



Gross Mismanagement Led to the Misuse of State Resources and Multiple Violations of State Laws

California Department of Food and Agriculture
and a District Agricultural Association

August 2019

REPORT I2019-4





CALIFORNIA STATE AUDITOR

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August 20, 2019
Investigative Report I2019-4

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

In addition to the financial, performance, and high risk audits that my office performs, we administer the statutory provisions of the California Whistleblower Protection Act. We receive, review, and investigate allegations of state employees committing improper governmental activities. When an investigation substantiates improper governmental activities, my office may issue public reports summarizing our investigative work, but we do so only after carefully weighing the interests of the State and our obligation to keep confidential the identities of the whistleblowers and the employees involved. This report details the results of an investigation of one district agricultural association (association), which operates under the fiscal and policy oversight of the California Department of Food and Agriculture (CDFA).

We found that the association's chief executive officer and maintenance supervisor grossly mismanaged state resources and neglected their duties to ensure that employees comply with state laws governing supervision and time and attendance reporting. Examples of the improper acts we found include employees taking home state property and misusing state resources, drinking alcohol on state grounds, a lack of critical internal controls to prevent inappropriate and excessive travel-related purchases, unnecessary charges for interest and late fees, and a waste of state funds. The association's board of directors further exacerbated this gross mismanagement by failing to fulfill its legal responsibilities—to ensure that the association followed state requirements, protected its accumulated assets, properly managed its current income, and made good purchasing decisions. CDFA also failed to adequately exercise its oversight responsibilities: it did not perform biannual compliance audits of the association, which could have discovered and addressed many of these improper governmental activities.

When we issue investigative findings to state agencies, they must respond to us within 60 days and thereafter report monthly any corrective or disciplinary actions they are taking to address our recommendations. We received initial responses from CDFA and the association in June 2019 and have summarized them in this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

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Investigative Results

Results in Brief

The State's 54 district agricultural associations are responsible for holding local fairs, expositions, and exhibitions that highlight the industries, enterprises, resources, and products of the State. Because district agricultural associations are state entities, their employees must comply with state laws and policies related to the use of state resources. Nonetheless, the chief executive officer (CEO) and the maintenance supervisor of one district agricultural association (association) allowed—and often participated in—the gross mismanagement of state resources. The CEO's and maintenance supervisor's inexcusable neglect of their duty to ensure that employees comply with state law resulted in several employees repeatedly misusing state time, vehicles, equipment, and materials, in part to support one of the employee's construction-related jobs for private clients (side jobs). In addition, the lack of oversight allowed at least one employee to take state-owned materials, several employees to regularly drink and store alcohol at the workplace (fairgrounds), and others to store personal property free of charge on state-leased property.

Moreover, the CEO grossly mismanaged the association's funds and did not put into place critical internal controls to prevent inappropriate and excessive travel-related purchases, unnecessary charges for interest and late fees, and a waste of state funds. In the course of this investigation, we identified that the following improprieties occurred from 2016 through 2018:

- \$132,584 of credit card purchases for which the association had no supporting receipts.
- \$130,396 of individual credit card purchases exceeding \$100 for which the CEO did not sign preapproved purchase orders.
- \$30,048 for excessive and illegal out-of-state travel expenses.
- \$14,170 of credit card purchases for which the association did not have itemized receipts to verify that they were for legitimate, business-related expenses.
- \$5,859 for airline tickets that employees purchased on their CAL-Cards, even though state policy prohibits the use of CAL-Cards for travel-related purchases.
- \$5,188 for late fees and interest because the association did not pay its credit card bills on time.

Investigative Highlights . . .

Our investigation of one district agricultural association substantiated the following:

- » *The CEO and the maintenance supervisor allowed—and often participated in—the gross mismanagement of state resources. This resulted in misuse of state time, state-owned vehicles, equipment, property, and materials to, in part, support construction-related side jobs.*
- » *The CEO's and maintenance supervisor's lack of oversight and management allowed an employee to take home state property and several employees to regularly drink and store alcohol at the workplace.*
- » *The CEO grossly mismanaged the association's funds and did not put into place critical internal controls to prevent inappropriate and excessive travel-related purchases, unnecessary charges for interest and late fees, and a waste of state funds.*
- » *The association's board failed to ensure that the association followed state requirements, protected its accumulated assets, properly managed its current income, and made good purchasing decisions.*
- » *C DFA failed to perform biannual compliance audits of the association that could have discovered and addressed many of these improper governmental activities.*

- \$1,986 of wasteful tips that far exceeded the maximum allowable reimbursement rate.
- \$1,259 for inappropriate purchases of alcohol.¹

Overall, each of the entities or people who were responsible for overseeing the operation and management of the association failed in those duties, which allowed the association's gross mismanagement to continue unchecked for years. For example, each district agricultural association's board of directors is charged with developing policies, procedures, and regulations for that district agricultural association; monitoring its overall performance; and protecting its financial interests. However, the association's board failed in its duty to ensure that the association followed state requirements, protected its accumulated assets, properly managed its current income, and made good business decisions with respect to purchasing. It also failed to ensure that the CEO performed his duty to manage the association's daily operations and activities.

In addition, the California Department of Food and Agriculture (CDFA) is responsible for providing fiscal and policy oversight for the district agricultural associations. CDFA delegates this oversight responsibility to its Fairs and Expositions branch, which should ensure that district agricultural associations follow all applicable laws, regulations, and policies and that they make the best possible use of available funding and services. In 2013 the Fairs and Expositions branch placed the association on a watch list called Fairs on the Watch (watch program), a list of fiscally challenged district agricultural associations. Had CDFA's audit office subsequently performed biannual compliance audits of the association as the Fairs and Expositions branch's accounting procedures manual requires, CDFA could have discovered and addressed many of these improper governmental activities. Instead, it failed in its oversight responsibilities.

Background

Each district agricultural association has a nine-member, governor-appointed board that, in addition to the responsibilities mentioned above, also hires and evaluates a CEO. The CEO is responsible for implementing and enforcing the board-developed policies; overseeing the district agricultural association's daily operations; and hiring, managing, and evaluating all district agricultural association staff.

¹ The amounts in this bulleted list are not mutually exclusive. For example, some of the purchases included in the total for purchases with no supporting receipts are also included in the total for purchases exceeding \$100 without preapproved purchase orders.

