁸ passed along the information after Lamantia was already on the state payroll. Simpson also admitted that, even after receiving the tip about the report, “no one [in the administration] bothered to get a copy and read it.”⁹ Lamantia was reassigned to the Ohio Organized Crime Investigations Committee in 2007.

⁷Laura Bischoff, “Attorney General Had Ex-Con for Driver,” *Dayton Daily News*, May 31, 2007.

⁸Laura Bischoff, “Report critical of Ohio’s crime bureau boss,” *Dayton Daily News*, June 13, 2007.

⁹Simpson was also a questionable hire. His qualifications included no legal experience and a stint at the *Warren Tribune Chronicle* as a journalist and co-worker with Dann’s wife, Alyssa Lenhoff.

Under duress for staffing decisions he had made at the Attorney General's Office, Dann also found himself the target of press criticism for the hiring of his adopted daughter by a fellow Democratic officeholder. Displeased by a story that appeared in the *Warren Tribune Chronicle* that said Dann had arranged for the Secretary of State to hire his daughter, Dann exploded at the reporter, "Hey Steve, write this down: Go (expletive) yourself!"¹⁰ The confrontation was videotaped and widely publicized.

In June 2007, another of Dann's new hires stirred public controversy even before she came to work in Columbus. Ruth Wilkes, then the fiancé of Michael Harshman,¹¹ one of Dann's closest friends, had been serving as the mayor of Poland, Ohio. As she prepared to begin her new job in the Attorney General's Office as Dann's Director of Grants Management, Wilkes sold her Poland home and moved out of the village. Still, she refused to resign and attempted to collect her pay from her mayoral post.¹² Wilkes eventually resigned as Mayor before beginning her grants management job in Dann's office.

Less than a week later, Wilkes made a decision that would embroil her in controversy again. On June 28, 2007, Craig Mehall, Dann's liaison in Washington, D.C.,¹³ contacted Wilkes about a looming deadline for Department of Justice grant applications. Mistakenly concerned that original signatures were needed on the applications, Mehall convinced Wilkes that she needed to arrange a flight to the nation's capital. When Wilkes was not able to purchase commercial airfare, Harshman decided to provide the flight in his private plane. The cost of the trip was eventually paid out of Dann's campaign funds.

While the provision of her trip itself was not illegal, Wilkes was required to disclose the free flight on her annual financial disclosure filing with the Ohio Ethics Commission. The

¹⁰ Laura Bischoff, "Dann swears at reporter after story about daughter," *Dayton Daily News*, June 21, 2007.

¹¹ Harshman was a frequent contributor to Dann's campaign for attorney general, and he received numerous payments from the *Dann for Ohio* campaign fund for campaign consulting.

¹² The annual salary of Poland's mayor was \$8,000.

¹³ By all accounts, Dann was the only state attorney general with such an employee.

Cleveland Plain Dealer reported that Wilkes failed to do so when she filed her disclosure form.¹⁴

In September 2007, another of Dann's senior appointees came under fire. An internal review of the qualifications of Dann's top auditor, Rick Houze, disclosed that Houze had allowed his Certified Public Accountant ("CPA") license to lapse in 1997 but had claimed to be a CPA when he applied for a job in Dann's office. Houze was subsequently forced to resign.

The Sexual Harassment Investigation

As Marc Dann's tumultuous first year in office was winding down, Gutierrez hired two women whose personal interactions and relationships with Dann, Gutierrez and Jennings would eventually topple the Attorney General. Accusing Gutierrez of subjecting them to a stream of raunchy comments, sexual innuendo and inappropriate conduct, the women, Cindy Stankoski and Vanessa Stout, filed sexual harassment complaints¹⁵ in March 2008. Gutierrez was later placed on administrative leave, and an internal investigation into the women's complaints was begun by Attorney General senior staff members Ben Espy and Julie Pfeiffer. By mid-April, Jennings had joined Gutierrez on administrative leave.

On May 2, 2008, Espy and Pfeiffer issued a report detailing their findings.¹⁶ It identified numerous violations of policy and protocol, as well as instances of potential criminal conduct. The report also concluded that the Dann administration had consistently ignored serious allegations of misconduct and unprofessionalism since Dann's swearing-in as Attorney General.¹⁷

As a result of the internal investigation, Gutierrez and Jennings were fired. Simpson was forced to resign. Dann, while acknowledging that his office had badly mishandled the

¹⁴Stephen Koff, "Ohio attorney general employs liaison Craig Mehall in capital," *Cleveland Plain Dealer*, April 27, 2008.

¹⁵Dann's EEO/Professional Conduct policy is attached as Exhibit C.

¹⁶The Stankoski/Stout Investigation of Sexual Harassment is attached as Exhibit D.

¹⁷Id. Pp. 53-56.

sexual harassment allegations prior to the issuance of the Espy/Pfeiffer report, also confessed to having a romantic involvement with a subordinate. In his public statement following the release of the report, Dann stated: "I was not as well-prepared for the office as I should have been, and I am heart-broken by that, and I take responsibility for that...."¹⁸ Nevertheless, Dann vowed to carry on as Attorney General while expressing his disappointment with senior staffers who he claimed had betrayed his trust.

Threats of Impeachment

Almost immediately, calls began for an independent probe of the Attorney General's Office. Members of the public, newspaper editorial boards and political officeholders in both parties also began to demand that Dann resign from office. On May 5, 2008, eight high-ranking Democratic Party officials, including Governor Ted Strickland, sent a letter to the Attorney General, asking him to step down. The letter went on to threaten that if Dann resisted the request, Democratic members of the House of Representatives would introduce an impeachment resolution:

The work of the office of the attorney general matters more, and is far more important, than any one person. In many, many cases it is all that stands between the people and the powerful. Sadly, we no longer have even the most remote hope that you can continue to effectively serve as attorney general and that is why we are asking for your resignation.¹⁹

Again, Dann refused to resign. In an email he sent to his staff, he was equally firm: "I am in the office, have rolled up my sleeves and am working on behalf of the people of the State of Ohio. I hope you will do the same."

On May 10, 2008, the Democratic Party's Executive Committee took the rare step of disavowing one of its own. Voting to rescind the party's 2006 endorsement of Dann's candidacy for office, Ohio Democrats left the Attorney General without a party to support

¹⁸ Jim Provance, "Dems brace for fallout over Dann," *The Toledo Blade*, May 4, 2008.

¹⁹ In addition to Governor Strickland, the letter was signed by Secretary of State Jennifer Brunner, State Treasurer Richard Cordray, U.S. Senator Sherrod Brown, Lt. Governor Lee Fisher, House Minority Leader Joyce Beatty, Senate Minority Leader Ray Miller, and Ohio Democratic Party Chairman Chris Redfern.

him. Democratic Party Chairman Chris Redfern said, “[Dann will] be holding office as an independent.... We will distance ourselves both literally and figuratively from Marc Dann until he makes the right decision, which is to step down.”²⁰

Three days later, on May 13, 2008, House Democrats carried out their ultimatum by filing nine articles of impeachment²¹ against Dann, alleging, among other things, that Dann had obstructed the internal investigation of Stankoski’s and Stout’s sexual harassment claims, that he had made misleading statements, and that he had committed acts of gross neglect of duty and gross immorality.²² And still, despite this extraordinary action, Dann remained steadfast. He said he would not resign.

Senate Bill 3

By law, the OIG’s jurisdiction includes all “state agencies.”²³ However, constitutional offices, other than the governor, are specifically exempted from the definition of “state agency.”²⁴ Convinced that the revelations in the Espy/Pfeiffer report merited an independent investigation, Governor Strickland and the Ohio General Assembly agreed to introduce legislation that would give the OIG one-time authority to investigate the Attorney General’s Office.

As introduced in February 2007, Senate Bill 3, which became the legislative vehicle for that authority, dealt primarily with the restoration of certain civil rights following a prison term or following release from community-control sanctions imposed for felony convictions. S.B. 3 also contained provisions mandating the forfeiture of an individual’s public retirement system pension if that individual was convicted of a felony while serving in a position of honor, trust or profit.

²⁰Alan Johnson, et al, “Quit or be impeached Democrats tell Dann,” *Dispatchpolitics.com*, May 6, 2008, October 2, 2008.

²¹This is the only time in Ohio’s 200-year plus history that articles of impeachment have been brought against a state official. See Article II of the Ohio Constitution, Section 24.

²²*House Journal*, May 13, 2008, at p. 1416; “Message from the Clerk.”

²³Ohio Revised Code Section 121.42.

²⁴Ohio Revised Code Section 121.41(D) reads: “‘State agency’... does not include any of the following: The general assembly; Any court; The secretary of state, auditor of state, or attorney general and their respective offices.”

The bill lingered in committee until May 13, 2008, when a substitute version of the bill was drafted, proposing the addition of an amendment to the OIG's authority.²⁵ Passed by both chambers after the addition of an emergency clause to the legislation, Governor Strickland signed the bill on the same day.

A Search and a Resignation

On May 14, 2008, the day after Substitute S.B. 3 was signed, investigators from the OIG and the Patrol seized computers, personal information devices and numerous documents from the Attorney General's Office, as well as a state vehicle that had been used by personnel from Dann's office. Because the OIG was charged with identifying, coordinating and managing all investigations, audits, reviews or other evaluations of the Attorney General's Office in order to minimize duplication of efforts and maximize the sharing of information, an investigative task force was created, comprised of the following agencies:

- Ohio State Highway Patrol
- Ohio Auditor of State
- Ohio Secretary of State
- Ohio Ethics Commission
- Ohio Elections Commission
- Ohio Department of Administrative Services
- Franklin County Prosecutor's Office
- Ohio Bureau of Workers' Compensation
- Columbus City Attorney and Prosecutor's Office

Dann resigned within hours of the search of his office. The Attorney General made the announcement that he was stepping down in a brief prepared statement with Governor Strickland at his side:

Twelve days ago, I came before you ... to take responsibility and to announce steps towards giving the Office of Attorney General an administrative backbone worthy of the great legal work that we were doing

²⁵Section 3 of Substitute Senate Bill 3 stated: "(A) Notwithstanding division (D)(3) of section 121.41 of the Revised Code, the Inspector General shall investigate the management and operation of the Office of the Attorney General to determine whether misconduct or wrongful acts or omissions have been committed or are being committed by the Attorney General or by present or former employees of or contractors with the Office of the Attorney General." ("Wrongful act or omission" has the meaning defined in division (G) of section 121.41 of the Revised Code.)

in the office. I sincerely, sincerely viewed it as my fiduciary responsibility to fix the problems on my watch – especially that concerned my own actions. Unfortunately, it is now clear that the last step I must take to fix these problems is to resign as Attorney General, effective immediately. It is my belief that this will preserve the great work being done by the Office of Attorney General But I want to thank the people of Ohio for giving me the opportunity to serve in state office.”²⁶

Scope of Investigation

Following consultation with other agencies involved in the task force, we determined that the investigation should focus primarily on the following issues:

- Campaign finance and election law issues
- Misuse of state property and equipment
- Management and personnel issues
- Sexual harassment complaints and internal investigations
- Potential violations of Ohio’s ethics laws
- Other potential criminal violations

As investigators began to delve into the case, these topics were refined and broken down into sub-categories. New allegations also were explored and addressed, with the cooperation of interim Attorney General Nancy H. Rogers and her staff.²⁷

The results of our investigation are divided according to topic. At the conclusion of each section, we have set out findings, recommendations, and referrals.

II. THE MARC DANN OAG TRANSITION CORPORATION

On November 30, 2006, The Brunner Firm, L.P.A., filed Articles of Incorporation for a non-profit business known as the Marc Dann OAG Transition Corporation. That

²⁶Marc Dann’s resignation speech, May 14, 2008. Dann’s resignation was effective immediately. It also brought a halt to the impeachment proceedings.

²⁷On May 28, 2008, Governor Strickland named Rogers as the interim state Attorney General. Prior to her appointment, First Assistant Attorney General Thomas Winters filled the vacancy resulting from Dann’s resignation. Rogers will be succeeded by Attorney General-Elect Richard Cordray.

corporation²⁸ was created for the following purposes, as stated in the Third Article of Incorporation:

- (a) to raise, manage and expend funds to pay for the expenses of the Dann transition team; (b) to raise, manage and expend funds to pay for the inauguration of Marc Dann to the office of Ohio Attorney General; (c) to conduct activities associated with the transition of Marc Dann from Ohio Attorney General-Elect to holding the office, including inauguration activities; (d) to provide educational opportunities and related services in connection with consumer protection and other duties of the Ohio Attorney General; and (e) to do all things necessary and appropriate to carry out the stated purposes, no matter how remote, and to do all things the corporation may lawfully do.

The Ninth Article added a restriction to the use of the corporation's funds, stating, "No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its Members, Trustees, officers, or other private persons...."

