

**COMPLAINT C2010-020**

**In the Matter of**

**Governor Mark Sanford**

# State of South Carolina State Ethics Commission

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5000 THURMOND MALL, SUITE 250  
COLUMBIA, S.C. 29201

HERBERT R. HAYDEN, JR.  
EXECUTIVE DIRECTOR

November 18, 2009

RE: COMPLAINT C2010-020  
In the Matter of Governor Mark Sanford

TO: The Honorable Henry D. McMaster  
Attorney General  
State of South Carolina

FROM: Herbert R. Hayden, Jr., Executive Director  
Donald M. Lundgren, Chief Investigator

LOCATION: Statewide

Pursuant to your letter of August 13, 2009, an investigation was conducted into alleged violations of the State Ethics Act, specifically Sections 8-13-700 (A), 8-13-765(A), 8-13-1120(A)(9)(a), 8-13-1346(A), and 8-13-1348(A)&(B) of the South Carolina Code of Laws, 1976, as amended, by the Respondent, Governor Mark Sanford. As a result of your request, and a review by the State Ethics Commission in accordance with Section 8-13-320 (10)(d), a complaint was filed on August 18, 2009.

The investigation centered on the use of a public office for personal financial gain; use of public equipment for personal use and/or in an election; use of campaign funds for personal expenses; and use of public equipment by family members.

The attached investigative report is submitted for your review and action as you deem appropriate. The investigators shown above will be available at your convenience should you have any questions or need additional information.

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2. **ATTACHMENTS:**

- A. Letter dated August 13, 2009 to Herbert R. Hayden, Jr. from Henry D. McMaster with a copy of Proviso 89.27 as an attachment.
- B. State Ethics Commission complaint dated August 18, 2009 with notification letter dated August 18, 2009 to Governor Mark Sanford from Herbert R. Hayden, Jr.
- C. Letter dated August 24, 2009 to Herbert R. Hayden, Jr. from Karl S. Bowers, Jr.; Hayden's response dated August 27, 2009, and letter waiving confidentiality from Governor Sanford.

**OVERSEAS TRADE MISSIONS**

- D. Budget and Control Board Regulation 19-101.03; 2008-2009 Budget and Control Board Policy as it applies to travel regulations; Section 8-13-700(A), South Carolina Code of Laws, 1976, as amended.
- E. Ticket invoices and itineraries received from South Carolina Department of Commerce August 25, 2009.
- F. Itineraries electronically received from South Carolina Department of Commerce August 25, 2009.

- G. Ticket invoices received from Forest Lake Travel Service August 26, 2009.
- H. Itineraries and financial/expense records received from the South Carolina Department of Commerce September 1, 2009.
- I. Letter dated August 10, 2009 from Senator David L. Thomas to Senator Glenn F. McConnell and Senator Hugh K. Leatherman with enclosures.
- J. Letter dated August 24, 2009 from Senator David L. Thomas to Senator Glenn F. McConnell and Senator Hugh K. Leatherman with enclosures.
- K. Excel spreadsheet of International Flights.
- L. Governor's daily calendar for overseas flight return days.
- M. Letter dated September 25, 2009 from Herbert R. Hayden, Jr. to Karl S. Bowers, Jr., requesting response to questions regarding overseas flights.
- N. Letter dated October 5, 2009 from Karl S. Bowers, Jr. responding to questions regarding overseas flights.
- O. Newspaper articles, Greenvilleonline.com dated September 2, 2009, The State dated September 3, 2009, and WISTV.com dated September 3, 2009 regarding statements of Mr. J. Mac Holladay, and Greenvilleonline.com dated August 29, 2009 regarding the report by the Legislative Audit Council.
- P. Legislative Audit Council's report of their 2002 audit of the Department of Commerce.
- Q. 2009-2010 Travel Regulations as provided by James H. Holly on November 3, 2009.

#### **USE OF STATE-OWNED AIRCRAFT**

- R. Responses to request for information from the Department of Natural Resources dated August 26, 2009, August 29, 2009 and September 9, 2009, to include SLED Aviation Mission Report Forms for Department of Natural Resources' aircraft.
- S. Letter dated October 22, 2009 and attachments from Herbert R. Hayden, Jr. to Karl S. Bowers, Jr., requesting response to questions regarding use of state-owned aircraft.
- T. Letter dated November 9, 2009 and attachments from Karl S. Bowers, Jr., responding to questions regarding use of state-owned aircraft.

**DISCLOSURE OF PRIVATELY-OWNED AIRCRAFT USE**

- U. Letter dated October 8, 2009 and attachments from Herbert R. Hayden, Jr. to Karl S. Bowers, Jr., requesting response to questions regarding use of privately-owned aircraft.
- V. Letter dated November 9, 2009 and attachments from Karl S. Bowers, Jr., responding to questions regarding use of privately-owned aircraft.

**USE OF CAMPAIGN FUNDS FOR PERSONAL EXPENSES**

- W. Letter dated September 1, 2009 and attachments from Herbert R. Hayden, Jr. to Karl S. Bowers, Jr., requesting response to questions regarding reimbursements from campaign funds.
- X. Letter dated October 8, 2009 and attachments from Karl S. Bowers, Jr., responding to questions regarding reimbursements from campaign funds.

**USE OF STATE-OWNED AIRCRAFT BY THE GOVERNOR'S FAMILY MEMBERS**

- Y. Copies of Division of Aeronautics and Department of Natural Resources' flight logs and flight manifests, and Governor Sanford's daily calendars depicting family member's use of state-owned aircraft.