CDEA's Fairs and Expositions branch maintains administrative oversight responsibilities for all of the State's 54 district agricultural associations, as the text box outlines.

The statutes governing the district agricultural associations mandate that, to be eligible to receive state funds or to use state assets, they must comply with the fiscal and administrative standards that the Fairs and Expositions branch establishes. These fiscal standards require the district agricultural associations to adhere strictly to the Fairs and Expositions branch's accounting procedures manual. State law further authorizes CDEA to conduct—or cause to be conducted—annual fiscal audits and periodic compliance audits of all district agricultural associations. In a compliance audit, CDEA's audit office uses the accounting procedures manual as a guideline for reviewing a district agricultural association's operational functions to determine if it is complying with state policies and procedures. For instance, the audit office evaluates whether a district agricultural association is tagging and identifying state property, managing inventory, following purchasing procedures, and tracking employee time.

To identify and reverse negative trends affecting individual district agricultural associations, the Fairs and Expositions branch established the watch program. The watch program ensures that each district agricultural association can continue to meet community needs and pursue local success. During CDEA's annual budget review, it identifies fiscally challenged district agricultural associations that require monitoring, assistance, or intervention. District agricultural associations that are part of the watch program are eligible for additional training and resources from Fairs and Expositions branch staff. If the Fairs and Expositions branch determines that it has exhausted all efforts to help a troubled district agricultural association improve its fiscal management or administrative control, it can intervene in that association's operations and is authorized by law to assume the full responsibilities of that association's board, if necessary.

A Selection of the Fairs and Expositions Branch's Oversight Responsibilities

- Approving annual district agricultural association budgets.
- Reviewing and approving contracts.
- Overseeing annual fiscal and biannual compliance audits.
- Distributing funding to district agricultural associations for operational support.
- Financing and supporting infrastructure.
- Monitoring district agricultural association revenue and spending trends.
- Rating district agricultural associations' performances.
- Facilitating personnel transactions.
- Reviewing and analyzing district agricultural association-related legislation.
- Ensuring district agricultural associations' compliance with applicable laws and regulations.

Source: Fairs and Expositions branch's accounting procedures manual.

Several of the Association’s Maintenance Division Employees Misused State Resources, Sometimes With the Approval or Participation of Their Supervisor and the CEO

Several association employees regularly violated state law and CDEA policies by failing to keep honest and accurate time records; by misusing state resources, including state-owned vehicles, equipment, property, and facilities; and by taking state-owned materials.² At times, they committed these violations with the approval or participation of the CEO and the maintenance supervisor, which constitutes gross mismanagement and inexcusable neglect of duty by those appointed to safeguard these state resources.

One Employee Regularly Misused State Resources, Took State-Owned Property, and Engaged in Activities That Were Incompatible With His State Employment

In one particularly egregious case, Employee A misused numerous state resources from March 2017 through April 2018. Employee A used a state vehicle, state-owned materials and equipment, and state time—both his own and that of several other association maintenance employees—to perform at least three side jobs. Several witnesses told us that Employee A and the other employees left work for almost the entire day nearly every day for weeks or even months at a time, depending on the side jobs on which they were working. The witnesses stated that the employees would check in at the fairgrounds in the morning, leave for the side jobs, and not return until right before their shifts ended. Figure 1 shows a sample workday when the employees were working on side jobs during this time frame. In addition, two employees told us that Employee A used state materials, such as PVC pipe and irrigation supplies, on two side jobs that included landscaping, concrete work, and household repairs. Further, Employee B—who worked with Employee A on two of these projects—was dishonest when our investigator interviewed him, falsely stating that he had been laid off by the association during the times in which he worked on the side jobs.

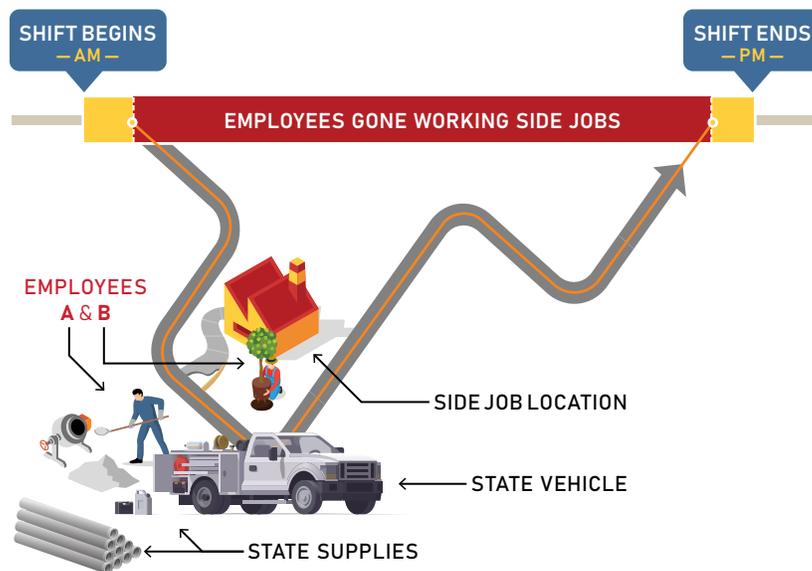
Moreover, the maintenance supervisor facilitated Employee A’s engagement in the side jobs even though they were inconsistent and incompatible with Employee A’s job duties. Specifically, the

The witnesses stated that the employees would check in at the fairgrounds in the morning, leave for the side jobs, and not return until right before their shifts ended.

² Starting on page 25, the Appendix identifies the applicable laws and policies associated with the misconduct we describe in this report.

maintenance supervisor knew that Employee A worked side jobs, failed to ensure Employee A received approval to do so, and even purchased supplies for one of Employee A's side jobs. The maintenance supervisor acknowledged in his interview that he was aware that Employee A had worked on a side job for the maintenance supervisor's insurance agent. In addition, the maintenance supervisor stated that he purchased materials for the job with his own money, for which Employee A reimbursed him. We also obtained evidence that the maintenance supervisor used his association credit card to purchase a rain gutter that Employee A used on another side job that he completed for the insurance agent.

Figure 1
Several Employees Spent Most of Their Work Hours Performing Side Jobs



Source: Witness statements.