On December 15, 2006, Dann opened an account for the OAG Transition Corporation ("Transition Account") at Huntington Bank. The initial deposit was \$10. From that meager sum, the account grew considerably over the next two weeks. Nine donations were received and, by the end of December 2006, the Transition Account had a balance of \$22,711.54. Deposits continued to come in to the account after Dann was sworn in as Attorney General in January 2007 until the account totaled \$195,180.96 – the result of donations from 60 different businesses and individuals.²⁹

The creation of the Transition Corporation and its accompanying Transition Account took the Attorney General into new and unregulated territory. By law, only the governor-elect is afforded a true transition account. Ohio Revised Code section 107.03 provides that:

The general assembly shall make an appropriation, in the operating budget for the fiscal year in which a new governor is elected, to the office of budget and management from the general revenue fund for the purchase of supplies, the payment of salaries for the governor-elect's immediate staff, rental or other charges for office space, the rental or purchase of equipment and

²⁸Copies of the initial filings are attached as Exhibit E.

²⁹The list of contributions is attached as Exhibit F.

furniture, printing and distribution of the inaugural address ... and other reasonable expenses of the governor-elect during the period of transition.

No such fund is statutorily established for other state office holders. Consequently, no restrictions exist on how money donated to a non-gubernatorial Transition Account may be spent. Even the Secretary of State has no ability to impose reporting requirements or spending restrictions on Transition Accounts. State election laws simply do not address the matter.

Absent any restrictions on his use of his Transition Account, Dann was essentially free to use the account as he pleased as long as the stated purposes of the corporation allowed for the use. As a result, he did. For instance, we found two payments, totaling \$12,263.47, from the OAG Transition Corporation account to Feisty Dishes, a dinnerware sales company owned by Dann's wife, Alyssa Lenhoff. On December 22, 2006, a \$6,000 check was written to Feisty Dishes and signed by David Betras, the treasurer for the Transition Account. On December 28, 2006, a second check, signed by Dann, was written to Feisty Dishes in the amount of \$6,263.47.

It is difficult to fathom how these two expenditures comported with any of the non-profit corporation's stated purposes, or how Article 9 of the Articles of Incorporation was not violated. The dishes were certainly not costs associated with the Attorney General's inauguration in 2007, nor did they "provide educational opportunities and related services" connected with "consumer protection and other duties" related to the office. The logical conclusion is that these expenditures – along with a \$5,000 check to Gutierrez, \$9,596.50 in payments to Jennings' Progressive Solutions Group, and a \$9,955 check to Lenhoff, which made its way into the Danns' personal bank account – were for the personal benefit of the Attorney General, his spouse and friends. Freed from the legal restrictions that are placed on the use of campaign accounts, Dann was able to tap the \$195,180.96 in his Transition Account for his personal use.³⁰

³⁰Our examination of Dann's personal bank records showed that he had little money on hand shortly before he took office. His account balance on January 3, 2007, was \$9.11. To date, Dann has spent \$186,342.96 of his total Transition account balance. See Exhibit G.

We found that of the more than 60 contributors to the Transition Account, 17 were either registered political action committees (“PACs”) or corporations with PACs. Those 17 corporations or PACs, many located out of state, donated \$74,000 – more than one-third of all the money taken in by the Transition Corporation. These contributions may ultimately prove problematic. Federal and state elections laws govern the amounts of money that PACs and corporations may contribute to campaigns and candidates. Further, campaign-finance laws impose reporting requirements on PACs. Just like candidates, who must file Statements of Contributions and Expenditures with the Secretary of State, PACs must regularly file statements of campaign donations.³¹ In the case of the Transition Corporation, donations to Dann’s Transition Account were not reported and were unregulated, raising troubling questions about whether the under-the-radar PAC and corporate contributions were an attempt to circumvent corporate contribution limits and to curry political favor with the incoming Attorney General.

The creation and use of the Transition Corporation and its Transition Account raise unique issues. The Transition Account is entirely unregulated. It allowed Dann to accept contributions from entities that would otherwise have been limited in their ability to financially support him, and it permitted donors to circumvent campaign finance laws. Our conclusion is that the Transition Corporation and its Transition Account were used by Dann to circumvent Ohio laws governing the acceptance and use of campaign funds. **As a result, we find that acts of wrongdoing occurred and make the following recommendation:**

Transition or inaugural accounts should be prohibited, or should be of limited duration. We recommend that such accounts be created no earlier than the date on which the candidate stands for election and end no later than 60 days after the candidate takes office. The Secretary of State’s Office should have oversight authority over these accounts, just as if they were campaign funds. Periodic filings and statements of contributions and expenditures should be required.

³¹See Ohio Revised Code Section 3517.082.

III. CAMPAIGN FINANCE

As we delved into the workings of the Attorney General's Office and Dann's management of the office, we discovered that two of his employees were receiving regular pay checks from both the state of Ohio and from Dann's campaign funds. We also were aware that the Secretary of State, Jennifer Brunner, had questioned some of the campaign fund expenditures made by Dann. In turn, she requested a response that included supporting documentation for those expenditures. We asked the Secretary of State to assist our investigation and to provide expertise and guidance as we reviewed the *Dann for Ohio* accounts.

Every candidate for elected office is required by law to appoint a campaign treasurer.³² The candidate may serve as his or her own treasurer; however, if the candidate selects someone else to serve as treasurer, both the designated treasurer and the candidate share the responsibility of fulfilling all the duties necessary for accepting contributions and making expenditures. One of the legally mandated responsibilities of a campaign treasurer is the filing of statements of contributions and expenditures for the candidate's campaign fund.³³ According to a schedule of reporting established by the Secretary of State, every campaign committee shall file a "full, true and itemized statement, under penalty of election falsification, setting forth in detail the contributions and expenditures" accepted or made by that committee.³⁴

The election laws place limitations on who can contribute to a candidate's campaign and in what amount. The law also restricts the use of campaign funds. Money received by

³²See Ohio Revised Code Section 3517.081.

³³Each candidate may only have one active campaign committee and campaign fund.

³⁴See Ohio Revised Code Section 3517.10.

candidates is not to be used as a personal slush fund, nor are candidates allowed to use their campaign funds as a supplemental source of personal income.³⁵

During our investigation, we identified numerous questionable expenditures that appeared to violate prohibitions on the personal use of campaign funds. Our review, in keeping with the statutory authority granted to our office by Substitute S.B. 3, was limited to account activity that occurred after Dann's inauguration on January 7, 2007, and ending with the former Attorney General's resignation on May 14, 2008.

Dann established the following bank accounts related to his campaign for Attorney General:

- *Dann for Ohio* checking account at National City Bank
- *Dann for Ohio* money market savings account at National City Bank
- *Dann for Ohio* escrow checking account at National City Bank

As previously mentioned, Dann also established a separate account at Huntington Bank known as the Marc Dann OAG Transition Corporation account.

³⁵Ohio Revised Code Section 3517.13 states, "(O) No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund, including, without limitation, payments to a beneficiary for services the beneficiary personally performs, except as reimbursement for any of the following:

- (1) Legitimate and verifiable prior campaign expenses incurred by the beneficiary;
- (2) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses incurred through participation in nonpartisan or bipartisan events if the participation of the holder of a public office would normally be expected;
- (3) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary while doing any of the following:
 - (a) Engaging in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue;
 - (b) Raising funds for a political party, political action committee, political contributing entity, legislative campaign fund, campaign committee, or other candidate;
 - (c) Participating in the activities of a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee;
 - (d) Attending a political party convention or other political meeting.

For purposes of this division, an expense is incurred whenever a beneficiary has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure or by the use of goods or services received on account.

According to records filed with the Ohio Secretary of State, the *Dann for Ohio* campaign fund had a \$95,616.43 balance on January 8, 2007. The fund continued to grow during Dann's tenure, even after Dann's resignation.³⁶

We specifically scrutinized *Dann for Ohio* account expenditures that appeared to be abnormally large when compared with those of other statewide officeholders. Based on our analysis of these expenditures, we believe that Dann spent campaign funds inappropriately during his 17 months in office in the following instances.

A. Consulting Services

Between January 5, 2007, and May 14, 2008, the *Dann for Ohio* campaign account spent \$145,481.49 for various consulting services (See Exhibit H). They include payments to the following people and entities:

1. **Mary Beth Snyder**

Snyder served as Dann's campaign treasurer during the period of our review. While Dann was in office, she was paid \$36,000 by the *Dann for Ohio* campaign for maintaining the books for Dann's various campaign accounts. Snyder said she was also paid to maintain financial records for other candidates, including Capri Cafaro, who took over Dann's senate seat. Snyder received payments from those other candidates while she served as the *Dann for Ohio* treasurer.

After Dann took office, he hired Snyder as a full-time public affairs coordinator and placed her in the Attorney General's Youngstown satellite office. Her annual salary was \$52,000. Prior to accepting a job with the Attorney General, Snyder was paid \$4,000 a month for her services as campaign treasurer; that amount was reduced to \$2,000 a month after she went on the state's payroll.

³⁶After Dann resigned, he filed a new designation of treasurer form with the Secretary of State. The new treasurer form lists Dann as the treasurer of a different campaign fund – *Dann for AG 2010*.

2. M&R Land Company

M&R Land Company, owned by Dann's longtime friend and political confidant, Youngstown attorney Michael Harshman,³⁷ received a total of \$69,353.51 for consulting services during the time Dann held office. Among those payments was a \$50,000 check that was issued to Harshman's company by Dann's campaign fund on May 14, 2008, the day that Dann resigned. We later determined that the \$50,000 check was deposited in Harshman's personal account instead of his business account. We have been unable to find an invoice for legal work or campaign consulting to support this expenditure.

David Betras, Dann's current attorney and Harshman's former law partner, indicated that the matter of where the check was deposited was a decision made solely by Harshman. Betras claimed that the payment was for legal, rather than consulting, services rendered by Harshman. Dann declined requests for an interview by our investigators, leaving unexplained what specific consulting services Harshman allegedly provided to Dann's dormant campaign.

We also note two other curiosities, both involving Dann's wife, Lenhoff. On April 8, 2008, a check for \$10,000 was drawn on the account of M&R Land Company. The payee was Lenhoff. We were unable to determine what goods or services were provided in exchange for that check. We also note that the *Dann for Ohio* campaign account wrote a check for \$2,840 to the M&R Land Company that was deposited on March 6, 2008. The campaign fund lists the purpose of the check as reimbursement for air travel. We note that Lenhoff made a total of five cash deposits to her and her husband's personal bank account in March 2008, and that those deposits totaled exactly \$2,840.

3. Progressive Solutions Group

From January 1, 2007, through April 29, 2008, Leo Jennings, doing business as Progressive Solutions Group, received consulting fees ranging from \$2,000 a month to \$8,000 a month from the *Dann for Ohio* campaign fund. These consulting fees were paid to Jennings in

³⁷Harshman is married to former Dann employee and the former mayor of Poland, Ohio, Ruth Wilkes. The couple moved to Florida in August 2008.

addition to the salary he received from the state of Ohio as the Communications Director for the Attorney General's Office.

Jennings began his employment with the Attorney General on March 5, 2007, at an annual salary of \$102,000. He indicated on his employment paperwork that he had no outside employment and was not receiving additional income from any outside source. Despite these assertions, Jennings' Ohio Ethics Commission Financial Disclosure Statement for 2007 did reveal the *Dann for Ohio* campaign as a supplemental source of income.³⁸

We focused our inquiry specifically on income received from the *Dann for Ohio* campaign fund. During his interview with our office, Jennings was asked why he failed to disclose his additional income and employment when he was applying for his new position with the Attorney General. Jennings responded that at the time he filled out the paperwork, he was not receiving income from the *Dann for Ohio* campaign fund. However, this is a case of Jennings splitting hairs: While it is true that he did not receive a payment from the fund on the *day* that he filled out the paperwork, he did receive his monthly payment from the fund just prior to, and shortly after, that day.

We also questioned Jennings about his continued consulting work for the campaign. He said he was paid by the campaign for his political advice and expertise. He also mentioned a conversation he had with Dann after Dann, Jennings and Gutierrez started renting a condominium together at Tuttle's Grove in Dublin. Jennings said he told Dann he was incurring additional expenses while living in central Ohio and that his salary did not cover the increased costs. He said Dann then decided to increase his consulting fee to \$3,000 a month with the caveat that Jennings would begin paying the rent and utilities for the condominium. Jennings later denied that the increase was intended to cover his living expenses and said the money was simply for his work on campaign issues.

³⁸In 2007 and 2008, Jennings received \$71,837.68 in supplemental income from five outside sources, as follows:

Ohio Democratic Party	\$21,000.00
Marc Dann OAG Transition Corp.	\$ 9,596.50
The Cromwell Co.	\$ 1,309.72
Dann for Ohio Campaign	\$36,131.46
Global Strategy Group	\$ 3,800.00

Prior to the increase in Jennings' consulting fee, Dann's campaign fund had paid the rent and utilities for the Dublin condo. We note that neither Dann nor Gutierrez spent any of their personal funds for rent or utilities during the entire time that they lived at Tuttle Grove.