**COMPLAINT C2010-020  
IN THE MATTER OF GOVERNOR MARK SANFORD**

**SUMMARY OF INVESTIGATION**

On August 12, 2009 the State Ethics Commission members were provided copies of various media articles regarding Governor Sanford's use of state-owned aircraft. On August 13, 2009 the State Ethics Commission received a letter from Attorney General Henry D. McMaster requesting an investigation into allegations involving the use of state planes and other potential violations of the State Ethics Act. (See Attachment A). On August 14, 2009 the Commission ordered staff to conduct an investigation and on August 18, 2009 issued Complaint C2010-020. (Copies of the complaint and notification letter are enclosed as Attachment B).

On August 19, 2009, and subsequent dates through November 12, 2009 an investigation was conducted into the alleged violations. The investigation examined five areas of Governor Sanford's activities to include: (1) Overseas Trade Missions; (2) Use of state-owned aircraft; (3) Use of Privately-owned aircraft; (4) Use of campaign funds for personal expenses; and, (5) While not included in the initial complaint, the investigation examined flights on state-owned aircraft by members of the Governor's family. The specific questions to be answered include: (1) Did Governor Sanford violate Section 8-13-700 (A) by using his official position to approve/authorize first class or business class tickets for himself on overseas trade missions in violation of Budget and Control Board Regulations, thereby gaining an economic benefit for himself? (2) Did Governor Sanford violate Sections 8-13-700(A), 8-13-765(A), and/or 8-13-1346(A) by using state-owned aircraft for personal and/or political travel? (3) Did Governor Sanford violate Section 8-13-1120(A)(9)(a) by failing to disclose flights provided to him on privately-owned aircraft as gifts? (4) Did Governor Sanford violate Section 8-13-1348(A)&(B)

by using campaign funds for personal expenses not related to his campaign or for expenses not incurred in connection with his official duties? (5) Did Governor Sanford violate Section 8-13-700 (A) by using his official position to fly family members on state-owned aircraft to locations which otherwise would have required commercial flights, thereby gaining an economic benefit for himself? Specific details of each area are included separately under specific headings.

Interviews were conducted with various individuals with pertinent information over the course of the investigation. Summaries of those interviews and any documents provided are included in the relative sections of this report.

The investigation included a review of Sections 8-13-700(A), 8-13-765(A), 8-13-1120(A)(9)(a), 8-13-1346(A), and 8-13-1348(A) & (B) of the South Carolina Code of Laws, 1976, as amended; Budget and Control Board Regulation 19-101.03; 2008-2009 Budget and Control Board Policy as it applies to travel regulations; Proviso 89.27 (GP: State Owned Aircraft) of the 2009-2010 Appropriations Act; flight information, ticket information and trip agendas/itineraries from the South Carolina Department of Commerce for twelve overseas trade missions from October 2003 through April 2009; flight logs from January 2003 to present and passenger manifests from January 2006 to present from the South Carolina Division of Aeronautics; flight logs from calendar year 2002 through August 26, 2009 from the South Carolina Department of Natural Resources; official daily calendars of Governor Sanford's activities from January 2003 through June 30, 2009 as provided by Governor Sanford's legal counsel; Campaign Disclosure reports filed with the State Ethics Commission by Governor Sanford from October 2005 through June 30, 2009; Statements of Economic Interests forms filed with the State Ethics Commission by Governor Sanford for calendar years 2004 through 2008; and copies of various newspaper articles with pertinent information. Copies of these documents are provided in the relative

sections of this report.

Governor Sanford was provided a copy of the Commission's complaint and notified of the pending investigation on August 18, 2009. (See Attachment B). On August 24, 2009 the Commission received notice of representation via facsimile from Karl S. Bowers, Jr. of Hall & Bowers, LLC. Confidentiality of the investigation was discussed and several areas of concern were expressed by Mr. Bowers. A response was issued August 27, 2009. On August 28, 2009 the Commission received a letter, via facsimile, from Governor Sanford waiving confidentiality. (Copies of these three letters are included in Attachment C).

A personal interview was not conducted with Governor Sanford; however, he was given the opportunity to provide any statement he desired and to also answer specific questions through his attorneys. Written requests for responses to specific questions were submitted to the Governor's legal counsel on September 1, 2009, September 25, 2009, October 8, 2009 and October 22, 2009. Copies of those requests and Governor Sanford's responses are enclosed in the appropriate sections of this report.

On September 11, 2009 the Governor's attorneys provided electronic copies via e-mail of telephone records of Governor Sanford and various members of his staff, press briefings, and the Governor's calendar for calendar years 2003 and 2004. On September 15, 2009 the Governor's attorneys provided two compact discs containing the Governor's calendar for calendar years 2003 through 2009, Governor's staff e-mails, Governor's e-mails and cell phone records, and credit card records for various staff members. With the exception of the calendars, copies of which are enclosed in the appropriate sections, none of the information contained on either disc was relevant to this investigation.

In accordance with Section 8-13-320(9)(d) the State Ethics Commission's jurisdiction is limited



to events which have occurred within the four (4) years immediately preceding the filing of a complaint. Action on any information regarding possible violations of the State Ethics Act prior to August 18, 2005 provided in this report may not be considered by the State Ethics Commission; however, no other prosecutorial agency is similarly restricted.

**OVERSEAS TRADE MISSIONS**

**South Carolina Code of Regulations, Chapter 19 provides in part:**

“19-101.03. Air Travel. Travel by commercial airlines will be accomplished in coach or tourist class, except where exigencies require otherwise.” (See Attachment D).

