



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General  
Offices of Audit Services

Region VII  
601 East 12th Street  
Room 284A  
Kansas City, Missouri 64106

January 9, 2004

Ms. Anna Silva-Keith  
President, Board of Directors  
Kansas Advocacy and Protective Services, Inc.  
3745 S.W. Wanamaker Road  
Topeka, Kansas 66610

Dear Ms. Silva-Keith:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General's report entitled "Review of Consulting and Professional Service Costs Claimed by Kansas Advocacy & Protective Services Inc., Topeka, Kansas." A copy of this report will be forwarded to the action officials noted below for their review and any action deemed necessary.

The objective of the review was to determine the allowability of consultant fees, legal fees and selected health insurance costs charged to Federal grants when these amounts were paid to, or on behalf of, members of Kansas Advocacy and Protective Services' (KAPS) board of directors. The review covered the period October 1, 1995 through September 30, 2002.

During the period of our review, KAPS paid a total of \$491,936 of unallowable consulting and legal fees, and health insurance costs to, or on behalf of, members of the KAPS board of directors. We recommend the amount be refunded to the applicable Federal programs. The law firm that responded to the draft report for KAPS indicated it could not respond to the validity of the facts and reasonableness of the recommendations because of the lack of records. They further indicated that "KAPS will cooperate fully with the Federal agencies involved in order to bring resolution to this matter.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231). OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5). As such, within ten business days after the final report is issued, it will be posted on the world-wide-web at <http://oig.hhs.gov>. We are also providing this report to the Inspector General's offices for the U.S. Department of Education and the Social Security Administration.

To facilitate identification, please refer to Report Number A-07-03-02008 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Aasmundstad". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

James P. Aasmundstad  
Regional Inspector General  
for Audit Services

Enclosures – as stated

**Direct Reply to HHS Action Official:**

Ms. Jean Augustine  
Division of Audit Resolution and Cost Policy  
Room 522E, Humphrey Building  
200 Independence Avenue S.W.  
Washington D.C. 20201

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF CONSULTING AND  
PROFESSIONAL SERVICE COSTS  
CLAIMED BY KANSAS ADVOCACY  
AND PROTECTIVE SERVICES INC.,  
TOPEKA, KANSAS**



**JANUARY 2004  
A-07-03-02008**

# *Office of Inspector General*

<http://oig.hhs.gov/>

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## *Office of Audit Services*

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

## *Office of Evaluation and Inspections*

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

## *Office of Investigations*

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

## *Office of Counsel to the Inspector General*

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

# ***Notices***

**THIS REPORT IS AVAILABLE TO THE PUBLIC  
at <http://oig.hhs.gov/>**

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.





DEPARTMENT OF HEALTH & HUMAN SERVICES

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Region VII  
601 East 12th Street  
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January 9, 2004

Report Number A-07-03-02008

Ms. Anna Silva-Keith  
President, Board of Directors  
Kansas Advocacy and Protective Services, Inc.  
3745 SW Wanamaker Road  
Topeka, Kansas 66610

Dear Ms. Silva-Keith:

This letter provides you with the results of our limited scope review of consultant fees, legal fees, and selected health insurance costs charged to Federal grants at Kansas Advocacy and Protective Services (KAPS), Topeka, Kansas. The purpose of our review was to determine the allowability of these expenditures when amounts were paid to, or on behalf of, members of the board of directors of KAPS. Our review covered the period October 1, 1995 through September 30, 2002.

During the period of our review, KAPS paid \$491,936 in unallowable consulting fees, legal fees, and health insurance costs to, or on behalf of, members of the KAPS board of directors. In their response to the draft report, the law firm responding on behalf of KAPS noted that "KAPS is entirely funded with federal grant dollars," and "KAPS does not possess any non-federal dollars to refund any disallowed expenditures." They did note that insurance may provide some recovery of funds ultimately determined to be disallowed. We believe that KAPS should pursue whatever means are available to make restitution to the specified grants.

### **Background**

KAPS is a nonprofit, nonpolitical corporate organization whose purpose is to pursue administrative, legal and other appropriate remedies to ensure the protection of and advocate for the rights of persons with disabilities. The Corporation also obtains, prepares and disseminates informational and educational materials relating to the needs and rights of persons with disabilities and conducts or coordinates training sessions for disabled persons, their families, and the general public.

