

STATE OF LOUISIANA, THROUGH  
JAMES D. "BUDDY" CALDWELL,  
ATTORNEY GENERAL

NUMBER: DIV.

33,052

2<sup>nd</sup> JUDICIAL DISTRICT COURT

FILED

VS

PARISH OF JACKSON

JUN 28 2012

TOWN OF JONESBORO

STATE OF LOUISIANA

BY *Laura Culpepper*  
LAURA CULPEPPER, DY CLERK

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**PETITION FOR APPOINTMENT OF FISCAL ADMINISTRATOR  
AND FOR PRELIMINARY AND PERMANENT INJUNCTION**

The petition of the State of Louisiana, through James D. "Buddy" Caldwell, Attorney General, with respect represents:

1.

The Attorney General institutes these proceedings in conformity with his constitutional powers as provided for in Article IV, Section 8, of the Louisiana Constitution, that in pertinent part provides:

As necessary for the assertion or protection of any right or interest of the state, the Attorney General shall have authority (1) to institute, prosecute or intervene in any civil action or proceeding...

Further, the Attorney General institutes these proceedings under the authority of La. R.S. 13:5036 that provides in pertinent part:

The Attorney General may institute and prosecute any and all suits he may deem necessary for the protection of the interest and rights of the state...

2.

There currently exists a state of fiscal emergency in the Town of Jonesboro ("Town"). The state of emergency was brought about by the actions and inactions of the Town. The Town's ability to provide those governmental services and functions delegated to the Town by the constitution and laws of the State of Louisiana are threatened and as such may cause irreparable harm and injury to the State of Louisiana and citizens of this State unless immediate action is taken by the Attorney General.

3.

For three (3) consecutive fiscal years, i.e. the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and the fiscal year ending June 30, 2010, the Town's auditor issued a disclaimer of opinion on the financial statements of the Town. An auditor's disclaimer of opinion means the auditor could not form or provide an

opinion on the financial statements of an entity. A disclaimer indicates that the auditor attempted to audit an entity; however, due to various reasons, the auditor could not complete the work and does not opine on the financial statements. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

4.

On information and belief, the Town's auditor will issue a disclaimer of opinion on the financial statements of the Town for the fiscal year ending June 30, 2011.

5.

For the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and the fiscal year ending June 30, 2010, the Town's auditor noted that the Town did not maintain adequate records of disbursements, did not properly reconcile bank accounts or accounts receivable or payable, and did not enter all transactions into the Town's accounting records. The auditor further noted that the Town's records did not permit the application of adequate auditing procedures. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

6.

Between July 2009 and March 2012, representatives from the office of the Louisiana Legislative Auditor expended, at a minimum, 2,764 man hours assisting the Town. The cost to the State of Louisiana was, at a minimum, \$286,327. At one point in time during January of 2012, there were as many as nine (9) representatives from the office of the Louisiana Legislative Auditor on site at the Town, all there for purposes of reviewing transactions and assessing the Town's financial position. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

7.

As indicated in its June 1, 2011 Compliance Audit of the Town, the Louisiana Legislative Auditor's assessments revealed little progress made by the Town's management and revealed significant deficiencies in the overall financial management of the Town, to wit:

- (a) non-compliance with the Louisiana Audit Law,
- (b) non-compliance with the Local Government Budget Act,
- (c) non-compliance with the Louisiana Public Bid Law,

- (d) a general lack of financial oversight,
- (e) a general lack of financial accounting experience,
- (f) the accounting records of Town were in disarray and incomplete,
- (g) the bank accounts of the Town were not reconciled,
- (h) there was no clear accounting of dedicated taxes,
- (i) a lack of controls over the Town's payables and disbursements,
- (j) a lack of controls over the Town's capital assets,
- (k) a lack of controls over traffic tickets,
- (l) the Town's utility customer accounts and water meter deposits were not reconciled,
- (m) the Town's ad valorem taxes were not reconciled,
- (n) there was no disaster recovery/business continuity plan for the Town,
- (o) written policies and procedures were not complete, and
- (p) the Town's staff was not adequately trained on the accounting system. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

8.