**Disbursement Regulations of the South Carolina Budget and Control Board for 2008-2009 provide in part:**

“**POLICY** These regulations apply to all employees of the State or any agencies thereof not otherwise specifically covered by law....Excess costs, circuitous routes, delays or luxury accommodations unnecessary or unjustified in the performance of an assignment are not considered acceptable as exercising prudence. Travel by commercial airlines will be accomplished in coach or tourist class, except where exigencies require otherwise...**It is the duty and responsibility of the respective department heads to insure compliance with these regulations.**” (Emphasis added). (See Attachment D).

**Section 8-13-700(A), South Carolina Code of Laws, 1976, as amended provides in part:**

“No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official’s, public member’s, or public employee’s use which does not result in additional public expense.” (See Attachment D).

**QUESTION:** Did Governor Sanford violate Section 8-13-700 (A) by using his official position to approve/authorize first class or business class tickets for himself on overseas trade missions in violation of Budget and Control Board Regulations, thereby gaining an economic benefit for

himself?

On August 20, 2009 telephone contact was made with Ms. Karen Manning, Chief Legal Counsel for the South Carolina Department of Commerce and a request was made for copies of all flight information, ticket information, and agendas for all overseas trade missions in which Governor Sanford participated. A meeting was scheduled for August 25, 2009. Ms. Manning also advised that the South Carolina Division of Aeronautics had been transferred from the Department of Commerce to the Budget and Control Board earlier in 2009 and all records of flights on state-owned aircraft had been transferred also.

On August 25, 2009 investigators met with Ms. Manning and Ms. Kara Borie, Marketing and Communications Manager, at the Commerce Department offices at 1201 Main Street, Suite 1600, Columbia, S.C., 29201. Ms. Manning stated and Ms. Borie confirmed that the Department of Commerce is aware of Regulation 19-101.03 that requires commercial air travel by coach unless exigencies exist. Their position is that when the Governor or the Secretary of Commerce travel overseas and arrive within only hours of their first meeting they need to fly business class to be as rested and prepared as possible. They believe this meets the exigent requirement of Reg. 19-101.03.

They stated that all tickets for overseas travel are charged to a Commerce Department credit card and the bill is paid by the State Comptroller General's office. They indicated that the Comptroller's office has never questioned the purchase of business class tickets. They also noted that the State Auditor's Office has never mentioned the purchase of business class tickets in their annual audit reports.

They both noted that all overseas flight tickets are booked through Forest Lake Travel Service and referred investigators to Ms. Mary Watts and Ms. Daisy Miller.

Ms Manning provided investigators with copies of ticket invoices and itineraries for five overseas trips: Farnborough Air Show/London/July 2006; Paris Air Show/Paris/Munich/June 2007; China World Economic forum/September 2007; Brazil Trade Mission/Brazil/Argentina/June 2008; and Poland Trade Mission/April 2009. (See Attachment E).

In the presence of Ms. Manning and Ms. Borie, investigators interviewed Ms. Vickie Wooten, Executive Assistant to the Secretary of Commerce. Ms. Wooten stated that she does the scheduling for Commerce trips and has booked flights for Governor Sanford on occasion; however, his flight arrangements are usually done by someone at the Governor's office, usually Mary Neil Stroud. She stated that when a travel request was presented to her she would contact Mary Watts at Forest Lake Travel to arrange airline tickets. She stated that she does not remember if she ever specifically requested that Forest Lake Travel book business class for the Governor; however, it has always been accepted practice for the Governor and the Secretary of Commerce to fly business class.

Ms. Manning provided investigators with electronic copies via e-mail of additional itineraries for which Commerce no longer has airfare records. These records include: Mission to China/October 2003; Mission to Asia-Japan/October 2003; European Investment Mission/June 2004; European Investment Trip/June 2005; and Mission to China/October 2005. (See Attachment F).

On August 26, 2009 Ms. Mary L. Watts was interviewed at Forest Lake Travel Service, 4617 Forest Drive Suite B, Columbia, S.C . Ms. Watts is a Travel Consultant and advised that she has been associated with Forest Lake Travel since June 2004. Prior to this she worked at Columbia Travel. She stated that over these many years she has booked numerous airline tickets for the Commerce Department and the Governor. She stated that she would customarily secure airline

tickets for Governor Sanford after being contacted by the Department of Commerce. On nearly every occasion when she booked tickets for Governor Sanford she was in contact with Vicki Wooten at the Commerce Department. Sometimes she would be contacted by someone in the Governor's office to change an itinerary. She stated she always had approval to book business class tickets for Governor Sanford and certain Commerce Department employees. Support staff of the Department of Commerce or other Departments traveling with the Governor would always be booked in coach class. In most situations she was specifically requested to book business class seating for the Governor. After being contacted by Vicki Wooten Ms. Watts would prepare a proposed itinerary and fax it to Ms. Wooten. If the itinerary was approved, Ms. Watts would book the flights and charge the cost on a credit card provided by the Commerce Department. She commented that she also booked airline tickets for former Governor Hodges, who also always had business class seating. She stated she would provide copies of the airline tickets that Forest Lake Travel secured for Governor Sanford.

Upon return to the Commission office, investigators received, via facsimile from Ms. Watts, copies of ticket information for: Mission to Rome/November 2004; Austrian Investment Trip/September 2005; Mission to China/October 2005; Farnborough Air Show/London/July 2006; Paris Air Show/Paris/Munich/June 2007; China World Economic forum/September 2007; Brazil Trade Mission/Brazil/Argentina/June 2008; and Poland Trade Mission/April 2009. (See Attachment G).

On September 1, 2009 Ms. Karen Manning provided investigators with additional travel information from Department of Commerce records. These documents include itineraries and financial/expense records for: Brazil Trade Mission/Brazil/Argentina/2008; and Poland Trade Mission/2009. (See Attachment H).