Further, Employee A failed to document his outside employment as CDEFA policy requires. To avoid conflicts of interest, all employees must complete an annual form in which they identify any outside employment that is or might be related to the association. The maintenance supervisor is responsible for collecting these completed forms from his subordinates each year. The CEO should then provide a written decision as to whether the outside employment is permissible. However, Employee A had no such form on file with the association. More importantly, when we interviewed the CEO, he incorrectly stated that employees are not required to get approval for outside employment.

We observed Employee A retrieve several propane tanks from his home and bring them to the fairgrounds, where he filled them.

We also substantiated allegations that Employee A took state-owned propane. We observed Employee A retrieve several propane tanks from his home and bring them to the fairgrounds, where he filled them. During interviews, witnesses reported that the maintenance supervisor took propane as well and that he allowed others, both employees and individuals who were not employed by the association, to do so on several other occasions. The maintenance supervisor denied ever taking or allowing someone else to take propane for a personal purpose. However, he acknowledged using the propane during occasional “state barbeques” in order to provide employees with a required overtime meal, and he asserted that the CEO was aware of this use of the propane. Although the association is obligated to provide staff with an overtime meal under certain conditions, we found that not all maintenance staff were invited to these barbeques and that at least one occurred on a day when the association was not obligated to provide a staff meal. Given the witnesses’ statements, our observations, and the maintenance supervisor’s statement, we believe that in addition to Employee A, other employees regularly took state-owned propane for personal use.

During a five-day period, we also observed Employee A using a state vehicle and state time to drive his family members to several locations; completing yard work at his home with state equipment; and performing work for his personal benefit, including attending to a side job and moving furniture for the insurance agent. Employee A then recorded on his state timesheet that he had worked full days during these five days. Based on our observations, we calculated that he had failed to account for at least eight hours of absences during this period alone. However, witnesses stated that Employee A has disappeared during the day and performed side jobs for at least the last two years.

The Maintenance Supervisor and Several Other Maintenance Division Employees Regularly Misused State Resources

In addition to Employee A, several other maintenance division employees, including the maintenance supervisor, also regularly misused state resources such as state-owned vehicles, state time, and other property. We describe some of this misuse below. Our investigation revealed that these employees’ behavior created a culture of misuse.

Misuse of State-Owned Vehicles

- For several years, the maintenance supervisor used a state-owned vehicle nearly every day to commute from his home to the fairgrounds. The maintenance supervisor and the CEO

claimed that the maintenance supervisor took the state-owned vehicle home at most twice a week when he needed to pick up work-related materials on his way to or from the fairgrounds. However, based on our observations and witness statements, he used the state-owned vehicle nearly every day as if it were his personal truck. Therefore, the evidence suggests that the maintenance supervisor was dishonest about the frequency with which he used the state-owned vehicle.

The maintenance supervisor used a state-owned vehicle nearly every day as if it were his personal truck.

- Over a nonconsecutive five-day period, the maintenance supervisor frequently drove a state-owned vehicle for personal purposes during state time. He took extended lunches four times, and he took a maintenance employee with him twice; he went to a friend's house where he loaded personal items into the state-owned vehicle; he drove to an advertising warehouse; and he drove multiple times to his insurance agent's place of business.
- In another circumstance, we observed Employee C driving a state-owned vehicle to his home during his work hours. Following a conviction for driving under the influence (DUI) of alcohol, Employee C's driver's license was restricted to operating a vehicle equipped with an ignition interlock device (IID) in July 2017. The maintenance supervisor knew that Employee C occasionally operated a state vehicle. When interviewed, he contended that he did not know of the restriction, although in the same interview he acknowledged that he knew about Employee C's conviction and that Employee C had an IID installed in his personal vehicle. Because of this knowledge, the maintenance supervisor reasonably should have recognized that a restriction existed, and he should have taken appropriate steps to prevent Employee C from operating state-owned vehicles, which are not equipped with IIDs. We also noted that through CDEA, the association participates in the Department of Motor Vehicles' Employer Pull Notice Program, which allows agencies to monitor driver's license records for employees who drive on their behalf. The program generates and transmits a driver's record to an employing agency when a driver has a conviction or suspended license. However, CDEA's human resources branch did not notify the association of Employee C's driver's license status until January 2019.

Misuse and Improper Accounting of State Time

- The maintenance supervisor allowed Employee C to use state time to perform at least some of his 64 hours of court-ordered volunteer hours, which were part of his sentence for his DUI conviction. Even though the maintenance supervisor said that Employee C made up the missed work hours, the maintenance

supervisor did not keep any record of hours missed or made up. Further, Employee C was dishonest during his interview; when we asked about days on which we had observed him performing volunteer hours, he falsely asserted that he had worked full days for the association.

- The maintenance supervisor and another employee each reported that they had worked full days after we had observed them taking extended lunches and running personal errands. Further, because of the personal activity that we observed, one witness's account, and his own admission that he frequently took long lunches, we believe that the maintenance supervisor's misuse of state time could be significant.
- According to witnesses and photographic evidence, two temporary employees and several work-release inmates used state time to clean a motor home that belonged to the maintenance supervisor's friend and that was parked on state-leased property. Timekeeping records show that both employees claimed they worked full days when they cleaned the motor home, and one employee was dishonest in her interview about performing the work on state time.
- According to witnesses and photographic evidence, another temporary employee performed vehicle maintenance on employees' personal vehicles, including the maintenance supervisor's personal truck, on multiple occasions during state time and on state-leased property.

Misuse of State Property and Facilities

- For several years, three employees regularly stored and—after their shifts had ended—drank alcohol at their place of work on state-leased property, in violation of CDEA policy. The maintenance supervisor sometimes purchased alcohol for the three employees, and he and a few other employees at times drank with them. The CEO told us that he was not aware of any maintenance employees drinking and storing alcohol on the fairgrounds and that while he did not think it was a good idea, he was not aware of a policy that prohibited such actions. However, managers and supervisors are responsible for ensuring that all employees are aware of and adhere to CDEA's policy and are alert to indications or evidence of the use or presence of alcohol in the workplace.
- The maintenance supervisor, another employee, and an individual who was not employed by the association stored multiple personal vehicles on state-leased property,

free of charge, for at least one year. The CEO claimed to not know about two of the personal vehicles stored on state-leased property, but he acknowledged that he gave approval for the maintenance supervisor and another individual to store their motor homes on-site.

