

June 25, 2003

Writer's direct line: (510) 987-9741
E-mail: john.lundberg@ucop.edu

BRUCE B. DARLING
SR. VICE PRESIDENT UNIVERSITY AFFAIRS

Re: LANL Mustang Purchase Investigation

The University of California and Los Alamos National Laboratory (LANL) have conducted their own investigation of allegations that a LANL employee used a business purchase card to buy a Mustang automobile and parts for the Mustang. The investigation only began in earnest after other agencies' investigations did not result in either a definitive conclusion as to the factual circumstances of the purchase or a prosecution; LANL personnel felt the investigation necessary to conclude the personnel action pending against the LANL employee being investigated. Bank of America records show that during May 2002, All Mustang posted the following charges to the VISA credit card number assigned to Lillian P. Anaya, a LANL employee employed in BUS-5 as a buyer, deployed to ESA Division:

May 03, 2002	\$19,995
May 06, 2002	995
May 17, 2002	1,995
May 20, 2002	1,995
May 21, 2002	995
May 22, 2002	1,995
May 23, 2002	1,995

Ms. Anaya has been on paid investigatory leave since August 19, 2002. The FBI informed the Laboratory in October 2002 that it did not intend to pursue criminal action in this matter. At the request of the DOE IG, LANL did not proceed with an internal investigation until late February 2003. At that time, the Laboratory was aware of the following information:

LANL telephone records indicate that there was a telephone call on May 1, 2002 at 9:58 a.m. from Ms. Anaya's phone to one of the telephone numbers assigned to All Mustang (602-437-1325), followed by a fax from Ms. Anaya's fax machine to All Mustang (602-437-2477) on May 1, 2002 at 10:04 a.m.

All Mustang's telephone records, which All Mustang gave to the FBI and the FBI gave to LANL, show that at 11:37 on May 1, 2002, there was a call from All Mustang to a

BRUCE B. DARLING

June 25, 2003

Page 2

Laboratory number (505-667-3287) assigned to Claire Harmon in BUS-1. This was followed by a one-minute call from All Mustang to Ms. Anaya's phone (505-665-5696) at 11:40, a one-minute fax from All Mustang to Ms. Anaya's fax (505-667-1970) at 11:40, another one-minute call from All Mustang to Ms. Anaya's phone at 11:55, and a two-minute call from All Mustang to Ms. Anaya's phone at 1:02.¹

In interviews conducted by the FBI, Ms. Anaya denied any knowledge of any telephone calls to or from All Mustang.

In FBI interviews with Thomas J. Thompson of All Mustang, Thompson initially told the FBI the sale had been handled by a sales person named "Chuck." Subsequently, Thompson told the FBI his previous story had been untrue and that he himself had handled the phone transaction with Anaya. All Mustang provided the FBI with an invoice dated May 3, 2002 addressed to "Lillian Anaya," at 103 Grand Canyon Drive in Los Alamos (White Rock), New Mexico, for a "99 or newer Mustang GT Convertible in black," and assorted accessories.

- The credit card statement from Bank of America, reflecting the All Mustang charges, is dated May 27, 2002.
- Ms. Anaya called All Mustang on June 4, June 10 and June 12, 2002, at All Mustang's main number listed on the credit card statement. This is consistent with Ms. Anaya's statement that when she received the Bank of America statement, she promptly called All Mustang for an explanation of the charges and requesting that the charges be reversed.

Ms. Anaya submitted written forms disputing the All Mustang charges. The dispute forms are undated, but Bank of America acknowledged receipt of them on June 18, 2002. The charges were credited back by the bank.

On July 18, 2002, Bank of America (Mimi Hayes) called Arleen Roybal at LANL to inform her of the charges. This was when LANL management first learned of the matter, but by this time Ms. Anaya had already disputed the charges. This is consistent with Ms. Anaya's statements.

¹ The original LANL and PriceWaterhouseCooper reports on this matter listed all the calls from All Mustang as being placed one hour earlier, because they failed to take into consideration the time difference between Arizona and New Mexico that existed on May 1, 2002. On that date, Phoenix Arizona was on Mountain Standard Time (most parts of Arizona do not observe Daylight Savings Time), but New Mexico was on Mountain Daylight Time, having switched to Daylight Savings time on April 7, 2002.

BRUCE B. DARLING

June 25, 2003

Page 3

In late February 2003, the Lab began an investigation into this matter, to determine if any disciplinary action was appropriate.