KAPS is governed by a board of directors. According to the by-laws, board members should broadly represent, or be knowledgeable about, the needs of the individuals served by the agency. The by-laws further specify that board members "...shall serve without pay and no financial benefit shall accrue as a result of membership on the Board of Directors."

During the seven-year period of the review, KAPS received Federal funds from as many as five different programs from the Department of Health and Human Services, Department of Education, and the Social Security Administration. The KAPS financial statements reflected \$6,073,037 of expenditures for the Federal grants for the review period as shown in APPENDIX B.

### **Scope of Review**

Our limited scope review was conducted in accordance with generally accepted government auditing standards to the extent practicable. The purpose of our review was to determine the allowability of consultant fees, legal fees and selected health insurance costs charged to Federal grants when these amounts were paid to, or on behalf of, members of the KAPS board of directors.

The review was performed coincident to a request for assistance from the Office of Investigations of the Health and Human Services Office of Inspector General (OIG/OI). Circumstances limiting our review procedures and scope of the review were as follows:

- The review was conducted with records subpoenaed by the OIG/OI and located at the OIG/OI office.
- The access to grantee personnel was generally limited during the review.
- Internal control was reviewed only to the extent necessary to gain an understanding of the accounting system pertaining to the recording and reporting of consulting fees, legal fees and certain health insurance costs.

Our review covered the period October 1, 1995 through September 30, 2002. During the period, KAPS financial statements showed \$6.1 million of expenditures for Federal grants from three different Federal departments. The review covered accounts totaling \$1.3 million of expenditures for the period.

We obtained and reviewed KAPS audited financial statements for fiscal years 1996 through 2001, and unaudited financial statements for fiscal year 2002. From these financial statements we determined total cost charged to Federal grants and total amounts charged for certain categories of interest such as consulting and professional fees and employee benefits. Consulting fees, legal fees and health insurance amounts paid to, or on behalf, of KAPS board members were traced to source documentation such as checks, payment voucher documentation, and accounting distribution documentation attached to the original source documents. Amounts paid to board members were evaluated for allowability and reasonableness based on OMB Circular A-122, *Cost Principles for Non-Profit Organizations*.

The review was conducted primarily at the OIG/OI office in Kansas City, Missouri, between January and May 2003. On two occasions, we were able to meet with grantee personnel to discuss items pertinent to the review.

**Results of Review**

The KAPS paid a total of \$491,936 in unallowable consulting fees, legal fees, and health insurance costs to, or on behalf of, members of the KAPS board of directors summarized as follows:

<u>Consultant</u>	<u>Consulting Fees</u>	<u>Legal Fees</u>	<u>Health Insurance</u>	<u>Total Questioned</u>
A	\$329,442	\$ 70,550	\$ 20,801	\$420,793
B	33,333	-0-	2,810	36,143
C	35,000	-0-	-0-	35,000
Total	<u>\$397,775</u>	<u>\$ 70,550</u>	<u>\$ 23,611</u>	<u>\$491,936</u>

The OMB Circular A-122 (Attachment B, item 39) does not allow costs of professional and consultant services when they are paid to officers or employees of the grantee organization. Furthermore, Circular A-122’s *General Principles* (A.2.a. and A.3.b.) states that for a cost to be allowable under an award, among other things, a cost must be *reasonable* for the performance of the award. And, one of the factors in determining the reasonableness of a given cost is *...the restraints or requirements imposed by such factors as generally accepted sound business practices, [and] arms length bargaining ....*

Furthermore, as previously noted, the KAPS corporate by-laws specify that board members “...shall serve without pay and no financial benefit shall accrue as a result of membership on the Board of Directors.”

**Consultant A:**

Consultant A was the President of the KAPS board of directors during the period covered by our review. The work statement in the consulting agreement stated the consultant would provide staff litigation and ethics training, consult on all litigation cases initiated by KAPS, and provide strategic training and information about cases being prepared for litigation.

The consulting fees paid to the board president increased from \$10,500 in 1996 to \$82,500 in 2002. Starting in 1999, KAPS paid a total of \$20, 801 in health insurance premiums on behalf of the board president. In addition to the consulting fees and health insurance payments, KAPS paid \$30,550 and \$40,000, in 1998 and 1999 respectively, for legal services rendered by the board president. All amounts paid to Consultant A during the period of our review are recommended for disallowance (questioned). The total paid to, or on behalf of, the board president was \$420,793.