It is clear that the consulting fee payments to Jennings were nothing more than a way to misappropriate campaign funds for personal use. While election laws pertinent to campaign expenditures allow a candidate to pay the rent for a campaign headquarters or a satellite office, the Dublin condo was simply a residence for Dann, Jennings and Gutierrez. The fact that the three chose to live a commuter lifestyle – with homes in the Mahoning Valley – despite the fact that they worked in Columbus, does not make the cost of day-to-day living a campaign expense. The condo is where they slept, showered, ate and carried on their personal affairs. It was never intended to serve as a *de facto* satellite office for the Attorney General and was simply a second residence.

B. Other Questionable Expenditures

1. Zesty Dishes

Zesty Dishes, previously known as Feisty Dishes,³⁹ is a company owned and operated by Dann's wife, Alyssa Lenhoff. The company is a retail mail-order business that sells dinnerware out of a warehouse in Youngstown. Lenhoff has owned and operated Zesty Dishes since 2005.

Lenhoff kept a running account with the H.P. Johnson Co. Inc. of Brookfield, Wisconsin, a wholesale supplier of dinnerware to Zesty Dishes. On January 5, 2008, the *Dann for Ohio* campaign account wrote a \$3,182 check to H.P. Johnson as a payment on Lenhoff's Zesty Dishes account.

³⁹Since the Danns' company primarily sells a well-known brand of solid color, glazed dinnerware known as "Fiesta," commonly referred to as "Fiestaware," the manufacturer was concerned that Lenhoff was infringing on the "Fiesta" line name.

It is inconceivable that the payment made to Zesty Dishes was anything other than a personal use of Dann's campaign account. We cannot see any legitimacy for this expenditure and question why the fund's treasurer did not flag the payment as an inappropriate use of campaign funds.

2. Dann's Home Security System

On October 8, 2007, the *Dann for Ohio* campaign paid \$30,085.52 to S.O.S. Security Systems ("S.O.S") of Canfield for the initial installation of a home security system. On December 3, 2007, the campaign also paid Water Street Glass & Door Co. ("Water Street") \$10,524.76 to fabricate new windows for Dann's home. Dann has claimed that he was forced to make the security investments after receiving unspecified threats.

We interviewed Phil Smida, owner of S.O.S., concerning the initial installation at the Dann residence. He told us that the security system he installed in October 2007 included 35 shock sensors designed for casement-style windows. Smida said he returned to Dann's home on December 7, 2007, after being asked to replace the previously installed shock sensors with 43 new sensors designed for double-hung windows⁴⁰ because Dann, in the short interim, had replaced his casement-style windows with new double-hung windows. Casement-style sensors detect vibrations and breakage, while double-hung window sensors detect the actual opening of a window, Smida said.

Gutierrez told us the double-hung windows were part of the Dannes' security upgrade; however, Smida said the window replacement was not included in the security plan and that the original casement-style windows in Dann's home were adequate. He said he would not even have installed the initial alarm system had the existing windows been faulty.

We also contacted Harry Silverman, the former owner of Water Street, who told us that Gutierrez approached him late in 2007 and requested an estimate for new windows at the Dann residence. Silverman said Gutierrez provided the dimensions and styles for the

⁴⁰Casement-style windows utilize a handle and the windows crank in and out; double-hung windows raise up and down.

windows. According to Silverman, Gutierrez obtained an estimate from him and then told Silverman to begin fabrication of the windows.⁴¹ Employees from Gutierrez's MTV Construction Company later picked up the windows at the Water Street factory and installed them at Dann's home.

In total, the *Dann for Ohio* campaign fund paid \$40,610.28 for new windows and a security system at Dann's residence. It defies common sense for Dann to have installed a high-tech home security system in October, and then to have replaced all of his windows less than two months later, requiring an additional security upgrade. In any case, we are left to conclude that Dann used his campaign account to fund a major capital improvement for his home – an improvement from which he would reap future benefits without any expense to himself.

While investigating the installation of Dann's home security system, we learned that Gutierrez benefitted from the security enhancement. Silverman told us that when he gave Gutierrez an invoice for \$5,524.76 for the new windows at Dann's home – dated November 30, 2007 – Gutierrez instructed him to increase the amount of the November 30, 2007, invoice by \$5,000. Gutierrez also told Silverman to change the responsible party from Dann to the *Dann for Ohio* campaign. Gutierrez further asked that Silverman delete details on the invoice and simply bill the job as "windows." Silverman complied with all Gutierrez's requests and issued him a new invoice for \$10,524.76.

On December 4, 2007, Gutierrez handed Silverman a \$10,524.76 check from the *Dann for Ohio* campaign fund. He then instructed Silverman to write three checks from his Water Street business account to three creditors to whom Gutierrez's company, MTV Construction, owed money. The three checks totaled \$5,000. They were made out to Dave Rappach, d.b.a. D&R Excavating; AVS Painting; and Aaron Litz, an independent masonry contractor (See Exhibit I). We have been unable to ascertain whether Dann was aware that Gutierrez padded the invoice and converted the money for his personal use.

⁴¹Water Street only does the fabrication of custom replacement windows, not the installation.

All three creditors verified that they received the payments from Water Street. They said Gutierrez owed them money for work unrelated to Marc Dann. It is clear that Gutierrez attempted to conceal this misappropriation of money from Dann's campaign account by running the transaction through Water Street's business account.

3. Cell Phones

During his campaign, Dann purchased several cell phones, along with service subscriptions for those phones, through AT&T. Dann's wife, Lenhoff, and the Danns' two children, Jessie and Charlie, each received a cell phone. All three continued to extensively use the cell phones after Dann took office. We found that these cell phone accounts were still being paid when Dann resigned from office.

Contacts between the three numbers themselves amounted to 8,919 calls, text messages and other activity, according to billing monthly statements from January 2007 through May 2008. The phone given to Dann's daughter, Jessie, alone accounted for 4,159 of these contacts. Additionally, several thousand calls and text messages were sent to Dann's cell phone from those three phone numbers during that same period.

We also found the following number of calls or texts from the three phones to the following individuals:

<u>Recipient</u>	<u>Number of Transmissions</u>
Mia Chubarova (Dann's adopted daughter) ⁴²	768
Ed Simpson	295 ⁴³
Anthony Gutierrez's residence	980
Bentley Lenhoff's residence (Dann's father-in-law)	661
Lyndean Lenhoff-Brick (Dann's sister-in-law)	<u>300</u>
TOTAL	3,004

⁴²Chubarova's cell phone bills were also paid by the *Dann for Ohio* campaign from January 2007 until May 2008.

⁴³Of this number, Lenhoff made 246 of these contacts to Simpson's personal cell phone. Simpson and Lenhoff were close personal friends who had worked together at the *Warren Tribune Chronicle* and often communicated with each other by phone and email.

Between January 2007 and May 2008, the *Dann for Ohio* campaign fund paid a total of \$7,044.81 to AT&T for these three phones. It is apparent that these cell phones were used for personal reasons and not for campaign activity or duties associated with the Attorney General.

4. Food and Beverages

Dann served 493 days as Attorney General. On virtually every one of those days, he made a stop at a restaurant, convenience store or delicatessen to make a purchase of some food item for either his personal consumption or that of his friends, co-workers or roommates. Every one of those purchases was made with *Dann for Ohio* campaign funds.

During his tenure as Attorney General, Dann spent \$31,474.18 from the *Dann for Ohio* campaign account for food and beverage purchases, including those made while the Dannels were traveling out of state. Of that total, \$3,805.60 was spent for mundane items such as snacks, newspapers and beverages. On average, Dann spent \$1,851.42 a month on food and beverages from the account.

It is reasonable for the Attorney General to incur expenses for business and political lunches and dinners. We likewise consider it reasonable for the Attorney General to use his campaign account, instead of using state budget dollars, to pay those expenses. That said, we do not consider use of the *Dann for Ohio* fund to pay for a substantial portion of the Attorney General's dining and daily-living expenses to be anything other than supplemental personal income. Consequently, while reviewing campaign fund expenditures designated as payments for food and beverages, we concentrated on expenses that appeared to be simply for Dann's or others' personal benefit. We also divided the expenses into those made near Columbus, where the Attorney General's Office is located, and those made near Dann's home in Youngstown (See Exhibit J).

For instance, we noted that on 225 of the days that Dann was in office, he purchased snacks, fast food or reading material in the Youngstown area. No item was too

insignificant to charge to the campaign account, as evidenced by a \$1.19 expenditure for newspapers at a Speedway convenience store on December 28, 2007, and a 35-cent debit card payment at a McDonald's restaurant in Ravenna. Dann spent a total of \$2,115.19 on food and beverages purchases in the Youngstown area.

On several days, multiple purchases were made at several locations. For example, we found the following purchases, all made in the Youngstown area:

<u>Date</u>	<u>Location</u>	<u>Cost</u>	<u>Items Purchased</u>
07/17/07	Plaza Donuts	\$ 9.98	
	Shell Station	\$11.74	Food, beverages, and newspapers
	Subway	\$42.79	Food and beverages
09/23/07	Speedway	\$ 3.33	Newspapers
	Subway	\$ 6.88	Food and beverage
	Wendy's	\$ 3.96	Food and beverage
12/16/07	Shell Station	\$12.10	Newspapers, food, and beverage
	One Stop Mart	\$10.42	Food and beverages
	Shell Station	\$ 6.63	Newspapers, food, and beverage

Dann bought items for his personal use at the same Shell station in 215 transactions. For each purchase, Dann used a campaign fund debit card. The Attorney General also patronized two local grocery stores, spending a total of \$151.20 for food and beverages.

In all, Dann used \$11,424.49 in campaign contributions to buy food and beverages in the greater Youngstown area. He averaged \$672 a month over the course of his term in office for these sorts of expenditures. We were unable to find in his campaign finance records any documentation indicating that the money was spent on fundraisers or for political or business-related functions or events. Consequently, we must conclude that all of the money was spent for Dann's personal use.

We note that there were multiple debit cards assigned to the *Dann for Ohio* account. As the candidate, Dann bore the responsibility for verifying that all of the campaign's expenses

were legitimate, verifiable, ordinary and necessary. The fund's treasurer, Mary Beth Snyder, shared that responsibility with Dann.

While in the Attorney General's Office and traveling in central Ohio, Dann spent a total of \$7,919.47 from the *Dann for Ohio* account on meals, snacks, beverages and newspapers. He made purchases of snacks or fast food lunches on 55 days. The total of those charges was \$1,099.34. Once again, no debit to the account was too small. For example, the debit card was used to make the following purchases:

<u>Date</u>	<u>Location</u>	<u>Cost</u>
02/25/07	Einstein Bagels	\$2.98
05/31/07	Ziggy's Carryout	\$5.89
06/01/07	Spinelli's Deli	\$3.58
11/09/07	Starbucks	\$3.30
01/11/08	Broad Street Bagels	\$6.74

Again, we were unable to document any duty of the Attorney General's Office that justified any of these expenditures. Neither did we find documentation that the snack foods, fast food lunches, coffees and sodas were legitimate, verifiable, ordinary and necessary campaign expenses. We must, therefore, presume that the money was used for personal reasons.

As previously mentioned, we fully understand that there are legitimate instances when campaign money can be used for meal expenses, even after a candidate takes office. Elected officials are expected to attend and pay for political party functions and job-related events. However, campaign accounts were never intended to be a perk of office, allowing elected officials to tap those funds for incidental purchases of snacks and beverages. In our interview with Gutierrez, Dann's former Director of General Services, he shed light on Dann's perception that contributors to his campaign approved of his use of campaign money to buy food and beverages:

Gutierrez: The only conversations that I ever had with him is --- I'm a type of person if your wife and I and you went out to dinner

one week, you bought that week; and we're going out to dinner again next week, it's my turn. A lot of times, I'd pull it out to pay for it and everything else and he'd say, "No, that's on me, and my contributors want to pay for this dinner." No, I had nothing to do with the campaign. My wife had nothing to do with the campaign. And, I, you know, I just didn't feel it was right so a lot of the times I'd just pay for my own check separately myself. [sic]

Investigator: He would actually say that, "My contributors want to pay for this dinner?"

Gutierrez: Absolutely. He says [sic], "We've had this conversation before."

The information pertaining to these many purchases was obtained from Dann's various Statements of Contributions and Expenditures, all filed with the Secretary of State, and from the campaign fund's bank statements. But simply reporting something as a campaign expenditure doesn't make it so. It is indefensible that a daily stop at a carryout could be considered a legitimate campaign expense or the cost of doing business as the state's Attorney General. Dann clearly used his campaign account for his personal benefit and as a supplement to his family and personal budgets.