Lawrence Hanson and Bruce Herr of the Lab interviewed Ms. Anaya on March 7, 2003. She denied making any calls to, or receiving any calls from, All Mustang, and suggested that she must have left her office, allowing somebody else to enter her office and make the calls. She had no recollection of her activities on May 1, 2002, but Laboratory records indicate she worked a full day.

Also interviewed were Robert Ortiz (Ms. Anaya's former supervisor), John Hernandez (Ms. Anaya's immediate supervisor), Donna Peterson (another BUS buyer who shares Ms. Anaya's office), Donna Schneider (a former BUS buyer and friend of Ms. Anaya's), Dick Strickler (a BUS manager), Dennis Roybal (another BUS manager), and Annette Houston.

Hanson prepared a report dated April 7, 2003, summarizing his investigation. He concluded there was insufficient evidence to warrant discipline against Ms. Anaya for the alleged Mustang purchase.

A Case Review Board was convened on April 10, 2003. It requested some additional information, but concurred with Hanson's recommendation. Pursuant to LANL procedures, the Case Review Board is an advisory body that advises the employee's line manager. The line manager (in this case BUS Division Leader James Lopez) is responsible for any disciplinary decision.

Subsequently, at the request of the University's General Counsel's Office, Laboratory Counsel Frank Dickson directed Bruce Herr to follow up on several remaining unanswered questions regarding this matter. With the assistance of Carol Jerabek, Linda Hsieh and Pablo Prando of the Lab Counsel's Office, the following facts were determined.

This new information is based upon a review of telephone records and documents, interviews with Shannon Webster and Tim Dobbins of Fluid Conditioning Company on May 30, 2003, re-interviews of Ms. Anaya on May June 10 and 14, 2003, and interviews with and assistance from Tom Lopez, Claire Harmon, Donna Peterson, Debra Bilberry, Mark Martinez, Allen Schmiedicke and others at LANL.

The information suggests Ms. Anaya may have called the number in question, that is, All Mustang's number 602-437-1325, on May 1, 2002, thinking she was calling Fluid Conditioning Company, a vendor in Tempe, Arizona that was a customer of Ms. Anaya's, to place an order for pressure transducers, but actually speaking with somebody at All Mustang.

BRUCE B. DARLING

June 25, 2003

Page 4

During this call or a call from All Mustang later that day, Ms. Anaya may have given the caller her credit card number, under the mistaken impression she was talking to a representative from Fluid Conditioning. All Mustang may have improperly used the information to process an order for a Mustang vehicle and accessories.

The call to All Mustang at 9:58 was not to All Mustang's main number. It was to one of several "back numbers" assigned to All Mustang. This number (602-437-1325) was, prior to November 1, 2000, the main number of Fluid Conditioning.

In an "ESA-TSE Purchasing Request Worksheet" dated April 29, 2002, Thomas Lopez, an ESA engineer, requests that Ms. Anaya purchase 20 pressure transducers (150 psia) and 1 transducer (500 psia) from Fluid Conditioning. Each transducer is priced at \$995, so the 20 150-psia transducers total \$19,900, and the one 500-psia transducer is priced at \$995. (These amounts are very close to the amounts charged by All Mustang for the Mustang and accessories). The information listed on the request form shows Fluid Conditioning's correct 800 number and fax number. Mr. Lopez states that he probably obtained the pricing information directly from Fluid. He recalls completing the form and sending it to Ms. Anaya. He obtained the vendor contact information from a previous Purchasing Request Worksheet that was completed by Scott Richmond (another ESA engineer) for a previous transaction with Fluid Conditioning in January 2002.

A "Purchase Card Order Form" dated May 1, 2002, prepared and signed by Ms. Anaya (Order # PC-0092511), addressed to Fluid Conditioning, orders the transducers as requested. This key document lists Fluid Conditioning's telephone number as 800-737-1325, and its fax number as 602-437-2477. It lists the contact person at Fluid Conditioning as "Thomas D. Jones." Although that 800 number is Fluid Conditioning's correct toll free number, the listed fax number belongs to All Mustang.

