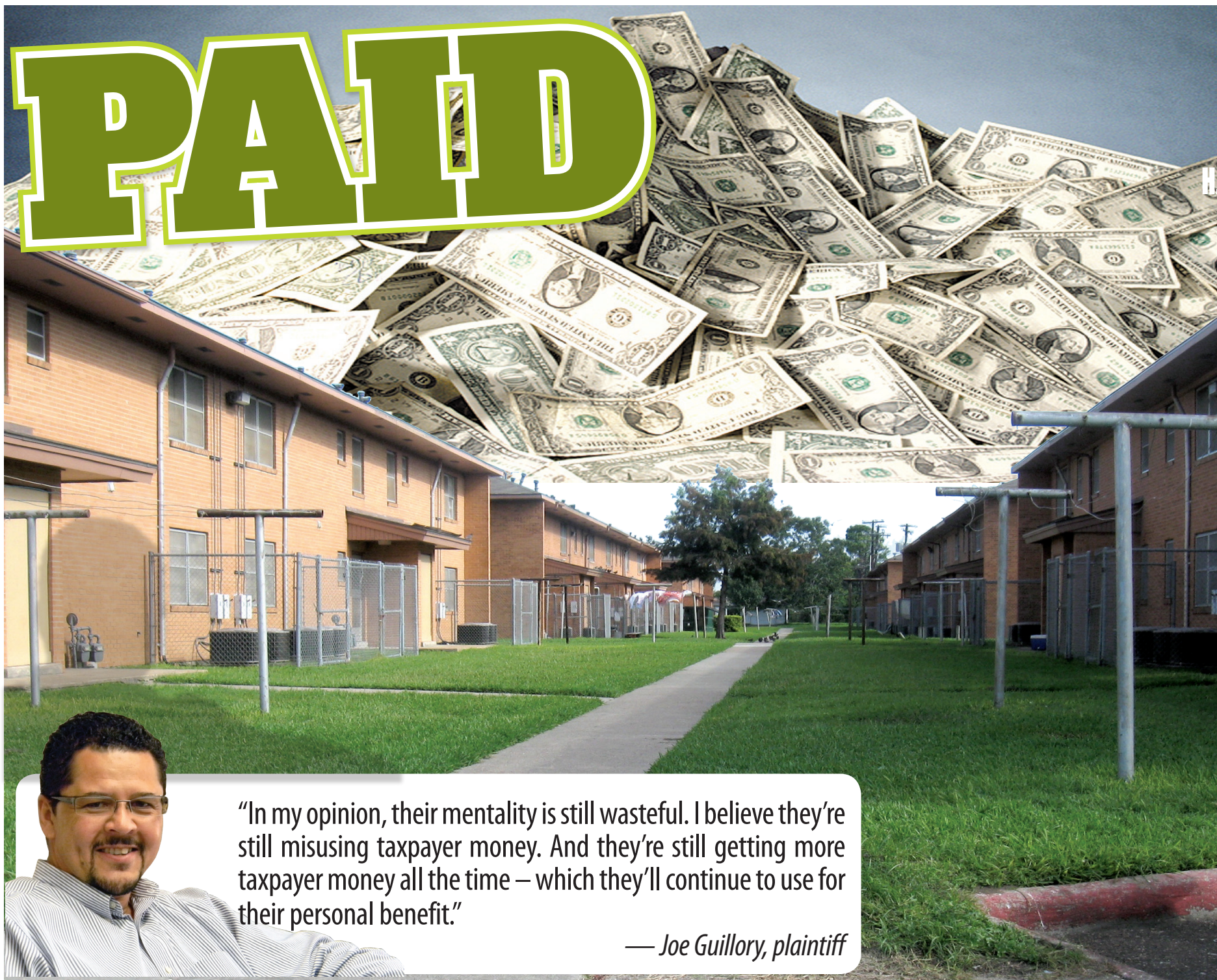




THE EXAMINER

The Independent Voice of Southeast Texas



"In my opinion, their mentality is still wasteful. I believe they're still misusing taxpayer money. And they're still getting more taxpayer money all the time – which they'll continue to use for their personal benefit."

