

Fighting for the U.S. Cattle Producer!



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May 9, 2013

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Sent via e-mail: ATHENA.MCCOY@oig.usda.gov; Christy.Slamowitz@oig.usda.gov

Re: Supplement to R-CALF USA's April 5, 2013 Original Complaint; Request for Correction of Information Submitted Under OIG's Information Quality Guidelines

Dear Deputy Inspector General Gray and Counsel to the Inspector General Slamowitz:

On April 5, 2013, the Ranchers Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA) filed a complaint with U.S. Department of Agriculture (USDA) Secretary Tom Vilsack and USDA Inspector General Phyllis K. Fong alleging that the USDA's Office of Inspector General (OIG) Audit Report No. 01099-0001-21 entitled, "Agricultural Marketing Service Oversight of the Beef Research and Promotion Board's Activities," dated March 2013 (OIG Audit Report) was, *inter alia*, "a colossal whitewash of monumental proportions."¹

¹ R-CALF USA's original complaint to Secretary Vilsack and Inspector General Fong, April 5, 2013, attached hereto as Exhibit 1.

On April 19, 2013, R-CALF USA received a letter from OIG Counsel to the Inspector General Christy Slamowitz indicating that R-CALF USA may submit additional information to the OIG for its review of R-CALF USA's April 5, 2013 complaint pursuant to the U.S. Office of Management and Budget's (OMB's), USDA's and OIG's implementing guidelines for the Data Quality Act,² which are hereafter collectively referred to as the Information Quality Guidelines.

For the specific reasons identified and stated in R-CALF USA's April 5, 2013 complaint and for the additional reasons identified and stated below, the OIG Audit Report fails to meet the Information Quality Guidelines. As a direct result of this deficiency, the OIG Audit Report misleads members of Congress, the public, and, in particular, U.S. farmers and ranchers who are required to annually contribute tens of millions of dollars to the Beef Promotion and Research Program (Beef Checkoff Program), in regard to the level of misappropriations and corruption that pervades the Cattlemen's Beef Promotion and Research Board (beef board) activities. Governmental integrity and accountability dictate that the errors, omissions, and falsehoods contained in the OIG Audit Report, as identified and documented herein and in the original complaint by R-CALF USA, must be immediately corrected.

I. THE OIG AUDIT REPORT IS INFLUENTIAL INFORMATION AND SHOULD BE SUBJECT TO AN ADDED LEVEL OF SCRUTINY UNDER OIG'S INFORMATION QUALITY GUIDELINES

As a preliminary matter, the OIG Audit Report meets the OIG's Information Quality Guidelines definition of influential information. The OIG defines *influential information* as "information that is expected to have a clear and substantial impact at the national level on major

² See letter to R-CALF USA from OIG, April 19, 2013, attached hereto as Exhibit 2.

public or private policy decisions.”³ Under OIG guidelines, “influential information is subject to an added level of scrutiny.”⁴

On Aug. 28, 2012, R-CALF USA submitted a letter to Agriculture Secretary Tom Vilsack demanding that he immediately and permanently suspend all contracts between the Beef Checkoff Program and the National Cattlemen’s Beef Association (NCBA) to protect the Beef Checkoff Program “against the ongoing, unlawful expenditure of producers’ Beef Checkoff funds.”⁵ On Oct. 3, 2012, Secretary Vilsack responded to R-CALF USA’s demand and stated:

In 2011, USDA’s Office of Inspector General initiated an audit of the Beef Checkoff, which focused on the accounting of checkoff dollars by CBB [the Cattlemen’s Beef Board or beef board] and its contractors, including NCBA. I expect the final report this fall, and we will take actions to address any issues brought to our attention.⁶

Secretary Vilsack’s clear indication that any decision he might make to take action regarding the Beef Checkoff Program, including the action demanded by R-CALF USA, would be predicated on the findings of the OIG Audit Report establishes that the OIG report is expected to have a clear and substantial impact at the national level on major public policy decisions and should, therefore, be accorded an added level of scrutiny by the Inspector General. As demonstrated below, however, the OIG Audit Report fails in every respect to meet even the most lenient interpretation of rudimentary quality standards, let alone the standards of quality established by the OIG and certainly the added scrutiny that should have been accorded the OIG Report.

³ Office of Inspector General Information Quality Guidelines, Standards for Disseminated Information, available at <http://www.usda.gov/oig/qltyguidelinesrev.htm>.

⁴ *Ibid.*

⁵ R-CALF USA’s demand letter to Secretary Vilsack, Aug. 28, 2012, attached hereto as Exhibit 3.

⁶ Secretary Vilsack’s letter to R-CALF USA, Oct. 3, 2012, attached hereto as Exhibit 4.