On September 2, 2009 investigators met with Senator David L. Thomas at his law office at 23 Wade Hampton Blvd., Greenville S.C. Senator Thomas stated that he had undertaken an investigation of Governor Sanford's travel after questions were raised. He stated that he had been in written contact with Ms. Swati Patel, General Counsel for the Governor's Office, and had received several letters from Ms. Patel. He stated also that he had been in contact with Forest Lake Travel Service and had obtained copies of ticket invoices for several overseas trips taken by Governor Sanford. He said he would provide copies to investigators as soon as possible. He indicated that he had spoken with Governor David Beasley and Bob McAllister of Governor Carroll Campbell's staff, and both had confirmed that all overseas travel taken during the respective administrations had been paid for with private funds. He further stated that he had obtained copies of vouchers from the Comptroller General's office which showed that Governor Sanford's travel was paid for with state funds. Senator Thomas indicated that he had provided copies of his findings to Senator Glenn McConnell and Senator Hugh Leatherman, and would provide investigators with copies of those letters also.

On September 3, 2009 a package of documents from Senator Thomas was hand-delivered to the Commission. Upon review, investigators determined that the ticket information provided in Senator Thomas' package was duplicative of that obtained from Forest Lake Travel Service by investigators and contained in Attachment G. Copies of letters dated August 10, 2009 and August 24, 2009 to Senators McConnell and Leatherman are enclosed as Attachments I and J respectively.

From September 7, 2009 through September 25, 2009 investigators reviewed the above mentioned documents in an effort to determine: Did Governor Sanford violate Section 8-13-700 (A) by using his official position to approve/authorize first class or business class tickets for

himself on overseas trade missions in violation of Budget and Control Board Regulations, thereby gaining an economic benefit for himself?

Investigators reviewed the twelve overseas trips considered investment or trade missions from October 2003 through April 2009. A spreadsheet depicting these trips was created and is enclosed as Attachment K. No ticket or seat information is available for four of the first five trips (Mission to China/October 2003; Mission to Asia-Japan/October 2003; European Investment Mission/June 2004; European Investment Trip/June 2005). The remaining eight trips (Mission to Rome/November 2004; Austrian Investment Trip/September 2005; Mission to China/October 2005; Farnborough Air Show/London/July 2006; Paris Air Show/Paris/Munich/June 2007; China World Economic forum/September 2007; Brazil Trade Mission/Brazil/Argentina/June 2008; and Poland Trade Mission/April 2009) consisted of thirty-one (31) flight legs. Of these, seven (7) were purchased as coach seats, twenty-two (22) were business class seats, and two (2) were first class seats. A third first class seat had been scheduled for the return trip from Stockholm to New York returning from the Poland Trade Mission; however, the Governor returned early and that leg was changed to business class. Seating class codes were confirmed by Ms. Watts through ticket information provided by Forest Lake Travel Service.

No itineraries are available for the November 2004 Rome Mission or the September 2005 Austrian Investment Trip; however, all seven legs were flown business class. Assuming that meetings were scheduled shortly after arrival, the exigencies as considered by the Governor and Department of Commerce may have existed; however, no exigencies are known to have existed on the three return legs.

Using the Governor's calendars, flight logs, ticket information and itineraries provided, Investigators conducted an analysis of each overseas trip and return. A brief summary of each trip follows.

Ticket information shows flight consisted of two business class seats to Rome and one business class seat on return to Philadelphia. According to the Governor's calendar for November 12, 2004, and Division of Aeronautics' flight logs, upon return from Rome, Governor Sanford was picked up in Philadelphia by state-owned aircraft and flown to West Virginia for the National Governor's Association conference in White Sulphur Springs, West Virginia. The only events scheduled that night were a reception and dinner.

Ticket information shows flight consisted of two business class seats to Austria and two business class seats on return to Charlotte. According to the Governor's calendar for Saturday September 10, 2005, upon return from Austria, he was picked up in Charlotte by his security detail at approximately 3:30 PM and driven to Columbia. No events were scheduled for that afternoon or evening.

The itinerary for the October 2005 Mission to China indicates that Governor Sanford arrived in Shanghai from Tokyo on October 17, 2005 at 8:15 PM. The flight consisted of three legs, coach, business, business. The next scheduled event was a breakfast meeting on October 18, 2005. The return flight on Saturday, October 22, 2005, consisted of two legs, business and coach, and arrived at Columbia Airport at approximately 8:50 PM. According to the Governor's calendar no events were scheduled that evening.

The itinerary for the July 2006 trip to London reveals that Governor Sanford arrived in London at 8:30AM on July 16, 2006. The first scheduled event was a prospect dinner at 8:00 PM that



evening. Both the flight to London and return flight were business class seating. The return flight arrived at Charlotte International at approximately 2:30 PM on July 19, 2006. Governor Sanford was met by his security detail and driven to Columbia. No events were scheduled for the remainder of the day.

The June 2007 Paris Air Show itinerary indicates that Governor Sanford arrived in Paris on June 17, 2007 at 10:55 AM. No events were scheduled until he departed for the air show at 7:45 AM on June 18, 2007. The trip consisted of three legs total, all business. The return flight arrived at Charlotte International at approximately 3:15 PM. Governor Sanford was picked up by security and driven to his Sullivan Island home. No events were scheduled for that afternoon or evening.

