
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**INDIVIDUAL VOLUME
REPRESENTATIVE PAYEE
IN TOPEKA, KANSAS**

August 2008 A-07-08-18039

AUDIT REPORT



Mission

By conducting independent and objective audits, evaluations and investigations, we inspire public confidence in the integrity and security of SSA's programs and operations and protect them against fraud, waste and abuse. We provide timely, useful and reliable information and advice to Administration officials, Congress and the public.

Authority

The Inspector General Act created independent audit and investigative units, called the Office of Inspector General (OIG). The mission of the OIG, as spelled out in the Act, is to:

- Conduct and supervise independent and objective audits and investigations relating to agency programs and operations.**
- Promote economy, effectiveness, and efficiency within the agency.**
- Prevent and detect fraud, waste, and abuse in agency programs and operations.**
- Review and make recommendations regarding existing and proposed legislation and regulations relating to agency programs and operations.**
- Keep the agency head and the Congress fully and currently informed of problems in agency programs and operations.**

To ensure objectivity, the IG Act empowers the IG with:

- Independence to determine what reviews to perform.**
- Access to all information necessary for the reviews.**
- Authority to publish findings and recommendations based on the reviews.**

Vision

We strive for continual improvement in SSA's programs, operations and management by proactively seeking new ways to prevent and deter fraud, waste and abuse. We commit to integrity and excellence by supporting an environment that provides a valuable public service while encouraging employee development and retention and fostering diversity and innovation.



SOCIAL SECURITY

MEMORANDUM

Date: August 28, 2008

Refer To:

To: Michael W. Gochowski
Regional Commissioner
Kansas City

From: Inspector General

Subject: Individual Volume Representative Payee in Topeka, Kansas (A-07-08-18039)

OBJECTIVE

Our objectives were to determine whether this individual volume representative payee for the Social Security Administration (SSA) (1) had effective safeguards over the receipt and disbursement of Social Security benefits, (2) used and accounted for Social Security benefits in accordance with SSA policies and procedures, and (3) adequately protected the beneficiaries' personally identifiable information (PII).

BACKGROUND

Some individuals cannot manage or direct the management of their finances because of their youth or mental and/or physical impairments. Congress granted SSA the authority to appoint representative payees to receive and manage these beneficiaries' payments.^{1, 2} A representative payee may be an individual or an organization. SSA selects representative payees for Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries or Supplemental Security Income (SSI) recipients when representative payments would serve the individuals' interests. Representative payees are responsible for managing benefits in the best interest of the beneficiary.³ See Appendix B for additional representative payee responsibilities.

¹ We use the term "beneficiary" in this report to refer to both OASDI beneficiaries and SSI recipients.

² Social Security Act §§ 205(j) and 1631(a)(2); 42 U.S.C. §§ 405(j) and 1383(a)(2).

³ We use the term "benefits" in this report to refer to both OASDI benefits and SSI payments.

The individual representative payee under review is a volume payee, which is a payee who administers benefits for 15 or more Social Security beneficiaries. The representative payee received payments under SSA's OASDI and SSI programs on behalf of 57 adults living in Topeka, Kansas, during the audit period of July 1, 2005 to June 30, 2007. SSA's Kansas City Regional Office requested that we perform this audit because of issues identified in its February 2007 review of the representative payee. See Appendix C for the Scope and Methodology of our review.

RESULTS OF REVIEW

We found that the representative payee did not use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, the representative payee:

- inappropriately charged 45 beneficiaries a total of \$33,521 for his representative payee services,
- failed to return \$3,937 in conserved funds to SSA when his services as a payee ended for 6 beneficiaries, and
- allowed bank balances to exceed the \$2,000 resource limit for 2 SSI beneficiaries.

We also found that the representative payee did not have effective safeguards over the receipt and disbursement of Social Security benefits. Specifically, the representative payee:

- did not maintain documentation to support how most of the beneficiary funds were used, and
- held funds received for 11 Social Security beneficiaries and 8 other individuals in a collective account that did not meet SSA requirements.