**Consultant B:**

Consultant B entered into a consulting agreement with KAPS in January 2000 and became a board member in October 2000. Consultant B continued as both consultant and board member through the end of our review period, September 2002. The consulting agreement duties included "... advocating for better treatment and services and support for children with disabilities and adults with disabilities in juvenile justice or adult correctional facilities, or who are at danger of such placement, and advocating for such processes as can reduce the contact of such persons with the criminal justice facilities and system and reduce reliance on institutional facilities."

KAPS paid consulting fees to (and health insurance premiums on behalf of) Consultant B. We have questioned a total of \$36,143 paid while Consultant B served as both consultant and board member. The amounts questioned covered fiscal years ending September 30, 2001 and 2002 and included consulting fees of \$33,333 and health insurance premiums of \$2,810. Consulting fees of \$35,000, paid prior to Consultant B becoming a board member, were not recommended for disallowance.

**Consultant C:**

Consultant C entered into two consulting contracts while serving on the board of directors. The first contract, during fiscal year ended September 30, 1997, was for the consultant to establish "evaluation criteria for quantitatively evaluating the county access surveys for all 105 counties in Kansas," and "provide KAPS' with a report of the outcomes and any trends found during analysis." A second contract, during the fiscal year ended September 30, 1998, was for the consultant to "Develop a comprehensive outreach strategy for serving under-served populations w[ith] disabilities."

Both contracts were fixed-fee contracts. The first contract paid \$25,000 and the second contract paid \$10,000. We recommend both amounts for disallowance.

**Conclusions and Recommendations**

KAPS has charged Federal grants \$491,936 (APPENDIX B) for payments made to, or on behalf of members of KAPS board of directors for consulting and legal fees and health insurance premiums. Governing Federal cost principles (OMB Circular A-122) do not allow these types of payments to officers or employees of grantee organizations.

We recommend that KAPS refund \$491,936 of unallowable costs to the applicable Federal programs (APPENDICES C through G).

**KAPS' Comments and OIG's Response**

The KAPS indicated in their response they could not present their views on the validity of the facts and reasonableness of the recommendations because the records were not available to them. The response went on to state that KAPS is "entirely funded with

federal grant dollars,” and “does not possess any non-federal dollars to refund any disallowed expenditures.” They did note that insurance policies may provide some recovery of funds ultimately determined to be disallowed.

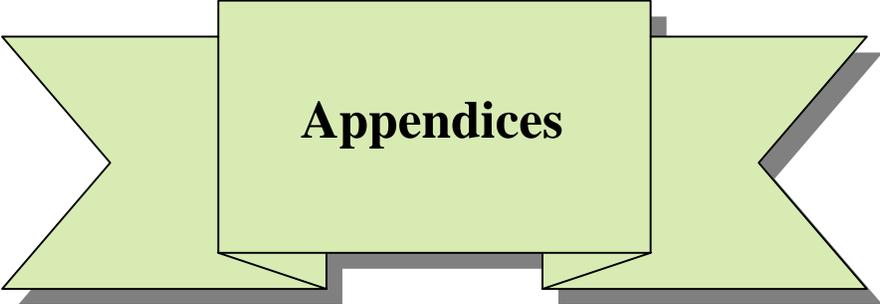
The response also detailed reforms and corrective action being instituted by KAPS, including the hiring of a new executive director and a new fiscal officer. They have also terminated the consultant contracts in question. The text of KAPS’ response is included at Appendix H.

We commend KAPS for instituting corrective action and recommend that KAPS pursue restitution to the specified grants.

