



301 S.W. 10th Avenue, Topeka, KS 66612-1597

**STATEMENT OF
ATTORNEY GENERAL CARLA J. STOVALL
RE: BIOCORE INVESTIGATION
January 23, 1998**

In March of 1997, a Topeka company, which manufactures wound dressing products made of collagen, and three state legislators became the subject of much attention as allegations of possible criminal activity surfaced because of the initiation of an investigation by the Kansas Commission on Governmental Standards and Conduct into possible violations of campaign finance laws.

The Kansas Commission on Governmental Standards and Conduct forwarded to my office on two occasions information indicating that the Commission had evidence showing probable cause that the Topeka company, BioCore, Inc., and a legislator, Representative Greg Packer, had committed criminal acts. State statutes require the Commission to forward such information to my office for further investigation and possible criminal prosecution. This was the impetus for the initiation of the KBI investigation, although the scope soon expanded as other questions were raised regarding bribery, public misconduct, and other criminal acts in the awarding of state venture capital funds to BioCore, the company which employed the three legislators: Tim Shallenburger, Phill Kline and Greg Packer.

While the investigation was in progress, substantial concerns were raised because of the appearance of improprieties and the potential for conflicts of interest that may have arisen because state legislators were employed by a company that received state economic development funds. Parts of the KBI investigation dealt with how BioCore was selected to receive economic development funds, how the legislators were hired, whether they conducted legitimate duties for their pay and whether there was any indication of undue influence by the three legislator/employees on behalf of BioCore during the legislative process.

After months of investigation by agents of the KBI and the FBI, scores of interviews with potential witnesses both in Kansas and throughout the nation, and the review of thousands of documents, including bank records, internal memorandum and legislative records, my staff and I reviewed the final reports. Let me emphasize this was a criminal investigation -- our authority extended only so far as determining whether or not any crimes were committed. This was not an attempt to second guess the wisdom of KTEC's investments in BioCore, the judgment used by BioCore officials in making decisions to hire these particular legislator/employees, or whether any of these allegations failed the "smell" test. The sole criteria was to search for hard evidence which would support successful criminal prosecution to the required standard of "beyond a reasonable doubt."

Because substantial concerns were raised suggesting that BioCore may have received state funds due to its employment of three legislators, let me explain the process by which BioCore received money from the state. KTEC, or the Kansas Technology Enterprise Corporation, was created by statute in 1987 to develop and promote technologically advanced economic development. KTEC created two seed capital funds, Ad Astra I in 1988 and Ad Astra II in 1995. These funds were to be utilized to encourage economic development in high risk venture capital operations. The private investment firm of Campbell-Becker from Lawrence was selected by KTEC to manage the funds; investment decisions were the sole responsibility of Campbell-Becker. In 1991, BioCore was given \$250,000 from Ad Astra I in return for 20 percent ownership in the company. In May 1996, BioCore received \$250,000 in loans from Ad Astra II and KTEC directly

provided \$234,833 to BioCore and its subsidiary, BioFood. Substantial documentation exists to indicate that Campbell-Becker thoroughly investigated BioCore with positive results prior to its investing in the company, which is supported by the fact Ad Astra was interested in acquiring equity interest in it. There was no indication that any legislator influenced Campbell-Becker or KTEC's decisions to loan or grant funds to BioCore.

By statute, KTEC's board of directors is comprised of 20 individuals including the Speaker of the House of Representatives. Had the Speaker actually assumed his position as a member of KTEC's Board of Directors while being employed by a firm which received KTEC funds, certainly there would be the appearance or potential for conflict of interest. However, our investigation revealed that Speaker Shallenburger never served on the KTEC board, but instead appointed Representative Bill Mason, chair of the House Economic Development Committee, to serve in his place. Neither Representative Greg Packer nor Rep. Phill Kline have served on KTEC's Board of Directors.

Sam Campbell, of Campbell-Becker, specifically denied that he was ever approached by any of the three legislators in an attempt to influence a decision to award monies to BioCore. Both Speaker Shallenburger and Representative Kline specifically deny having undertaken any action which would have influenced either Campbell-Becker or KTEC to act favorably upon any BioCore request for funds.

As most of you have already reported, Legislative Post Audit looked extensively at the Ad Astra funds and how they were handled by both KTEC and Campbell-Becker. Post Audit found no violations of law in regard to the investment procedures.

REPRESENTATIVE GREG PACKER. Greg Packer was elected to the Kansas House of Representatives in 1992. Representative Packer is a neighbor of Manoj Jain, BioCore's President, and he became employed full-time by BioCore in January 1997 at an annual salary of \$60,000. His job title is Coordinator for Marketing and Strategic Planning. While Representative Packer refused to be interviewed by the KBI on advice of counsel, documentation exists which demonstrates that he spent regular and extensive hours at BioCore.

SPEAKER TIM SHALLENBURGER. Speaker Shallenburger was originally hired by BioCore in July 1995 as public information officer, after having been introduced to BioCore's president by Representative Packer. Evidence indicates that Speaker Shallenburger was involved in strategic planning for the company which required his participation in meetings with BioCore's president two or three times a year to set long and short term goals. There were suggestions that Shallenburger was hired by BioCore simply because he was the Speaker of the House of Representatives. However, we found no evidence to suggest that he illegally exerted influence on any legislative decisions that might have favored BioCore, that he attempted to influence Campbell-Becker or KTEC funding decisions, or that he engaged in any criminal activity.