The itinerary for the China World Economic Forum indicates that Governor Sanford arrived in Dalian, China at 7:30 PM on September 5, 2007. The flight consisted of three legs, coach, business, coach. The first event scheduled was a breakfast he hosted at 7:30 AM on September 7, 2007. The return flight from Beijing to Washington to Columbia arrived 11:25 PM September 10, 2007. This flight consisted of two legs, business and coach. Governor Sanford was met by security and driven to the Mansion. No events were scheduled.

The Brazil Trade Mission itinerary shows that Governor Sanford arrived in Sao Paulo, Brazil at 8:55 PM on June 21, 2008. The trip consisted of three legs, first class, business and coach. The first event scheduled was a tour of the city at 11:00 AM on June 22, 2008. An interim flight from Cordoba, Brazil to Buenos Aires, Argentina provided business class seating. The return trip from Buenos Aires consisted of two legs, business and coach, arriving in Columbia Saturday, June 28, 2008 at approximately 10:45 AM. No events were scheduled for the remainder of the day.

The itinerary for the Trade Mission to Poland indicates that Governor Sanford arrived in Warsaw, Poland at 9:45 AM on April 20, 2009 and proceeded to his hotel for check-in. The flight consisted of two legs, first class and business. The first scheduled event was lunch at the Presidential Palace at 1:00 PM. After a stopover in Stockholm, Sweden, Governor Sanford was scheduled to return to Charlotte, via Chicago, on April 24, 2009. The scheduled flight consisted of two legs, business and first class. However, due to a fire emergency in Horry County, the Governor's flight was changed to an earlier business class flight from Stockholm to New York, where he was met by the state plane and flown to Conway to meet with state officials to assess the fire damage.

On September 25, 2009 investigators provided Governor Sanford's attorneys a list of questions regarding the listed overseas flights. (See Attachment M.) On October 5, 2009 a response was received. (See Attachment N).

With the exception of the return trip from Poland to inspect the Horry County fire damage, investigators found no exigent circumstances in any of the trip itineraries or the Governor's calendars.

On October 13, 2009 Ms. Mary Watts of Forest Lake Travel Service was re-contacted and stated that there is no requirement that the return flight be booked as business class just because the outgoing flight is booked as business class. She also advised that there would be some difference in the fee for an international airline ticket booked through her office if the return flight to the United States were booked coach class instead of business class. Generally the ticket would cost less if the return flight was booked in coach class.

In the Governor's October 5, 2009 response it is pointed out that "...the practice of purchasing business class flights due to the exigencies surrounding foreign economic development trips has

also been approved by the Comptroller General...” and mentioned a letter from State Development Board Director, Mr. J. Mac Holladay. The response further indicates “The letter, which requests approval for business class seats, is marked ‘approved by Mr. Morris’ on June 22, 1987’.” A copy of Mr. Holladay’s letter is included in the response.

In her August 12, 2009 and September 1, 2009 letters to Senator David L. Thomas, Ms. Swati Patel, the Governor’s Chief Legal Counsel, refers to the Department of Commerce’s interpretation of exigent clause, and quotes Mr. Holladay’s letter as justification for blanket purchasing of business class tickets. Copies are included in the Governor’s October 5, 2009 response.

On October 20, 2009 J. Mac Holladay, Chief Executive Officer, Market Street Services, Atlanta, GA, telephone number 404-880-7242 advised that he served as Director of the State Development Board, Columbia, SC from 1985 until the end of 1988. He stated he could not remember the details of his letter dated June 16, 1987 to Comptroller General Earle E. Morris, Jr., however he advised that it concerned international travel for economic development matters. He stated when he traveled on official business to other countries he often took Governors Riley and Campbell along. In discussing his letter of June 16, 1987, he stated he was not requesting prospective authorization to allow Development Board employees to travel in upgraded seats on long international business flights. He stated that the intent of letter to the Comptroller General was to obtain approval for payment of costs associated with specific recent flights to Munich, Germany and London, England. He stated that if he had wanted blanket approval to fly in upgraded seats he would have asked for such authorization. He added that if he had wanted to include the Governor’s flights in this request he would have done so.

On September 2 and 3, 2009 three news articles appeared with comments from Mr. Holladay on

his letter to Mr. Morris confirming his statement. (See Attachment O).

The Governor's October 5, 2009 response includes a letter from Ms. Swati Patel dated September 1, 2009 to Senator Thomas in which she points out that the Legislative Audit Council preformed an audit of the Department of Commerce in 2002. Her letter states, "In conducting its audit, the LAC 'reviewed a sample of travel vouchers (from FY97 –FY 01) and found that Commerce generally complied with state travel law and regulations.' (See Exhibit D). Furthermore, a 2004 LAC Follow-Up Report stated that '(i)n 2002, we did not find material noncompliance with state travel regulations...' (See Exhibit E)...Accordingly, the LAC **likely** reviewed Commerce's purchase of business class seats and determined that there was no violation of state travel law and regulations." (Emphasis added.)

Governor Sanford is also quoted on page 2 of a [Greenvilleonline.com](http://Greenvilleonline.com) article on August 29, 2009 as referring to the same Legislative Audit Council report of no irregularities of travel. (See Attachment O.)

On November 3, 2009 Thomas J. Bardin, Jr., Director, Legislative Audit Council (LAC), Columbia, SC was interviewed via telephone. He advised that his agency conducted an audit of the SC Department of Commerce in 2002. The report of this audit is available on line at LAC's website. He stated that the audit did not include an examination of Commerce employees purchases of business class seats instead of coach seats on international business flights. This was not an issue at the time and was not one of the objectives of the audit. Therefore, LAC did not make any recommendations concerning the purchase of business class seats versus coach seats on international flights. The comments in the report regarding commercial airline tickets refer to US flights only.