C. Travel Expenses

As we reviewed the Attorney General's campaign expenditures, we found that an unusually high number were labeled as "travel expenses." During the 17 months Dann was in office, he spent more than \$48,000 from his campaign account for both in-state and out-of-state travel – both for himself and for transportation and lodging for his family, as well.

For instance, Dann's calendar reflects an appointment at the San Francisco law office of Leif, Cabraser, Heimann, & Bernstein on April 6, 2007. The listing only references the appointment and makes no mention of the reason that Dann was slated to meet with anyone at the firm. Campaign expense records show that Dann's wife and children accompanied him to California for the trip, booking four roundtrip flights aboard America West/US Air from Cleveland to San Francisco at a cost of \$2,284.80. Lodging at the Hilton San Francisco Towers was paid for by the campaign fund, as well. The family then traveled to

the Fairmont Inn in Sonoma, California, where their stay cost another \$1,369.10. The extended stay in California resulted in other expenditures, too – travel fees for changes to the itinerary cost an additional \$439 in campaign money. The total cost to the *Dann for Ohio* campaign fund was \$4,242.62. Dann has since repaid \$2,224.79, which was the cost of the children's travel.

On November 28, 2007, Dann was a speaker at the National Association of Attorneys General Winter Conference in Park City, Utah. He had traveled to Park City from Phoenix, where he had been staying on the previous day; those travel expenses were paid by the Attorney General's Office.

While we do not suggest that the payment for those trips was improper, Dann's scheduler, Jessica Utovich, made arrangements for Dann's wife and two children to join the Attorney General in Utah. The three roundtrip airfares for the family between Cleveland and Salt Lake City cost \$1,109.40. The family's lodging at the Canyon's Resort in Park City cost an additional \$1,474.94. Costs incurred for changes to the trio's travel plans added another \$330. In all, the *Dann for Ohio* campaign account spent \$2,914.34 to have Dann's family join him in Park City. We cannot find any reason, political or professional, that supports the use of campaign funds for this family excursion.

During the week of January 24, 2008, Dann attended the Democratic Attorneys General Association's winter retreat in Scottsdale, Arizona. The trip was arranged by Utovich and paid for by the Attorney General's Office. Once again, Utovich arranged for Lenhoff and the couple's two children to attend this event, courtesy of the *Dann for Ohio* campaign account. The trio first flew from Cleveland to Cincinnati at a cost of \$759, allowing them to travel to Arizona on the flight that Dann was on. The campaign account paid an additional \$75 in travel fees for changes to the itinerary. The total cost of the three roundtrip airfares between Cleveland, Cincinnati and Phoenix was \$2,032.50. The campaign fund also paid \$1,545.64 for lodging for the family at the Fairmont Hotel in Scottsdale. In all, the campaign account spent \$3,653.14 for the trip.

We also found that the campaign fund footed the bill for other travel by Dann family members. They include the following:

<u>Date</u>	<u>Traveler</u>	<u>Destination</u>	<u>Amount</u>
10/3/07	Jessica Dann	Columbus-New York-Columbus*	\$383.80
10/30/07	Jessica Dann	Columbus-Philadelphia	\$ 94.40
10/30/07	Charles Dann	Columbus-Philadelphia	\$ 94.40
10/31/07	Jessica Dann	Philadelphia-Pittsburgh	\$ 59.40
10/31/07	Charles Dann	Philadelphia-Pittsburgh	\$ 59.40
1/7/08	Alyssa Lenhoff	New Orleans-Washington, DC-Pittsburgh	\$ 89.80
TOTAL			\$781.20

*Includes fee for flight change.

We also found that Dann’s air travel was not restricted to the use of commercial flights. M&R Land Company, owned by Dann’s friend Harshman, received payments for Dann’s travel on private aircraft – including pilots’ fees – totaling \$19,353.51. We question the propriety of using the campaign account to pay transportation fees to a firm that also was receiving campaign payments for consulting and legal services.

We conclude that the Attorney General’s use of his campaign account for expenditures such as food, beverages, travel and other personal expenses was a flagrant misuse of campaign fund. These expenses accrued to the personal benefit of Dann, his family members and friends, contrary to the restrictions found in Ohio Revised Code Section 3517.13.

Consequently, we are making the following findings:

1. The payments made to Snyder from campaign funds for her work as treasurer of the *Dann for Ohio* campaign were reported to the Secretary of State as “consulting fees.” The fees were excessive and an inappropriate supplement to Snyder’s salary paid by the Attorney General’s Office. **Accordingly, we find that an act of wrongdoing occurred.**
2. The payments made to Jennings from campaign funds were reported to the Secretary of State as payments for consulting services. In fact, those payments were intended to cover the living expenses for Jennings, Dann and Gutierrez. In addition, the money given to Jennings was intended as a

supplement to the salary he received from the Attorney General's Office. **Accordingly, we find that acts of wrongdoing occurred.**

3. We were unable to determine the nature of the payment made to M&R Land Company. There is no supporting documentation for this use of campaign funds. The fact that the money was deposited to the personal account of Michael Harshman leads us to conclude that this was an inappropriate expenditure of campaign funds. **Accordingly, we find that an act of wrongdoing occurred.**
4. The expenditure of campaign funds from the *Dann for Ohio* account for Lenhoff's dinnerware account and private business bear no relationship to any legitimate, verifiable, necessary and ordinary expense of either the campaign or the duties associated with the Attorney General's Office. This expenditure was a personal use of campaign funds. **Accordingly, we find that an act of wrongdoing occurred.**
5. The expenditure of campaign funds for windows and the upgraded security system at the Danns' private residence was a conversion of campaign funds for personal use. The expenditure was unrelated to the campaign or the duties of the Attorney General. Instead, the money was an investment in the property itself. **Accordingly, we find that an act of wrongdoing occurred.**
6. Gutierrez misappropriated campaign funds in the amount of \$5,000. Gutierrez obtained the money by inflating the cost of windows that were purchased to enhance that security system at the Dann residence. He then used the money to pay off private business debts. **Accordingly, we find that an act of wrongdoing occurred.**
7. While the initial activation of cell phones for Dann family members could be considered a valid expense of the campaign, the continued payment for those accounts cannot be condoned. The use of the phones after Dann assumed the duties of his office was excessive. Consequently, expenditures from the campaign fund to pay these cell phone bills were inappropriate. **Accordingly, we find that an act of wrongdoing occurred.**

8. Although some expenditure of campaign funds for food and beverages is not only appropriate but expected, the excessive and nearly daily use of the *Dann for Ohio* account for those purposes was irregular and improper. Contributors to Dann's candidacy sought to support Dann as a candidate for Attorney General; they did not intend to literally support him and his lifestyle by providing daily sustenance. **Accordingly, we find that an act of wrongdoing occurred.**
9. Use of the campaign fund to purchase airline tickets, hotel accommodations and to pay for Dann's family members' travel is inconsistent with the permitted use of those funds. The out-of-state trips appear to have been vacations for the family. Their attendance at these meetings served no Attorney General's Office business purpose. **Accordingly, we find that an act of wrongdoing occurred.**

Based on these findings, we have referred these matters to the Ohio Elections Commission for consideration of election law violations. The Ethics Commission has made a referral to the Franklin County Prosecutor's Office regarding the apparent misappropriation of money by Gutierrez. We have also made referrals to the IRS and the Ohio Department of Taxation. In addition, we are making the following recommendations:

1. The designated campaign treasurer should be responsible for all expenditures. In the alternative, campaign debit and credit cards should be limited to use by the candidate or the campaign treasurer.
2. In addition to the Ohio Elections Commission, the Secretary of State should have authority to issue opinions that create binding precedent so as to expedite the resolution of issues for candidates and campaign committees.
3. Beneficiaries of campaign funds should be required to provide bank records to the Secretary of State's Office as part of their regular reporting mechanism. Additionally, the Secretary of State should employ the necessary investigators and support staff to thoroughly review campaign finance filings.

4. Ohio Revised Code section 3517.13(O) should be amended to provide a clear and guiding definition of the term “personal use.”

IV. MISUSE OF STATE RESOURCES

Most, but not all, of the allegations pertaining to the misuse of state equipment and resources involved the use by the Attorney General, and members of his administration, of state vehicles and aircraft. These issues first surfaced after the Attorney General was widely pilloried for taking one of the Attorney General’s Chevrolet Suburbans, adorning it with decals and flames and dubbing it the “Sunshine Express” – an expression of Dann’s commitment to public records and open government. After weeks of criticism and ridicule, Dann’s office removed the graphic artwork from the vehicle in March 2008. More serious allegations of the misuse of state vehicles would soon surface:

A. State Vehicles

At the time that Dann hired Gutierrez, he knew about Gutierrez’s history of drinking and driving. Gutierrez had been convicted of operating a motor vehicle while intoxicated in 1984, and he had been charged with a second drunken-driving violation in 2006 – a charge that Dann himself was well aware of, having picked up Gutierrez at a Highway Patrol post after Gutierrez’s arrest.

In an interview with Espy, Gutierrez admitted that he used his assigned state vehicle to travel after work to various bars and restaurants. He also admitted that he drove state vehicles after consuming alcohol. Cindy Stankoski corroborated Gutierrez’s admissions, stating that she observed Gutierrez behind the wheel of one of the Attorney General’s SUVs after consuming alcohol. It is unclear, however, whether driving a state vehicle after consuming alcohol is prohibited. Attorney General’s Office policy and a DAS directive⁴⁴ say only that operating a state vehicle “while under the influence” of alcohol or drugs is prohibited.

⁴⁴DAS Directive No. 06-14, effective 02-12-07, is attached as Exhibit K.

We found that Gutierrez's assigned vehicles sustained damage on four occasions that required body repair work. The Highway Patrol confirmed all four of the crashes, even though Gutierrez failed to file requisite crash reports each time. The Patrol found that the Attorney General's Bureau of Criminal Identification and Investigation ("BCI&I") garage was requested to repair damage to two vehicles used by Gutierrez – a Chevrolet Suburban (damaged once in August 2007 and twice in October 2007) and a Chevrolet Tahoe (damaged in March 2008).⁴⁵ In the first instance, Gutierrez dented the Suburban (the previously mentioned "Sunshine Express") by backing into a car owned by Vanessa Stout's father, Chris. In the second incident, an office intern damaged the left side of the Suburban while making a turn inside the Rhodes Tower garage. Gutierrez later damaged the right side of the vehicle, claiming that he hit a pole in a Kroger store parking lot. Stankoski said Gutierrez told her that he damaged the Suburban by falling asleep at the wheel and hitting a guardrail after a night of drinking.⁴⁶

In the fourth incident, the Tahoe was damaged in an accident in a parking garage, according to the BCI&I mechanic who repaired it. No police reports were filled out for any of the accidents.

B. The Dann Security Detail

As we have detailed, the Attorney General responded to unspecified threats during the summer of 2007 by spending more than \$40,000 to upgrade the security system at his Liberty Township home. He also requested, and was assigned, a security detail from the Highway Patrol, which was supplemented by agents from BCI&I. Agents worked in shifts at the Dann residence and accompanied family members to and from everyday activities, essentially serving as a taxi service for the family.

None of the BCI&I agents we interviewed could explain exactly what the threat was. Still, agents used state vehicles to transport Dann family members to school functions, dinners

⁴⁵Under the administration of former Attorney General Jim Petro, the Attorney General's Office began using the BCI&I garage for repairs as a cost-saving measure.

⁴⁶Interview with Stankoski, May 1, 2008.

and various family outings. One agent reported taking Dann's daughter and some friends to a Miley Cyrus concert in Cleveland.

In late 2007, Dann asked a BCI&I agent to drive him to a pottery business in East Liverpool. After helping Dann load several boxes of dinnerware into Dann's state-owned vehicle, the agent and Dann delivered the dishes to a warehouse in Youngstown. On a separate occasion, Dann asked another BCI&I agent to drive him to Richfield for a similar purpose. This time, Dann had employees from a dishware company load Dann's personal vehicle with merchandise. The agent then drove Dann to a warehouse that was being rented by Lenhoff.

Two BCI&I agents⁴⁷ also told us that they were passengers in a state vehicle driven by Dann's son, Charlie. The agents said Charlie Dann had his learner's permit at this time and was practicing for his driver's test. On these occasions, Marc Dann was in the vehicle, according to the agents. One agent also told us that he was the only licensed adult on one occasion when Charlie Dann was driving the Dannels' personal vehicle, while practicing for his driving test. This potentially exposed both the agent and the state to civil liability had Dann's son been involved in an accident. The agents said the Dannels used the state vehicle as a family car.

A significant portion of the BCI&I security detail's time was spent taking Dann's daughter, Jessie, to and from school events. Another BCI&I agent told us that it appeared that Jessie Dann was the focus of the protection detail, but he said he was not given confirmation of that speculation.