Sincerely,

A handwritten signature in black ink, appearing to read "James P. Aasmundstad". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

James P. Aasmundstad  
Regional Inspector General  
for Audit Services



**Appendices**

**KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
SCHEDULE OF FEDERAL GRANTS AND EXPENDITURES  
FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002**

Expenditures

<b>Federal Agency</b>	-- Substance Abuse and Mental Health Services Administration, Department of Health and Human Services	
<b>Grant Title</b>	-- Protection and Advocacy for Individuals with Mental Illness (PAIMI)	\$2,352,505
<b>CFDA Number</b>	-- 93.138	
<b>Grant Purpose</b>	-- To provide for the expansion of the state's protection and advocacy System for protecting and advocating the rights of individuals with mental illness, including investigating incidents of serious injury and deaths in public and private facilities. Funds may be used for the cost of planning, developing, expanding and implementing activities to support attainment of the state's protection and advocacy goals.	
<b>Federal Agency</b>	-- Administration for Children and Families, Department of Health and Human Services	
<b>Grant Title</b>	-- Developmental Disabilities Basic Support and Advocacy Grants	\$2,261,707
<b>CFDA Number</b>	-- 93.630	
<b>Grant Purpose</b>	-- To assist states in the development of a plan for a comprehensive and coordinated system of services and other activities to enhance the lives of individuals with developmental disabilities to their maximum potential, and to support a system which protects their legal and human rights. Grant funds may be used for priority area and other activities, including administrative costs, to build capacity, to refocus existing services, and to pursue legal and other remedies to protect the rights of individuals with developmental disabilities.	
<b>Federal Agency</b>	-- Rehabilitation Services Administration Office of Special Education and Rehabilitative Services, Department of Education	
<b>Grant Title</b>	-- Program of Protection and Advocacy of Individual Rights	\$1,100,793
<b>CFDA Number</b>	-- 84.240	
<b>Grant Purpose</b>	-- To support a state system that protects the legal and human rights of individuals with disabilities who need services that are beyond the scope of the Client Assistance Program (CAP) under Section 112 of the Rehab Act of 1973, and are ineligible for other developmental and mental disability programs.	
<b>Federal Agency</b>	-- National Institute on Disability and Rehabilitation Research Office of Special Education and Rehabilitative Services Department of Education	
<b>Grant Title</b>	-- Assistive Technology State Grants for Protection and Advocacy	\$304,798
<b>CFDA Number</b>	-- 84.343	
<b>Grant Purpose</b>	-- To support protection and advocacy services for the developmentally disabled including the acquisition, utilization, or maintenance of assistive technology services and devices for individuals with disabilities.	
<b>Federal Agency</b>	-- Social Security Administration	
<b>Grant Title</b>	-- Social Security Benefits Planning, Assistance, and Outreach Program	\$53,234
<b>CFDA Number</b>	-- 96.008	
<b>Grant Purpose</b>	-- To disseminate accurate information to beneficiaries with disabilities about work incentive programs and issues related to such programs. Funds may be used to provide statewide benefits planning and assistance, including information on the availability or protection and advocacy services to all Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries with disabilities.	

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

CFDA Number	FYE Sept. 30	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
			Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
93.138	1996	\$275,746.62	\$13,759.37	\$16,974.49	\$30,733.86	\$4,130.00	\$0.00	\$4,130.00
93.630	1996	280,760.56	12,604.53	16,355.11	28,959.64	4,455.00	0.00	4,455.00
84.240	1996	83,459.95	5,340.51	4,603.23	9,943.74	1,325.00	0.00	1,325.00
84.343	1996	<u>47,435.73</u>	<u>7,390.53</u>	<u>2,633.75</u>	<u>10,024.28</u>	<u>590.00</u>	<u>0.00</u>	<u>590.00</u>
Total	1996	<u>\$687,402.86</u>	<u>\$39,094.94</u>	<u>\$40,566.58</u>	<u>\$79,661.52</u>	<u>\$10,500.00</u>	<u>\$0.00</u>	<u>\$10,500.00</u>
93.138	1997	\$273,326.24	\$31,791.38	\$15,354.61	\$47,145.99	\$14,199.99	\$0.00	\$14,199.99
93.630	1997	309,434.72	47,713.44	15,963.94	63,677.38	41,858.33	0.00	41,858.33
84.240	1997	106,952.09	35,876.84	3,727.21	39,604.05	3,391.68	0.00	3,391.68
84.343	1997	<u>27,579.04</u>	<u>3,408.97</u>	<u>1,282.68</u>	<u>4,691.65</u>	<u>1,383.31</u>	<u>0.00</u>	<u>1,383.31</u>
Total	1997	<u>\$717,292.09</u>	<u>\$118,790.63</u>	<u>\$36,328.44</u>	<u>\$155,119.07</u>	<u>\$60,833.31</u>	<u>\$0.00</u>	<u>\$60,833.31</u>
93.138	1998	\$323,290.72	\$34,078.89	\$18,619.05	\$52,697.94	\$20,066.54	\$0.00	\$20,066.54
93.630	1998	312,002.00	67,720.80	14,292.50	82,013.30	47,683.22	0.00	47,683.22
84.240	1998	167,094.52	48,045.76	7,402.39	55,448.15	8,699.95	0.00	8,699.95
84.343	1998	<u>18,815.14</u>	<u>6,357.04</u>	<u>599.65</u>	<u>6,956.69</u>	<u>766.59</u>	<u>0.00</u>	<u>766.59</u>
Total	1998	<u>\$821,202.38</u>	<u>\$156,202.49</u>	<u>\$40,913.59</u>	<u>\$197,116.08</u>	<u>\$77,216.30</u>	<u>\$0.00</u>	<u>\$77,216.30</u>
93.138	1999	\$286,062.15	\$32,916.13	\$15,575.18	\$48,491.31	\$16,262.50	\$1,508.67	\$17,771.17
93.630	1999	336,159.36	46,859.98	16,408.40	63,268.38	19,387.51	1,624.00	21,011.51
84.240	1999 *	237,259.37	69,150.78	8,790.90	77,941.68	50,962.44	860.63	51,823.07
84.343	1999	<u>38,763.38</u>	<u>11,271.40</u>	<u>1,245.33</u>	<u>12,516.73</u>	<u>1,304.18</u>	<u>122.22</u>	<u>1,426.40</u>
Total	1999	<u>\$898,244.26</u>	<u>\$160,198.29</u>	<u>\$42,019.81</u>	<u>\$202,218.10</u>	<u>\$87,916.63</u>	<u>\$4,115.52</u>	<u>\$92,032.15</u>

