

The University of Texas System Administration

**Special Review at Request of the
UT System General Counsel
Regarding Workers' Compensation Claim of
Housekeeper Assigned to Wildenthal Residence**



February 2013

THE UNIVERSITY OF TEXAS SYSTEM AUDIT OFFICE
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**The University of Texas System Audit Office
Special Review at Request of the UT System General Counsel
Regarding Workers' Compensation Claim of Housekeeper Assigned to Wildenthal Residence**

Executive Summary

An anonymous allegation was received in an e-mail dated May 18, 2012, concerning housekeeping services at the home of Dr. Wildenthal's daughter. As a result, the System Audit Office was asked to review historical information relative to housekeeping services at Dr. Wildenthal's personal residence and to a workers' compensation claim for an injury that occurred in April 2002. The objective of that review was to gather information regarding the nature of housekeeping service at the time and location of the injury. The review, included as Attachment 1, determined the following:

- a. At the time of the claim (April 2002), UTSW provided housekeeping services for Dr. Wildenthal's private residence and paid 100% of the housekeeper's wages and benefits. One-half of the housekeeper's effort was designated to support official UTSW functions at the residence. Dr. Wildenthal's compensation package at the time included the remaining one-half time as non-cash compensation. His appointment letter and salary listed housekeeping service as taxable compensation in an amount that approximated one-half the housekeeper's wages and benefits.
- b. The housekeeper assigned to Dr. Wildenthal's residence was injured while working at Dr. Wildenthal's daughter's home. Claim records contain a statement by the injured housekeeper that she worked three days each week at Dr. Wildenthal's house and two days at his daughter's house. The housekeeper further stated that this arrangement had existed for the five years preceding the date of her injury.
- c. The UT System Workers' Compensation Insurance Program paid 100% of the resulting claim in the amount of \$33,336.38.
- d. Inclusion of housekeeping service as non-cash compensation ended in December 2003. At that time Dr. Wildenthal began reimbursing to UTSW half of the housekeeper's wages and benefits. These reimbursements were included within the scope of audits conducted by both UTSW and the System Audit Office, but no audits prior to that time included a review of housekeeping services at Dr. Wildenthal's private residence. These reimbursements began subsequent to the workers' compensation claim, and thus have no impact on the claim that occurred in April 2002.

No reimbursement of the \$33,336.38 workers' compensation claim has been requested at this time. The issue of the workers' compensation claim of the housekeeper assigned to the Wildenthal residence presents complex legal issues beyond the scope of this review. The UT System Vice Chancellor & General Counsel and General Counsel to the Board of Regents advise that the matter will be reviewed by an outside legal expert in workers' compensation law.

ATTACHMENT 1

Special Review at Request of the UT System General Counsel

Regarding Workers' Compensation Claim of
Housekeeper Assigned to Wildenthal Residence

February 12, 2013



**Special Review at Request of the UT System General Counsel
Workers' Compensation Claim of Housekeeper Assigned to Wildenthal Residence**

At the request of the Vice Chancellor & General Counsel, The University of Texas ("UT") System Audit Office reviewed historical information relative to housekeeping services at Dr. Kern Wildenthal's personal residence dating back to a workers compensation claim in April 2002. The objective of this review was to gather information from prior audits and available records to assist in determining the nature of housekeeping services at the time of the claim. Our review was performed by gathering records from UT Southwestern Medical Center ("UTSW"), the UT System Office of General Counsel, and the UT System Office of Health Affairs. We did not interview the parties to the claim or incident.

The total paid for the workers compensation claim was \$33,336, as shown in Exhibit A. Workers compensation claim records are clear that the injury did not occur at the former president's residence. Rather, the injury occurred while the assigned housekeeper was cleaning the home of Dr. Wildenthal's daughter, at the address indicated in Exhibit B. If the claim-related statements of the housekeeper are true and correct, for the five years prior to the injury she worked at Dr. Wildenthal's residence three days each week, and Dr. Wildenthal's daughter's residence the other two days.¹

Neither the UT System Audit Office nor the UT Southwestern Medical Center Office of Internal Audit performed audits for the period during which the injury occurred that included a review of housekeeping services. However, for fiscal years 2005 through 2007, Internal Audit audited the business and personal use of housekeeping services provided by the Medical Center. Internal Audit verified that Dr. Wildenthal reimbursed the Medical Center for what they considered his share of the housekeeping services during those three years, which was one-half of the employee's salary and fringe benefits. This percentage was established based on the frequency of official occasions held at the president's residence and the housekeeper's other assigned duties.