Further, we found that improvements were needed in the representative payee's controls for physically securing beneficiaries' PII, financial records, and other cash funds. Lastly, we found that the representative payee managed benefits on behalf of five Social Security beneficiaries for whom he was not the representative payee of record.

USE AND ACCOUNTING FOR SOCIAL SECURITY BENEFITS

We found that the representative payee did not use and account for Social Security benefits in accordance with SSA policies and procedures. Specifically, the representative payee inappropriately charged Social Security beneficiaries a fee for his services, did not return conserved funds to SSA when his payee services ended, and allowed beneficiary bank balances to exceed the \$2,000 SSI resource limit.

Unallowable Representative Payee Fees

During our 2-year audit period, the individual representative payee inappropriately charged 45 Social Security beneficiaries a total of \$33,521 for representative payee services.⁴ In its February 2007 review, SSA found the representative payee was charging beneficiaries unallowable fees. In March 2007, SSA instructed the representative payee that these fees were unallowable. However, we determined that the representative payee continued to take fees from 5 of the 45 beneficiaries for at least 4 months after SSA's review (March through June 2007). Although our audit period ended in June 2007, the representative payee may have continued to charge unallowable fees to some Social Security beneficiaries from July 2007 to the present.

SSA's policy prohibits individual representative payees from collecting a fee from Social Security benefits for representative payee services except in certain circumstances, such as court-ordered fees and fees for serving as a legal guardian.⁵ The representative payee did not meet circumstances that allowed him to charge a fee for providing services to these Social Security beneficiaries. Therefore, the \$33,521 in fees charged to Social Security beneficiaries for representative payee services were unallowable. The funds should have been saved or used to meet the beneficiaries' needs (food, shelter, and clothing).⁶

Conserved Funds Were Not Returned

SSA requires that representative payees return Social Security funds that have been conserved or unused when their payee services are terminated or are no longer required.⁷ SSA will then reissue the funds to the successor representative payee or the beneficiary in direct payment.⁸ However, the representative payee did not return \$3,937 in conserved funds to SSA when his services for six beneficiaries ended.

⁴ In a February 2007 review of this individual representative payee, SSA found the representative payee was inappropriately charging 9 of the 10 beneficiaries included in its review a fee for the services he provided. In requesting this audit, SSA asked us to quantify the amount of inappropriate fees collected from all beneficiaries for which he served as representative payee.

⁵ SSA, POMS, GN 00602.110.A, GN 00602.040; SSA, *A Guide for Representative Payees* (No. 05-10076), p. 2, February 2006.

⁶ SSA, POMS, GN 00602.001.A.2.

⁷ An exception to returning funds to SSA is when a beneficiary dies. The representative payee should send conserved funds to the legal representative of the beneficiary's estate (SSA, POMS, GN 00603.100.B.2).

⁸ SSA, POMS, GN 00603.055.A, GN 00502.113.D.1; SSA, *Guide for Representative Payees* (No. 05-10076), p. 17, February 2006.

Instead of returning the money to SSA, the representative payee gave five beneficiaries the conserved funds directly, and in the sixth case, the conserved funds were given to the beneficiary's relative. When conserved funds are not returned, SSA is unaware they exist and cannot direct the funds to the new payee so the beneficiary's needs can continue to be met. Given that beneficiaries with representative payees were deemed incapable of managing their Social Security benefits,⁹ there is no guarantee that conserved funds given to the beneficiaries or a relative will be used appropriately.

Excess SSI Resources

The representative payee allowed the bank balances of two SSI beneficiaries to exceed the \$2,000 resource limit and did not report the excess resources to SSA. One beneficiary's bank balance exceeded the \$2,000 limit during 10 months of our audit period in amounts ranging from \$205 to \$900. The other beneficiary's bank balance exceeded the \$2,000 limit during 10 months of our audit period in amounts ranging from \$14 to \$841.