The Town's failure to maintain adequate records of receipts and disbursements, failure to enter all transactions into the Town's accounting system, and failure to properly reconcile bank accounts or accounts receivable or payable resulted in the Town's auditors' inability to express an opinion on the Town's financial statements. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

9.

The Town's failure to pay its outstanding debts, such as worker's compensation insurance obligation, general liability insurance obligation, state sales tax obligation, employee withholding tax obligation, as well as not adequately funding its customer meter deposit account, indicates that the Town does not have sufficient revenues to pay current expenditures. (See Affidavit of Eric Sloan, attached as Exhibit A to this Petition).

10.

The State of Louisiana has an interest in those governmental functions delegated to municipalities to provide basic services to the people of this State and be discharged in such a manner as to ensure the delivery of such services in accordance with the laws

of this State.

11.

Due to the fiscal crisis in the Town, the Attorney General institutes these proceedings on behalf of the State of Louisiana to assure the continued delivery of governmental services by petitioning this court to appoint a Independent Fiscal Administrator as provided in La. R.S. 39:1351 et seq. Such appointment will ensure the financial responsibility and compliance with the law in the discharge of the fiscal affairs of the Town.

12.

The deficiencies noted above have impaired the operation of the Town such that it is difficult to conclude whether the Town has sufficient revenues to pay current expenditures.

13.

The Town has been given ample opportunity to extricate itself from this financial crisis but has failed to do so.

14.

There is reason to believe that in the event a fiscal administrator is not appointed to assist the Town, that the citizens of the Town and State will be deprived of essential services all to the detriment of their health, safety and welfare and to the continued operations of the Town in general.

15.

The defendant is a political subdivision of the State of Louisiana and is responsible for a wide range of governmental and socio-economic duties and services.

16.

The manner in which Town has conducted its financial affairs and its resulting financial crisis have had a negative impact on the entire State and will continue to have a negative impact all to the detriment of the health, safety and welfare of the State and its citizens.

17.

In order to protect the rights and interest of the State including the interest of guarding the health, safety and welfare of its citizens, the State submits that it is entitled

to the relief prayed for herein pursuant to the exercise of its police power.

18.

The fiscal review committee, created pursuant to La. R.S. 39:1351, et seq., agreed at its March 26, 2012 meeting to ask Attorney General James D. "Buddy" Caldwell to petition this court to appoint an Independent Fiscal Administrator to investigate and manage the financial affairs of the Town as he/she deems necessary and until such time fiscal stability is restored to the Town.

19.

Accordingly, to protect the rights and interests of this State and to restore the financial integrity and stability to the Town; the State of Louisiana, through the Office of the Attorney General, requests this Honorable Court to immediately appoint an Independent Fiscal Administrator who shall be recommended by the Attorney General and the Legislative Auditor and order that the Independent Fiscal Administrator immediately be vested with the authority to investigate, manage and oversee the fiscal affairs of the defendant, Town of Jonesboro including but not limited to oversight of the incurring of town obligations and the expenditure of town funds.

20.

The State of Louisiana will suffer current and future irreparable harm from the acts and omissions of the Town in that said acts and omissions threaten the health, safety, and welfare of the State and of the citizens of this State and more particularly the citizens of the Town of Jonesboro. Further, the acts and omissions of the Town will cause irreparable harm to the financial integrity and the efficient equitable administration of the public finances of this State and more specifically, the Town.

21.

To prevent irreparable injury to the State and the citizens of this State and more particularly the citizens of the Town, this Honorable Court should grant a preliminary injunction that enjoins, restrains and prohibits the defendant, the Town, its agents, employees, and all persons, firms, or corporations acting or claiming to act on its behalf, or concert with, from incurring any debt or obligation and from paying any debt or any obligation, and from hiring or contracting with any person or entity without the express approval of the Independent Fiscal Administrator appointed by this court on the

recommendation of the Attorney General and the Legislative Auditor.