A copy of the Legislative Audit Council report was printed from the web site and is enclosed as

Attachment Q.

During the August 25, 2009 interview with Ms. Karen Manning and Ms. Kara Borie (See Page 9 of this report) they both stated that the charges for business class tickets had been billed to Department of Commerce credit cards and paid by the Comptroller General's office. They both stated that the Comptrollers office had never questioned the purchase of business class tickets.

On November 3, 2009 investigators interviewed Mr. James H. Holly, Chief of Staff, South Carolina Comptroller General's office (CG). Mr. Holly was interviewed via telephone and stated that the Comptroller General's responsibility is to pay the bills which are submitted by the agencies. The decision on approving a business class ticket rather than a coach ticket lies with the agency based on exigencies per the state travel regulations. He stated that when the CG's office receives a voucher for an airline ticket it is accepted with the understanding that the agency has justification for the purchase of that ticket. Employees of the CG's office do not second guess an agency's decision to purchase a business class ticket. He emphasized that on most ticket information provided with a voucher it is very difficult to determine the class of the ticket, and if the ticket is purchased using a credit card there is sometimes no information as to the class of the ticket; therefore, CG employees rarely know what class of ticket has been purchased.

Mr. Holly provided investigators an electronic copy of current Comptroller General's Travel Regulations. (See Attachment Q.)

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**USE OF STATE-OWNED AIRCRAFT**

**Proviso 89.27 of the 2009-2010 Appropriations Act provides in relevant part:**

“...Any and all aircraft owned or operated by agencies of the State Government shall be used only for official business. The Division of Aeronautics and other agencies owning and operating aircraft may furnish transportation to the Governor...for official business only...Violation of the above provisions of this section is prima facie evidence of a violation of Section 8-13-410(1) of the 1976 Code and shall subject a violating...state official to the applicable ethics procedure relating to them as provided by law...”

Section 8-13-410 was replaced by Section 8-13-700 in 1991, but provides the same prohibitions.

**Section 8-13-700(A), South Carolina Code of Laws, 1976, as amended provides in part:**

“No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.” (See Attachment D).

**Section 8-13-765(A), South Carolina Code of Laws, 1976, as amended provides in part:**

“No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.”

**Section 8-13-1346(A), South Carolina Code of Laws, 1976, as amended provides in part:**

“A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election.”

**QUESTION:** Did Governor Sanford violate Sections 8-13-700(A), 8-13-765(A), and/or 8-13-1346(A) by using state-owned aircraft for personal and/or political travel?

On August 25, 2009 investigators contacted Ms. Reve' Richardson with the South Carolina Division of Aeronautics and scheduled an interview with pertinent individuals for later in the day. At the Division of Aeronautics office, Investigators met with Ms. Richardson, Executive Assistant; Mr. Paul G. Werts, Executive Director; and Pilots, Mr. John Young and Mr. Hugh Tuttle.

Mr. Young advised that he has been with the Aeronautics Division since before Governor Sanford became Governor and with various different co-pilots has flown on almost all of the flights transporting the Governor. He stated the manner in which Governor Sanford would secure the aircraft started with a call from Jack Proffitt, a SLED agent who is part of the Governor's security detail. Upon Proffitt's call, the aircraft would be reserved. Later Proffitt would call back with the exact times of travel, destination and the identity of all the passengers. Young would then prepare a manifest with the flight details and a list of passengers. At boarding time the passengers are required to sign the manifest. Upon completion of a flight, Young would fax the manifest to Mary Neal Stroud at the Governor's office who would complete the bottom portion of the manifest with the reason for the flight and fax the form back to him usually within twenty-four (24) hours. Young stated that the cost of flying Constitutional Officers and members of the General Assembly is built into the Aeronautics Division's budget. Therefore, the Governor's office is not billed for each trip; however, the cost is recorded and made a part of the flight log. He stated that the agency policy is to record the time in the air as the cost for the flight. Any ground time is not included in their cost. Young stated the agency does not question the purpose of any flight made by Governor Sanford. They assume that if the Governor's office

schedules a flight it is official business. He stated that in his memory he did not fly Governor Sanford to any locations where it appeared the trip was solely personal or political. He stated there were some occasions when the Governor would have personal business in conjunction with a state business trip. He indicated that he was unaware of any trip which did not involve official business on at least one leg of the trip. For example, he recalled a business trip made by Governor Sanford to Charleston, SC. After a business meeting, Governor Sanford attended a soccer game where his son was playing. He indicated that he knew about the soccer game because the Governor told him and indicated approximately how long the aircraft would be on the ground. He stated that the pilots do not accompany the Governor, but stay with the aircraft until the Governor is ready to depart.

Mr. Young advised that flight logs were available for Governor Sanford's entire tenure; however, flight manifests were available only from January 2006 to present. He stated that he would provide the logs via e-mail later that day.

Mr. Tuttle indicated that he was new to the agency and could not add anything to Mr. Young's comments.

Mr. Werts and Ms. Richardson confirmed that the agency is in the process of updating the agency web site to include all flight logs and flight manifests. They indicated that at that time the web site included flight manifest only for recent flights; however, that they expect the list to be brought current within the next few weeks.

Upon return to the Commission office, Investigators received, via e-mail, copies of flight logs from Mr. Young for the period January 13, 2003 through August 25, 2009

Also on August 25, 2009 investigators contacted Ms. Tina M. Beard, Freedom of Information Officer, South Carolina Department of Natural Resources (DNR) and requested copies of all



flight logs for flights Governor Sanford has taken on DNR aircraft. A request was also made for information regarding scheduling of DNR flights.