Laboratory phone records indicate that the actual number called from Ms. Anaya's phone on May 1 was 602-437-1325, the former local number of Fluid Conditioning. Ms. Anaya has no independent recollection of this transaction. She states that although she had done business with Fluid Conditioning in the past, it was not a frequent customer and she probably did not maintain information on them in her Rolodex file. A review of her Rolodex confirms this - there is no listing for Fluid Conditioning. Ms. Anaya states that she may have obtained the incorrect 602 number from the Purchase Card database, which contains listings maintained by each user with contact information. LANL staff are attempting to determine what information this database contained in Ms. Anaya's file for Fluid Conditioning. LANL staff may be able to determine what the current information is, and when that information was input, but if

BRUCE B. DARLING

June 25, 2003

Page 5

that date is subsequent to May 1, 2002, LANL staff may not be able to determine what information the database contained on May 1, 2002.²

Fluid Conditioning is a manufacturer's representative for several manufacturers, including Dresser Instrument, which manufactures the pressure transducers that were the subject of the May 2002 order. Fluid Conditioning lost its former principal telephone number (602-437-1325) when it moved from Phoenix (Area Code 602) to neighboring Tempe (Area Code 480) on November 1, 2000. It has had a great deal of difficulty as a result. Customers have told Fluid Conditioning that when they call the former number they have been cursed and told that Fluid Conditioning has gone out of business. Fluid Conditioning contacted All Mustang in an effort to get its old number back and offered a bounty if All Mustang would refer callers to its correct number, all to no avail. Importantly, representatives of Fluid Conditioning who called All Mustang were greeted with a "Hello," rather than a greeting which included the name All Mustang; the reason may be that the telephone number is not All Mustang's listed main telephone number.

A fax confirmation document shows that Ms. Anaya faxed the Purchase Card Order Form, addressed to Fluid Conditioning, to the All Mustang fax number, as a confirmation of the phone order for transducers, on May 1, 2002. LANL staff believe this is the fax recorded on Laboratory telephone records at 10:04 (the fax confirmation document records the time of the fax as 9:08, but this time is generated by the fax machine – New Mexico went to Daylight Savings Time shortly before this date, and Laboratory telephone records reveal no other fax to this number on that date).

The faxed form contains Ms. Anaya's name, phone and fax numbers. Furthermore, the form states, "to avoid paying Gross Receipts Tax contact BUS-1 Sundry Payables" at 505-667-3287. This number was, at the time, assigned to LANL employee Claire Harmon, and All Mustang called this number at 11:37 a.m. on May 1, 2002.

Claire Harmon was, at the time, the employee in BUS-5 responsible for issuing New Mexico Non-Taxable Transaction Certificates ("NTTCs") to qualified vendors. Ms. Harmon does not recall receiving a call from either All Mustang or Fluid Conditioning on May 1, 2002, although her calendar shows that she worked all day on May 1, including working through lunch. She states that if she received a call from

² There is another Laboratory-wide database that is used for Purchase Orders. Although Ms. Anaya says it is unlikely she would have accessed the Purchase Order database when she was working on a Purchase Card transaction, when we checked the Purchase Order database on June 12, 2003 for vendor information on Fluid Conditioning, that database still contained Fluid Conditioning's former number, 602-437-1325, which is the number that was called on May 1, 2002, and which has not been correct since November 2000.

Fluid about a tax exemption, she probably told the caller that Fluid already had an NTTC and gave the caller Fluid's NTTC number. If the caller called for information about a particular transaction, Ms. Harmon says she would have referred the caller to the buyer, Ms. Anaya.

Ms. Anaya has a vague recollection that Ms. Harmon may have referred a call from a vendor to her, either by voice message or by transferring a call to her, at about this date.

All Mustang phone records show that the call to Ms. Harmon at 11:37 was followed by the following telephone calls from All Mustang numbers:

- o A one-minute call to Ms. Anaya's phone number at 11:40 a.m.
- o A one-minute call to Ms. Anaya's fax number at 11:40 a.m.
- o A one-minute call to Ms. Anaya's phone number at 11:55 a.m.
- o A two-minute call to Ms. Anaya's phone number at 1:02 p.m.