Lax Oversight and Management Allowed for the Blatant Misuse of State Resources

The association's employees misused state resources in part because the board and CEO failed to exercise prudent oversight and institute basic safeguards that would have prevented and discouraged such behavior. Such safeguards, many of which are required by state law, include tracking inventory and materials, restricting access to certain materials, keeping appropriate records, and maintaining mileage logs for state-owned vehicles. One example of the association's lack of safeguards involved propane. The propane tank did not have a meter, so the association had no way to know who accessed it, when it was accessed, or how much was used. Although the propane tank was locked, the key was kept in an open area in the maintenance division where anyone could take it. Employees also had access to the adapter that was needed to fill up small propane tanks from the large state-owned tank.

The association also failed to inventory equipment and materials adequately. The maintenance supervisor asserted that he kept an inventory of association materials "in his head." As an example of his materials management, he explained that he did not keep much piping on hand because "it is too much to watch." Although the CEO admitted that the maintenance division did not have a master inventory of tools, he and a few maintenance employees told us that they would "check out tools" when they needed to use them for personal purposes. However, we did not find any evidence or records related to a check-out process. Furthermore, both the maintenance supervisor and the CEO admitted they would not know whether employees were taking equipment, tools, or materials or were using state-owned vehicles for personal use. The CEO acknowledged that the association should put more controls in place but stated that monitoring all state resources in a large association is difficult, especially when the fair is in session.

The CEO and the maintenance supervisor failed to ensure that employees, including themselves, maintained daily mileage logs for state-owned vehicles, including both those that the association owned and those that it leased from the Department of General Services (DGS). This failure contributed to the association's failure to detect several employees' personal use of the vehicles, which we described previously. State law requires agencies to maintain daily

The association failed to inventory equipment and materials adequately. The maintenance supervisor asserted that he kept an inventory of association materials "in his head."

mileage logs for all state-owned vehicles under their control. The CEO and two other employees responsible for monthly mileage reporting to DGS incorrectly thought they had to record and report each leased vehicle's mileage at the beginning and end of the month only rather than its daily mileage. Further, they were not aware that they were also responsible for recording daily mileage for the vehicles that the association owned.

The Association Failed to Comply With State Laws and Critical Internal Accounting and Purchasing Procedures

Not only did the association board and CEO fail to put in place sufficient safeguards to prevent misuse of property and materials, they also failed to comply with state laws and critical accounting procedures that would have prevented \$36,495 in credit card expenditures resulting from inappropriate purchases, excessive and illegal travel expenses, and late fees and fines. Table 1 identifies these expenditures by category. Further, our review of the association's credit card records from 2016 through 2018 also found \$132,584 in purchases for which the association has no supporting receipts and \$130,396 in purchases exceeding \$100 for which it has no purchase orders.

Table 1
Several Employees and Board Members Incurred Inappropriate, Excessive, and Illegal Credit Card Expenditures

Excessive and illegal out-of-state travel costs	\$30,048
Late fees and interest	5,188
Inappropriate alcohol purchases	1,259
Total	\$36,495

Source: The association's accounting records.

The Association Violated Its Internal Purchasing Procedures and Grossly Disregarded the Accounting Procedures Manual

The board and CEO grossly mismanaged the association's funds by not ensuring that staff followed its purchasing procedures, adhered to the accounting procedures manual, and refrained from inappropriate and illegal purchases. For example, the association's purchasing procedures require that the CEO must sign purchase orders for all purchases over \$100. However, the association could

not provide several purchase orders for purchases made from 2016 through 2018 that exceeded \$100. The amounts of the individual purchases with no purchase orders ranged from \$100 to \$7,425, for a total of \$130,396.

The association also spent \$132,584 on credit card purchases for which it has no supporting receipts, despite the accounting procedures manual's requirement that the accounting office must receive such detailed receipts before payment. Further, when the purchasers actually provided receipts, they were often not itemized: our review found that the association paid about \$14,170 in credit card purchases for which it did not have itemized receipts. Finally, some itemized receipts showed the CEO, deputy manager, and maintenance supervisor purchased alcoholic beverages that should have been disallowed, yet the association paid the credit card bills and did not require the purchasers to reimburse the association for the inappropriate purchases.

The association could have prevented many of these purchases if it had adequately reviewed its purchasing records and established an appropriate segregation of duties. The board is responsible for reviewing the association's credit card statements, and the board's finance committee chair signs off on the bank reconciliations once the association pays the bills. Consequently, the board should have been aware of the association's inappropriate and illegal purchases. Furthermore, state law requires that the association segregate its accounting responsibilities between several people—a requirement that the association's contracted accountant highlighted in a prior financial audit of the association. However, the CEO instead relied on one accounting employee to reconcile multiple association credit card statements—including her own—each month, and this same accounting employee was responsible for issuing the purchase orders that the CEO should have signed for purchases greater than \$100.

Board Members and Staff Violated State Travel Laws by Spending More Than \$30,000 on Excessive and Illegal Out-of-State Travel Expenses

As Table 1 shows, employees and board members incurred \$30,048 in excessive and illegal travel expenses when they did not adhere to the State's lodging and meal reimbursement rates and when they traveled out of state without approval. The association made a number of prohibited purchases related to travel. For example, the CEO spent \$5,859 on his CAL-Card to purchase airline tickets, which the *State Contracting Manual* does not allow. A CAL-Card is a Visa purchase card provided by a California leveraged procurement agreement offered to participating state agencies

The association spent \$132,584 on credit card purchases for which it has no supporting receipts, despite the accounting procedures manual's requirement that the accounting office must receive such detailed receipts before payment.

Not only did the employees use their association credit cards to make illegal travel purchases, but when traveling, they also often used their association credit cards to pay for lavish meals that included alcohol.