C. State Aircraft

The OIG previously investigated the misuse of state aircraft (OIG File ID No. 2008034). During the course of that investigation, numerous instances in which Dann made

⁴⁷Due to the sensitivity of BCI&I agents' duties, we have omitted the names of the involved agents from this report.

inappropriate use of Ohio Department of Transportation (“ODOT”) aircraft were uncovered, including instances in which his daughter, Jessie, traveled with him.

On December 20, 2007, the OIG learned that Jessie Dann, then 13, had flown three days earlier on an ODOT plane to attend a news conference in Batavia with her father on a methamphetamine initiative. Jessie Dann, we learned, had never been listed on the flight manifest. Instead, Jennings was listed as the other passenger, even after completion of the trip. Jessie Dann had been a last-minute substitute for Jennings. Consequently, we requested records of all flights taken by the Attorney General aboard state aircraft.

We found that between July 2007 and May 2008, Dann flew on ODOT aircraft 16 times. On nine of the 16 flights (See Exhibit L), the Attorney General tacked on extra air time because he had the ODOT pilots either fly empty from Columbus to Youngstown to pick him up or because he had them drop him off in Youngstown and return to Columbus without passengers. On four of those nine flights, the pilots both picked Dann up in Youngstown and returned him to Youngstown. Due to Dann’s frequent use of ODOT aircraft, he became, in the words of ODOT Pilot Ernie Castelucci, “our best customer” during his 17 months in office.

Following his election in November 2006, Dann chose to maintain his primary residence in Mahoning County and not relocate his family to Columbus, where the Attorney General’s Office is headquartered. While that certainly was his right, using state aircraft to travel to and from work constitutes an unauthorized use of state property and is arguably taxable compensation. By detouring flights to Youngstown, ODOT provided Dann with free air taxi service.

For each of the nine trips in question, we reviewed Dann’s calendars and daily schedules to determine whether he attended business meetings in Youngstown on the day preceding, the day of or the day after the ODOT flight. Our review found only two instances – on May 2,

2008,⁴⁸ and on August 16, 2007⁴⁹ – when ODOT pilots flew Dann to Youngstown and Dann conducted official state business on the day before, that day or the day after the flight.

ODOT bills outside agencies for use of its aircraft using a device known as a Hobbs meter, which measures actual flight time. Agencies are billed only for time spent in the air, not time spent waiting for passengers to arrive or taxiing to and from the runway. At our request, ODOT’s Office of Aviation calculated what the cost of the nine trips in question would have been had the plane not been detoured to Youngstown. That analysis follows:

FLIGHT DATE	COST	COST WITHOUT YTOWN LINK(S)	QUESTIONED COST
1/24/08	\$ 1,639.25	\$ 924.50	\$ 714.75
1/18/08	\$ 2,284.00	\$ 914.00	\$1,370.00
1/16/08	\$ 2,351.00	\$ 1,509.50	\$ 841.50
1/14/08	\$ 2,805.25	\$ 2,573.75	\$ 231.50
1/5/08	\$ 2,435.25	\$ 888.25	\$1,547.00
12/19/07	\$ 2,429.75	\$ 932.00	\$1,497.75
12/17/07	\$ 1,505.00	\$ 750.00	\$ 755.00
10/22/07	\$ 758.50	\$ 0	\$ 758.50*
9/4/07	\$ 1,028.00	\$ 569.00	\$ 459.00
TOTAL	\$17,236.00	\$9,061.00	\$8,175.00

*Attended political event. Dann’s campaign committee transferred \$758.50 to his office’s general fund on 11/27/07. The Attorney General’s Office then reimbursed ODOT.

⁴⁸This was the day that Executive Assistant Attorney General Ben Espy released the findings of an internal investigation of sexual harassment, promotions and hiring practices at the Attorney General’s Office. Afterward, Dann held a news conference in Columbus in which he apologized for mismanaging the office and for having an affair with a subordinate. He then flew to Cleveland on an ODOT plane to address the Cleveland Plain Dealer’s editorial board, after which he flew to Youngstown to address the Youngstown Vindicator’s editorial board. As part of their official duties, elected officials periodically meet with newspaper editorial boards to discuss and promote major initiatives and, on occasion, to defend their management practices.

⁴⁹Dann flew on this day from Columbus to Cincinnati to attend a news conference with University of Cincinnati President Nancy Zimpher to announce a memorandum of understanding between the Health Alliance of Greater Cincinnati and five feuding hospitals. He then flew to Youngstown, where he attended an early evening briefing at his Youngstown office on Forum Health, a Youngstown hospital system.

In examining the purpose of each of Dann's 16 flights, we determined that one of them was to attend a political event and thus clearly was an improper use of state aircraft. On October 22, 2007, ODOT pilots flew from Columbus to Youngstown to pick up Dann and fly him back to Columbus to deliver a speech at a United Auto Workers ("UAW") conference at the Hyatt on Capitol Square. The UAW endorsed Dann in the 2006 Attorney General's race, and Dann received \$25,050 in contributions from the union's state political action committee.

When it came time to reimburse ODOT for the flight, ODOT officials said they were informed that the flight was "political" and that Dann's office wanted to reimburse ODOT from the Attorney General's campaign fund. Carla Cefaratti, ODOT Deputy Director of Local Programs, who oversees the Office of Aviation, said Dann's office was informed that could not be done. She said the matter was then "resolved" by the Attorney General by having Dann's campaign committee issue a check to the Attorney General's general fund and then issuing an Intrastate Transfer Voucher from the Attorney General's Office to ODOT.

As is evidenced by the method of reimbursement, this flight was campaign-related and thus clearly an inappropriate use of ODOT aircraft. We question both the method in which the former Attorney General reimbursed ODOT and whether the flight was beyond the scope of authorized use of state aircraft.

D. State-Issued BlackBerrys

Prior to the Dann administration, BlackBerry cell phones were assigned to a select group of upper-management personnel. After Dann took office, Glen Patterson, an Information Technology Specialist in the Attorney General's Office, said he assigned a BlackBerry to virtually anyone who asked for one. Initially, employees requested the devices through First Assistant Attorney General Tom Winters. However, requests became so frequent that Winters gave Patterson permission to assign BlackBerrys directly. Patterson said he kept Winters apprised when new BlackBerrys were assigned.

Patterson believed that the Attorney General's Office received a special offer from Sprint whereby the office was given 300 free BlackBerrys. The billing package the office utilized was the "Sprint 1000" plan, which cost between \$89 and \$99 a month for each of the 300 units. Patterson said several employees were assigned BlackBerrys without requesting them, and that some chose not to use them. We became aware of one employee who left the device in the box and placed it in a desk drawer. The Attorney General's Office was still charged the monthly fee for each device, regardless of whether or not it was used.

In reality, although the 300 BlackBerrys themselves were free, the state was paying nearly \$30,000 a month in fees to use them. Consequently, this employment perk, given to employees almost at will and whether they requested it or not, resulted in the payment of unnecessary and excessive fees.

E. Vehicle Purchases

The "Sunshine Express" wasn't the Attorney General's only flamboyant vehicle. Dann also spent \$40,373.98 in taxpayer money to buy a 2007 Chevrolet Suburban for his sole use as Attorney General. The vehicle was fully equipped with a variety of luxuries: leather seats, a six-disc CD changer, dual climate controls and XM satellite radio. By frequently using the vehicle for in-state travel and to commute between his home and the state capital, Dann added to the vehicle's expense.

Dann's choice of vehicles was in stark contrast to the choices made by most other public officials. For instance, the Treasurer of State used his personal car or a state pool car for office-related travel. The Secretary of State purchased a small hybrid vehicle after initially using her predecessor's Chrysler 300, and the Auditor of State inherited a Jeep Grand Cherokee from her predecessor.

It also bears mention that the Attorney General's new Suburban came from Diane Sauer Chevrolet in Warren, and that the purchase was made after Sauer contributed \$500 to

Dann's campaign fund. The other two unsuccessful bidders did not contribute to the *Dann for Ohio* fund.

The Attorney General's decision to expand the office fleet also came under scrutiny. Previous Attorneys General focused on reducing the size of the vehicle fleet and on controlling motor vehicle costs. They purchased smaller, more economical vehicles and, on some occasions, bought used cars. In contrast, Dann permitted Gutierrez to purchase 99 vehicles at a total cost of more than \$1.9 million. Department of Administrative Services bulk-purchasing rules were disregarded. The purchases ballooned the size of the Attorney General's fleet to 291 vehicles.

The Auditor of State's report, appended as Section VII of this report, details the findings pertaining to expenditures for these motor vehicle purchases. It shows that the Attorney General's Office misspent \$308,968 of the \$1.9 million by using restricted money from its Law Enforcement Improvement, Consumer Protection, and Charitable Law funds to buy 16 of the vehicles.

The fleet expansion also resulted in vehicles being doled out as added perks of employment for some senior level staff. In turn, those individuals were permitted to use state vehicles to commute to and from Columbus. For instance, Jeanne Johns, Chief Deputy Attorney General in the Public Protection Section, traveled to and from her residence near Toledo. Nadine Ballard, Chief of the Consumer Protection Section, commuted in a state vehicle to her home near Dayton. Other key personnel also negotiated the use of state-owned vehicles as conditions of their employment.

We find that the Attorney General's purchase of vehicles was excessive and a waste of state funds. Moreover, Dann's expenditure of restricted state money to buy vehicles for his office shows an utter disregard for the responsibilities of holding state office.

F. Proposed Attorney General Print Center

The Department of Administrative Services (“DAS”) provides print services to the Attorney General’s Office, as well as other state agencies. While the Attorney General’s Office, as an executive agency, is not required to utilize DAS for its printing needs, the office had done so for many years prior to Dann’s election. Following the election, Dann’s General Services division proposed that the Attorney General could satisfy its printing needs in-house at a lower cost than what DAS was charging.

Our investigation found no evidence that a thorough cost analysis was conducted by the Attorney General’s Office to support the purchase of the additional equipment. It is also clear that the projected savings touted by the Dann administration – more than \$150,000 a year – were provided by Xerox, the vendor selected to equip the proposed Print Center.

The claim that installing the Attorney General’s own Print Center would result in a six-figure savings spurred the agency to begin the process of appropriating \$1.1 million in public money to buy copying equipment from Xerox. This process continued through June 2008 – after Dann’s resignation – even though no purchase order had been written for the equipment. This was problematic, in that DAS requires a purchase order for all work done in conjunction with a state contract.

During a March 12, 2008, meeting between DAS Deputy Director Jeff Westhoven and Attorney General’s Office employees Simpson, Gutierrez, and Gutierrez’s deputy, Charlie Rosol, Westhoven was told the projected savings to the Attorney General’s Office would be \$158,950 a year. However, no one at this meeting was able to produce any documentation showing how this savings amount was calculated, Westhoven said. Westhoven said he informed the Attorney General’s representatives that he did not believe the estimate was accurate and offered to have DAS do a complete cost analysis. At a subsequent meeting, Westhoven said he learned that the projected cost-savings was based on unrealistic and false production data and that the Attorney General’s Office was not factoring in its current

copy center operation costs. Westhoven also told us that all of the information about the equipment the new Print Center would need and how much money could be saved was coming from Xerox.

In April 2008, Westhoven again met with Simpson and advised him that without the necessary data, a complete and accurate cost analysis could not be conducted. He further advised Simpson that the equipment being recommended by Xerox was excessive for the volume of printing needed by the Attorney General's Office.

In spite of the questions raised by Westhoven and the failure to obtain an independent cost analysis, Rosol contacted Westhoven in May 2008 and informed him that the Attorney General's Office intended to go forward with its plans and that DAS would need to remove its equipment to make room for the new Xerox equipment. The following month, a meeting was arranged between DAS and the Attorney General's Office in an attempt to resolve the conflict about the purchase from Xerox. As a result of the meeting, it was decided that the Attorney General's Office would return the equipment to Xerox and would continue to use DAS for printing services.

That did not end the matter, however. Xerox officials, contending that they had a contract with the state, initially refused to accept the return of their equipment. Consequently, DAS suspended all contracts between the state and Xerox on October 17, 2008. This suspension was to remain in effect through June 30, 2009. However, on December 1, 2008, Westhoven advised our office that the conflict with Xerox had been resolved. Xerox had agreed to take back the equipment with no penalty. In turn, DAS agreed to reinstate its contracts with the company.

Had the Attorney General's Office done a credible cost-savings analysis rather than relying on the vendor for this information, this debacle could have been averted. Failing to do so wasted time and exposed the state to potentially costly civil litigation by a vendor.

Dann's willingness to commandeer state vehicles and state aircraft for personal use, his administration's decision to squander tens of thousands of dollars by equipping more than 20 percent of his staff with costly BlackBerry wireless devices and his cavalier use of BCI&I agents to chauffeur him and his family to a concert, to school events and to pick up dinnerware orders for his wife's business were a gross misuse of taxpayer dollars.

Therefore, we are making the following findings:

1. Gutierrez's admission that he drove state vehicles after consuming alcohol was corroborated by Stankoski, who accompanied Gutierrez on some of his travels. In addition, he damaged two state vehicles and failed to fill out crash reports. **Accordingly, we find that acts of wrongdoing occurred.**
2. Dann's use of state vehicles to commute to and from work and his decision to allow his unlicensed son to hone his driving skills in a state vehicle were inappropriate. **Accordingly, we find that acts of wrongdoing occurred.**
3. Dann's use of BCI&I agents to assist him in the delivery of dinnerware related to his wife's personal business was a misuse of agency personnel. **Accordingly, we find that acts of wrongdoing occurred.**
4. Dann's use of the BCI&I security detail to provide chauffeur services for his family was a misuse of agency personnel. **Accordingly, we find that acts of wrongdoing occurred.**
5. Dann's use of ODOT planes as a means of personal convenience, to commute to and from work, was inappropriate and a misuse of state aircraft. **Accordingly, we find that acts of wrongdoing occurred.**
6. The purchase of the "Sprint 1000" plan, which included 300 BlackBerrys, was an excessive perk and a misexpenditure of public funds. **Accordingly, we find that an act of wrongdoing occurred.**
7. Claims by the Dann administration that a dedicated Print Center for the Attorney General's Office would save \$150,000 a year in taxpayer funds was based wholly on information provided by a state vendor who was seeking state business. The Dann administration did not attempt to perform an independent cost analysis. Although the Print Center never came to fruition

due to the decision of the Department of Administrative Services to pull the plug on it, the Attorney General's Office wasted valuable time and resources on this project. **Accordingly, we find that an act of wrongdoing occurred.**

We also recommend that the incoming Attorney General proceed as necessary to recoup the costs associated with the misuse of state property, particularly the costs of the damaged vehicles, the costs of the security detail and any additional expenses that may be related to those activities. If necessary, the Attorney General could proceed against the bond provided by Dann as a condition of taking office, in accordance with Ohio Revised Code Section 109.06.

V. MANAGEMENT ISSUES

A. Hostile Workplace/Unprofessionalism

Nearly every person we interviewed during the course of this investigation characterized the work atmosphere in the Attorney General's Office as unprofessional.⁵⁰ Some went so far as to describe the office as a hostile work environment.⁵¹ While it is not our intention to reach a legal conclusion about the day-to-day working conditions at the Attorney General's Office, it is abundantly clear that the office lacked the civility and decorum that the public expects in state government.

Many of the people we interviewed described an office environment that was profane, vulgar, contemptuous and confrontational. Displeasure with subordinates, we were told, was expressed by screaming, yelling, breaking phones and other office property, and by backing individuals up against walls and threatening them. The tone for this conduct, we

⁵⁰This characterization applies to Dann and his senior management team, as well as to key personnel in the office.

⁵¹"Hostile work environment" was defined by the Ohio Supreme Court in Hampel v. Food Ingredients Specialties Inc. (2000), 89 Ohio St. 3d 169, 2000 – Ohio-128.

were told, was set by the Attorney General himself, who routinely spewed vulgarities in the office and made crude and unprofessional comments about people, including the Governor and his predecessors as Attorney General.

Other senior management officials – notably Gutierrez, Deputy First Assistant Attorney General Brian Laliberte and Chris Geidner, Counsel to the Attorney General – engaged in similar conduct, we learned. When we questioned Geidner and Laliberte about their use of rude and vulgar language, the men attempted to justify their behavior by claiming that Dann set the tone for the office and that this type of behavior was acceptable.

Although this behavior was condoned in the office, one well-publicized email rant by Dann's friend and Communications Director, Leo Jennings, resulted in a reprimand from the Attorney General in December 2007. Jennings had been displeased with the manner in which Steve Lamantia, then BCI&I's interim director, had handled a criminal case. In September 2007, Jennings⁵² sent Lamantia the following email:

Steve the fact that you thought you could go around me to Jennifer Brindisi shows what an absolute f----- incompetent insubordinate moron you really are. You've completely botched this, I know it you know ir [sic] and everyone else is going to know it you coward. If you have something to say to me call me and say it to me you pussy. Leo

We were also told that Anthony Gutierrez often attempted to intimidate other Attorney General's employees by referring to his alleged Youngstown mob connections and claiming that he associated with people who could have him buried in concrete. At other times, several people told us, Gutierrez would remind employees that he was good friends with Dann, implying that the employee's job could be at risk if he failed to show appropriate respect. Gutierrez's behavior caused one staff member, Mariellen Aranda, to request a transfer from Gutierrez's section. Aranda said she asked for the transfer after Gutierrez told her to "shut up and don't speak until you're spoken to."

⁵²Jennings was reprimanded by Dann only after the email was reported in the press.

This incivility, which permeated Dann's office, was unacceptable and also was exhibited by a small group of attorneys in Dann's office. Each of those lawyers took an oath of office after being accepted for admission to the practice of law. In part, that oath, states: "In my capacity as an attorney and officer of the Court, I will conduct myself with dignity and civility and show respect toward judges, court staff, clients, fellow professionals, and all other persons."⁵³ While we believe that all state employees should conduct themselves in a professional manner, the attorneys in Dann's office had a sworn obligation to avoid impropriety.⁵⁴

Several assistant attorneys general told us that Dann's administration was viewed as relaxed and open, and that Dann liked to work directly with assistants and encouraged an informal work style. Assistant attorneys general were free to communicate ideas, they said, and to express these ideas without following the chain of command.

As a consequence of this relaxed and casual atmosphere, members of upper management were not the only employees who were disrespectful or unprofessional. For instance, Jennifer Urban, an attorney assigned to the Charitable Law Section, often circumvented her supervisor, Monica Moloney, by reporting directly to Dann or Jennings.⁵⁵ Urban even went so far as to create her own work schedule, often working from home or flexing her time without approval. She also informed co-workers that she was going to be promoted to section chief and that she would terminate several of them once she was in charge.

Due to her close relationships with senior administrators, co-workers tolerated Urban's behavior rather than reporting it. Co-workers who confronted Urban said they risked receiving one of her angry emails, which Urban's colleagues often referred to as "bombings."

⁵³Gov. Bar R.I, Section 8.

⁵⁴This obligation applies to all of the attorneys under Dann's supervision. As the "managing attorney" for the Attorney General's Office – the state's largest law firm – Dann had an even higher standard to meet because he was responsible for the conduct of all the attorneys in his office. *See, e.g.* Prof. Cond. Rule 5.1.

⁵⁵By her own admission, Urban was involved in a romantic relationship with Jennings. Long after Dann's departure from the Attorney General's Office, Urban filed a sexual harassment complaint against Jennings.

Nor was unprofessional behavior in the Attorney General's Office limited to Dann's cadre of attorneys. Some of the young women hired to fill support staff positions were so unaccustomed to proper office decorum that Molly Taylor, Dann's Project Assistant in the Special Prosecutions Section, conducted etiquette classes for the women, including several who were dubbed "the Dannettes."⁵⁶ The classes, also attended by Dann's scheduler, Jessica Utovich, covered topics ranging from job duties to professionalism, including the wearing of appropriate attire.⁵⁷

Interviewees told us that Utovich's behavior was particularly unprofessional and that she felt free to engage in abusive conduct because of her unusually close relationship with Dann. Denise Anthony, a former employee recruited by Laliberte, told us that she resigned shortly after taking a job after Utovich called her "a bitch" on Anthony's first day on the job.

Utovich, several people said, even felt free to dish out abuse to the Attorney General himself. Tom Winters, Dann's First Assistant Attorney General, acknowledged the "unprofessional atmosphere between Ms. Utovich and Mr. Dann."⁵⁸ He described Dann's relationship with Utovich as "[n]ot too friendly, [involved] too much fighting and talking back and forth"⁵⁹ Executive Assistant Attorney General Ben Espy recalled that during his interview of Marc Polster, the section chief of Information Technology, Polster thought Utovich's "interactions were very inappropriate to an Attorney General, the way she used profanity...." Polster stated that during one meeting, much to the dismay of some of the attendees, Utovich called the Attorney General "a son of a bitch." Dann, Polster said, neither responded to the comment nor reprimanded his scheduler. "I'd say to myself," said Polster, "What kind of relationship is this?"⁶⁰

⁵⁶"The Dannettes" were several young women who had campaigned for the *Dann for Ohio* ticket. As a result of their contributions to Dann's election, they were hired as support staff in the Attorney General's Office.

⁵⁷According to Taylor, office staffer Tatyana Vinogradsky once came to the office wearing a particularly revealing top, causing Taylor to tell Vinogradsky to put on a shawl or sweater. Vinogradsky complained to Greg Beswick, then Legislative Director for the AG, who told Taylor to mind her own business, according to Taylor.

⁵⁸Interview of Tom Winters, First Assistant Attorney General, June 17, 2008; Transcript, p. 11.

⁵⁹*Id.*

⁶⁰Interview of Ben Espy, July 9, 2008; Transcript, pp. 14, 15.

Utovich, who had been active in Democratic political circles, first captured Dann's attention in early 2007 when she passed his seat at Zeno's bar in Columbus. Simpson, who was with Dann, called Utovich and her companion, Tim Cassell, over and the foursome struck up a conversation. Utovich told the Attorney General that she was looking for work, and he told her he had an opening for a scheduler. The next day, Taylor contacted Utovich and arranged for an interview. Not long thereafter, Simpson offered Utovich a \$35,000-a-year job as Dann's scheduler.

On May 2, 2008, Dann admitted publicly that he had been involved in a romantic affair with a subordinate female staffer. Although Dann did not identify the staff member, her name was Jessica Utovich. She had free access to the condominium that Dann shared with Gutierrez and Jennings and wielded unusual authority for a junior staffer. We learned of three occasions – once in Cincinnati, once in Mansfield and once in Columbus – when Utovich scheduled private rendezvous with the Attorney General at hotels, joining him after his official business was concluded.

Utovich also had been scheduled to accompany Dann to Turkey on a trip sponsored by the Ohio Association of Chiefs of Police. Delays in obtaining her passport, as well as advice to Dann from members of senior management that Utovich had no reason to go on the trip, kept Utovich from attending. While in Turkey, Dann used his campaign fund credit card to purchase an inexpensive silver bracelet for Utovich.

We found that Dann's self-proclaimed "efforts ... to relax what appeared [in past administrations] to be a rigid arbitrary and demoralizing dress code"⁶¹ opened the door at the Attorney General's Office not only to provocative dress but to other unprofessional behavior, as well. During our investigation, we found several risqué photos of Cindy Stankoski on Mariellen Aranda's cell phone. In each, Stankoski flirtatiously sported Gutierrez's Attorney General-issued badge at her bosom. Stankoski is now claiming that she was sexually harassed by Gutierrez.

⁶¹Response from Marc Dann letter dated November 10, 2008.

As a key member of Dann's management staff, Gutierrez had an obligation to promote and maintain a professional workplace. On the contrary, our investigation found that Gutierrez's behavior was particularly boorish. In addition to his intimidation of employees, Gutierrez's penchant for making vulgar comments and leering at female co-workers caused several women to complain about his sexist behavior. According to Stephanie Bostos-Demers, Dann's former Human Resources Director, Gutierrez was admonished by Joyce Chapple,⁶² the Attorney General's Chief Operating Officer, for his inappropriate conduct.

Bostos-Demers told us that even after formal EEO complaints were filed against him, Gutierrez still didn't seem to understand the seriousness of his actions. On two occasions, she said, Gutierrez came to her and "promised to be a good boy." Bostos-Demers described one of those instances thusly:

He actually had the nerve to come to me at some point twice and said, "Oh, you know, Joyce talked to me and, you know, I won't do it anymore, I promise." And I'm like, "Look Tony, I don't know what you're doing but, you know, you can't ask female co-workers to go out," you know, and I expressed it's okay to go out as a group, you know, to build, you know, teams – whatever. I said, "But you can't be soliciting co-workers to go out to dinner or for drinks or whatever it is that you're trying to do." And I said, "You can't make inappropriate comments."⁶³

Jennings, one of Dann's closest confidantes, also engaged in unprofessional conduct before his dismissal. Married shortly after Dann took office, Jennings and Urban began a romantic affair on September 13, 2007 – Jennings' birthday. Our examination of emails exchanged by Urban and Jennings on their state-issued BlackBerrys included previous flirtatious banter that led to Jennings' arrival at Urban's residence with a bottle of wine that evening. Urban claimed that she initially rebuffed Jennings' sexual advances by mentioning that he was married. Urban said Jennings responded: "So ... she hates me a million hates. It's my birthday. She's not here and you are."⁶⁴ Urban said she again attempted to ward off

⁶²Chapple resigned in June 2008.

