

**DEPARTMENT OF TRANSPORTATION -
METROPOLITAN DISTRICT**

**SPECIAL REVIEW OF
TWO EMPLOYEES FILING FALSE CLAIMS**

MARCH 1993

**Financial Audit Division
Office of the Legislative Auditor
State of Minnesota**

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STATE OF MINNESOTA
OFFICE OF THE LEGISLATIVE AUDITOR
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Legislative Audit Commission

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James N. Denn, Commissioner
Department of Transportation

William M. Crawford, District Engineer
Metropolitan District

Audit Scope

We conducted a special review of allegations that some employees of the Mn/DOT Forest Lake truck station had defrauded the department and received illegal kickbacks from a contractor. The employees work as Mn/DOT truck drivers and, as part of their duties, are responsible for transporting loads of road sand from a private contractor to the Forest Lake truck station. We received a complaint that the truck drivers had allegedly filed false delivery reports which inflated the amount of road sand purchased from the contractor. According to the complaint, an employee of the contractor had agreed to pay a share of the illegal proceeds to the drivers, in the form of kickbacks. Our review addressed the following issue:

- Did Mn/DOT employees file false reports in order to receive kickbacks from the contractor?

Audit Techniques

We reviewed the delivery receipts prepared by the Mn/DOT employees hauling sand, the invoice submitted by the contractor, and the load count made by two Mn/DOT employees. We took testimony under oath from employees of the Mn/DOT Forest Lake truck station and an employee of the contractor. We also interviewed employees of the Mn/DOT metropolitan district office.

Background

The Mn/DOT Forest Lake truck station has a contract with Bracht Bros., Inc. for road sand. The truck station provides the drivers and trucks for hauling the sand. Each Mn/DOT driver hauling sand is given a book of tickets by Bracht Bros., Inc. The driver completes and signs

a ticket for each load. At the end of the day one copy of the ticket is given to Bracht Bros. and one to the truck station supervisor. In November 1992, a Forest Lake truck station employee noticed that two of the three drivers hauling sand had turned in three tickets for one day while the third driver had only two tickets. The employee recalled only seeing two loads hauled by each truck. The employee reported this to his supervisor who then had loads counted the next three days sand was hauled. Each day more tickets were submitted than loads hauled.

An employee of Bracht Bros., Inc., stated that in late October or early November 1992 he was contacted by Anthony Will, a Mn/DOT employee truck driver, about the possibility of being paid to submit extra sand invoices to the truck station. The employee told us that he refused to comply with Mr. Will's initial request. The employee was approached again at a later date and agreed to pay Mr. Will \$15 for an extra ticket.

The employee stated that the first day he paid Mr. Will and a second driver \$15 each for extra tickets. The two drivers also submitted one extra ticket each on two subsequent occasions. The employee paid each driver \$10 for the second set of tickets and stated that he still owed them for the third loads. The employee stated that he personally paid the \$50 and did not tell the owner of the arrangement.

The second driver involved, Mr. Donald Belland, also stated that Mr. Will had contacted him about making extra money by turning in the extra hauling tickets. He stated that he did receive money from Mr. Will. Mr. Will denied completing tickets for sand not hauled for Mn/DOT. He also denied receiving any money from the Bracht Bros., Inc. employee.

Conclusions

Anthony Will and Donald Belland, Mn/DOT employees, violated Minn. Stat. Sections 609.43 and 609.465 when submitting false hauling tickets for payment by Mn/DOT. Minn. Stat. Section 609.465 states that a person:

...with intent to defraud, present a claim or demand, with knowledge that it is false in whole or in part, for audit, allowance or payment to a public officer or body authorized to make such audit, allowance or payment is guilty of an attempt to commit theft of public funds...

The Mn/DOT Forest Lake truck station was billed \$131 for six loads of sand it did not receive. Anthony Will instigated the plan to bill Mn/DOT for the extra loads of sand. Anthony Will and Donald Belland received illegal kickbacks from a Bracht Bros., Inc. employee. The dollar amount of the kickback and the amount paid by Mn/DOT is small. However, this is due to the truck station employees promptly noticing and reporting the discrepancies. Had the arrangement continued, the amount of the overpayment may have been

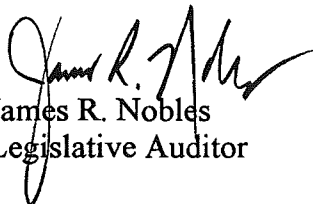
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significant. Bracht Bros., Inc. supplied the Mn/DOT Forest Lake truck station the six loads of sand as soon as the owner was made aware of the situation.

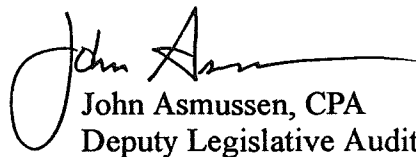
Anthony Will violated Minn. Stat. Section 3.978 when he falsely testified under oath. Minn. Stat. Section 3.978 states, in part, "*A person who swears falsely concerning any matter stated under oath is guilty of a gross misdemeanor.*" Mr. Will was asked if he had received any extra compensation from Bracht Bros., Inc. He stated that he received, "Nothing." He was then asked if he received anything for personal benefit. He responded by stating, "Not a thing." Both the Bracht Bros., Inc. employee and Donald Belland testified that Anthony Will did receive compensation for submitting false hauling tickets.

Pursuant to Minn. Stat. Section 3.975, we are referring this matter to the Attorney General.

This report is intended for the information of the Legislative Audit Commission, and the Department of Transportation. This restriction is not intended to limit the distribution of this report, which was released as a public document on March 26, 1993.



James R. Nobles
Legislative Auditor



John Asmussen, CPA
Deputy Legislative Auditor

Report Signed On: March 23, 1993