On August 27, 2009 investigators received copies of thirty-five (35) SLED Aviation Mission Report Forms for DNR aircraft that have flown Governor Sanford and/or his family as passengers from the year 2002 until August 26, 2009. On August 31, 2009 investigators received a response from Ms. Beard regarding flight scheduling. (Copies of both responses are enclosed as Attachment R.)

On August 27, 2009 investigators printed copies of flight manifests from Aeronautics Division's web site for the period January 2006 through June 2008. Over the next several weeks, additional manifests were printed as the Aeronautics Division's web site was updated. As of this writing, all flight logs and flight manifests had been printed and reviewed. Copies of Division of Aeronautics' flight logs and flight manifests as they relate to questionable flights are included with the request for information mentioned below. Other Division of Aeronautics' flight logs and flight manifests are available at Aeronautics' web site and for brevity are not included as a part of this report.

On September 11, 2009 the Governor's attorneys provided electronic copies via e-mail of telephone records of the Governor's calendar for calendar years 2003 and 2004. On September 15, 2009 the Governor's attorneys provided two compact discs containing the Governor's calendar for calendar years 2003 through 2009.

From September 11, 2009 through October 21, 2009 investigators compared flight logs and flight manifests from the Aeronautics Division and Department of Natural Resources with Governor Sanford's calendars. During this examination investigators reviewed a total of 663 flights on state-owned aircraft by Governor Sanford and/or his family members. These flights

are broken down by agency and reveal 628 flight legs on Division of Aeronautics' aircraft between January 13, 2003 and October, 15, 2009, and thirty-five (35) flights on Department of Natural Resources aircraft between April 26, 2004 and August 26, 2009. DNR flight logs do not break down flights into flight legs as does the Aeronautics Division. Of the flights reviewed, investigators questioned fifty-three (53).

On September 9, 2009 investigators contacted Ms. Tina M. Beard at DNR to clarify the date of a flight to Charleston to attend a National Republican Senatorial Committee event. DNR Flight log No. 8684 showed a date of April 30, 2006; however, the Governor's calendar indicated that the flight took place on April 29, 2009. Her response indicates the correct date was April 29, 2009. She provided an amended flight log and a statement from the pilot. A copy of her response is included in Attachment R.

On October 22, 2009 a request for information regarding the fifty-three questioned flights was hand delivered to Governor Sanford's attorneys. A copy of the request with accompanying flight logs, flight manifests and related Governor's calendar pages are enclosed as Attachment S.

On November 9, 2009 a response was delivered to the State Ethics Commission office. The response includes a spreadsheet detailing the Governor's response for each of the fifty-three flights. A copy is enclosed as Attachment T.

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**DISCLOSURE OF PRIVATELY-OWNED AIRCRAFT USE**

**Section 8-13-1120(A), South Carolina Code of Laws, 1976, as amended provides in relevant part:**

“A statement of economic interests filed pursuant to Section 8-13-1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:

(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or

(ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.”

**Section 8-13-1140, South Carolina Code of Laws, 1976, as amended provides in relevant part:**

“A person required to file a statement of economic interests under this chapter shall file an updated statement for the previous calendar year with the appropriate supervisory office annually, no later than April fifteenth of each calendar year...”

**QUESTION:** Did Governor Sanford violate Section 8-13-1120(A)(9)(a) by failing to disclose

flights provided to him on privately-owned aircraft as gifts?

From September 28, 2009 through October 6, 2009, utilizing Governor Sanford's daily calendars as provided by his attorneys, investigators found a total of seventy-eight (78) flights on privately owned aircraft for the five (5) year period January 2004 through December 2008. Investigators also examined Statements of Economic Interests (SEI) filed by Governor Sanford with the State Ethics Commission from January 2005 through January 2009. A total of seventeen (17) flights were disclosed by Governor Sanford on disclosure forms filed with the State Ethics Commission. A Statement of Economic Interests form was not on file for January 2004, therefore, investigators did not examine Governor Sanford's 2003 calendar. Also, 2009 flights would not be disclosed until the January 2010 Statement of Economic Interests is filed.

The following graph depicts flights taken verses flights disclosed by calendar year.

| <u>CAL YEAR</u> | <u>SEI YEAR</u> | <u>TOTAL FLIGHTS</u> | <u>DISCLOSED</u> | <u>NOT DISCLOSED</u> |
|-----------------|-----------------|----------------------|------------------|----------------------|
| 2004            | 2005            | 19                   | 11               | 8                    |
| 2005            | 2006            | 16                   | 3                | 13                   |
| 2006            | 2007            | 28                   | 0                | 28                   |
| 2007            | 2008            | 8                    | 0                | 8                    |
| 2008            | 2009            | <u>7</u>             | <u>3</u>         | <u>4</u>             |
|                 |                 | 78                   | 17               | 61                   |

On October 8, 2009 a request for information was issued to Governor Sanford's attorneys. Copies of the Governor's calendar depicting those sixty-one (61) flights were provided with the request. (A copy of the request letter, calendar, and respective Statements of Economic Interests are enclosed as Attachment U.)

On October 26, 2009 investigators received a response from the Governor's attorneys. (See Attachment V.) In that response a spreadsheet is provided with detailed information about each private flight. The response indicates that thirteen (13) of the flights were campaign related and were disclosed on Campaign Disclosure reports. An examination of the Governor's Campaign

Disclosure reports confirms that these thirteen (13) flights were disclosed as in-kind contributions and in-kind expenditures.

The spreadsheet also contains a column entitled "Reporting Required?" in which the Governor's attorneys have expressed their opinion as to whether the flight should have been disclosed.