II. THE OIG AUDIT REPORT FAILS TO MEET EVEN THE MOST LENIENT INTERPRETATION OF OBJECTIVITY UNDER OIG'S INFORMATION QUALITY GUIDELINES

As herein described, the OIG Audit Report fails in every respect to meet even the most lenient interpretation of the OIG's objectivity standard that unambiguously requires disseminated information to be "substantially accurate, clear, complete, and presented in an unbiased manner."⁷

A. The OIG Audit Report is Grossly Inaccurate.

The universe for the OIG Audit Report included only "databases pertaining to beef board expenditure for fiscal years 2008, 2009, and 2010."⁸ The OIG Audit Report, therefore, covered the same period as did the July 23, 2010 Independent Accountant's Report completed by Clifton Gunderson, LLP, (Clifton Gunderson Report) on behalf of the beef board, with the exception that the Clifton Gunderson Report did not cover the last seven months of fiscal year 2010.⁹

The Clifton Gunderson Report purported to have a narrow purpose:

These procedures were performed solely to assist the Board in determining that the salary and wages, disbursements, and other charges selected for testing are in compliance with the Beef Promotion and Research Act of 1985 (the Act) and the Beef Promotion and Research Order (the Order) and the contract between NCBA and the Beef Promotion Operating Committee (BPOC).¹⁰

The OIG Audit Report acknowledges that the Clifton Gunderson Report disclosed that the NCBA had submitted expenses to the Beef Checkoff Program that were "unrelated to checkoff activity;" that NCBA had "submitted improper expenses to be reimbursed by the beef checkoff fund;" and that the NCBA was required to make a reimbursement of \$216,944 to the Beef Checkoff

⁷ Office of Inspector General Information Quality Guidelines, Standards for Disseminated Information, available at <http://www.usda.gov/oig/qltyguidelinesrev.htm>.

⁸ OIG Audit Report, at 14.

⁹ See Cattlemen's Beef Promotion and Research Board Independent Accountant's Report, Agree-Upon Procedures for Fiscal Years Ended September 30, 2008 and 2009 and for the five months ended February 28, 2010, Clifton Gunderson, LLC, July 23, 2010 (hereafter "Clifton Gunderson Report"), attached hereto as Exhibit 5.

¹⁰ *Ibid.*

Progam.¹¹ Further, the former Administrator of the USDA Agricultural Marketing Service (AMS), the federal agency that oversees the Beef Checkoff Program, clearly acknowledged that NCBA had improperly charged the Beef Checkoff Program for unauthorized expenses when she stated, “The items identified in the audit [Clifton Gunderson Report] that were incorrectly charged to the checkoff program have been repaid.”¹²

The NCBA’s act of charging hundreds of thousands of dollars in unauthorized expenses to the Beef Checkoff Program as disclosed by the Clifton Gunderson Report and acknowledged by the OIG Audit Report was not a trivial oversight, temporary lapse of judgment, nor a mere misdemeanor violation. The evidence shows the NCBA committed numerous unlawful acts and their unlawful actions constitute systemic corruption within the Beef Checkoff Program.

For example, the Clifton Gunderson Report disclosed the following outrageous expenses that NCBA had charged the Beef Checkoff Program:

1. The NCBA had charged the overhead cost pool (which is allocated to the Beef Checkoff Program) more than \$16,000 for overhead costs associated with NCBA’s policy-related expenses, including thousands of dollars of expenses to maintain the NCBA’s registrations and trademarks.¹³
2. A NCBA employee charged time to the Checkoff Program for attending the NCBA Charity Golf Tournament.¹⁴
3. A Senior NCBA staff member expensed travel costs totaling \$3,592 related to his spouse’s travel to New Zealand and his spouse’s and child’s travel to San Antonio, Texas, to the overhead cost pool for the Checkoff Program.¹⁵

¹¹ OIG Audit Report, at 3.

¹² Letter from USDA AMS Administrator Rayne Pegg to R-CALF USA, Feb. 2, 2011, attached hereto as Exhibit 6.

¹³ *See, e.g.*, Clifton Gunderson Report, at 3.

¹⁴ *See id.*, at 4.

¹⁵ *See id.*, at 9.

In a subsequent review by the beef board, the NCBA was found to have improperly charged the Beef Checkoff Program for expenses to:

1. Pay legal fees to maintain NCBA.
2. Pay NCBA's credit card fees.
3. Pay employee's time for non-Checkoff activities.
4. Pay for employees to participate in NCBA's charity golf tournament.
5. Pay for spouses' travel.
6. Pay for meetings, travel, and speaker costs for non-Checkoff activities.
7. Pay for expenses incurred by NCBA's policy division, which is the non-Checkoff division that advances the organization's political and policy objectives.¹⁶

The foregoing is indisputable evidence showing that during the same time period as that covered by the OIG Audit Report, the NCBA was known to have charged the Beef Checkoff Program for hundreds of thousands of dollars in unauthorized expenses and the only reason they were not allowed to keep their ill-gotten and unlawful gains was because they were caught red-handed by Clifton Gunderson, LLP. It is, therefore, completely inaccurate and in direct contradiction to the facts for the OIG Audit Report to conclude that:

