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**United States
General Accounting Office
Washington, D.C. 20548**

**Accounting and Information
Management Division**

B-278631

January 9, 1998

The Honorable Paul E. Kanjorski
House of Representatives

Subject: Independent Counsel: Travel by Kenneth W. Starr

Dear Mr. Kanjorski:

As requested by your office, this letter provides information on travel reimbursements for independent counsel Kenneth W. Starr for the 6 months ended September 30, 1996. Specifically, our objectives were to provide detailed information for each reimbursement and to determine whether each reimbursement complied with federal travel regulations.¹

We earlier reported that the total travel expenditures² for Mr. Starr's office during the period were approximately \$1.7 million.³ Of that amount, approximately \$1.3 million was for travel by Federal Bureau of Investigation (FBI) employees assigned to the investigation, and the remaining \$400,000 was for Mr. Starr's employees and others, including official travel by Mr. Starr totaling \$6,342.

Mr. Starr's office had agreements with the FBI to reimburse the FBI for the travel costs of employees assigned to Mr. Starr's investigation. Reimbursements to the FBI were made out of the permanent, indefinite appropriation available for independent counsel expenditures and, for the 6 months ended September 30, 1996, covered travel processed by the FBI dating back to January 1995.

**Travel
Reimbursements**

Mr. Starr's travel reimbursements of \$6,342 for the 6 months ended September 30, 1996, covered all, or parts of, 21 trips Mr. Starr took

¹The Federal Travel Regulation, 41 C.F.R. Chapters 301-304.

²The term expenditures as used in this letter means cash disbursed.

³Financial Audit: Independent Counsel Expenditures for the Six Months Ended September 30, 1996 (GAO/AIMD-97-64, March 31, 1997).

between December 11, 1995, and July 2, 1996.⁴ All of the 21 trips were to Little Rock, Arkansas, except for one trip to St. Paul, Minnesota, from December 11 to December 13, 1995.

Table 1: Travel Reimbursements to Mr. Starr During the 6 Months Ended September 30, 1996

Trip	Dates of travel	Reimbursement
1	December 11-13, 1995	\$736.17
2	December 21-24, 1995	\$395.00
3	January 1-2, 1996	\$214.50
4	January 9-11, 1996	\$187.00
5	January 17-20, 1996	\$318.00
6	January 24-25, 1996	\$360.57
7	February 5-6, 1996	\$569.67
8	March 24-25, 1996	\$246.00
9	March 29-30, 1996	\$163.50
10	April 2-4, 1996	\$287.50
11	April 9-10, 1996	\$286.00
12	April 15-18, 1996	\$421.00
13	April 22-24, 1996	\$292.50
14	April 30-May 3, 1996	\$384.00
15	May 6-9, 1996	\$373.50
16	May 13-16, 1996	\$391.50
17	May 22-24, 1996	\$411.00
18	June 4-6, 1996	\$122.00
19	June 16-17, 1996	\$ 61.00
20	June 20-21, 1996	\$ 61.00
21	June 30-July 2, 1996	\$ 61.00
Total		\$6,342.41

In conducting our work, we obtained all of Mr. Starr's travel vouchers for which a claim was paid during the 6-month period ended September 30, 1996. We reviewed these vouchers for mathematical accuracy, supporting documentation, and appropriateness of charges for lodging, meals and incidentals, transportation, and other related costs in accordance with federal travel regulations. We found that reimbursements for meals and

⁴Mr. Starr, who reported his expenditures on a cash basis, generally submitted separate travel vouchers at different times for lodging and for transportation, meals and incidentals, and other related costs for a specific trip. As a result, reimbursement to Mr. Starr for a specific trip was sometimes spread over different reporting periods. For example, for Mr. Starr's January 1-2, 1996, trip, lodging reimbursement was made during the 6-month period ended March 31, 1996, while the related transportation, meals and incidentals, and other related costs were reimbursed during the 6-month period ended September 30, 1996.

incidentals, transportation, or other related costs during this period were proper.