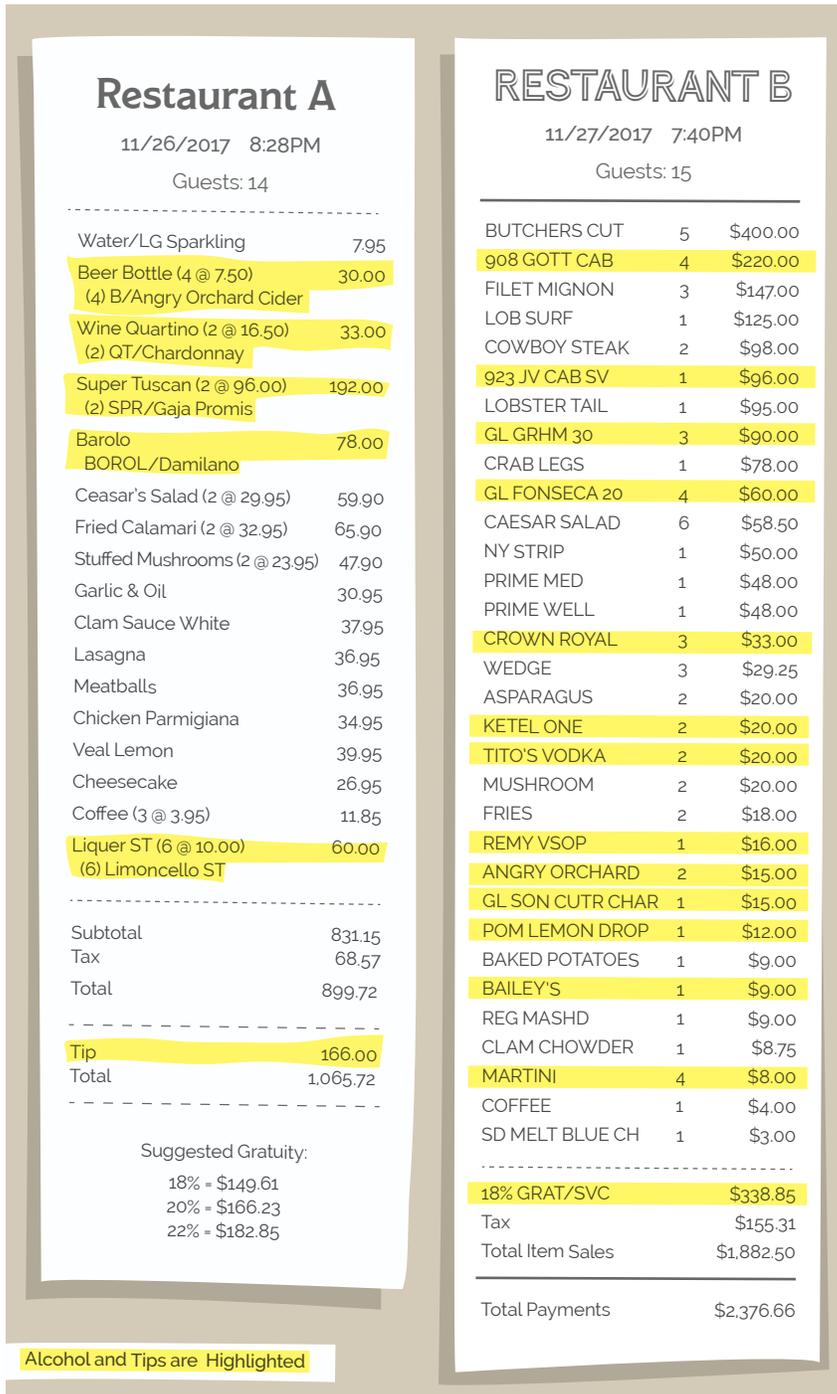
that have purchasing authority. In addition, employees and board members spent \$69,724 in total for travel expenses using association credit cards when they should have paid up-front for most of these expenses and then requested reimbursement on travel expense claim forms.

Not only did the employees use their association credit cards to make illegal travel purchases, but when traveling, they also often used their association credit cards to pay for lavish meals that included alcohol. Figure 2 shows two itemized receipts that we obtained from the vendors detailing multiple excessive purchases. For example, Restaurant B shows a lobster surf meal for \$125, which substantially surpassed the \$23 maximum allowable travel reimbursement for dinner. Furthermore, the CEO's corresponding nonitemized receipts, which he submitted to accounting for the charges on his association credit card, have handwritten notes indicating that he dined with the deputy manager and other staff, six board members, and other individuals who were not employed by the association. The itemized receipts for these two purchases show that he spent \$1,090, including tax, on alcoholic beverages and that he spent \$505 on tips. In fact, from 2016 through 2018, association credit card holders paid a combined \$1,986 on wasteful tips that far exceeded the maximum allowable reimbursement rate.

We also noted that the board members may have violated the Bagley-Keene Open Meeting Act (Bagley-Keene Act), which ensures state agencies openly conduct business so that the public may remain informed. When a majority of the board members meet to discuss association business, the Bagley-Keene Act requires that the meeting be open to the public. Based on the evidence, a majority of the board members dined together during these two meals, for which the CEO paid with association funds. If a majority of the board members discussed association business during these shared meals, they violated the Bagley-Keene Act.

Furthermore, from 2016 through 2018, employees and board members traveled out of the State six times to Nevada, Wyoming, and Kentucky without seeking approval from either CDEA's agency secretary or the Governor's Office, as state law requires. None of these out-of-state trips met the conditions for authorized out-of-state travel, which we describe on pages 26 and 27 of the Appendix. Moreover, state law specifically prohibits travel to states that enacted laws after June 26, 2015, that void or repeal existing state or local protections against discrimination. Because Kentucky enacted such a law, it is subject to California's ban on state-funded and state-sponsored travel. The CEO stated that he was not aware of the travel ban until July 2018; however, the law is clear that it is the responsibility of a state agency to consult the list of banned states on the Office of the Attorney General's website.

Figure 2
Itemized Receipts Obtained From Vendors Demonstrate Inappropriate Alcohol Purchases and Gross Misuse of State Funds



Source: Replicas of the respective vendor's records.

The Association Wasted More Than \$5,000 on Unnecessary Interest and Late Fees and Exposed Itself to Potentially Fraudulent Credit Card Charges

The association's failure to follow the accounting procedures manual led to unnecessary late fees and exposed it to potential credit card fraud. The accounting procedures manual states that each district agricultural association should produce and disseminate written procedures that establish internal controls related to making payments in a timely manner. However, the association did not establish such procedures. As a result, it paid \$5,188 in late fees and interest because it did not pay its bills on time. We also found that the association had two credit cards issued under a former employee's name and that someone other than the assigned cardholder had used one of these cards to make purchases. In fact, we found association cardholders frequently allowed other employees to make purchases with their cards, a practice that could lead to inadvertent or intentional employee misuse.