At our request, Internal Audit reviewed historical details related to any reimbursement of housekeeping services dating back to 1997, the year the claimant was hired. They determined that a reimbursement account was created in December 2003 to be used for Dr. Wildenthal to reimburse his share of an assigned housekeeper's wages and benefits, with the first reimbursement occurring on December 31, 2003. Reimbursements totaling \$60,000 continued through December 2006, after which Dr. Wildenthal hired an outside housekeeping service. There is no evidence that reimbursement occurred at any time prior to December 2003.

To determine whether an agreement to provide housekeeping services was in place prior to December 2003, we reviewed the appointment letters that established Dr. Wildenthal's annual salary and other benefits for each academic year. For academic years 1998 through 2003, housekeeping service was specifically listed as taxable compensation. Based on the reimbursement rate established in December 2003, the dollar amount shown on the appointment

¹Workers Compensation claim 2002D0222, file note by Dan S. Shouse dated May 9, 2002.



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letters appears to be approximately one-half the housekeeper's wages and benefits during those years.

Dr. Wildenthal's employment agreement for academic year 2004 also included housekeeping as a taxable benefit, but was amended effective January 1, 2004. The amendment removed housekeeping as a benefit, and increased cash compensation by \$19,824 "to reflect the market value of one half-time housekeeper."² The amendment letter further specified that the pay increase replaced the practice of adding a portion of the housekeeper's salary as taxable income. The timing of the amendment coincided with creation of the reimbursement account.

Based on the facts presented herein, it is clear that housekeeping services provided by the claimant were personal in nature at the time and location of the injury. Furthermore, Dr. Wildenthal's compensation package at the time specifically listed housekeeping as compensation of employment, and he apparently directed the housekeeper to provide services at a location other than his residence as part of that arrangement.

² Letter from Dr. Kenneth I. Shine, Executive Vice Chancellor for Health Affairs, to Dr. Kern Wildenthal, dated January 8, 2004.

Exhibit A – Workers Compensation Claim Overview

THE UNIVERSITY OF TEXAS SYSTEM HOME HELP LOGOFF
 Office of Risk Management - Workers' Compensation Insurance | **WCMENU 2.0**

Claim Number: 2002D0222 **Name:** [REDACTED]

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Claim Overview (CLA)

Main Injury Work Dates

Summary		Status	
Name:	[REDACTED]	Claim Status:	C CLOSED 06/06/2006
EID:	[REDACTED]	Comp	Closed 05/12/2003
Title:	CUSTODIAN, HOUSEKEEPER, JANITOR	Open/Closed:	
DOI:	04/11/2002 12:00PM	Med	Closed 06/06/2006
Description:	PAIN/SWELL/ACHE/L KNEE/CLEANING BATHTUB	Open/Closed:	
First Report Type:	R (REPORTABLE INJURY)	Status Comp Benefits:	
Severity:	5 (FUTURE MAJOR MEDICAL/LOST TIME ANTICIPAT)	Impairment %:	00 %
Adjuster:	MARY E AUBRY	MMI Date:	
Medicare Reportable:	No	DWC Number:	02084913DA
		File Location:	IM 511965537
Dates/RTW		Costs	
Date Disabled on First Report:		Total:	\$ 33,336.38
First Disabled:	05/07/2002	Settlement:	\$ 0.00
Latest Disabled:		Medical:	\$ 13,228.58
Eighth Disabled:	05/14/2002	Indemnity:	\$ 20,107.80
First RTW:		Other:	\$ 0.00
Latest RTW:			
RTW Wage (weekly):	0.00		
Comp Days:	364		
Estimated Lost Days:	735		
Details		Update	

Exhibit B – Workers Compensation Injury Report

Send the specified copies to your Workers' Compensation Insurance Carrier and the injured employee.
 *Employers - Do not send this form to the Texas Department of Insurance, Division of Workers' Compensation, unless the Division specifically requests a direct filing.