WHEREFORE, the State of Louisiana, through James D. "Buddy" Caldwell, Attorney General, prays that the Town of Jonesboro be served a copy of this petition; that the Defendant be ordered to show cause on a date and at an hour to be fixed by this court why this court should not:

(1) Order the immediate appointment of an Independent Fiscal Administrator recommended by the Attorney General and the Legislative Auditor of the State of Louisiana;

(2) Order that the Independent Fiscal Administrator shall have all the powers and duties as outlined by La. Rev. Stat. 39:1351-1354, including, but not limited to, the independent power to investigate, oversee and manage the fiscal affairs of the Town of Jonesboro, including the oversight of the incurring of any debt or obligation and the paying of any debt or obligation;

(3) Order that the Independent Fiscal Administrator shall have access to all papers, books, records, documents, films, tapes, and other forms of recordation of the Town of Jonesboro;

(4) Order the Town of Jonesboro to show cause on a date and at an hour set by this court why a preliminary injunction should issue that enjoins, restrains and prohibits the Town of Jonesboro, its agents, employees, and all persons, firms, or corporations acting or claiming to act on its behalf or in concert with it, from incurring any debt, or obligation and from paying any debt or obligation, and from hiring or contracting with any person or other entity without the express approval of the Independent Fiscal Administrator; and,

(5) Further order that the Town of Jonesboro pay all necessary and reasonable costs, fees, and expenses associated with the appointment and affairs of the Independent Fiscal Administrator, including, but not limited to, the costs, fees, and expenses of the Independent Fiscal Administrator and the Attorney General.

WHEREFORE, the State of Louisiana further prays that after due proceedings have been had that there be judgment herein making this rule absolute and for all other general relief.

Respectfully submitted,

JAMES D. "BUDDY" CALDWELL  
ATTORNEY GENERAL

BY: 

PATRICIA H. WILTON, # 18049  
MICHAEL J. VALLAN, #27670  
BENJAMIN HUXEN #31201  
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LA DEPARTMENT OF JUSTICE  
P. O. BOX 94005  
BATON ROUGE, LA 70804-9005  
TELEPHONE: (225) 326-6083  
FAX: (225) 326-6096

**PLEASE SERVE:**

**Personal service upon  
Honorable Leslie Thompson, Mayor  
Town of Jonesboro  
1000 7<sup>th</sup> Street  
Jonesboro, LA 71433**

STATE OF LOUISIANA, THROUGH  
JAMES D. "BUDDY" CALDWELL,  
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*Laura Culpepper*  
BY  
LAURA CULPEPPER, DY. CLERK

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**ORDER**

IT IS ORDERED that defendant, Town of Jonesboro, show cause on the  
5<sup>th</sup> day of July, 2012 at 10:00 a.m./p.m. in chambers  
why:

(A) An Independent Fiscal Administrator shall not be appointed having all the powers and duties as outlined by La. Rev. Stat. 39:1351-1354, including, but not limited to, the independent power to investigate, oversee and manage the fiscal affairs of the Town of Jonesboro, including the oversight and authority to incur and/or pay any debts or obligation, as well as the right to access all papers, books, records, documents, films, tapes, and other forms of recordings of the Town of Jonesboro,

(B) A preliminary injunction should not issue enjoining, restraining, and prohibiting the Town of Jonesboro, its agents, employees and all persons, firms or corporations acting or claiming to act on its behalf, or in concert with it, from incurring any debt or obligation, paying any debt or obligation, and from hiring or contracting with person or other entity without the express approval of the Independent Fiscal Administrator, and

(C) The Town of Jonesboro should not pay all necessary and reasonable costs, fees, and expenses associated with the appointment and affairs of the Independent Fiscal Administrator, including, but not limited to, the costs, fees, and expenses of the Independent Fiscal Administrator and the Attorney General.