The representative payee is responsible for using benefits in the best interest of the beneficiaries and reporting to SSA when the SSI resources for beneficiaries exceed the \$2,000 limit.¹⁰ Because the representative payee did not closely monitor the bank balances and take timely action to spend down the funds when the balances exceeded the \$2,000 limit, the beneficiaries' eligibility for SSI payments could have been impacted.¹¹

RECEIPT AND DISBURSEMENT OF SOCIAL SECURITY BENEFITS

We found the representative payee did not have adequate internal controls for the receipt and disbursement of Social Security benefits. Specifically, the representative payee did not maintain supporting documentation that would account for most of the expenditures of beneficiaries' funds. In addition, the collective bank account used by the representative payee to receive and hold beneficiaries' Social Security benefits did not meet SSA's requirements.¹²

⁹ SSA, POMS, GN 00502.001.A.

¹⁰ 20 C.F.R. §§ 416.635 and 416.1205; SSA, POMS SI 01110.003.A.2, GN 00502.113.D.1; SSA, *Guide for Representative Payees* (No. 05-10076), p. 7, February 2006.

¹¹ SSA, POMS, GN 00603.001.B.2, GN 00502.113.E.3c.

¹² 20 C.F.R. §§ 416.665 and 416.645.

Insufficient Supporting Documentation

The representative payee did not maintain receipts or other documentation to account for how 89 percent of the total expenditure of beneficiaries' funds was spent during our 2-year audit period. Specifically, of the \$1,030,223 in beneficiaries' funds expended,¹³ the representative payee did not have receipts or other supporting documentation for \$913,606.¹⁴ We found that the 11 percent of expenditures that were supported by receipts were for the beneficiaries' needs. For the \$913,606 not supported by receipts, we examined the representative payee's check register transactions to identify the purpose of the expenditures. The check register documented expenditures for what appeared to be legitimate purposes such as rent, utilities and other miscellaneous expenses. Although we cannot confirm how these funds were expended without receipts, nothing came to our attention during the examination of the check register that lead us to believe the expenditures were not for the beneficiaries' needs. Further, our interviews with 11 Social Security beneficiaries did not disclose any concerns that lead us to believe the beneficiaries' needs were not being met.

The \$913,606 included \$23,319 disbursed to beneficiaries for personal allowances and other needs from July 2005 through February 2007. For these cash disbursements, the representative payee did not maintain a cash log to show the beneficiaries actually received the cash. In March 2007, the representative payee began documenting cash disbursements in a cash log where the beneficiaries would certify the cash was received.¹⁵ We reviewed the cash log for the period March to June 2007 and found that the signatures in the cash log corresponded with cash payments made to beneficiaries as recorded in the check registers. However, during our interviews with beneficiaries in December 2007, we observed the representative payee providing cash allowances to three beneficiaries, but the representative payee did not have the beneficiaries sign the cash log to indicate receiving the cash. Based on these observations, we believe the representative payee continues to have weaknesses in his internal controls over the disbursement of cash allowances to beneficiaries.

SSA requires that representative payees keep accurate and complete records to show how benefits are used.¹⁶ Therefore, the representative payee should maintain receipts, cancelled checks, bills, bank statements, cash logs and other applicable documentation to show that Social Security benefits were spent for the beneficiaries' needs.

¹³ This amount does not include unallowable fees of \$33,521 discussed on Page 3 of this report.

¹⁴ The types of missing documentation included lease and care facility agreements and receipts for food, rent, medical care, and cash allowances.

¹⁵ As a result of SSA's February 2007 review, the representative payee began keeping a cash log.

¹⁶ 20 C.F.R. §§ 404.2065 and 416.665.

Maintenance of such documentation is a safeguard the individual representative payee should have in place for all beneficiary expenditures regardless of the monetary value to show that the expenditures were needed and appropriate for the beneficiary.

Collective Bank Account Did Not Meet SSA Requirements

We reviewed the collective bank account and found it held the funds of 11 Social Security beneficiaries and 8 other individuals.¹⁷ Our review disclosed that the representative payee did not:

- request SSA approval to use the collective account for Social Security beneficiaries,
- properly title the account to show the funds belonged to the beneficiaries, and
- provide a clear financial accounting for each Social Security beneficiary in the account with a verifiable paper trail.