Ms. Anaya states that she regularly takes her lunch from 11:30 to 12:30, usually with her friend Donna Schneider. Ms. Schneider confirms this. LANL badge reader data show that Ms. Anaya re-entered the TA-16 area at 12:35 p.m. on May 1, 2002, indicating she went to lunch at her usual time. (The badge reader does not record people leaving TA-16, only people entering the area.) This information suggests that Ms. Anaya was probably at lunch when the 11:40 call, the 11:40 fax, and the 11:55 telephone call were made. Ms. Anaya states that a caller would have received her voice message if she did not answer her phone. Ms. Anaya's log of incoming calls for that date do not list any relevant voice messages, which suggests that the caller did not leave a message. Ms. Anaya states that faxes received in her absence are usually placed on her desk. She does not recall receiving any fax, and a thorough search of documents retrieved from Ms. Anaya's office has failed to find any such fax. It is possible that the faxed document was destroyed, or that no fax was sent – the phone record establishes only that telephone connection was made with the fax machine, not that a fax was actually sent. LANL staff are continuing to check to see if the fax machine maintains a record of received faxes.

- o A reasonable hypothesis is that the incoming calls from All Mustang to Claire Harmon's number and Ms. Anaya's number were efforts to obtain Ms. Anaya's purchase card number; that during the 11:37 call to Ms. Harmon, Ms. Harmon referred the caller to Ms. Anaya; the 11:40 and 11:55 calls went to Ms. Anaya's voice message system and the caller left no message; and that Ms. Anaya gave her purchase card number to the caller during the 1:02 p.m. call, under the mistaken impression that she was speaking with somebody from Fluid Conditioning. Ms. Anaya states that this would not be unusual, and Ms. Anaya's log of incoming telephone calls show that in fact, when the

ordered transducers were shipped from Dresser Instrument, Ms. Anaya received a telephone voice message from Joyce (the receptionist/secretary at Fluid Conditioning) on July 3, 2002, asking for the correct purchase card number, and that Ms. Anaya called Fluid to provide the information. (Although Fluid Conditioning states that it maintained a record of Ms. Anaya's credit card number, that number changed in late May 2002, when the bank servicing LANL's purchase card program changed from Bank of America to BankOne. Therefore, the credit card information Fluid had on file as of May 8, 2002, when it first learned of this order, was no longer correct when the items were shipped by Dresser Instrument and Fluid processed the charge in June-July 2002.)

A notation on the May 1, 2002 fax confirmation document (in Ms. Anaya's handwriting) states "incorrect fax # per Fluid Conditioning - refaxed." A copy of the May 1 Purchase Card Order Form indicates that at some subsequent time, Ms. Anaya added a handwritten third item to the order - 21 adaptor cables. The form shows the originally-noted fax number and contact information crossed out, and Fluid's correct fax number and a new contact person, "Tim," noted. Tim Dobbins is Fluid Conditioning's Operations Manager, responsible for its account with LANL. Another version of the Purchase Card Order Form adds the adaptor cables in type, and notes "Item #3 (the adaptor cables) as added per requester on 5/8/2002 by phone. Order amended and copy was sent to him." Phone logs confirm that Ms. Anaya called and faxed Fluid Conditioning on May 8, 2002.

Fluid Conditioning has no record of receiving the transducer order on May 1, 2002. Its earliest record of the order is when it received the amended order with the added adaptor cables on May 8, 2002. No person named Thomas D. Jones has ever worked for Fluid Conditioning. The person at All Mustang who told the FBI he received the order is named Thomas J. Thompson.

At her March 7 2003 interview, Ms. Anaya produced a report from polygraph examiner Charles R. Honts, stating that in a polygraph examination on February 28, 2003, Ms. Anaya's statements denying the Mustang purchase were truthful. The Laboratory retained an independent expert polygraph examiner, James Lee Wilson, who reviewed the report and raw data of the examination and concluded that the examination was administered using acceptable procedures and provided "significant support for the Honts' opinion that Anaya truthfully answered the relevant test questions."

The ordered transducers were shipped to the Laboratory at the end of June 2002, by the manufacturer, Dresser Instrument, in Connecticut. Fluid Conditioning processed the Laboratory credit card for the transducer order on June 28, 2002, and received payment in September 2002.

BRUCE B. DARLING

June 25, 2003

Page 8

The foregoing raises the question of whether Ms. Anaya was defrauded from the first call at 9:58a.m. on May 1, 2002, and was the innocent victim without knowledge or complicity in the events surrounding the Mustang purchase. At this juncture the Committee or an appropriate law enforcement agency with greater investigatory tools than LANL and the University may wish to further pursue this matter.

From

**John F. Lundberg, Deputy General Counsel
Office of the General Counsel**

**Bruce Herr, Group Leader-Employment Law & Litigation
Laboratory Counsel's Office, LANL**

102468.1