We determined, however, that Mr. Starr was erroneously reimbursed for some of his lodging costs. The erroneous reimbursements appear to have been caused by an administrative error in applying federal travel regulations to independent counsels whose primary office is away from their residences and who lease an apartment. Those regulations generally allow reimbursement for a leased apartment only to the extent that the total cost for the entire period of the lease does not exceed what would have been allowed had the employee obtained conventional lodging (e.g., a hotel) on a daily basis for the days during the period of the lease when the traveler was on official business.⁵

Mr. Starr was appointed independent counsel in August 1994, and began leasing an apartment in October 1994. Mr. Starr leased an apartment in Little Rock that had been vacated by an attorney on a previous independent counsel investigation.⁶ During the period from October 1994 through February 9, 1996, Little Rock was Mr. Starr's primary office location, and he was reimbursed for the monthly cost of the lease and other related costs.⁷ Our review of the 6-month period ended September 30, 1996, determined that during that period he was erroneously reimbursed for some of the lease costs he had previously incurred. Accordingly, we reviewed the period from October 1994 through February 9, 1996, to determine if all of the monthly lease costs reimbursed to Mr. Starr for the entire period were allowable.

We determined that during this period, Mr. Starr did not occupy the apartment for the requisite number of nights in any month that would have allowed all of his monthly lease costs to be fully reimbursed. As a result, Mr. Starr was erroneously reimbursed \$9,926, as shown in table 2. The reimbursements were approved and certified by career administrative officers detailed to the independent counsel office from another federal agency. We found no indication of misrepresentation or that Mr. Starr or his staff were aware that these reimbursements were not allowed under the federal travel regulations.

⁵41 C.F.R. § 301-7.14(a)(2)

⁶Mr. Starr initially entered into a 7-month lease, followed by a 1-year lease.

⁷Other related costs include lease related expenses such as utilities, housekeeping, and furniture rental. According to Mr. Starr's staff, Mr. Starr's furniture rental was on a rent-to-own basis, and the furniture is now being used at no additional cost in an apartment leased to the independent counsel office.

Table 2: Erroneous Reimbursements for October 1994 Through February 9, 1996

Month	Number of nights lodging	Allowable daily lodging	Allowable monthly lodging	Monthly lodging reimbursed	Erroneous reimbursement
October 1994	7	\$75.00 ^a	\$525.00	\$900.28	\$375.28
November	3	75.00 ^a	225.00	804.46	579.46
December	6	75.00 ^a	450.00	743.38	293.38
January 1995	10	52.00	520.00	804.46	284.46
February	7	52.00	364.00	937.26	573.26
March	8	52.00	416.00	944.70	528.70
April	8	52.00	416.00	941.49	525.49
May	6	52.00	312.00	936.00	624.00
June	6	52.00	312.00	1,109.83	797.83
July	5	52.00	260.00	1,123.85	863.85
August	9	52.00	468.00	1,151.62	683.62
September	6	52.00	312.00	1,220.14	908.14
October	9	52.00	468.00	995.66	527.66
November	8	52.00	416.00	995.71	579.71
December	4	52.00	208.00	998.64	790.64
January 1996	7	52.00	364.00	1,045.30	681.30
February 1-9	1	52.00	52.00	361.17 ^b	309.17
Total	110		\$6,088.00	\$16,013.95	\$9,925.95

^aThe \$75 represents the actual subsistence expenses authorized during this period.

^bLodging was reimbursed on a pro rata basis for the first 9 days of February 1996. This lodging reimbursement was included in the reimbursement for the February 5-6, 1996 trip, as shown in table 1.

Executive branch employees may seek waivers for erroneous payments under certain circumstances. Prior to December 18, 1996, we had the authority to waive erroneous payments to executive branch employees, including independent counsels and their employees, if we determined that collection would be against equity and good conscience and not in the best interests of the United States.⁸ We generally determined that criteria for waivers were satisfied where there was no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the recipient of the erroneous payment. In particular, we gave consideration to whether the recipient knew or reasonably should have known of the error. In our first report on independent counsels,⁹ we identified certain erroneous

⁸5 U.S.C. 5584 (1994) and regulations issued by our office (4 C.F.R. parts 91-92).

⁹Financial Audit: Expenditures by Nine Independent Counsels (GAO/AFMD-93-1, October 9, 1992).

payments to independent counsels that we believed were appropriate for waiver consideration, and we later granted waivers for those payments.