Signed this 28 day of June, 2012, at Jonesboro,  
Louisiana.

*[Signature]*  
\_\_\_\_\_  
Judge, 2<sup>nd</sup> Judicial District Court



AFFIDAVIT OF ERIC SLOAN

STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE

Before me, the undersigned notary public, duly commissioned and qualified in and for the parish and state aforesaid, personally came and appeared ERIC SLOAN, who, after being first duly sworn by me, deposed and said:

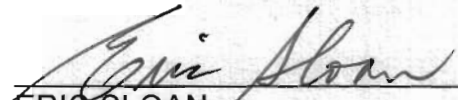
1. For three (3) consecutive fiscal years, the Town of Jonesboro's ("Town") auditor issued a disclaimer of opinion on the financial statements of the Town.
2. An auditor's disclaimer of opinion means the auditor could not form or provide an opinion on the financial statements of an entity. A disclaimer indicates that the auditor attempted to audit an entity; however, due to various reasons, the auditor could not complete the work and does not opine on the financial statements.
3. For the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and the fiscal year ending June 30, 2010, the Town's auditor noted that the Town did not maintain adequate records of disbursements, did not properly reconcile bank accounts or accounts receivable or payable, and did not enter all transactions into the Town's accounting records.
4. For the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and the fiscal year ending June 30, 2010, the Town's auditor further noted that the Town's records did not permit the application of adequate auditing procedures.
5. Between July 2009 and March 2012, representatives from the office of the Louisiana Legislative Auditor expended, at a minimum, 2,764 man hours assisting the Town. The cost to the State of Louisiana was, at a minimum, \$286,327. At one point in time during January of 2012, there were as many as nine (9) representatives from the office of the Louisiana Legislative Auditor on site at the Town, all there for purposes of reviewing transactions and assessing the Town's financial position.
6. As indicated in its June 1, 2011 Compliance Audit of the Town, the Louisiana Legislative Auditor's assessment revealed little progress made by the Town's management and revealed significant deficiencies in the overall financial management of the Town, to wit: (a) non-compliance with the Louisiana Audit Law, (b) non-compliance with the Local Government Budget Act, (c) non-compliance with the Louisiana Public Bid Law, (d) a general lack of financial oversight, (e) a general lack of financial accounting experience, (f) the accounting records of Town were in disarray and incomplete, (g) the bank accounts of the Town were not reconciled, (h) there was no clear accounting of dedicated taxes, (i) a lack of controls over the Town's payables and disbursements, (j) a lack of controls over the Town's capital assets, (k) a lack of controls over traffic tickets, (l) the Town's utility customer accounts and water meter deposits were not reconciled, (m) the Town's ad valorem taxes were not reconciled, (n) there was no disaster recovery/business continuity plan for the Town, (o) written policies and procedures were not complete, and (p) the Town's staff was not adequately trained on the accounting system.
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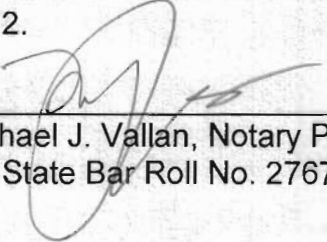
receivable or payable resulted in the Town's auditors' inability to express an opinion on the Town's financial statements.

7. The Town's failure to pay its outstanding debts, such as worker's compensation insurance obligation, general liability insurance obligation, state sales tax obligation, employee withholding tax obligation, as well as not adequately funding its customer meter deposit account, indicates that the Town does not have sufficient revenues to pay current expenditures.

Dated this the 27<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
ERIC SLOAN

Sworn to and subscribed before me on 27<sup>th</sup> day of June, 2012.

  
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Michael J. Vallan, Notary Public  
La. State Bar Roll No. 27670