None of the Entities or Individuals Responsible for Addressing the Association's Improper Governmental Activities Performed Their Duties

The CEO and the board failed to provide critical oversight of the association, and in some instances, they either directly engaged in or approved of improper activities. Specifically, the board members failed to ensure that the association followed state requirements, protected its accumulated assets, properly managed its current income, and made good business decisions with respect to purchasing. The Fairs and Expositions branch's *Recommended Guidance for Fair Board Directors* states that if board members actively participate in or direct the CEO or staff to take actions that are prohibited by federal, state, or local laws, they may be subjecting the association and themselves to liability. It further states that when losses occur, board members cannot legally excuse themselves with a claim of ignorance of the transactions under review. Finally, it states that if board members consciously or by indifference seek to avoid knowledge of unlawful activity when they have authority to prevent that activity, they may be held liable for the consequences. According to these standards, we believe that the board is liable for many of the improper activities we identified.

Further, the Fairs and Expositions branch also failed in its oversight responsibilities. Had it performed biannual compliance audits as its accounting procedures manual describes, it could have discovered and addressed many of the improper governmental activities that we identified. The association has

The board members failed to ensure that the association followed state requirements, protected its accumulated assets, properly managed its current income, and made good business decisions with respect to purchasing.

been on the watch program since 2013, yet CDFA's audit office has not performed a compliance audit of it since 2009. A high-level manager in the Fairs and Expositions branch stated that the audit office did not conduct any compliance audits from 2011 through 2017 because CDFA laid off its audit staff due to budget cuts. However, Business and Professions Code section 19620.1, subdivision (b), clearly indicates that the Legislature shall annually appropriate funds to CDFA that the Legislature deems necessary to audit all district agricultural associations. We reviewed the Governor's budget acts from 2010 through 2019 and determined that the Legislature had, in fact, appropriated funds for this purpose. Therefore, CDFA must have allocated those funds for other purposes besides compliance audits.

The Fairs and Expositions branch also failed to ensure that the association conducted its own annual financial audits, as state law requires, and that it corrected any deficiencies, as the accounting procedures manual describes. The association's last complete financial audit occurred in 2016. In its 2015 and 2016 audits, the private accounting firm that conducted the financial audits found that the association had insufficient segregation of duties within the accounting department and that it had insufficient oversight and control over its accounting functions and financial reporting processes. In 2016 that firm also found that the association was not performing monthly account payable reconciliations and that its monthly bank reconciliations were not accurate.

When we asked why the association has not completed its 2017 audit, the CEO stated that the association could not do so until the State Controller's Office released necessary accounting and financial reporting data for employee pensions and other postemployment benefits to the Fairs and Expositions branch, which in turn would release it to the association. The State Controller's Office released data in September 2018 and January 2019, and as of July 2019, the association still had not completed its 2017 audit.

Recommendations

To remedy the effects of the improper governmental activities identified by this investigation and to prevent those activities from recurring, we recommend the following actions:

CDFA

- Ensure that its audit office conducts biannual compliance audits for all district agricultural associations and that the office prioritizes auditing district agricultural associations on the watch program.

- Consider exercising its authority to assume any or all rights, duties, and powers of the board of the association. If CDEA agrees to implement this recommendation, it should assume responsibility for implementing our recommendations to the association.
- Provide district agricultural associations with timely notifications from the Department of Motor Vehicles' Employer Pull Notice Program and follow up to ensure that the district agricultural associations take appropriate action.
- To the extent that its authority allows, oversee implementation of our recommendations to the association.

Association

- Take appropriate disciplinary action against the CEO, the maintenance supervisor, and all other permanent and temporary employees who engaged in the improper governmental activities that we identified.
- Recoup the money from the CEO, the deputy manager, and the maintenance supervisor for their inappropriate purchases.
- Recoup the actual costs from the maintenance supervisor for his personal use of a state vehicle.
- Recoup all travel expenses from employees and board members who exceeded the allowable travel reimbursement amounts for lodging and meals or who improperly traveled to banned states.
- Develop appropriate controls for the propane tank, including securing access to the propane tank key. The association should consider installing a meter and creating, maintaining, and auditing a propane usage log.
- Train all staff who have purchasing authority on relevant state laws and CDEA and association accounting policies. This training should specifically focus on requiring the submission of itemized receipts and preventing inappropriate or illegal purchases.
- Establish an appropriate segregation of duties between credit card holders and those who reconcile the credit card statements.
- Formally adopt, train staff on, and follow the Fairs and Expositions branch's accounting procedures manual, as well as CDEA's Controlled Substances and Alcohol and Incompatible Activities policies.

- Implement the *State Administrative Manual* sections pertaining to inventory control and vehicle usage.
- Require employees and board members to submit travel expense claims for their travel expenses (except airfare and car rental) and ensure that future travel-related expenses and reimbursements adhere to all applicable state laws and the Governor's Executive Order B-06-11.

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Summary of Agency Response and California State Auditor's Comments

CDFA Response

The CDFA stated that beginning in 2011, it lost \$32 million in General Fund support for its Fairs and Expositions branch and was forced to eliminate 30 positions, including its auditor positions. It further stated that in 2015 it began to receive small amounts of additional funding that enabled it to redevelop and strengthen its oversight role, including adding one auditor position, and it continues to explore options to increase funding. Although we understand that CDFA's funding was reduced significantly, it could have elected to use some of the remaining funds that the Legislature allocated to it to audit and provide other oversight of the district agricultural associations.

In response to our recommendation that it conduct biannual compliance audits, CDFA responded that since it added the auditor position in 2015, it has directed the auditor to prioritize the most sensitive and critical compliance audits. The association is scheduled for an audit in fiscal year 2019–20, and CDFA stated that it will continue to evaluate available resources so it can conduct biannual audits for all district agricultural associations.

In response to the recommendation that it consider exercising its authority over the association, CDFA stated that it was premature to assume the rights, duties, and powers of the board of the association. Instead, it informed us that effective immediately, its Fairs and Expositions branch will take the following actions with regard to the association:

- Require the board to attend a training course presented by CDFA's Fairs and Expositions branch. It stated that it required the CEO to attend this training course in May 2019.
- Preapprove all board meeting notices and agendas and attend the association's regularly scheduled monthly board meetings and other board meetings as appropriate.
- Review all existing association policies and procedures and assist the board in drafting any policies and procedures necessary for proper management and operation of the association and its employees.