[T]he relationships between the Cattlemen's Beef Promotion and Research Board (beef board) and other industry-related organizations, including the beef board's primary contractor, the National Cattlemen's Beef Association (NCBA), complied with legislation. . . [and] that assessed funds were collected, distributed, and expended in accordance with legislation. . . [and] [w]e found no evidence to support that the board's activities in those areas did not comply with legislation, and AMS guidelines and policies.¹⁷

¹⁶ See Cattlemen's Beef Board Resolutions to the Issues Identified by the Agreed-Upon Procedures Performed at the National Cattlemen's Beef Association FY 2008, FY 2009 and the First Five Months Ended February 29, 2010, at 1-23, attached hereto as Exhibit 7.

¹⁷ OIG Audit Report, What OIG Found, cover page.

It cannot both be true that Beef Checkoff Program funds assessed in fiscal years 2008, 2009, and 2010 were distributed and expended in accordance with legislation *and* that the NCBA was required to reimburse the Beef Checkoff Program \$216,944 for expenses it had charged to the Beef Checkoff Program in contradiction to the legislation in fiscal years 2008, 2009, and 2010. The OIG's Information Quality Guidelines demand that this egregious error be corrected.

To restore any semblance of objectivity to the OIG Audit Report, the above-described gross inaccuracy contained in the OIG Audit Report must be corrected by clearly and prominently stating under the heading "What OIG Found" that in each of the fiscal years 2008, 2009, and 2010, the NCBA had improperly charged hundreds of thousands of dollars in unauthorized expenses to the Beef Checkoff Program; that such unauthorized expenses were discovered by an independent audit; that NCBA was required to reimburse the Beef Checkoff Program the amount of \$216,944; and, that it is beyond the scope of this particular audit to ascertain whether similar unauthorized expenses were charged to the Beef Checkoff Program in the years prior to fiscal year 2008.

Failure to correct this gross inaccuracy will irreparably damage the credibility of the USDA and OIG and harm the hard working U.S. farmers and ranchers who sell cattle and are, therefore, required to contribute to the Beef Checkoff Program. Those farmers and ranchers have a right to expect that USDA and OIG will present only accurate and objective information regarding whether or not their Beef Checkoff Program contributions were misappropriated, regardless of whether such contributions were misappropriated for 24 hours or three years before their money was rightfully returned to the accounts of the Beef Checkoff Program.

B. The OIG Audit Report is Fatally Incomplete.

The OIG Audit Report is fatally incomplete because it failed to conduct its review beyond the time period already audited by Clifton Gunderson.¹⁸ In a telephone conversation with former USDA AMS Administrator Rayne Pegg on Jan. 25, 2011,¹⁹ this author was personally informed by the Administrator that USDA was confident that there would be no further findings of misappropriations committed by NCBA during the years covered by the Clifton Gunderson Report because the Clifton Gunderson review was a targeted review initiated by the beef board who knew where improper expenses would most likely be found if any improper expenses were charged. Therefore, according to former Administrator Pegg, all likely misappropriations that occurred during fiscal years 2008, 2009 and the first five months of 2010 were already found before the OIG even initiated its audit and were among the \$216,944 in misappropriated funds already identified by Clifton Gunderson.

Prior to this author's conversation with Administrator Pegg, widespread anecdotal information presumably originating from member of the beef board likewise indicated that the beef board knew precisely where to look to catch NCBA in the act of misappropriating Beef Checkoff Program dollars. Based on this anecdotal information indicating that all the improprieties that occurred during the period covered by the Clifton Gunderson report were already disclosed, R-CALF USA and 25 other organizations that represent cattle farmers and ranchers who are required to contribute to the Beef Checkoff Program urged Inspector General Fong to conduct an audit that goes beyond the time period covered by the Clifton Gunderson audit. The groups urged Inspector General Fong, Secretary Vilsack and U.S. Attorney General Eric Holder to, *inter alia*:

¹⁸ See *supra*, Part II A.

¹⁹ See, *supra*, fn. 12, Exhibit 6 (this letter confirms that a telephone conversation took place between Administrator Pegg and R-CALF USA CEO Bill Bullard on Jan. 25, 2011).

[I]mmediately conduct a full and complete investigation and audit into NCBA's fiscal management of Checkoff funds for a period to include at least the past five years (the investigation must go well beyond the small sampling of transactions reviewed in the Accountant's Report).²⁰ (Emphasis added.)

Because the methodology of the Clifton Gunderson Report was that of a "targeted"²¹ review initiated by the beef board who had knowledge regarding where expenses were most likely being improperly charged by NCBA rather than a partially, if not fully, random methodology employed by the OIG²² that essentially covered the same time period – hence the same financial transactions – as the Clifton Gunderson Report, no reasonable person would expect the OIG Audit Report to disclose any substantive improprieties that were not already disclosed by the Clifton Gunderson Report. