



Lawrence F. Alwin, CPA
State Auditor

Special Investigations Unit Report Regarding The Potter County Tax Office

March 4, 2002

Members of the Legislative Audit Committee:

The State Auditor's Office Special Investigations Unit participated in a joint task force led by the Potter County District Attorney. The task force obtained evidence that led to the indictments of Danny Messer, Marian Kennedy, and Sharon Howery by a Potter County grand jury. The indictments were obtained by the Potter County District Attorney's Office.

The indictments were as follows:

- Danny Messer, Potter County Tax Assessor Collector, was charged with one count of theft by a public servant, a third-degree felony, and one count of tampering with governmental record, a state jail felony. He was also charged with six counts of misapplication of fiduciary property, which included a first-degree felony, a second-degree felony, two third-degree felonies, and two state jail felonies.
- Marian Kennedy, First Assistant, Potter County Tax Office, was charged with one count of tampering with governmental record, a state jail felony.
- Sharon Howery, Clerk, Potter County Tax Office, was charged with one count of aggravated perjury, a third-degree felony.

What is the Potter County Tax Office?

The Potter County Tax Office collects and administers taxes and fees for local taxing entities, as well as the Department of Transportation and the Comptroller of Public Accounts. The principle collections of the office are real estate taxes; inventory taxes; vehicle sales taxes; and registration, licensing, and transfer fees.

Authority for the office is found in Article 8, Section 14, of the Texas Constitution. The duties and responsibilities of the office are enumerated in various chapters of state statute.

The investigation was prompted by allegations that Mr. Messer, along with Ms. Kennedy and Ms. Howery, removed large amounts of cash from the accounts of the Potter County Tax Office. These crimes were allegedly carried out through the destruction and falsification of government records.

We found evidence that Mr. Messer:

- From September 1998 through December 2000, caused checks received as payment for taxes on behalf of Potter County to be cashed by Potter County Tax Office personnel and the funds to be delivered to him. The money was not deposited into Potter County's accounts. The total amount misapplied exceeds \$409,000.
- During March 2001, received cash in payment for trustee property sales, removed it from the Potter County Tax Office, and appropriated it for his own use. The total amount of the theft exceeded \$8,000.
- During September 2000, presented false records representing financial account detail to Potter County's independent auditors.

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We found evidence that Ms. Kennedy:

- During January 2000, created and submitted false documents as support for false refunds. The funds represented in these refunds were then removed from Potter County Tax Office accounts.

We found evidence that Ms. Howery:

- During April 2001, made false statements under oath during proceedings of a Potter County grand jury.

The total loss to the citizens of Potter County and the State exceeds \$417,000.

If you have any questions, please contact Frank Coleman or John Friou of the State Auditor's Office Special Investigations Unit at (512) 936-9500.

Sincerely,

Lawrence F. Alwin, CPA
State Auditor

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The **Special Investigations Unit** investigates reports of illegal activity involving state agencies and universities. The Unit refers the results to prosecuting authorities.

To report suspected illegal activity, call 1-800-TX-AUDIT (1-800-892-8348), visit www.sao.state.tx.us, or mail information to the State Auditor's Office, Attn: SIU, P.O. Box 12067, Austin, Texas 78711.

cc: The Honorable Rebecca King, Potter County District Attorney
The Honorable Carole Keeton Rylander, Comptroller of Public Accounts
Mr. Michael W. Behrens, P.E., Executive Director, Department of Transportation