We found one letter authored by Speaker Shallenburger on legislative letterhead that appears to be written in an effort to assist BioCore in leasing a building. The letter, however, was dated two months prior to Shallenburger's employment by the company. In addition, the first loan made to BioCore by KTEC occurred in 1991, four years before BioCore hired Shallenburger. The second loan was made in 1996, but because Shallenburger did not actually sit on the KTEC board and Campbell-Becker made the investment decisions, there did not appear to be any influence exerted by Shallenburger in making the loan.

REPRESENTATIVE PHILL KLINE. Representative Kline became employed by BioCore during the period November 1995 through December 1996 at an annual salary of \$48,000. He was hired to prepare a marketing plan to expand BioCore's product distribution into the health maintenance organizations (HMO's) and Medicaid systems nationwide. While Representative Kline spent considerable time on this job assignment, his work product apparently was unsatisfactory to BioCore's President and Kline eventually resigned.

In investigating whether any of the three legislators improperly attempted to influence legislative decisions related to BioCore, it should be noted that, besides reviewing legislative minutes, several legislators from various political ideologies and parties were interviewed to uncover "insider" information not available in official records. Every rumor, innuendo and piece of gossip intimating wrongdoing was traced back to its original source for verification, however, no substantive allegations of criminal conduct were confirmed.

CAMPAIGN FINANCE LAWS. Of the three legislators, only Representative Packer appears to have violated state campaign finance laws. He entered into a consent decree with the Commission on Governmental Standards and Conduct on May 29, 1997 in which he agreed to pay a \$5,000 fine. BioCore also, on July 8, 1997, entered a consent decree in which it paid a \$5,000 fine. The Commission had filed a complaint against Packer alleging six counts of campaign law violations in 1994. The complaint filed against BioCore alleged three counts of making in-kind contributions in excess of the \$500 limit.

While the evidence regarding campaign finance violations by Representative Packer and BioCore would support the filing of criminal charges, the two year statute of limitations bars such action. These allegations involved the 1994 elections and were brought to our attention in 1997, well after the two-year statute of limitations had passed. This is yet another example of why the two year statute of limitations for most crimes in Kansas is inadequate. I am introducing legislation this session that will increase the statute of limitations from two to five years.

The KBI has conducted a very thorough investigation into the three legislator's relationship with BioCore, BioCore's receipt of money from the state's venture capitol fund, and Campbell-Becker's decisions to loan money to BioCore. The public has reason to raise questions when legislators are employed by companies that receive state funds. But, in this particular case, there was an absence of any evidence of bribery, public misconduct or other criminal actions. Hence, no

charges will be filed by my office against these three legislators or BioCore. Assuming no further information is forthcoming, the investigation is closed. I have, however, directed the KBI to formally request the Internal Revenue Service and the Kansas Department of Revenue to review and investigate information gathered by the Bureau which indicates that BioCore and/or its corporate officers have engaged in practices which constitute income tax evasion. Pending these agencies review of KBI files, I will withhold further comment on this matter saying only that information we possess at this time does not indicate that any elected official was involved in this facet of the case.

I have, however, filed criminal charges against former BioCore employee Debra Hallenbeck. Last spring, when allegations involving the three legislators and BioCore seemed to be front-page news daily, Mrs. Hallenbeck reported that her house had been burglarized. Allegedly taken were numerous disks, tapes and a computer all relevant to the BioCore investigation. This report heightened the suspicions and sinister implications of the case. As a result of an investigation by the KBI and the Shawnee County Sheriff's department, my office this afternoon charged Mrs. Hallenbeck with three crimes -- making a false information, a felony; falsely reporting a crime, a misdemeanor; and what amounts to insurance fraud, also a misdemeanor.

No law enforcement agency has surplus funding or resources to waste on investigating false reports of crimes. Persons who misdirect law enforcement time and attention from "real" crimes to "make believe" situations for their own personal gain are despicable and deserve to be prosecuted.

Finally, I would note a comment from the 1996 legislative post audit report on economic development agencies, which was initiated, at least in part, by the allegations surrounding BioCore and the employment of these legislators. "The appearance of a conflict of interest can be as detrimental to the public trust as an actual conflict." No doubt the situation that the KBI exhaustively investigated involved an appearance of a conflict of interest and served to make an already suspicious and skeptical public even more so. Was BioCore wrong to hire legislators? Were the legislators wrong to accept employment by BioCore? While these decisions would not be judged wrong in a court of law, I think the court of public opinion might find otherwise. Should the laws be changed to prohibit such employment practices in the future? It is appropriate for the legislature to revisit campaign finance and ethics laws again this session. In fact, the Legislature in 1996 had before it House Bill 3068, which was amended to prohibit legislators from receiving compensation from any company receiving funds from KTEC. Perhaps this is the perfect time to reexamine that concept.

120 SW 10th Ave
Topeka, KS 66612
Phone: 785-296-2215
Consumer Protection: 800-432-2310
Crime Victims' Rights: 800-828-9745
TTY Phone: 1-800-766-3777
WEBSITE