⁶³Interview of Stephanie Bostos-Demers, June 11, 2008; Transcript pp. 31, 32.

⁶⁴Interview of Jennifer Urban, July 24, 2008.

Jennings' advances, telling him, "Let's stop before we get in trouble because you are my supervisor." This time, Urban said, Jennings responded simply by saying, "Who cares?"

If anyone did care, it apparently wasn't the Attorney General. Urban told us that Dann made the following comment to Utovich about Jennings' birthday evening: "Leo took a piece of Jenn Urban last night." Urban said her affair with Jennings ended after Dann's relationship with Utovich was exposed. "Everyone went into panic mode," Urban said.

Jennings' inappropriate behavior wasn't limited to having an affair with a subordinate. We found a number of sexually explicit emails on his state computer. Most were from former Mahoning County Commissioner Vicki Sherlock, with whom Jennings had had a long-term live-in relationship.

Responsibility for the unprofessional atmosphere that permeated the office of the "people's lawyer" fell squarely on the shoulders of Marc Dann. His Policy and Procedures Handbook stated, in part, "The Attorney General's level of expectation for every employee is co-workers shall be treated in a professional and courteous manner. It is the intent to have an enjoyable work environment free from harassment and discrimination."⁶⁵ By both overtly and tacitly permitting employees to harass, degrade and abuse one another, he created a work environment in which few boundaries existed and misconduct was condoned.

B. The Handling of the Stankoski/Stout EEO Complaint

On March 6, 2008, Vanessa Stout sent the following email to the Attorney General's Human Resources ("HR") section:

⁶⁵The Attorney General's Policy and Procedures Handbook, "Chapter 5 – EEO/Professional Conduct," p. 57, revised, 2008. This Chapter is attached at Exhibit C.

From: Vanessa Stout
Sent: Thursday, March 06, 2008 2:12 PM
To: Alethea Botts
Subject: URGENT!

I need to speak with you about a confidential matter.
Can you contact me immediately to meet.
You can contact me via e-mail, desk # below
and my personal cell [REDACTED]
I would like another person present at the time of
meeting, that I will disclose at that time.

Thank you,

Vanessa R. Stout
Attorney General's Office
Special Projects Coordinator
150 East Gay Street/ 20th Floor
Columbus, Ohio 43215

The Attorney General's HR section had already received previous complaints about Gutierrez's inappropriate behavior with subordinate female staff. In fact, HR was well aware of an incident that occurred on September 10, 2007, at the condominium that Dann shared with Gutierrez and Jennings. At Dann's invitation, Stankoski had shown up at the condo and had blacked out after drinking too much. She said that when she awoke, she was lying in Gutierrez's bed with her pants partly unbuttoned. Gutierrez, she said, told her that he "didn't do anything" even though he had wanted to have sex with her.

Despite this history, nothing happened initially after Stout sent her email to Assistant HR Director Alethea Botts. We learned through a review of Espy's investigation and through further interviews that Botts and Bostos-Demers were adamant about initiating an EEO investigation into Stout's and, subsequently, Stankoski's complaints. However, their endeavors were met with resistance. Both Botts and Bostos-Demers said they believed that Chapple and Simpson were slowing the process intentionally and were attempting to address the complaint on their own. Both women also said they were admonished by Chapple not to worry about the issue, that it was being handled.

On March 10, 2008, Bostos-Demers met with Simpson to discuss the complaints that both Stout and Stankoski had filed. She said she felt that Simpson was receptive to her advice and that an investigation would be undertaken. The following day, she met with both Simpson and Chapple. However, shortly after the second meeting, Bostos-Demers said she again began to have doubts about whether the investigation would take place. She also said that it appeared that Simpson and Chapple were attempting to handle the matter themselves. Bostos-Demers' version of these events is supported by Botts.

During his interview, Simpson said he believed the EEO complaints were handled according to policy. He also said he did not believe that Stout or Stankoski had ever filed a formal complaint. When asked to explain that assertion, Simpson said that neither woman had filled out the proper forms and that the complaints were never reduced to writing. While that may be true, the policy for filing such claims under the Dann administration was changed. Rather than requiring that complaints "must be committed to writing," the revised policy simply "encourages" that a complaint be in "written form." Espy's investigation also referenced Simpson's contention that the women never filed formal complaints, concluding similarly that formal complaints were not necessary.

EEO Officer Angela Smedlund told us that she also met with resistance from Simpson. She confirmed that Simpson did not believe that complaints had been filed since neither of the women had reduced their concerns to writing. Smedlund said that during the entire process she, Botts and Bostos-Demers expressed adamancy about the need to investigate the complaints.

On March 20, 2008, Bostos-Demers discussed the Stout and Stankoski complaints with First Assistant Attorney General Tom Winters. Winters told us that Bostos-Demers expressed her frustration over the way the EEO complaints were being handled. Winters said he then went to Chapple and Simpson and told them they needed to supervise the investigation and that Gutierrez should be moved to the Youngstown office. After nearly two weeks of inaction, on March 31, 2008, Winters said he went to Smedlund to ask for a status report. Finding that little had occurred while he was on vacation, Winters said he

told Smedlund to begin the investigation that day. We found emails indicating that Bostos-Demers contacted Stankoski on March 27, 2008, informing her that the investigation would start on the following Monday. We also found emails indicating that Smedlund contacted Stankoski, asking for additional information and arranging to meet the following Monday, as well.

Winters said he was unsure why Chapple and Simpson were delaying the investigation. He recalled one of them making a comment about the complaints not being in written form. Ultimately, the matter was turned over to Espy, who began his investigation on April 8, 2008 – more than a month after Stout sent the first email.

We found, as did Espy, that a series of suspicious events occurred in October 2007 that were related to these EEO complaints. Those events stemmed from the fateful evening that Stankoski spent at Dann's Tuttle's Grove condo on September 10, 2007, and a series of text messages that Stankoski exchanged that evening with Aranda. Aranda had also previously complained about Gutierrez and his unprofessional behavior.

Copies of those messages, in which Stankoski told Aranda that she was drunk at Dann's condo and that she was in a "weird situation," were in Jennings' possession well before the initiation of any investigation. During her interview, Bostos-Demers said she was told by Simpson to provide copies of the text messages to Jennings. Jennings said he received these messages from Simpson. Simpson, however, told us he was unsure how or why Jennings was provided with the text messages.

When questioned by Espy, Jennings said he did not believe he had kept copies of the text messages. During our interview, however, Jennings was clear that he had kept the copies and had put them in his desk drawer. He also acknowledged that he reviewed the text messages in March 2008, after the two women filed complaints against Gutierrez. That acknowledgement, of course, contradicts Jennings' statement to Espy on April 16, 2008, that he did not believe that he had kept the copies. Our investigators also found hard copies of the text messages in Dann's own office.

Not only are the conflicting accounts between Jennings and Simpson troubling, but the fact that Jennings had the Stankoski/Aranda text messages in his possession at all was improper. As a fellow tenant of the Tuttle Grove condo, Jennings had a direct conflict of interest and should have had no involvement in an investigation of Stankoski's complaint. We can only surmise that Jennings became involved in this matter because of his close relationship with Dann and Gutierrez.

It bears noting that, prior to her employment by the Attorney General's Office, Stout already had developed a casual relationship with Gutierrez while chatting over cigarettes outside their nearby Tuttle Grove condos. That friendly relationship continued after Stout went to work for the Attorney General. According to Gutierrez, on one occasion in November 2007, he was privy to an argument between Stout and her boyfriend. The argument focused on the boyfriend's jealousy over a sex toy that belonged to Stout. The boyfriend broke the device and an argument ensued.

Gutierrez said he replaced the broken sex toy, giving it to Stout as a gift after Stout started her job with the state. Stout contends that she received this gift after receiving a job offer but prior to her first day of work. She also told us that, after giving her the replacement toy, Gutierrez repeatedly asked her whether she had used it and whether she would give him a demonstration.

This conduct suggests that Stout and Gutierrez had an overly familiar relationship that began long before Stout accused Gutierrez of sexual harassment, raising serious questions about the merits of Stout's EEO complaint.

C. Questionable Hiring/Improperly Vetted Employees

Some of the professional conduct problems we have identified may have been avoided had Dann properly vetted some of the people he hired and had hired employees based on their abilities rather than their friendship with, and loyalty to, him. During this investigation, we

found several employees who were hired by the Dann administration despite their serious legal problems, questionable backgrounds and lack of experience. In addition, Dann had specifically been advised by senior managers in his office not to hire certain people. Nevertheless, Dann and other senior officials chose to ignore this counsel, resulting in the hiring of the following people:

Ed Simpson, Chief of Policy and Administration – Prior to being hired by Dann, Simpson managed a staff of fewer than 25 reporters at a small newspaper in Joplin, Missouri. In contrast, as Dann's Chief of Policy and Administration, Simpson was responsible for overseeing the administrative and human resources needs of 1,400 employees. Simpson had little prior experience as a human resources manager and said he believed his primary role was to develop policies and procedures for the agency. Most of the senior management employees we interviewed thought Simpson was overwhelmed in his new position. Several said he was likable, but not a good choice for the job. Many believed that Simpson's relationship with Dann's wife, Lenhoff, influenced Dann's decision to hire him. Lenhoff previously had worked as a reporter under Simpson when he was managing editor of the *Warren Tribune Chronicle*.

Anthony Gutierrez, Director of General Services – On the day that Gutierrez was hired, his driving privileges were under suspension from a January 9, 2007, conviction for reckless operation of a motor vehicle. The charge had been reduced from driving while under the influence of alcohol. As a result of his conviction, the Mahoning County Court had put Gutierrez on probation and this probation was still in force when he joined the Attorney General's Office on February 5, 2007. Dann and others in his office were aware of Gutierrez's driving history, and the information should have been sufficient to disqualify Gutierrez from employment. Dann also, according to various interviewees, was counseled not to hire Gutierrez, who was Dann's friend and neighbor.

Gutierrez additionally had tax liens through the State of Ohio and the Internal Revenue Service.⁶⁶ These liens were resolved prior to Gutierrez's employment via the payment of a negotiated amount. At the time of his hire, he was on a payment plan with the IRS.

Gutierrez still owes a significant amount of money (\$49,345.03 according to the Mahoning County Court website) to the Reinvestment Partnership Corporation. That corporation is a partnership between privately-owned financial institutions and governmental entities, including Trumbull County and the cities of Warren and Niles. Gutierrez was sued by the corporation for his role in a business called Phillies Steakery, a partnership between Gutierrez and his brother, Alex. This case has been pending since at least 1997.

Vanessa Stout, Telecommunications Assistant – Prior to being hired, Stout had been convicted of assault, driving under the influence, harassment and theft.⁶⁷ Due to her extensive criminal history, Bostos-Demers recommended that Stout not be hired. Gutierrez then interceded on Stout's behalf with Simpson, convincing Simpson to hire her. Simpson should have been aware of Stout's criminal record, which she had revealed in her employment application. However, Simpson claimed to us that Gutierrez caught him off guard and manipulated him into approving Stout's hiring. Simpson acknowledged during his interview with our office that Stout's hiring was a "severe error in judgment."⁶⁸

Ed Kraus, Co-Managing Attorney, Cleveland Office – Kraus was hired as a co-manager at the Cleveland office. The position was created for him, and according to many of those interviewed, was unnecessary. We learned from Kraus that he and Dann had become acquainted by attending social functions together. Others interviewed thought the two were more friends than acquaintances. Brian Laliberte, who interviewed Kraus at Dann's request, said Kraus was the only person to be interviewed for the position and it was clear he was to be hired.

⁶⁶ As the attorney for all state agencies, the Attorney General has the responsibility for filing state tax liens and pursuing payment of debts to the state.

⁶⁷ Since being hired by the Attorney General's Office, Stout has also been convicted of disorderly conduct while intoxicated, a minor misdemeanor. See Case No. 08CRB01563-A, Delaware Municipal Court, Delaware, Ohio. Stout's bond was forfeited in August 2008.

⁶⁸ Interview of Ed Simpson, June 5, 2008.

Kraus' starting rate of pay was \$105,000 a year. By all accounts, he had little to do with the office's day-to-day operations, leaving the work to the other co-managing attorney, Mark Mastrangelo, who at \$90,396 a year made significantly less money than Kraus. Mastrangelo received a raise in March 2007 to \$98,592, and his salary was finally equalized with Kraus' in December 2007.

In comparison, the two co-managing attorneys in the Attorney General's Cincinnati office are both paid \$85,009.60 a year. Both were appointed to their positions well after Kraus was hired. The Cleveland and Cincinnati offices are the only two offices in the state that have co-managing attorneys. We note that this structure did not exist in Cleveland or Cincinnati prior to Dann's hiring of Kraus in Cleveland and Chris Wagner in Cincinnati. Wagner was hired in November 2007.