Section 8-13-1120(A) of the South Carolina Code however, requires disclosure if the flight is provided by a person, "(i)f there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position..."

The attorney's response letter continues "...We contend that the vast majority of the flights at issue do not require reporting. Even though this is the case, we nevertheless request that, upon final disposition of this matter by the Commission, this correspondence and the attached spreadsheet (1) be treated as amendments to Governor Sanford's previous filings and (2) be made part of the public record.

With this amendment to previous filings, Governor Sanford will have complied, albeit late, with the filing requirements of Section 8-13-1120(A)(9)(a) and Section 8-13-1140 of the 1976 Code of Laws.

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**USE OF CAMPAIGN FUNDS FOR PERSONAL EXPENSES**

**Section 8-13-1148(A)&(B), South Carolina Code of Laws, 1976, as amended provides in relevant part:**

“(A) No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual's duties as a holder of elective office.

(B) The payment of reasonable and necessary travel expenses or for food or beverages consumed by the candidate or members of his immediate family while at, and in connection with, a political event are permitted.”

**QUESTION:** Did Governor Sanford violate Section 8-13-1348(A) & (B) by using campaign funds for personal expenses not related to his campaign or for expenses not incurred in connection with his official duties?

From August 19, 2009 through August 21, 2009 investigators reviewed fifteen (15) Campaign Disclosure reports filed by Governor Sanford for period October 1, 2005 through June 30, 2009, the last filing at the time of the review. Eleven (11) reports revealed reimbursements to either Governor Sanford or Mrs. Sanford. No reports prior to the January 2006 report were available.

The examination revealed seventeen (17) reimbursements to Governor Sanford totaling \$6,724.47, and eight (8) reimbursements to Mrs. Sanford totaling \$4,119.87.

On September 1, 2009 a request for information was hand delivered to the Governor's attorneys with copies of the questionable reimbursements. Copies of the request letter and Campaign

Disclosure reports are enclosed as Attachment W.

On October 8, 2009 investigators received a response with the Governor's explanation for each of the twenty-five (25) reimbursements as well as related documentation. A copy of the response is enclosed as Attachment X.

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**USE OF STATE-OWNED AIRCRAFT BY THE GOVERNOR'S FAMILY MEMBERS**

**Section 8-13-700(A), South Carolina Code of Laws, 1976, as amended provides in part:**

“No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated. This prohibition does not extend to the incidental use of public materials, personnel, or equipment, subject to or available for a public official's, public member's, or public employee's use which does not result in additional public expense.”

**QUESTION:** Did Governor Sanford violate Section 8-13-700 (A) by using his official position to fly family members on state-owned aircraft to locations which otherwise would have required commercial flights, thereby gaining an economic benefit for himself?

The Attorney General's initial request for an investigation and the complaint filed by the State Ethics Commission did not contain allegations regarding family member's use of state-owned aircraft. The Attorney General's letter requested an investigation to include “(a)ny other potential violations of the State Ethics Act.” In addition, Regulation 52.705(C)(2), South Code of Regulations provides in relevant part that “If, in the course of the investigation, other issues involving potential violations of the law are found, those issues shall likewise be investigated.” Therefore, it became evident during the investigation that this issue should be examined also.

Investigators conducted an examination of flight logs from January 2003 to present and passenger manifests from January 2006 to present from the South Carolina Division of Aeronautics, flight logs from calendar year 2002 through August 26, 2009 from the South Carolina Department of Natural Resources, and official daily calendars of Governor Sanford's activities from January 2003 through June 30, 2009 as provided by Governor Sanford's legal



counsel.

The examination reveals that the Governor's family members were present on seventy-four (74) flight legs flown on aircraft owned by the Division of Aeronautics. Flight logs from the Department of Natural Resources reveal two (2) flights. Of the flights with family members, the Governor was not present on eight (8) Division of Aeronautics flights and one (1) DNR flight. These consisted of six (6) flight legs with only Mrs. Sanford and four (4) with Mrs. Sanford and sons. Other individuals were also present on each of these flights.

The Division of Aeronautics flights with Mrs. Sanford and others individuals took place on the following dates:

|                   |                                      |
|-------------------|--------------------------------------|
| June 7, 2004      | Columbia, SC to Union, SC and return |
| November 12, 2004 | Columbia, SC to Philadelphia, PA     |
| July 14, 2008     | Walterboro, SC to Columbia, SC       |
| February 21, 2009 | Columbia, SC to Washington, DC       |
| February 23, 2009 | Washington, DC to Columbia, SC       |

The Division of Aeronautics flights with Mrs. Sanford and sons took place on the following dates:

|               |   |
|---------------|---|
| May 7, 2005   | Charleston, SC to Darlington County, SC |
| May 7, 2005   | Darlington County to Charleston, SC     |
| July 15, 2005 | Columbia, SC to Evansville, IN.         |
| July 15, 2005 | Evansville, In to Des Moines, IA        |

Copies of the relevant flight logs, manifests and calendars are enclosed as Attachment Y.

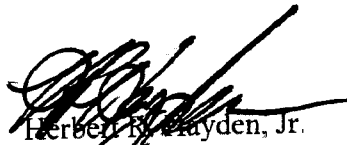
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**CONCLUSION**

This completes this Investigative Report. All relevant evidence obtained is attached and made a part of this formal report.

A summary of this investigation was presented to the State Ethics Commission on November 18, 2009 to determine if probable cause exists to formally charge Governor Sanford with violations of the above-captioned code sections.

RESPECTFULLY SUBMITTED,

  
Herbert R. Hayden, Jr.  
Executive Director

  
Donald M. Lundgren  
Chief Investigator

HRH/DML