A representative payee with a collective bank account must seek approval for the account from SSA. Approval is required so SSA can monitor these accounts every 3 years to ensure they comply with SSA requirements.¹⁸ The collective accounts must also be properly titled to protect beneficiaries' funds from loss or theft if the payee has financial problems or declares bankruptcy. The Federal Deposit Insurance Corporation insures bank deposits for individuals in collective accounts if the relationship between the account holder and its clients is shown in the deposit account records.¹⁹ The account title must show that funds belong to the beneficiary, and the representative payee only has fiduciary rather than personal interest in the funds.²⁰ We found that the collective account was titled with the representative payee's name only and did not reflect the beneficiaries' ownership of their Social Security benefits. Because the representative payee titled the account to show he owned the funds, the beneficiaries' assets were at-risk for loss or theft.

In addition, we found that the representative payee did not have a clear financial accounting for each beneficiary in the collective account. For example, the accounting records sometimes omitted the name of the beneficiary to whom the transaction applied, the purposes for some transactions were not understandable without oral explanation, and individual balances were not posted until the representative payee did the monthly reconciliation. Further, receipts and other documentation were not always

¹⁷ During its February 2007 review of the representative payee, SSA found that a collective bank account existed that contained funds for multiple individuals including Social Security beneficiaries.

¹⁸ SSA, POMS, GN 00603.020.B.

¹⁹ 12 C.F.R. § 330.5(b)(1).

²⁰ SSA, POMS, GN 00603.020.B.1.a; SSA, *Guide for Representative Payees* (No. 05-10076), p. 11, February 2006.

available to establish a verifiable paper trail. SSA requires a clear financial accounting for each beneficiary in the collective account.²¹ Without clear financial accounting and a verifiable paper trail (supporting receipts), the representative payee cannot prove to SSA that beneficiaries' funds are being used in their best interest.

PROTECTION OF PII AND OTHER ASSETS

We found the representative payee did not have internal controls to adequately protect the beneficiaries' PII, financial records, and cash funds. Specifically, the representative payee did not have adequate physical security controls to restrict unauthorized access to beneficiaries' records and assets. The representative payee stated that he maintained individual files for Social Security beneficiaries at his personal residence. He reported the files were not locked in a secured cabinet or safe. The files contained check registers, blank checks, bank statements, and receipts—all with PII such as names, addresses, and account numbers.

Further, the representative payee estimated that he kept approximately \$1,500 of beneficiaries' funds at his personal residence in an unlocked desk drawer. The lack of access restrictions and physical safeguards for maintaining sensitive personal and financial information of beneficiaries, as well as beneficiaries' cash, increases the risk of loss or unauthorized use of beneficiaries' personal information and funds.

UNREPRESENTED BENEFICIARIES

The representative payee informed us that he had power of attorney and received benefits on behalf of five Social Security beneficiaries for whom he was not the representative payee of record. When we requested information on these Social Security beneficiaries, the payee stated he had a private contractual relationship with these clients and refused our request.

Since the representative payee had power of attorney for these individuals, they may have been incapable of managing or directing the management of their benefit payments. Therefore, SSA should work with the representative payee to identify these beneficiaries and determine whether the interests of these beneficiaries would be better served by designating a representative payee so benefits can be monitored to ensure funds are used in the best interest of the beneficiaries.²²

²¹ SSA, POMS, GN 00603.020.B.1.e; SSA Expanded Monitoring Report letter to the representative payee, March 2007.

²² 20 C.F.R. §§ 404.2065 and 416.665; SSA, POMS, GN 00502.001.A.

CONCLUSIONS AND RECOMMENDATIONS

We found that the representative payee did not (1) effectively safeguard the receipt and disbursement of Social Security benefits, (2) use and account for benefits in accordance with SSA policies and procedures, and (3) adequately protect beneficiaries' PII. We also found the representative payee managed benefits on behalf of five Social Security beneficiaries for whom he was not the representative payee of record.