\* FYE 1999 total grant expenditures and consulting and professional services as reported in the audited financial statements have been adjusted (increased) to reflect \$30,000 of unreported program income from legal settlements.

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

CFDA Number	FYE Sept. 30	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
			Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
93.138	2000	\$404,905.26	\$76,420.91	\$22,475.83	\$98,896.74	\$22,412.52	\$2,123.96	\$24,536.48
93.630	2000	372,257.26	59,177.77	21,961.85	81,139.62	20,991.66	2,063.99	23,055.65
84.240	2000	124,344.70	50,036.13	4,277.66	54,313.79	4,445.78	413.64	4,859.42
84.343	2000	<u>59,857.55</u>	<u>14,932.07</u>	<u>980.54</u>	<u>15,912.61</u>	<u>6,508.35</u>	<u>571.81</u>	<u>7,080.16</u>
Total	2000	<u>\$961,364.77</u>	<u>\$200,566.88</u>	<u>\$49,695.88</u>	<u>\$250,262.76</u>	<u>\$54,358.31</u>	<u>\$5,173.40</u>	<u>\$59,531.71</u>
93.138	2001	\$490,502.02	\$79,700.29	\$33,180.29	\$112,880.58	\$35,650.02	\$3,952.42	\$39,602.44
93.630	2001	335,416.49	56,818.67	22,928.92	79,747.59	25,620.89	2,896.76	28,517.65
84.240	2001	124,858.83	15,896.64	8,479.87	24,376.51	9,774.96	1,052.74	10,827.70
84.343	2001	41,267.74	4,303.26	2,606.10	6,909.36	2,537.49	279.44	2,816.93
96.008	2001	<u>16,429.45</u>	<u>1,800.67</u>	<u>1,194.42</u>	<u>2,995.09</u>	<u>1,416.67</u>	<u>0.00</u>	<u>1,416.67</u>
Total	2001	<u>\$1,008,474.53</u>	<u>\$158,519.53</u>	<u>\$68,389.60</u>	<u>\$226,909.13</u>	<u>\$75,000.03</u>	<u>\$8,181.36</u>	<u>\$83,181.39</u>
93.138	2002 **	\$298,672.17	\$38,263.48	\$24,206.04	\$62,469.52	\$30,079.18	\$1,915.80	\$31,994.98
93.630	2002 **	315,676.68	46,868.30	28,093.86	74,962.16	34,941.65	2,172.15	37,113.80
84.240	2002 **	256,823.28	33,920.19	19,279.28	53,199.47	26,445.86	1,647.97	28,093.83
84.343	2002 **	71,080.00	10,666.90	4,672.73	15,339.63	7,262.52	404.69	7,667.21
96.008	2002 **	<u>36,804.35</u>	<u>4,933.89</u>	<u>2,471.50</u>	<u>7,405.39</u>	<u>3,770.84</u>	<u>0.00</u>	<u>3,770.84</u>
Total	2002 **	<u>979,056.48</u>	<u>134,652.76</u>	<u>78,723.41</u>	<u>213,376.17</u>	<u>\$102,500.05</u>	<u>\$6,140.61</u>	<u>\$108,640.66</u>
Total	1996 - 2002	<u>\$6,073,037.00</u>	<u>\$968,026.00</u>	<u>\$356,638.00</u>	<u>\$1,324,663.00</u>	<u>\$468,324.63</u>	<u>\$23,610.89</u>	<u>\$491,935.52</u>

