



THE STATE OF GEORGIA

EXECUTIVE ORDER

BY THE GOVERNOR:

WHEREAS: By Executive Order dated July 1, 2004, I appointed a committee to investigate Fulton County Sheriff Jacquelyn Barrett under O.C.G.A. § 15-16-26(a); and,

WHEREAS: By letter dated July 21, 2004, attached to this Order, that committee unanimously recommended that Sheriff Jacquelyn Barrett be suspended from office under the provisions of O.C.G.A. § 15-16-26(c).

NOW, THEREFORE, BY THE POWER VESTED IN ME AS THE GOVERNOR OF THE STATE OF GEORGIA, IT IS HEREBY

ORDERED: That Sheriff Jacquelyn Barrett is hereby suspended from office for 60 days, effective Monday, July 26, 2004, as provided in O.C.G.A. § 15-16-26(c).

IT IS FURTHER

ORDERED: That a copy of this Order be delivered to The Honorable Doris L. Downs, Chief Judge, Superior Court, Atlanta Judicial Circuit, so that she may appoint a person who meets the qualifications for sheriffs pursuant to O.C.G.A. § 15-16-1 to assume the duties and responsibilities of the office of sheriff during this period of suspension.

This 23rd day of July 2004.


GOVERNOR



Department of Law State of Georgia

THURBERT E. BAKER
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July 21, 2004

BY HAND DELIVERY

Honorable Sonny Perdue
Governor of Georgia
State Capital Building
Atlanta, Georgia 30334

RE: Sheriff Jacquelyn Barrett

Dear Governor Perdue:

On July 1, 2004, and following a request from the Georgia Sheriff's Association, you appointed the undersigned to a committee to investigate whether Fulton County Sheriff Jacquelyn Barrett should be suspended for alleged misconduct or incapacity to perform the duties of the office. This committee was appointed in accordance with the terms of O.C.G.A. § 15-16-26. At the time the committee was appointed, Sheriff Barrett or her office was the subject of a P.O.S.T. investigation, a federal grand jury investigation and one or more ethics complaints filed with the State Ethics Commission.

On Wednesday, July 7, the committee met to discuss the parameters of the investigation, and determined that the inquiry should focus on the following issues: (1) Whether there is reason to believe that Sheriff Barrett engaged in misconduct in the handling of certain public funds with respect to the investment of approximately \$7,200,000, and the subsequent loss of approximately \$2,000,000 of that sum; (2) whether there is reason to believe that the sheriff engaged in misconduct with respect to the receipt of illegal campaign contributions and other violations of the State Ethics in Government Act, O.C.G.A. § 21-5-30, et seq.; and (3) whether Sheriff Barrett is incapable of performing the duties of her office with respect to the operation of the Fulton County jail. On July 9, 2004, the committee advised Sheriff Barrett of these areas of concern and invited her to make a statement to the committee. A copy of this notice is attached hereto as Exhibit 1. The sheriff, through her attorney, initially agreed to meet with the Committee on July 17, 2004, but subsequently declined to do so. Instead, she sent a written statement, which is discussed later in this report.

The following summarizes the considerable documentary evidence and testimony received by the committee. The committee will forward to you copies of all documents and transcripts of testimony when the same have been prepared.

Investment of Public Funds

The investigation of the investment and loss of public funds included the compilation of documents relating to the placement of the funds with an individual from Florida named Byron Rainer. Rainer operated an investment business called the Legacy Client Group and was a MetLife representative. He arranged for the investment of \$5,191,060 in a MetLife annuity and the alleged purchase of a corporate bond from a Florida corporation, Provident Capital Investments, Inc., for \$2,036,134. In addition, the committee interviewed a number of witnesses concerning these expenditures, including former Chief Deputy Caudell Jones, Major L.G. Banner, Lieutenant Keith Greenwood, Accounting Supervisor Sandra Cridell, Accountant Renee Matis, and Fulton County Internal Auditors Skip Remter, Herman Hicks and Jeff Hill.

The funds used for these expenditures came from two different accounts in the Sheriff's Office, the "Principal Account," which receives funds from several income streams, and the "Surplus of Fi.Fa.'s Account," which receives excess funds from foreclosure sales of real property. It was determined that the MetLife annuity was a variable annuity, in which the funds were in turn invested in various portfolios, including equities. The funds were not collateralized or insured in any manner. The MetLife transaction occurred on April 28, 2003. As indicated above, the Provident expenditure was supposedly made to purchase a corporate bond; however, according to former Chief Deputy Jones, the funds were "loaned" by Provident to several other individuals for risky business ventures. The Provident investment occurred on March 26, 2003. A copy of the Provident "corporate bond" is attached hereto as Exhibit 2. Provident was ostensibly operated by Mike (a/k/a Mohammed) Zein. According to information the committee obtained, Rainer personally received approximately \$284,000 of the \$2,036,134.