— Joe Guillory, plaintiff

Whistleblower gets \$600,000 settlement

Settled: Whistleblower paid for wrongful termination

By Jennifer Johnson
Metro Editor

Less than one year after an employee of the Port Arthur Housing Authority (PAHA) filed a whistleblower lawsuit against the quasi-governmental entity, the agency has agreed to pay \$600,000 to settle the claim. The plaintiff, Joe Guillory, said he was terminated from his position at PAHA due to his cooperation in a federal investigation of the agency performed in 2011 and 2012. The result of the federal investigation, sanctioned by HUD's Office of the Inspector General (OIG), said roughly \$6 million in spent taxpayer dollars were either improperly accounted for or outright mis-spent altogether. In separate agreements, PAHA was ordered to repay federal HUD programs more than \$1 million from unrestricted housing authority funding and relinquish more than half a million dollars in disaster recovery funds that were supposed to be used for rebuilding dilapidated public housing within the city.



Guillory

The fallout

A June 1, 2012, audit report filed by Fort Worth HUD Regional Inspector General for Audit Gerald Kirkland detailed a pattern of what he said was misappropriation of funds, abuse of publicly funded credit cards, questionable payroll payouts, and faulty bid award procedures, to name just a few of the infractions committed by Port Arthur's public housing authority listed in the 59-page document. Kirkland's findings also contend that then-board commissioner Desiree Edwards received an illegal monthly stipend on top of thousands of

dollars charged to PAHA meant to provide housing for low-income Southeast Texans, and Kirkland also said various past and present board commissioners absconded with up to \$120,000 in computer equipment.

Kirkland said he was commissioned to perform the June audit "due to deficiencies noted in a prior audit." Kirkland referred to his previously filed 2011 report titled "The Housing Authority of the City of Port Arthur, TX, Mismanaged Its Recovery Act Funding."

In his 2011 report, Kirkland noted, "The Authority poorly planned its Recovery Act activities, violated procurement regulations and Recovery Act requirements, did not practice sound financial controls, failed to meet reporting requirements, and commenced site work for its project before receiving environmental clearance to proceed." Also, "The Authority violated procurement requirements designed to ensure full and open competition and reasonable cost and did not practice sound financial controls over the grant."

As a result of Kirkland's 2011 recommendations, PAHA was forced to forfeit a \$657,906 Recovery Act grant provided by the government for the express purpose of demolishing the Carver Terrace apartments. A little more than a year later, for the June 2012 audit, Kirkland was again reporting that PAHA lacked sufficient financial controls, recommending the agency pay the taxpayers back more than \$5 million in mis-spent funding.

"(The Authority) failed to enact policies and procedures to ensure the integrity of financial operations and compli-



PAHA Executive Director 'Cele' Quesada, Board President Ronnie Linden and former Commissioner Farhana Swati

ance with procurement requirements, even after repeated findings regarding financial and procurement weaknesses," Kirkland reported. Additionally, he said, PAHA executives "abused the Authority's charge card accounts and received ineligible and unsupported compensation." He also determined, "(PAHA's) lack of controls put it at substantial risk for fraud, errors and financial mistakes."

Kirkland advised the heads of PAHA to take control of the leaking sieve through which public dollars were pouring from the housing authority — dollars not used for the mission of the agency.

"Instead," Kirkland insisted, "The Authority charged in excess of \$199,000 to its American Express charge card account, \$23,205 to its gasoline charge card account, and \$5,352 to its Lowe's charge card account during the audit period."

"Many of the American Express charges did not appear to fulfill a housing authority mission or business purpose. Instead, the charges appeared to benefit the Authority's com-

missioners, management, employees and contractors."

Among some of the questioned items billed to the American Express card during the audit were more than \$3,000 in charges at the Holiday Inn, \$14,600 spent at Walmart, more than \$4,000 spent at the Woodlands Conference Center, and thousands of dollars spent on items such as groceries, grilling supplies, party supplies, local restaurant charges and gasoline.

"In addition," Kirkland surmised, PAHA "failed to provide requested payroll data, resulting in \$2.9 million in unsupported payroll expenses."

While PAHA executive director "Cele" Quesada admitted some of the credit card charges were unsupported, he also refuted the notion he or his staff was improperly paid and said, "Miscommunication — rather than intentional obstruction or neglect — likely explains any purported deficiencies in the production of payroll data."

Kirkland said if the audit was incomplete in any way, it was due to the uncooperative-

ness of the management at PAHA.