CLAIM #	02084913DA
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CARRIER'S CLAIM#	2002D0222
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EMPLOYER'S FIRST REPORT OF INJURY OR ILLNESS

1. Name (Last, First, M.I.) [REDACTED]		2. Sex F <input checked="" type="checkbox"/> M <input type="checkbox"/>	
3. Social Security Number [REDACTED]	4. Home Phone [REDACTED]	5. Date of Birth (m-d-y) [REDACTED]	
6. Does the Employee Speak English? If No, Specify Language YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
7. Race White <input type="checkbox"/> Black <input checked="" type="checkbox"/> Asian <input type="checkbox"/>		8. Ethnicity Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Other <input checked="" type="checkbox"/>	
9. Mailing Address Street or P.O. Box [REDACTED]			
City DALLAS		State TX	
ZIP Code 752165843		County DALLAS	
10. Marital Status Married <input checked="" type="checkbox"/> Widowed <input type="checkbox"/> Separated <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/>			
11. Number of Dependent Children 01		12. Spouse's Name [REDACTED]	
13. Doctor's Name SCOTT O PASCHAL M D			
14. Doctor's Mailing Address (Street or P.O. Box) 5920 FOREST PARK RD			
City DALLAS		State TX	
ZIP Code 752356411			

15. Date of Injury (m-d-y) 04-11-02	16. Time of Injury 12:00 am <input type="checkbox"/> pm <input checked="" type="checkbox"/>	17. Date Lost Time Began (m-d-y) 05-07-02
18. Nature of Injury SPRAIN		19. Part of Body Injured or Exposed* KNEE
20. How and Why Injury/Illness Occurred* EMPLOYEE WAS ON HER KNEES, LEANING OVER THE BATHTUB TO SCRUB THE TUB WITH A CLEANER. WHEN SHE GOT UP, SHE COULD TELL SOMETHING WAS NOT RIGHT W/ KNEE. OVER NEXT FEW DAYS, THERE WAS SWELLING BUT NOT A LOT OF PAIN. PAIN		
21. Was employee doing his regular job? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	22. Worksite Location of Injury (stairs, dock, etc.)* RESTROOMS, SHOWERS	
23. Address Where Injury or Exposure Occurred Name of business if incident occurred on a business site Street or P.O. Box 4532 LORRAINE AVE County		
City DALLAS		State TX
ZIP Code 752053613		
24. Cause of Injury (fall, tool, machine, etc.)* FURNITURE OR FIXTURES		
25. List Witnesses		
26. Return to work date/for expected (m-d-y)	27. Did employee die? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	28. Supervisor's Name MRS. KERN WILDENTHAL
		29. Date Reported (m-d-y) 04-11-02

30. Date of Hire (m-d-y) 10-13-97	31. Was employee hired or recruited in Texas? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	32. Length of Service in Current Position Months 12 Years 13	33. Length of Service in Occupation Months 12 Years 13
34. Employee Payroll Classification Code		35. Occupation of Injured Worker CUSTODIAN, HOUSEKEEPER, JANITOR	
36. Rate of Pay at this Job \$ _____ Hourly \$ 516.53 Weekly	37. Full Work Week is: 40 Hours _____ Days	38. Last Paycheck was: \$ 2246.00 for 31 Hours or _____ Days	39. Is employee an Owner, Partner, or Corporate Officer? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

40. Name and Title of Person Completing Form Tracy L Schanbacher		41. Name of Business UTSW Medical Center	
42. Business Mailing Address and Telephone Number Street or P.O. Box 5323 Harry Hines Blvd. (214) 648-9824		43. Business Location (If different from mailing address) Number and Street	
City Dallas		State TX	
ZIP Code 75235-9023			
44. Federal Tax Identification Number	45. Primary Standard Industrial Classification (SIC) Code* (4 digit) 8221	46. Specific SIC Code* (4 digit) 8221	47. Texas Comptroller Taxpayer No.
48. Worker's Compensation Insurance Company The University of Texas System		49. Policy Number Self-Insured	
50. Did you request accident prevention services in past 12 months? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If yes, did you receive them? YES <input type="checkbox"/> NO <input type="checkbox"/>			
51. Signature and Title (READ INSTRUCTIONS ON INSTRUCTION SHEET BEFORE SIGNING) X Tracy L Schanbacher Date 04-29-02			