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

APPENDIX C

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
 SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
 FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS (PAIMI)  
 CFDA # 93.138

FYE	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
		Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
1996	\$275,746.62	\$13,759.37	\$16,974.49	\$30,733.86	\$4,130.00	\$0.00	\$4,130.00
1997	273,326.24	31,791.38	15,354.61	47,145.99	14,199.99	0.00	14,199.99
1998	323,290.72	34,078.89	18,619.05	52,697.94	20,066.54	0.00	20,066.54
1999	286,062.15	32,916.13	15,575.18	48,491.31	16,262.50	1,508.67	17,771.17
2000	404,905.26	76,420.91	22,475.83	98,896.74	22,412.52	2,123.96	24,536.48
2001	490,502.02	79,700.29	33,180.29	112,880.58	35,650.02	3,952.42	39,602.44
2002 **	<u>298,672.17</u>	<u>38,263.48</u>	<u>24,206.04</u>	<u>62,469.52</u>	<u>30,079.18</u>	<u>1,915.80</u>	<u>31,994.98</u>
Total	<u>\$2,352,505.18</u>	<u>\$306,930.45</u>	<u>\$146,385.49</u>	<u>\$453,315.94</u>	<u>\$142,800.75</u>	<u>\$9,500.85</u>	<u>\$152,301.60</u>

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

APPENDIX D

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
 SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
 FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
 DEVELOPMENTAL DIABILITIES BASIC SUPPORT AND ADVOCACY GRANTS  
 CFDA # 93.630

FYE	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
		Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
1996	\$280,760.56	\$12,604.53	\$16,355.11	\$28,959.64	\$4,455.00	\$0.00	\$4,455.00
1997	309,434.72	47,713.44	15,963.94	63,677.38	41,858.33	0.00	41,858.33
1998	312,002.00	67,720.80	14,292.50	82,013.30	47,683.22	0.00	47,683.22
1999	336,159.36	46,859.98	16,408.40	63,268.38	19,387.51	1,624.00	21,011.51
2000	372,257.26	59,177.77	21,961.85	81,139.62	20,991.66	2,063.99	23,055.65
2001	335,416.49	56,818.67	22,928.92	79,747.59	25,620.89	2,896.76	28,517.65
2002 **	<u>315,676.68</u>	<u>46,868.30</u>	<u>28,093.86</u>	<u>74,962.16</u>	<u>34,941.65</u>	<u>2,172.15</u>	<u>37,113.80</u>
Total	<u>\$2,261,707.07</u>	<u>\$337,763.49</u>	<u>\$136,004.58</u>	<u>\$473,768.07</u>	<u>\$194,938.26</u>	<u>\$8,756.90</u>	<u>\$203,695.16</u>

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

APPENDIX E

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
 SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
 FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION  
 PROGRAM OF PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS  
 CFDA 84.240