"The Authority did not provide all of the documentation requested, even after requests for status updates, and refused to provide employee data on the advice of its attorney," Kirkland said. "Because of the Authority's lack of cooperation, we issued an OIG administrative subpoena and then a demand letter to obtain materials necessary to conduct the audit. The Authority did not fully comply with either requirement that it produce data and records."

"Meanwhile," Kirkland continued, "they spent lavishly on items that benefited them personally. As a result of their actions, the Authority incurred questioned costs of more than \$5.9 million and was in violation of its annual contributions contract."

No snitching

Anyone who did cooperate with the audit was subject to stiff repercussions, former employee Joe Guillory said. Under a Whistleblower Protection Act claim filed in 2012, Guillory asserted that he came

into knowledge that “Quesada was committing various illegal acts” and that “the chairman of the board (Ronnie Linden) was fully aware of these illegal activities.” Guillory reported the activity to the HUD Office of the Inspector General, which, he said, resulted in “harassment and ultimate termination from employment.”

Guillory said he was abruptly terminated from his decade-long position with PAHA two days before Kirkland’s 2012 audit rough-draft was issued. Days later, Guillory challenged his termination and began a six-month trek through the PAHA “grievance hearing” process. Guillory said that even now, he still has not received “documentation or explanations” as to why — if not as the result of retaliation — he was suddenly fired from his job.

In addition to confirming or supplying information revealed in Kirkland’s audit reports, Guillory said he also turned over evidence alleging Quesada ordered the destruction of approximately 48 boxes full of documents in anticipation of Kirkland’s audit. And according to Guillory, Kirkland’s audits “cover only a small portion of the wrongdoings, corruptions and illegalities that have been taking place within the Authority.”

PAHA board commissioner Farhana Swati also, in a manner of speaking, filed her own paperwork against the housing authority the same time as Guillory. On Oct. 29, 2012, she forwarded a resignation letter to fellow commissioners, Port Arthur Mayor “Bobbie” Prince and HUD officials. According to Swati, she was added to the board in an effort to make change. Attempting to fulfill her duties, Swati said she was on a mission to address fiscal mismanagement noted in the Inspector General’s audit report, although it ultimately proved to be a losing battle. After her resignation, Swati told The Examiner, “It was a waste of my time and energy” to be a member of a board unwilling to take fiscal responsibility for a governmental agency spewing taxpayer money. Swati said she, alone, couldn’t steer the housing authority back on course.

“When I’m constantly outvoted as a sole dissenting vote on a board, there’s nothing I

can do,” Swati said. “I could do more good as a citizen than I could as a voiceless member of this board.”

In light of the Inspector General audits, Swati promoted measures to bring PAHA into HUD compliance such as commissioning a forensic financial audit and hiring outside legal consultants specializing in HUD audits.

“I have taken seriously my fiduciary duty to the citizens of the city of Port Arthur,” Swati said in her resignation letter. “This being said, I believe the Authority has spent funds inappropriately. In some cases, this spending appears to have been wasteful and egregious.

“I believe the Board has a fiduciary duty to initiate an outside forensic audit of the Authority’s finances. ... The board members and staff believe the annual audit is sufficient. Given the fact that annual audits did not uncover the improper spending (which is now the subject of an Office of the Inspector General investigation), we need a deeper inquiry.

“If, as the OIG report indicates, there has been improper spending, there needs to be serious change in how the Authority conducts its business, and someone needs to be held accountable for the current situation. The citizens of Port Arthur deserve it and HUD will demand it, even if the Board won’t.”

Lawsuit deposition

In a sworn deposition performed for Guillory’s whistleblower claim, Linden claims it was he — not Swati — who wanted the forensic audit.

“She said in very clear terms that she had been pushing for a forensic audit — and that no one was listening to her and no one wanted a forensic audit,” Linden testified. “That ... was a lie. Not the truth, not an untruth. A lie. One of the other commissioners wanted a forensic audit. I supported the idea. We even supported the idea of including it as part of the overall audit.

“We were in favor, so either — either she’s a dishonest person, or there’s some serious deficiency there somewhere.”

But during the same deposition, Linden was reminded of an e-mail communication with Swati wherein the former

board commissioner specifically requested a forensic audit in August 2012.

At the time, Swati was able to get negotiations for a forensic audit to be placed before the PAHA Board of Commissioners, Sept. 6, 2012. Linden’s vote that day did not reflect his most recent sworn statement.