- Review the association's monthly financial statements before each board meeting to identify budget and revenue shortfalls as required for those district agricultural associations in the watch program.
- Ensure that the CEO and board have access to and review the CDEFA policies, procedures, accounting guidelines, and online training resources.
- Work with the CEO and board to ensure they are knowledgeable about in-state and out-of-state travel requirements. It will also review the CEO's and board's travel plans.

We agree that these are important actions to take; however, the Fairs and Expositions branch should have taken them once it put the association on its watch program in 2013. Because the association has been on the watch program for six years, we disagree that it is too premature for more stringent action and oversight.

Regarding our third recommendation, CDEFA reported that its Fairs and Expositions branch will obtain full access to the Department of Motor Vehicles' Employer Pull Notice Program for all permanent state employees hired by all district agricultural associations. It further stated that once the program is accessible, either its staff or properly trained association staff will alert the association's CEO and board when an employee has driving violations or a suspended license so the CEO and board may take appropriate action.

In response to our final recommendation, CDEFA reported that it has reviewed the association's response and will work with the CEO and board to ensure they properly and promptly implement the recommendations directed to the association. CDEFA stated that it will provide monthly updates to us about the association's implementation of our recommendations.

Association Response

The association stated that because of the Fairs and Expositions branch's 2011 reduction in staffing, the association's workforce was "stretched" and it could no longer provide adequate training about policies and procedures. It stated that it later contracted with the California Fair Services Authority (CFSA) to assist with training in accounting practices to ensure compliance with state accounting procedures. Under a joint power authority with CDEFA, CFSA provides accounting, payroll, purchasing, computer, employee benefits, management, and insurance services to California's fairs. The association also stated that since 2013, it has operated on

guidance it received from the California Department of Justice that its board has the authority to approve staff and board travel as long as it properly provides notice on the agenda for a board meeting. Although we agree that the board has the authority to approve certain proposed travel assignments if it provides notice on its agenda, the association must still seek approval from the Governor's Office for out-of-state travel and must comply with the ban on travel to certain states.

In June 2019, the association reported the following for each of our recommendations:

Recommendation: Take appropriate disciplinary action against the CEO, the maintenance supervisor, and all other permanent and temporary employees who engaged in the improper governmental activities that we identified.

Response: The association did not report any planned disciplinary action against the CEO. Instead, it reported that it had cautioned the CEO to prioritize training and directed him to reinforce to staff their responsibilities to safeguard state resources properly and report time worked accurately. It reported that the remaining employees would receive appropriate discipline with guidance from CDEFA's human resources staff, but it did not identify the progress it had made in those efforts, despite having received our draft report on April 17, 2019.

Recommendation: Recoup the money from the CEO, the deputy manager, and the maintenance supervisor for their inappropriate purchases.

Response: The association stated that the CEO and the board would work with CDEFA to come up with a fair and equitable method for determining the amount and manner of reimbursement to the State for any inappropriate expenditures. However, because our recommendation includes potential collections from the CEO, it is inappropriate for the association to allow him to participate in any decisions that involve his own interests.

Recommendation: Recoup the actual costs from the maintenance supervisor for his personal use of a state vehicle.

Response: The association stated that, based on our report, it concluded that the maintenance supervisor used a state vehicle for clearly personal use "on a few occasions," and it sought guidance from CDEFA because it did not know how to recoup the cost to the State without knowing the number of occasions or the miles driven related to the misuse. However, we are puzzled by the association's

conclusion that the misuse occurred on only a few occasions because, as this report describes, we obtained credible evidence that the maintenance supervisor misused a state vehicle for commuting purposes on a daily basis for several years.

Recommendation: Recoup all travel expenses from employees and board members who exceeded the allowable travel reimbursement amounts for lodging and meals or who improperly traveled to banned states.

Response: The association stated that it would work with CDEA to determine a method for recouping travel expenses that exceeded the state allowance, but it did not report any progress on these efforts within 60 days of receiving a draft of this report. The association also did not indicate whether it plans to collect funds associated with travel to banned states, but it explained that it was operating with the understanding that its board could approve out-of-state travel and that its CEO was unaware of the travel ban to certain states until he received a memo from CDEA in July 2018.

Recommendation: Develop appropriate controls for the propane tank, including securing access to the propane tank key. The association should consider installing a meter and creating, maintaining, and auditing a propane usage log.

Response: The association reported that during a gas line repair in late 2018, the CEO decided to remove all the propane tanks because the cost to purchase new tanks with meter devices would have been excessive. It stated that it now purchases propane in small quantities as needed and that the CEO has advised all staff that personal use of propane is prohibited.

Recommendation: Train all staff who have purchasing authority on relevant state laws and CDEA and association accounting policies. This training should specifically focus on requiring the submission of itemized receipts and preventing inappropriate or illegal purchases.

Response: The association reported that in January 2019, the CEO trained all staff with purchasing authority regarding accounting policies and submission of itemized receipts.

Recommendation: Establish an appropriate segregation of duties between credit card holders and those who reconcile the credit card statements.

Response: The association informed us that starting in March 2019, the CEO implemented a process through which accounting staff who do not hold credit cards reconcile the association's monthly credit card statements.

Recommendation: Formally adopt, train staff on, and follow the Fairs and Expositions branch's accounting procedures manual as well as CDFA's Controlled Substances and Alcohol and Incompatible Activities policies.

Response: The association stated that the CEO will recommend that the board adopt the Fairs and Expositions branch's accounting procedures manual, but its response did not mention whether it will adopt CDFA's policies and provide staff training on these procedures and policies. It also stated that the CEO is aware that the storing of alcohol by employees on state grounds is prohibited and that when we informed him that alcohol was in the maintenance department, he immediately oversaw its removal. It further stated that the CEO advised all staff members that they were prohibited from consuming alcohol on association property during their work hours, and it reported that the CEO now frequently conducts random inspections to ensure compliance. However, the association stated that it will continue to allow staff to consume alcohol while on the fairgrounds as private citizens on their own time unless CDFA's Secretary advises otherwise. Thus, the association's response fails to address the problem of employees "hanging out" after work hours and drinking on state grounds after work, regardless of any public association events. Moreover, since the conclusion of our fieldwork, we have received credible information that the CEO continues to allow employees to drink on the fairgrounds.