FYE	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
		Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
1996	\$83,459.95	\$5,340.51	\$4,603.23	\$9,943.74	\$1,325.00	\$0.00	\$1,325.00
1997	106,952.09	35,876.84	3,727.21	39,604.05	3,391.68	0.00	3,391.68
1998	167,094.52	48,045.76	7,402.39	55,448.15	8,699.95	0.00	8,699.95
1999 *	237,259.37	69,150.78	8,790.90	77,941.68	50,962.44	860.63	51,823.07
2000	124,344.70	50,036.13	4,277.66	54,313.79	4,445.78	413.64	4,859.42
2001	124,858.83	15,896.64	8,479.87	24,376.51	9,774.96	1,052.74	10,827.70
2002 **	<u>256,823.28</u>	<u>33,920.19</u>	<u>19,279.28</u>	<u>53,199.47</u>	<u>26,445.86</u>	<u>1,647.97</u>	<u>28,093.83</u>
Total	<u>\$1,100,792.74</u>	<u>\$258,266.85</u>	<u>\$56,560.54</u>	<u>\$314,827.39</u>	<u>\$105,045.67</u>	<u>\$3,974.98</u>	<u>\$109,020.65</u>

\* FYE 1999 total grant expenditures and consulting and professional services as reported in the audited financial statements have been adjusted (increased) to reflect \$30,000 of unreported program income from legal settlements.

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

## APPENDIX F

**KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002**

**OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION  
ASSISTIVE TECHNOLOGY\_ STATE GRANTS FOR PROTECTION AND ADVOCACY  
CFDA 84.343**

FYE	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
		Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
1996	\$47,435.73	\$7,390.53	\$2,633.75	\$10,024.28	\$590.00	\$0.00	\$590.00
1997	27,579.04	3,408.97	1,282.68	4,691.65	1,383.31	0.00	1,383.31
1998	18,815.14	6,357.04	599.65	6,956.69	766.59	0.00	766.59
1999	38,763.38	11,271.40	1,245.33	12,516.73	1,304.18	122.22	1,426.40
2000	59,857.55	14,932.07	980.54	15,912.61	6,508.35	571.81	7,080.16
2001	41,267.74	4,303.26	2,606.10	6,909.36	2,537.49	279.44	2,816.93
2002 **	<u>71,080.00</u>	<u>10,666.90</u>	<u>4,672.73</u>	<u>15,339.63</u>	<u>7,262.52</u>	<u>404.69</u>	<u>7,667.21</u>
<b>Total</b>	<b><u>\$304,798.58</u></b>	<b><u>\$58,330.17</u></b>	<b><u>\$14,020.78</u></b>	<b><u>\$72,350.95</u></b>	<b><u>\$20,352.44</u></b>	<b><u>\$1,378.16</u></b>	<b><u>\$21,730.60</u></b>

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

APPENDIX G

KANSAS ADVOCACY AND PROTECTIVE SERVICES, INC.  
 SCHEDULE OF TOTAL GRANT EXPENDITURES, ACCOUNTS REVIEWED, AND COSTS QUESTIONED  
 FOR FISCAL YEARS ENDING 09/30/1996 THROUGH 09/30/2002

SOCIAL SECURITY ADMINISTRATION  
 SOCIAL SECURITY\_BENEFITS PLANNING, ASSISTANCE, AND OUTREACH PROGRAM  
 CFDA 96.008

FYE	Total Grant Expenditures	Total Expense for Accounts Reviewed			Results of Review - Costs Questioned		
		Consulting & Professional Svcs.	Employee Benefits	Total	Consulting & Professional Svcs.	Employee Benefits	Total
1996	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
1997	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1998	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1999	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2000	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2001	16,429.45	1,800.67	1,194.42	2,995.09	1,416.67	0.00	1,416.67
2002 **	<u>36,804.35</u>	<u>4,933.89</u>	<u>2,471.50</u>	<u>7,405.39</u>	<u>3,770.84</u>	<u>0.00</u>	<u>3,770.84</u>
Total	<u>\$53,233.80</u>	<u>\$6,734.56</u>	<u>\$3,665.92</u>	<u>\$10,400.48</u>	<u>\$5,187.51</u>	<u>\$0.00</u>	<u>\$5,187.51</u>

\*\* FYE 2002 Expenditure amounts are from unaudited financial statements.

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Our File No.

16861-001

October 9, 2003

Mr. James P. Aasmundstad  
Regional Inspector General for  
Audit Services  
601 East 12th Street  
Room 284A  
Kansas City, MO 64106

*Re: Report Number A-07-03-02008*

Dear Mr. Aasmundstad:

This is a reply to your letter dated July 23, 2003 addressed to Ms. Anna Silva Keith, the current President of the KAPS Board of Directors. Our law firm has been retained as counsel for the KAPS Board of Directors in connection with this and other issues. The subject of this letter is the "Limited Review of Consulting and Professional Service Costs Claimed by Kansas Advocacy and Protective Services, Inc., Topeka, Kansas covering the period from October 1, 1995 through September 30, 2002. We have obtained additional time to reply from Mr. Terry Eddleman, Audit Manager.