We recommend that SSA:

1. Refrain from placing additional beneficiaries with this individual representative payee until the representative payee has implemented corrective actions to ensure Social Security benefits are properly used and accounted for. If these corrective actions are not implemented timely, place each of this representative payee's beneficiaries with a new representative payee.
2. Take appropriate actions to seek restitution of \$33,521 on behalf of the 45 beneficiaries from whom the representative payee collected unallowable fees during the period July 1, 2005 through June 30, 2007.
3. Determine whether the representative payee collected unallowable fees from beneficiaries from July 1, 2007 to the present, take appropriate actions to seek restitution on behalf of the affected beneficiaries, and instruct the payee to discontinue collecting unallowable fees.
4. Remind the representative payee to return conserved funds to SSA when representative payee services for a beneficiary cease.
5. Instruct the representative payee to monitor SSI beneficiaries' account balances monthly to avoid excess resources.
6. Remind the representative payee to maintain sufficient documentation to show that Social Security benefits are used in the best interest of the beneficiaries.
7. Instruct the representative payee to follow SSA's requirements for the use of collective bank accounts.
8. Remind the representative payee to implement physical security controls to safeguard beneficiaries' financial records, PII, and cash funds.
9. Determine whether the beneficiaries for whom the representative payee is not the payee of record should be assigned a representative payee.

SSA COMMENTS

SSA agreed with our recommendations. See Appendix D for the full text of SSA's comments.

REPRESENTATIVE PAYEE COMMENTS

In commenting on the draft report, the representative payee contends that the \$33,521 in fees collected from Social Security beneficiaries were for expense reimbursements and were allowable based on an understanding he had with SSA that a modest informal reimbursement to pay expenses was allowed. Further, the representative payee states that he did not collect fees from Social Security beneficiaries after February 2007. The representative payee also disagreed with our finding that the bank balances of beneficiaries exceeded the \$2,000 resource limit. See Appendix E for the full text of the representative payee's comments.

OIG RESPONSE

According to SSA, there was no agreement in place that allowed the representative payee to collect the \$33,521 in fees. Also, the representative payee had no documentation to show that these funds were spent for beneficiaries' expenses. Further, in a February 2007 review of this representative payee, SSA also reported that the representative payee was inappropriately charging beneficiaries a fee for the services he provided. Documentation obtained during our review also showed that the representative payee continued to collect fees from 5 beneficiaries after February 2007. Finally, bank balance information reviewed during our audit confirmed that the bank balances for 2 beneficiaries exceeded the \$2,000 resource limit.



Patrick P. O'Carroll, Jr.

Appendices

[**APPENDIX A**](#) – Acronyms

[**APPENDIX B**](#) – Representative Payee Responsibilities

[**APPENDIX C**](#) – Scope and Methodology

[**APPENDIX D**](#) – Agency Comments

[**APPENDIX E**](#) – Representative Payee Comments

[**APPENDIX F**](#) – OIG Contacts and Staff Acknowledgments

Appendix A

Acronyms

C.F.R.	Code of Federal Regulations
OASDI	Old-Age, Survivors and Disability Insurance
OIG	Office of the Inspector General
PII	Personally Identifiable Information
POMS	Program Operations Manual System
SSA	Social Security Administration
SSI	Supplemental Security Income
U.S.C.	United States Code

Representative Payee Responsibilities

Representative payees are responsible for using benefits to serve the beneficiary's best interests. The responsibilities include:¹

- Determine the beneficiary's current needs for day-to-day living and use his or her payments to meet those needs,
- Conserve and invest benefits not needed to meet the beneficiary's current needs,
- Maintain accounting records of how the benefits are received and used,
- Report events to the Social Security Administration (SSA) that may affect the individual's entitlement or benefit payment amount,
- Report any changes in circumstances that would affect their performance as a representative payee,
- Provide SSA an annual Representative Payee Accounting Report to account for benefits spent and invested,
- Return any payments to SSA for which the beneficiary is not entitled,
- Return conserved funds to SSA when no longer serving as the representative payee for the beneficiary, and
- Be aware of any other income Supplemental Security Income recipients may have and monitor their conserved funds to ensure they do not exceed resource limits.

¹ 20 C.F.R. § 404, subpart U, and § 416, subpart F.