The General Accounting Office Act of 1996 transferred our authority to waive erroneous payments of executive branch employees to the Director of the Office of Management and Budget (OMB).¹⁰ The Director of OMB has in turn delegated the waiver function “to the Executive Branch agency that made the erroneous payment.”¹¹

We performed our audit from April 1997 through December 1997 in accordance with generally accepted government auditing standards. We requested comments on a draft of this letter from Mr. Starr. The Deputy Independent Counsel and Designated Agency Ethics Official provided written comments, which are included in the enclosure to this letter. The Deputy Independent Counsel did not disagree with the results of our work. He stated that Mr. Starr does not intend to seek a waiver and has decided to repay the portion of the cost identified as an erroneous reimbursement.

We are sending a copy of this letter to other interested parties. Please contact me at (202) 512-9489 if you or your office have any questions about this letter.

Sincerely yours,

A handwritten signature in black ink that reads "David L. Clark". The signature is written in a cursive style with a large, stylized initial "D".

David L. Clark
Director, Audit Oversight and Liaison

Enclosure

¹⁰Section 103(d) of Public Law 104-316, October 19, 1996.

¹¹Determination with Respect to Transfer of Functions Pursuant to Public Law 104-316, Attachment A, Office of Management and Budget, December 17, 1996.

Comments From the Office of the Independent Counsel



Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 22, 1997

Mr. Gene L. Dodaro
Assistant Comptroller General
General Accounting Office
441 G Street, Northwest, Room 5061
Washington, D.C. 20548

Dear Mr. Dodaro:

Thank you for the continuing oversight that the General Accounting Office (GAO) has provided of the expenditures of the Office of Independent Counsel (OIC). As you know, the OIC's finances have been handled by career administrative officers detailed to us from other federal agencies. Each travel voucher is certified by an administrative officer and reviewed by the Administrative Office of U.S. Courts before it is paid. Thereafter, it is subject to audit by GAO. Although the OIC's administrative structure was set up virtually overnight, we are gratified that GAO has again found that our financial control system is sound.

GAO's most recent audit concerned travel by the Independent Counsel. Judge Starr filed travel vouchers only for trips made to conduct OIC business and was reimbursed only for the actual cost of his lodgings. As a result of a number of factors, including security concerns arising from the extraordinary sensitivity and high profile of the OIC's work, it was decided that it would not be wise for Judge Starr to stay in hotels in Little Rock. Thus, in October 1994, shortly after he was appointed Independent Counsel, Judge Starr took over the remaining term of an apartment lease entered into by a departing Associate Independent Counsel. Judge Starr occupied the apartment when he was in Little Rock on OIC business.

In its latest audit, GAO found that the cost of the apartment should not have been paid through travel vouchers filed under the federal travel regulations because those regulations authorize employees to lease apartments only if "the total cost for the entire period of the lease does not exceed what would have been allowed had the employee obtained [a hotel] on a daily basis for the days during the period of the lease in which the traveler was on official business." We now understand that the OIC could have lawfully leased the apartment in a different manner. However, with the knowledge and concurrence of the administrative officials, Judge Starr leased his apartment in his own name, as did all other OIC employees, and he was reimbursed for it until February 1996.

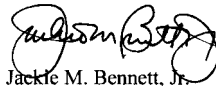
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Comments From the Office of the
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Mr. Gene L. Dodaro
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As GAO found, the rent expense was incurred in good faith and Judge Starr's vouchers were truthful and accurate. Indeed, GAO based its findings on information that appears on the face of the vouchers. We understand that waivers have been granted routinely in similar cases, so that government employees are not required to bear the cost of administrative errors that did not result in any personal enrichment to them. Judge Starr, however, has not and does not intend to request a waiver. He has, to the contrary, determined to repay the portion of the cost of the apartment that GAO identified as an erroneous reimbursement.

We recognize the substantial time and effort that GAO's auditors have put into this report and the many other audits of the OIC's finances, and we appreciate your assistance.

Sincerely,



Jackle M. Bennett, Jr.
Deputy Independent Counsel & Designated
Agency Ethics Official

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