Recommendation: Implement the *State Administrative Manual* sections pertaining to inventory control and vehicle usage.

Response: The association stated that the CEO has implemented internal controls requiring all employees to sign out state vehicles and complete daily vehicle mileage logs. It further stated that the CEO is implementing inventory controls to align with the requirements in the *State Administrative Manual*.

Recommendation: Require employees and board members to submit travel expense claims for their travel expenses (except airfare and car rental), and ensure that future travel-related expenses and reimbursements adhere to all applicable state laws and the Governor's Executive Order B-06-11.

Response: The association reported that since the CEO received written notification from CDEA in July 2018 regarding the travel ban, it has adhered to the directive. However, the association's response fails to address the other travel laws that it violated that we identify in our report, as well as our recommendation that employees and board members submit travel expense claims.

Respectfully submitted,



ELAINE M. HOWLE, CPA
California State Auditor

August 20, 2019

Appendix

Relevant State Laws and Policies

Overall Relevant Criteria

Government Code section 8547.2 defines an improper governmental activity as an activity by a state employee that violates any state law or regulation or violates any policy or procedure mandated by the *State Administrative Manual* or *State Contracting Manual*.

Government Code section 19572 states each of the following constitutes a cause for employee discipline: inexcusable neglect of duty; dishonesty; inexcusable absence without leave; misuse of state property; violation of the inconsistent or incompatible activities prohibitions set forth in accordance with Government Code section 19990; and other failure of good behavior, either during or outside of duty hours, that is of such a nature that it causes discredit to the appointing authority or the person's employment.

Relevant Criteria for Misuse of State Resources

Government Code section 8314 states that it is unlawful for state employees to use or permit others to use public resources for personal purposes.

Government Code section 19990 prohibits state employees from engaging in activities that conflict with their state duties, including using state time, facilities, equipment, or supplies for private gain and failing to devote their full time, attention, and efforts to their state employment during their hours of duty as state employees.

Government Code section 19993.1 states that no state employee shall use, or permit the use of, any state-owned motor vehicle other than in the conduct of state business.

California Code of Regulations, title 2, section 599.802, states that misuse of a state-owned vehicle includes driving it or using it for something other than conducting state business.

Relevant Criteria for Usage of State Vehicles

California Code of Regulations, title 2, section 599.807, requires state agencies to maintain adequate mileage logs for state-owned vehicles.

California Code of Regulations, title 2, section 599.808, requires employees to obtain approved permits to store state-owned vehicles at home on a regular basis.

State Administrative Manual section 0751 states that employees who operate vehicles for official state business must have valid driver's licenses, insurance, and good driving records and that agencies should request drivers' records annually.

Relevant Criteria for Internal Controls

Government Code section 13400 et seq. declares as state policy that each agency head is responsible for establishing and maintaining an effective system of internal control, which the agency must evaluate through regular and ongoing monitoring processes, promptly correcting any weaknesses detected. An effective internal control system is one that segregates duties for proper safeguarding of state agency assets; limits access to agency assets to authorized personnel who require them to perform their duties; and provides policies and procedures that comply with laws, criteria, standards and other requirements.

State Administrative Manual sections 8601, 8650, 8651, and 8652 require that state agencies tag all state property, such as machinery and tools; maintain records in a property accounting or inventory system; and carry out an inventory plan that includes inventory taking, internal controls, and the reporting and approval of inventory adjustments. Agencies must physically count all property and reconcile that count with their accounting records at least once every three years.

Relevant Criteria for Travel

Government Code section 11032 authorizes state officers and employees to confer with other persons, associations, or organizations outside of the State when doing so may assist in the conduct of state business. Actual and necessary expenses for travel outside of the State for these purposes are allowed when the Governor approves them.

Government Code section 11033 provides that state officers and employees cannot absent themselves from the State on state business without the Governor's prior approval unless the absence is for less than five consecutive working days and involves travel into states bordering California.

Government Code section 11139.8 provides that state agencies cannot require their employees, officers, or members to travel to a state that enacted a law after June 26, 2015, that voids or repeals existing state or local protections against discrimination, nor may agencies approve requests for state-funded or state-sponsored travel to any such state. The section further states that the attorney general will develop, maintain, and post on a website a current list of such states and that agencies are responsible for consulting the list to comply with the travel and funding restrictions.

California Code of Regulations, title 2, section 599.619, provides that employees traveling on State business shall be reimbursed actual expenses for receipted lodging, and for meals and incidentals, up to the maximum allowable rate. The California Department of Human Resources' *Personnel Management Liaisons Memorandum* provides the most current rates for travel expense reimbursements.

California Code of Regulations, title 2, section 599.638.1, states that the State will pay travel expense claims only if they are submitted on a travel expense claim (Standard Form 262) or some other form approved by the California State Controller. Each expense claim must be itemized, accompanied by the necessary receipts and supporting documentation, and approved by the authorized officer. An officer approving a claim is responsible for ascertaining the necessity and reasonableness of the expenses for which reimbursement is claimed, as well as the claim's compliance with regulations.

State Contracting Manual FI\$Cal section 8.B2.7 states that CAL-Cards cannot be used for travel-related expenses, including per diem expenses normally reimbursed to state employees on travel expense claims. It also states that only the assigned cardholders may use CAL-Cards.

Governor's Executive Order B-06-11 prohibits discretionary travel and requires the Governor's Office's approval of all out-of-state travel. It prohibits all travel, either in-state or out-of-state, unless the travel is mission critical or involves no cost to the State. *Mission critical* refers to travel that directly relates to enforcement responsibilities; auditing; revenue collection; a function required by statute, contract, or executive directive; or job-required training necessary to maintain licensure or similar standards required for holding a position.

Other Relevant Criteria

California Code of Regulations, title 2, section 599.665, requires that each appointing power keep complete and accurate time and attendance records for all employees over whom it has jurisdiction.

Penal Code section 484 provides that every person who feloniously steals, takes, carries, leads, or drives away the personal property of another is guilty of theft. The reasonable and fair market value shall be the test to determine the value of the property obtained.

Government Code section 11122.5 states that a majority of the members of a state body shall not, outside an authorized meeting, use a series of communications of any kind to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the state body.