Scope and Methodology

Our audit covered the period July 1, 2005 through June 30, 2007. To accomplish our objectives, we:

- Reviewed applicable Federal regulations, the *Social Security Act*, and Social Security Administration (SSA) policies and procedures pertaining to representative payees.
- Reviewed prior work performed by the Office of the Inspector General and SSA in the representative payee area.
- Contacted the SSA Kansas City Regional Office and Topeka, Kansas, field office staffs to obtain background information and prior audits regarding the individual representative payee.
- Compared and reconciled a list of Social Security beneficiaries in the representative payee's care from the payee to a list obtained from the Kansas City Regional Office.
- Reviewed the representative payee's internal controls over the receipt and disbursement of Social Security benefits.
- Reviewed the 57 beneficiaries in the representative payee's care during the audit period and performed the following tests:
 - Compared and reconciled benefit amounts received according to the payee's records to benefit amounts paid according to SSA's records.
 - Reviewed the payee's accounting records to determine whether benefits were properly spent or conserved on the individual's behalf.
 - Traced a sample of recorded expenses to source documents (50 cancelled checks) and examined the documentation for reasonableness and authenticity.
 - Reconciled bank records and representative payee's records for three judgmentally selected beneficiaries.
- Observed the living conditions and interviewed a non-random sample of 11 beneficiaries to determine whether their basic needs were being met.
- Reviewed the most current Representative Payee Accounting Reports for 37 of the 57 beneficiaries to determine whether the representative payee properly reported to SSA how benefits were used.

We performed our fieldwork for the audit in Kansas City, Missouri, and Topeka, Kansas, between August 2007 and March 2008. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix D

Agency Comments

From: ||KC ORC
Sent: Thursday, July 31, 2008 4:38 PM
To: O'Carroll, Pat
Cc: Spindler, Mindy; Cancelliere, Ann; Skurnik, Candace; Rodriguez, Carla; Swann, Erica; Lawson, Wayne; Bailey, Mark; Coffelt, Tonya; Bussell, Ronald; Cockrell, Carol; Kilgallon, Pam; Stone, Gale; Schaeffer, Steve; Karpe, Brian; Hinton, Jerrod; Ireland, Sally; Hall, Cassandra L.; White, Jackie HQ OIG; Cheek, Andrea; ||KC ARC MOS; ||KC DRC; ||KC CPS; Smith, Kathy Ann RO Kansas City; Lynd, Kelly; Teegarden, Michelle; Oster Radke, Cyndie
Subject: Signed Draft Report (A-07-08-18039)--Kansas City Response
Importance: High

To: Inspector General

From: Regional Commissioner
Kansas City Region

Subject: OIG Draft Report: Individual Volume Representative Payee in Topeka, Kansas – Response

Thank you for the opportunity to comment on the above draft report. Our comments are listed below.

Recommendation 1 – SSA should refrain from placing additional beneficiaries with this individual representative payee until the representative payee has implemented corrective actions to ensure Social Security benefits are properly used and accounted for. If these corrective actions are not implemented timely, place each of this representative payee's beneficiaries with a new representative payee.

- We agree with this recommendation. On June 16, 2008, the Topeka field office annotated the Representative Payee System (RPS) and released office instructions to discontinue selecting this payee until further notice.
- If these corrective actions are not implemented timely, we will place each of this representative payee's beneficiaries with a new representative payee.

Recommendation 2 – SSA should take appropriate action to seek restitution of \$33,521 on behalf of the 45 beneficiaries/recipients from whom the representative payee collected unallowable fees during the period July 1, 2005 through June 30, 2007.

- We agree with this recommendation. The individual names, social security numbers and misused amounts have been provided to the Topeka field office. The field office is in the process of making misuse determinations on the 45 beneficiaries/recipients. Upon completion of the determinations the field office will make restitution to the beneficiaries/recipients and seek recovery from the representative payee.

Recommendation 3 – SSA should determine whether the representative payee collected unallowable fees from beneficiaries from July 1, 2007 to the present, take appropriate actions to seek restitution on behalf of the affected beneficiaries, and instruct the payee to discontinue collecting unallowable fees.

- We agree with this recommendation. The Topeka field office has instructed the representative payee to discontinue collecting fee and will conduct a follow-up visit in December 2008. The Representative Payee Monitoring Application (RPMA) has been updated to reflect the follow-up.

Recommendation 4 – SSA should remind the representative payee to return conserved funds to SSA when representative payee services for a beneficiary cease.