“(A forensic audit) would be premature at this time,” Linden voiced to the board. “We’ve been wrongly accused of wasting money. We’re a much better agency than what’s being reported.”

Linden, at that time, voiced concern over the cost of any such audit. At the same meeting, Linden also voted to allow PAHA executive director Quesada to keep more than \$50,000 the OIG auditor recommended making the housing director head pay back to taxpayers.

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PAHA

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When Swati was asked her opinion of Linden's alternate versions of the great forensic audit fiasco of 2012, she was steadfast in the story she has always told.

"The public meeting was recorded and proves I was the one who had (a possible forensic audit) put on the agenda. (Quesada) and Linden pushed it off for several meetings — it's all public record.

"I have no time or desire to throw cannonballs back and forth. I did nothing wrong or unethical in my time at the Port Arthur Housing Authority. I was always opposed to all the out-of-town trips the board was taking, all the food being served at the meetings ... board members having public-paid gas cards, credit cards, personal laptops paid for by the housing authority. I thought it was ridiculous.

"I wanted the audit, I demanded the audit — but I was outvoted. It was a struggle to even get it on the agenda. When we finally did get it on the agenda, they wouldn't even discuss it. Struggle after struggle, that's exactly why I resigned.

"I hope they do eventually have the forensic audit. I think if they did nothing wrong, there's no need in covering

their tracks. PAHA needs to hold themselves accountable."

Accountable

"Nothing has changed with them," whistleblower Guillory told The Examiner after he reached a settlement on his lawsuit with the housing authority. "They're putting up an illusion they're doing the right thing.

"In my opinion, their mentality is still wasteful. I believe they're still misusing taxpayer money. And they're still getting more taxpayer money all the time — which they'll continue to use for their personal benefit."

Guillory, who is now employed with the Beaumont Housing Authority, said he is happy to be out of the hostile environment at PAHA but still feels a sense of loyalty to the disadvantaged residents of Port Arthur dependent upon a corrupt agency to meet their housing needs.

"It's over for me (at PAHA), but I will never stop fighting for those being taken advantage of in Port Arthur," he said. "It's the right thing to do. My heart continues to go out to the citizens of Port Arthur who are not being served.

"If no one stands up and is willing to make the sacrifice, then nothing will change."

Guillory's attorney, Cade Bernsen, said Guillory isn't the only person due



Bernsen

restitution from PAHA officials.

"If people like Joe (Guillory) don't come forward and stand up, it's the disadvantaged people the housing authority is supposed to protect who are truly victimized by these people — not to mention the taxpayers, whose money is squandered.

"Quesada, Linden and all the board that ratified Joe (Guillory's) wrongful termination need to resign — and if they don't resign, the mayor needs to remove them. They brought disgrace to the Port Arthur Housing Authority — and to the city of Port Arthur.

"They have failed in their duties to the taxpayer and to the citizens they serve."

Port Arthur Mayor Bobbie Prince said she is taking a wait-and-see approach with the board, but has no control over who is the executive director at PAHA.

"First of all, I do not hire or fire an executive director — I do not have the legal authority to do that," she said. As far as control of the board, to which she appoints members, "I'm waiting for the final audit to be completed.

"I know about the audit and they're clearing some things up. I don't have knowledge they were doing anything wrong. Maybe you can check with the housing authority to see if a final report has been completed, but there has not

been a final audit report that I'm aware of.

"I had concerns just like everyone else, but I'm waiting on the final report from HUD and the OIG based on the compliance by the housing authority."

Although Prince said she has not been provided with a final audit report, PAHA executive director Quesada told The Examiner in March of this year that the housing authority did receive a final report and the agency would be required to pay back HUD programs in excess of \$1 million.

"The PAHA Board of Commissioners took action on March 7, 2013, to accept the terms offered by HUD and OIG and in the spirit of cooperation and compromise to bring closure to this matter," Quesada reported. "The PAHA completed an internal transfer of approximately \$1 million of PAHA non-federal funds to the programs identified in the HUD letter."

Bernsen said he wants to see justice served at PAHA and hopes Guillory's lawsuit isn't the last time Quesada and Linden are brought before a judge and jury.

"As we understand it, the federal government is not done investigating this matter — and I really hope that is the truth," he said. "I sincerely hope the proper law enforcement agencies will take a good, long look at what's really going on at these local housing authorities."