There is no evidence that Sheriff Barrett conducted any sort of due diligence investigation through her office into either of these investments. Additionally, there was considerable concern on the part of the Sheriff's staff that these investments were "too good to be true" and were unduly risky. These concerns were expressed directly to the Sheriff by Major Banner.

When these expenditures were discovered by Fulton County internal auditors, there was justifiable concern that the funds had been invested without regard to statutory restrictions on the types of investments to which public funds may be put. Generally, county funds may be deposited in insured or collateralized bank accounts (O.C.G.A. § 45-8-12) or government obligations, obligations fully insured by the United States government or a United States government agency, obligations of any corporation of the United States government, prime bankers acceptances, repurchase agreements, and the local government investment pool. See O.C.G.A. § 36-83-4. Neither the MetLife annuity nor the Provident corporate bond falls into any of these categories of authorized investments.

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Correspondence from Sheriff Barrett suggested that she had been told by Rainer that Provident was a subsidiary of MetLife. However, in a letter faxed to the Sheriff on March 25, 2003, Rainer's recommendations for diversification of the investments clearly sets forth Provident as an entity separate and apart from "MetLife and MetLife securities." This letter was sent prior to any investments being made. A copy of that letter is attached as Exhibit 3.

Sheriff Barrett was able to secure the return of the entirety of the MetLife expenditure. However, it quickly became apparent that the Provident investment would not be recovered. The evidence obtained from witnesses demonstrates that Sheriff Barrett continued to consider "deals" from Rainer and his associates in an effort to recover the two million dollar loss. This took place during late 2003 and as recently as March 2004. In February 2004, an individual named Andre Brady notified the Sheriff that The Royal Institute of Finance had undertaken the Provident obligation. On March 12, 2004, Sheriff Barrett signed an agreement with The Wisdom Foundation, ostensibly a Florida non-profit corporation directed by Brady. Under this agreement, the foundation was appointed to manage a portfolio of public funds. A copy of this agreement is attached as Exhibit 4. In furtherance of the agreement, Brady sent wire transfer instructions to former Chief Deputy Jones, for the anticipated transfer of \$4,980,000 (attached as Exhibit 5). (Brady has been implicated in investment fraud schemes, and recently was the subject of a federal arrest warrant.) There is no evidence that Sheriff Barrett made any effort through her office to investigate either The Royal Institute of Finance or The Wisdom Foundation prior to signing the management agreement. Ultimately, the funds were not placed with Brady.

It is clear that the MetLife and Provident investments were not legally authorized by the laws of this state. It is further the view of the committee that Sheriff Barrett likely violated her fiduciary duties as a public officer to preserve the funds and make prudent investment of the funds in accordance with statutory provisions. It is therefore the conclusion of the committee that there is reason to believe that Sheriff Barrett engaged in misconduct in the handling of these investments.

Campaign Contributions

The committee has undertaken a review of Sheriff Barrett's campaign disclosure reports from year 2000 forward. There are several campaign contributions which must be considered as suspect. First, on November 2, 2002, Sheriff Barrett received reported contributions in the amount of \$1,000 each from the Legacy Client Group operated by Rainer, Xpress Rx Pharmacy and AIMS Rx Co. operated by Lancelot James, an associate of Rainer. According to a disclosure report dated July 7, 2004, Sheriff Barrett returned \$2,000 to Rainer and \$2,000 to James on March 25, 2004, as a "return of contribution." None of her previous reports had disclosed these contributions from Rainer or James.

According to a May 7, 2004, amendment to her 2003 disclosure reports, Sheriff Barrett disclosed for the first time that she had received a contribution of \$10,000 from "Joe Coaches" on April 30, 2003. Coaches is believed to be Joseph Kochis, who reportedly received a "loan" of \$50,000 from the Provident investment. The amendment also revealed for the first time a \$10,000 contribution dated April 3, 2003, from James, who reportedly received \$925,000 of the Provident expenditure. The amendment also showed for the first time a \$10,000 contribution from Brian Silverman on May 8, 2003. Silverman also reportedly received a "loan" from Provident in the amount of \$300,000. The amendment shows that the contribution from Silverman was returned on June 11, 2003.