Shortly after being hired, Kraus began working with a mortgage fraud task force in Northeast Ohio. We were told during interviews with Kraus' supervisors that they often didn't know what Kraus was doing during his workdays and that Kraus embellished his role as a member of the task force. Kraus' supervision was later turned over to a BCI&I administrator, Ben Casuccio, who began holding Kraus accountable for his reports and his hours worked.

Chris Geidner, Counsel to the Attorney General – Almost immediately after his inauguration, Dann hired Geidner as a Deputy Solicitor. In February 2007, he reassigned Geidner to the position of Counsel to the Attorney General, a job that Dann created specifically for Geidner. Like many of Dann's appointees, Geidner knew the Attorney General well. The men had been friends since 1999 and in 2000, while working as a high school debate coach, Geidner had worked on Dann's senate campaign. For most of 2001, Geidner said he lived rent-free in the pool house adjacent to Dann's residence.

Geidner graduated from law school and was admitted to the Ohio bar in 2005. After the 2006 election, he left the law firm where he had been employed for slightly more than a year to join the Attorney General's transition team. At the time that Geidner was named

Counsel to the Attorney General, he had less than 18 months of experience as an attorney – not nearly enough for a position of such importance and high visibility. Even Geidner acknowledged that Dann threw him into the “deep end,” and that he was not seasoned enough for the job he was given.⁶⁹ Geidner also agreed that some of the problems and personnel issues he encountered resulted from his lack of experience as a supervisor and attorney.

Cynthia Kravitz, Managing Attorney, Youngstown Office – Kravitz began working for the Attorney General’s Office on July 23, 2007. Prior to that, she and her husband, Solomon, co-owned Kravitz Bagels in Youngstown. Solomon Kravitz’s family also owned Kravitz Delicatessen, a restaurant that was frequented by Dann and his family.

Kravitz Bagels filed bankruptcy in 2004. However, the filing was later dismissed, leaving the Kravitzes liable to the State of Ohio for a substantial amount of overdue taxes, as well as other debts owed to the state. Specifically, Kravitz Bagels still owes a total of \$70,381.52 to the following entities:

- Public Utilities Commission \$ 126.50
- Ohio Bureau of Workers’ Compensation \$47,577.47
- Ohio Department of Job & Family Services \$22,089.10
- Ohio Department of Taxation \$ 588.45⁷⁰

Kravitz denied even being aware of the debts owed by her business. She claimed that after she stopped working for Kravitz Bagels in 2005, she was not involved in any further company operations.

Unfortunately, the Attorney General – whose agency represents the various state entities who are creditors of Kravitz Bagels – had no knowledge of his new managing attorney’s legal and financial problems. Kravitz acknowledged that she made no one aware of the issues, and the Attorney General’s Office had no mechanism in its background check or

⁶⁹Interview of Chris Geidner, July 10, 2008.

⁷⁰This amount is a penalty for failing to file the 2006 941 form.

vetting process that would reveal job candidates' business debts or tax information related to their businesses.

We also found other instances in which people were hired by the Attorney General for reasons other than their abilities. Background checks either were never completed or information that should have raised eyebrows was disregarded. Instead, the Attorney General and senior management made hiring decisions based on personal relationships and loyalty to Dann.

D. Lenhoff's Involvement in Hiring and Administrative Decisions

Based on our interviews and review of emails, it is clear that Lenhoff had significant influence and involvement in some of the decisions made during the Dann administration. She often forwarded résumés of prospective employees, along with her recommendations, to her husband and Simpson. In emails sent to some of those prospective employees, she also pledged to intercede on their behalf with Simpson, her good friend and former editor. Emails indicate that she was included in conference calls on some of the interviews, and interviewees told us that she also played a significant role in the hiring of Geidner and Gutierrez.

Perhaps due to her journalism background, Lenhoff also was included in speech writing and policy drafting at the Attorney General's Office. When House Bill 9, legislation that included major revisions to Ohio's Public Records Act, went into effect, Lenhoff served as a curricula consultant for the Attorney General's Office, helping to develop training materials for the legislation's education component. On one occasion, office staff drove Lenhoff to an H.B. 9 training session to make a presentation.

During his interview, Simpson told us that, due to the increasing awkwardness of the relationship between the Attorney General and Utovich, he ordered Utovich to route all of her emails to the Attorney General through him. Simpson would not say directly that Lenhoff asked him to do this, but acknowledged that he believed Lenhoff wanted him to

screen Utovich's emails. He also said it was clear to him that Lenhoff wanted Utovich to be transferred from the 17th floor of the Rhodes Tower, where Dann's office was located, in order to limit contact between Utovich and her husband.

Lenhoff occupied a position of significant influence in the Attorney General's Office. She had influence that exceeded her role as spouse of the Attorney General. Overall, her involvement in hiring and other administrative matters contributed to some of the conflicts that existed in the Attorney General's Office.

E. Misuse of State Database

While we were conducting this investigation, the office of interim Attorney General Nancy H. Rogers independently investigated the misuse of a state computer and state law enforcement data system by a lawyer in her office. As a result of that investigation, Rogers issued a five-day suspension to Erin Rosen, general counsel for the Ohio Law Enforcement Gateway ("OHLEG"), in October 2008.

OHLEG is a portal through which criminal justice agencies and their personnel can access several data systems. Some of those systems contain confidential information that is reserved for law enforcement use. Access to OHLEG is governed by the issuance of an account and password. Consequently, OHLEG system administrators can identify every user who requests information from these systems, as well as the date and time a user makes an inquiry.

As general counsel for the OHLEG system, Rosen was well aware of the restrictions placed on OHLEG users. In fact, a disclaimer accompanies every search of the data systems encompassed by OHLEG.⁷¹

⁷¹The disclaimer states: "Access to OHLEG-SE is a privilege subject to termination. Data accessed through OHLEG is continuously subject to the limitations on use and dissemination required by each component database or other service, and is not to be sold, transmitted, or disseminated to any unauthorized person. Failure to abide by these conditions of use may result in the termination of OHLEG access, and/or criminal prosecution if appropriate."

In August 2008, Executive Assistant Attorney General Ben Espy asked Steven Raubenolt, Director of OHLEG, to conduct an audit of Rosen's OHLEG use. The audit revealed that between August 13, 2007, and August 11, 2008, Rosen accessed the OHLEG data systems 247 times. The majority of those records checks were run for purpose of verifying sex-offender information, which is one of Rosen's assigned duties at the Attorney General's Office.

On 27 occasions, however, Rosen used OHLEG to access records for reasons that appeared questionable. Espy asked Rosen to review the 27 records checks and explain the reason for them. Rosen admitted to conducting the following records checks:

- 1/07/08 - Checks of six individuals were conducted. Rosen could not recall any reasons for searching any of the records.
- 1/07/08 - Ms. Rosen conducted a records check on an individual who was dating Ms. Rosen's friend. This check was run for personal reasons.
- 1/09/08 - Ms. Rosen accessed the records of an individual who was dating one of her friends. This records check was conducted for personal reasons.
- 2/08/08 - Ms. Rosen ran ten checks on a specific name. The checks were conducted in an attempt to locate an individual who was dating a friend of Ms. Rosen. The records were accessed for personal reasons.
- 4/13/08 - Ms. Rosen ran a check on an individual she was dating. This search was conducted for personal reasons.
- 6/09/08 - Five searches were conducted by Ms. Rosen. Records for one individual were checked twice; another individual's records were run three times. Ms. Rosen could not recall why she used the OHLEG portal for those searches.
- 6/24/08 - Ms. Rosen conducted a search on two different names. The two searches reflect variations in the spelling of the name of a person who was dating one of Rosen's friends. This search was conducted for personal reasons.
- 7/03/08 - Ms. Rosen accessed the OHLEG system and ran a records check on an individual whom she was dating. The records check was conducted for personal reasons.

Rosen's repeated use of the OHLEG system to run background checks on people who she and her friends were dating was clearly improper. Her misconduct was aggravated by the fact that she was the OHLEG system's General Counsel and knew that using OHLEG for such purposes was an abuse of office. As part of Rosen's discipline, Rogers transferred Rosen to the Victims Services Section.

The rude, vulgar and abusive conduct of senior management, including the Attorney General himself, created a hostile work environment that is an embarrassment to state government. Sexual harassment was tolerated, and friends and associates of the Attorney General were hired into positions for which they were not qualified. **Therefore, we are making the following findings:**

1. Gutierrez engaged in a pattern of unprofessional conduct that violated the Attorney General's policy against harassment and discrimination. His actions are documented not only in this report but also in the report of investigation issued by Ben Espy and Julie Pfeiffer. A copy of their report is attached as Exhibit D. **Accordingly, we find that an act of wrongdoing occurred.**
2. Jennings engaged in a pattern of unprofessional conduct that violated the Attorney General's policy against harassment and discrimination. His actions also are documented not only in this report, but also in the report of investigation issued by Espy and Pfeiffer. **Accordingly, we find that an act of wrongdoing occurred.**
3. Dann engaged in a pattern of unprofessional conduct that violated not only his own policy against harassment and discrimination, but also his oath of office as an attorney and as the Ohio Attorney General. Some of this misconduct is documented in the report issued by Espy and Pfeiffer. Other

instances of misconduct are referenced in this report. **Accordingly, we find that an act of wrongdoing occurred.**

4. As an elected officeholder, Dann was obligated to comport himself in a professional manner and to ensure that his employees did so, as well. During his term of office, the Attorney General's Office lacked leadership, tolerated boorish behavior and ignored professional boundaries that typically exist between supervisors and subordinates. Thus, Dann failed to fulfill his basic managerial duties. **Accordingly, we find that an act of wrongdoing occurred.**
5. As the elected Attorney General, Dann was ultimately responsible for the hiring and promotion practices of his office. By hiring friends and cronies, some of whom were unqualified and performed poorly, Dann violated the public trust. **Accordingly, we find that an act of wrongdoing occurred.**
6. The Dann administration failed to consistently conduct appropriate background checks for many of its hires. The office lacked a thorough mechanism for investigating candidates' backgrounds, including prior business relationships and dealings. **Accordingly, we find that an act of wrongdoing occurred.**
7. Lenhoff was deeply involved in the daily operations of the Attorney General's Office. Her participation in critical decisions on hiring and policy exceeded her authority as the Attorney General's spouse. **Accordingly, we find that an act of wrongdoing occurred.**
8. Rosen's admissions that she used the OHLEG system to research the backgrounds of people who she and her friends were dating was a flagrant misuse of confidential law enforcement data. **Accordingly, we find that acts of wrongdoing occurred.**

VI. CONCLUSION

Most of the people with whom we have found fault have long since departed from the Attorney General's Office. Left behind are many accomplished and hard-working employees who have had their reputations collectively impugned by the misconduct of the former Attorney General, a cadre of his former senior managers and a handful of employees who remain. They will now be able to continue their important work under Rogers' successor, Attorney General-Elect Richard Cordray.

As a young and promising politician, Marc Dann had a meteoric rise, improbably upsetting former Attorney General Betty Montgomery in 2006. Following his election, he installed several unqualified and incompetent supervisors in key management positions. In turn, those people helped Dann turn the office of the "people's lawyer" into a house of scandal. Tawdry news stories about vulgar and flirtatious interactions between managers and subordinates, the hiring of people with criminal records and other legal problems, and Dann's admission that he had a romantic affair with a young female staffer finally helped drive Dann from office. As shocking as some of those revelations were, we found the day-to-day working environment in the Attorney General's Office to be even more unprofessional and dysfunctional than was reported.

Equally alarming is the casual, everyday use that the former Attorney General made of the large amounts of unreported money that corporations, PACs and individuals donated to his non-profit OAG Transition Corporation, as well as the disclosed funds that were donated to the *Dann for Ohio* campaign. As Ohio's chief law enforcement officer, Dann's "long arm" reached into numerous business sectors. His office regulated state charitable organizations, as well as businesses that came under the jurisdiction of his Consumer Protection division. He operated a Collections Enforcement division that assigned jobs to numerous private attorneys. He also oversaw the Bureau of Criminal Identification and Investigation and the Organized Crime Investigations Commission.

Because the jurisdictional, regulatory and enforcement reach of the Attorney General have such a strong impact on the legal and business sectors, there exists a strong motivation in these sectors to foster good will with the Attorney General. This dynamic allowed Dann to tap a rich vein of campaign contributions.

Regrettably, Marc Dann used his position as Attorney General to indulge himself, his family and his friends. By tapping these easily available contributions, which were given to him by more-than-willing interested outside parties, he supplemented his statutory wage from the state of Ohio and used the money to pay personal expenses that had no relation to his office or his campaign. In light of our findings in this case, it is clear that independent oversight of the Attorney General – a powerful position – and his office is necessary.