We find it nearly impossible to "present our views relative to the validity of the facts and reasonableness of the recommendations presented". The records that we would use to make such a determination are in the custody of the Federal Prosecutors. We are informed that those records are being reviewed as part of an ongoing Federal criminal investigation. The prosecutors don't want us sharing the records with their criminal investigation and copying is prohibitively expensive. We also note that complete records are not likely to have been retained back to 1995.

One thing that we can report to you are the numerous reforms that are taking place at Kansas Advocacy and Protective Services. (1) A new Executive Director has been identified and hired. The new Executive Director is an experienced former Kansas policymaker who has worked tirelessly to inform himself about the details of and begin the process of reforming this agency. (2) A new fiscal officer is in place. (3) A new Auditor will be hired. (4) The Board has retained new legal counsel. (5) The

problem consultant contracts have all been terminated. (6) The Members of the Board of Directors who contracted as consultants have all been removed and are in the process of being replaced. (7) Every job description at KAPS is being rewritten, driven directly by the feedback from Kansas stakeholders in the disability field, in order to better respond to the advocacy needs of Kansas with disabilities. (8) A complete reorganization of the agency is being completed whereby every job at KAPS will be opened up to competition both inside and outside the agency. Current employees will have to apply for these new job descriptions and compete on a level playing field with outside applicants.

In order to plan for this needed agency reorganization, KAPS has completed an extensive outreach effort to reconnect with the disability rights advocacy community in Kansas. Surveys have been sent to over 1,000 Kansans with disabilities and stakeholders in the disability community in order to obtain direct input on what changes need to be made in the KAPS' focus and priorities. Additionally, the Executive Director recently completed a statewide Listening Tour where he held town hall type meetings in every region of the state, including stops in Topeka, Kansas City, Parsons, Wichita, Garden City and Hays. Over 1,000 miles were logged and input was received from hundreds of stakeholders in the disability community through this Listening Tour. The information gathered by these outreach efforts is being directly used to plan for and implement the reforms and reorganization efforts detailed above.

How matters ever got to the point where the actions of these individuals were so out of control will probably not be understood fully until the criminal investigation is completed. KAPS has spent considerable time and effort in assisting with this investigation. It is anticipated that we will be called upon in the future, and we will cooperate fully in the federal government's on-going criminal investigations of these individuals whom are no longer affiliated with KAPS.

It is not possible for us at this point to respond to each of the questioned consulting and legal fees. KAPS has discussed these issues at length but we do not have the records in question. We have, however, consulted with other appropriate experts. The fact remains that because KAPS is entirely funded with federal grant dollars, KAPS does not possess any non-federal dollars to refund any disallowed expenditures.

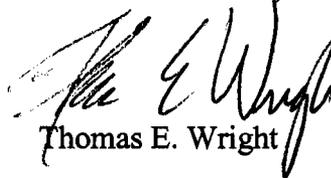
It is our understanding from discussions with the National Association of Protection and Advocacy Systems (NAPAS) that the federal government has a long standing policy of not allowing the use of federal dollars to refund disallowed expenditures. Recent examples of peer protection and advocacy organizations in other states who also had disallowed expenditures (Pennsylvania, Tennessee, Missouri, etc.) show further precedent that federal dollars cannot be used to refund disallowed expenditures. KAPS will cooperate fully with the Federal agencies involved in order to bring resolution to this matter. It is entirely possible that a criminal indictments will be issued against one of the former Consultant Board Members. This indictment or indictments is not likely to occur until the end of this year or early next year. We have conferred with the Federal Assistant District Attorney Tanya Treadway in this regard. Under all these circumstances, it would not seem appropriate to look to KAPS for reimbursement.

Mr. James P. Aasmundstad  
October 9, 2003  
Page Three

We do have three insurance policies that may provide some recovery of any funds ultimately determined to be disallowed. These policies can be made available for your lawyers review at any time you desire.

Very truly yours,

WRIGHT, HENSON,  
CLARK AND BAKER, LLP



Thomas E. Wright

TEW/jka