- We agree with this recommendation. The representative payee had been provided instructions on Social Security's conserved fund policy.

Recommendation 5 – SSA should instruct representative payee to monitor SSI beneficiaries' account balances monthly to avoid excess resources.

- We agree with this recommendation. The Topeka field office will continue to work with representative payee to ensure SSI balances are monitored regularly.

Recommendation 6 – SSA should remind the representative payee to maintain sufficient documentation to show that Social Security benefits are used in the best interest of the beneficiaries.

- We agree with this recommendation. The representative payee has been provided instructions on methods of properly documenting and maintaining records.

Recommendation 7 – SSA should instruct the representative payee to follow SSA's requirements for the use of collective bank accounts.

- We agree with this recommendation. The representative payee has been provided instructions on establishing and maintaining a collective bank account for SSA beneficiaries/recipients.

Recommendation 8 – SSA should remind the representative payee to implement physical security controls to safeguard beneficiaries' financial records, PII, and cash funds.

- We agree with this recommendation. The representative payee has been provided the fact sheet on "Protecting Personal Information".

Recommendation 9 – SSA should determine whether the beneficiaries for whom the representative payee is not the payee of record should be assigned a representative payee.

- We agree with this recommendation. The Topeka field office will contact the representative payee to determine the names of the individuals for whom the representative payee receives and monitors benefits but is not serving as representative payee. If the individual names are provided the Topeka field office will conduct capability determinations and select a representative payee where necessary.

The Topeka field office will continue to work closely with the representative payee to ensure all recommendations are implemented. If the current payee's practices do not improve and/or restitution for the misused funds are not recovered, new representative payee(s) will be selected for the beneficiaries/recipients involved.

If you have any questions, please contact me at 816-936-5700. If your staff needs additional information or assistance, they may contact Kathy Smith, Center for Programs Support, at 816-936-5643.

/s/

Michael W. Gochowski

Appendix E

Representative Payee Comments

THOMAS J. LEISING

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August 17, 2008

MR. MARK BAILEY
SSA, Office of the Inspector General
601 E. 12th Street Room 645
Kansas City, MO 64106

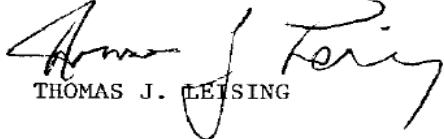
Dear Mr. Bailey,

Enclosed please find my response to the draft audit report sent to me under cover letter of July 21, 2008. I do request that it be included as an Appendix to the final audit report.

I want to commend Mr. Bussell, Ms. Coffelt, and Ms. Cockrell for their professionalism and diligence in all aspects of their contacts with me and my clients. Mr. Bussell additionally took a great deal of his time to visit with me by phone on 2 occasions after I received the draft audit report.

Feel free to call or write if you have any questions or concerns that arise from my response.

YOURS TRULY,


THOMAS J. LEISING

RESPONSE OF VOLUME PAYEE TO DRAFT REPORT OF SSA/OIG (A-07-08-18039)

I first want to address the issue of unallowable fees in the amount of \$ 33,521.00 for services rendered to SSDI and SSI recipients. I have been a volume payee since 1982. At that time and at all times up to the February 2007 review, there was an understanding between myself and SSA that a modest informal reimbursement for payee expenses would be allowed for services and that it wouldn't necessarily have to track each stamp, sheet of paper, travel mile or other physical expense. As an attorney, I have always understood that my time in serving recipients was part of my "stock in trade", similar to more tangible expense items. Up to the February 2007 review, I have always considered what your draft report calls "unallowable fees" as expense reimbursements. SSA's 2004 review dated March 19, 2004 confirmed my understanding by stating that:

SSA has approved your out of pocket expenses in the past because you make sure current needs are met before reimbursement is taken.

Even though the 2004 report included agency procedures for reimbursement for payee services, there were no action items in the 2004 report and no informal advice to cease and desist from taking informal expense reimbursements. It is obvious that between early 2004 and early 2007, SSA ratcheted up its enforcement policies on payee reimbursement. For that reason, it is my position that the agency ought to be estopped from recommending and seeking reimbursement of any "unallowable fees" that occurred before the 2007 agency review put me on unmistakable notice that the letter of the law would have to be followed on payee reimbursement. I strongly object to the OIG finding that:

the representative payee continued to take fees from 5 of the 45 beneficiaries for at least 4 months after SSA's review (March through June 2007).