The May 7 amendment further shows that Sheriff Barrett returned contributions in the amount of \$10,000 each to James (Xpress Rx Pharmacy) on July 1, 2003, and to Kochis and AIMS Pharmacy (also James) on July 8 and 9, 2003, respectively. The amendment indicated that the refunds to Xpress and Kochis were due to "exceeded limits." The refund to AIMS Pharmacy indicated that "Mr. James' check originally did not clear. Replacement check sent after first was re-posted. Only one contribution intended, but 2 payments were made."

A disclosure report amendment dated June 21, 2004, shows that Sheriff Barrett received an additional \$2,000 contribution from James' company, AIMS Rx Pharmacy, on May 12, 2003.

In light of the above, the committee has concluded that there is reason to believe that Sheriff Barrett has likely engaged in misconduct with respect to these contributions. First, her failure to timely report contributions on her annual report could be a violation of the Ethics in Government Act. See O.C.G.A. § 21-5-34. Second, it appears that the receipt of the \$10,000 contributions violated contribution limits contained in O.C.G.A. § 21-5-41.

In addition, the June 21, 2004, amendment showed that Sheriff Barrett received two contributions from the Democratic National Committee in the amounts of \$10,000 each, designated as "Get Out the Vote Campaign" funds. These funds were received by the Barrett campaign on November 2 and November 7, 2000. If these funds were intended to be a campaign contribution, any amount in excess of statutory limits should not have been deposited in her campaign account. Moreover, there should have been a timely reporting of same in accordance with the Ethics in Government Act. If none of these funds were intended as a contribution to her campaign as contemplated by O.C.G.A. § 21-5-41(h), none should have been commingled with her campaign funds.

Operation of the Sheriff's Office

On July 7, 2004, Sheriff Barrett notified the United States District Court that she would be stepping aside from the management of the Fulton County jail. The Court has now appointed a manager in her place.

On July 16, 2004, the committee received a letter from Sheriff Barrett's attorney, Manubir S. Arora, along with a one page statement from the Sheriff concerning the conditions at the Fulton County jail. A copy of this letter and the Sheriff's statement are attached as Exhibit 6. This statement failed to address the investments or circumstances surrounding her campaign contributions. Sheriff Barrett attributes the problems at the jail to a number of factors, including lack of funding, lack of staffing and failure on the part of the state to timely remove state-sentenced inmates. The committee is in agreement that responsibility for the conditions at the jail is exceptionally complex. While information concerning the conditions at the jail is troubling to the committee, it is believed that the issue is beyond our ability to substantively address within the limited time available.

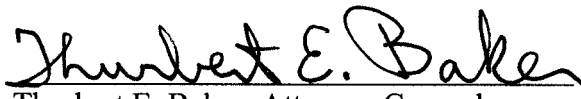
However, the Sheriff's recent actions in removing herself from the management of the jail and in announcing that she will be taking an extended leave between August 1, 2004, and the end of her term have led the committee to the conclusion that Sheriff Barrett has rendered herself incapable of performing the functions of her office. To some extent, this incapacity may be the result of mismanagement by the Sheriff and others to whom she entrusted much power and responsibility. No matter where the responsibility lies, however, it is clear that Sheriff Barrett, by virtue of her voluntary retreat from the duties of her office, is unable to perform its functions.

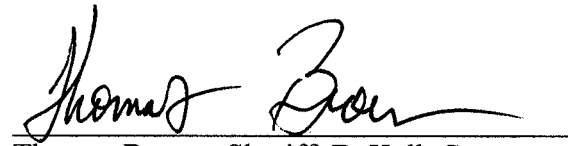
In this vein, O.C.G.A. § 45-5-1 (a) (7) declares that all public offices in this state will be considered vacated upon, *inter alia*, the officer "abandoning the office or ceasing to perform its duties, or both." The committee believes that if the Sheriff follows her announced intention to absent herself from the responsibilities of her office, the office may well be vacated under the terms of this code section.

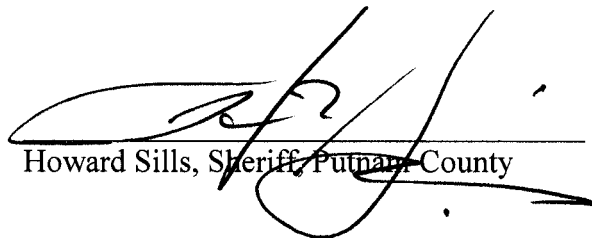
In light of the above, it is the unanimous recommendation of the committee that Sheriff Barrett be suspended under the terms of O.C.G.A. § 15-16-26.

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Respectfully submitted this 21st day of July, 2004.


Thurbert E. Baker, Attorney General


Thomas Brown, Sheriff, DeKalb County


Howard Sills, Sheriff, Putnam County