There is no detail in the OIG report to back up that finding. Two representatives of the Topeka, KS SSA District Office reviewed all of my payee checkbook

registers on June 4,2007 and found that I had not taken any fee or reimbursement from any of the payee accounts for March, April, May and June of 2007. I never received written confirmation of that fact, but that is what the representatives told me on that day (Barry Lee and Pam Urban).

I do not contest the finding that I did not return \$ 3,937.00 in ~~in~~conserved funds to SSA when my services for 6 beneficiaries ended. I dispute the fact that I gave conserved funds to a beneficiary's relative. The majority of the \$ 3937. was sent directly to the successor payee so that the recipient would not suffer hardship for lack of access to funds. In a few instances, the recipient was on a month to month basis and I merely closed out the account and gave the beneficiary their regular weekly check.

I dispute the OIG finding that I allowed bank balances of 2 SSI beneficiaries to exceed \$ 2000.00. I orally disputed that finding at the June 16,2008 meeting with OIG. The OIG finding is based on bank statement balances for these 2 persons showing more than \$ 2000.00. Upon closer inspection, the bank statements also show that by the end of each month, the account was spent down to less than \$ 2000. Bill, the Topeka District Office person present at the June 16,2008 meeting, confirmed that they in fact looked to the end of month balance in determining whether or not there were excess resources.

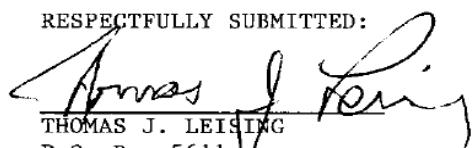
I agree with the OIG finding that I did not maintain adequate supporting documentation that would account for most of the expenditures of beneficiaries' funds. I always knew that the information was accessible from either the bank or the creditors if needed, but since March 2007 I am keeping copies of every beneficiary bill that I pay. This is a lot of work, but I concede that it makes me a better payee in this record-keeping aspect. My cash log is now up to date

and I have beneficiaries review and sign it every month. I now only disburse cash to 7 beneficiaries as a convenience to them. I maintain the cash in my office in my home and no one but family has access to my office when I am not there.

I agree with the OIG finding that my collective bank account did not meet SSA requirements. My attorney trust account is now used for no payee funds. I dispute the finding that I did not have a clear financial accounting for the funds of each beneficiary. I was able to reconcile and in fact did reconcile the trust account each month.

I agree with the OIG finding that they were able to detect no outright misuse of beneficiary funds exceeding a million dollars. I also agree and am gratified to learn that there is no finding of concern that any of the beneficiaries' needs have been unmet. These findings go to the core of my mission as payee for these drastically underserved individuals. I regret that the current rigid enforcement of payee reimbursement policies prevents me from serving more persons who are in need of a payee. It has been one of the more rewarding aspects of my 30 year career.

RESPECTFULLY SUBMITTED:



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Appendix F

OIG Contacts and Staff Acknowledgments

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Acknowledgments

In addition to those named above:

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Carol Cockrell, Evaluator

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The Office of the Inspector General (OIG) is comprised of an Office of Audit (OA), Office of Investigations (OI), Office of the Counsel to the Inspector General (OCIG), Office of External Relations (OER), and Office of Technology and Resource Management (OTRM). To ensure compliance with policies and procedures, internal controls, and professional standards, the OIG also has a comprehensive Professional Responsibility and Quality Assurance program.

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OA conducts financial and performance audits of the Social Security Administration's (SSA) programs and operations and makes recommendations to ensure program objectives are achieved effectively and efficiently. Financial audits assess whether SSA's financial statements fairly present SSA's financial position, results of operations, and cash flow. Performance audits review the economy, efficiency, and effectiveness of SSA's programs and operations. OA also conducts short-term management reviews and program evaluations on issues of concern to SSA, Congress, and the general public.

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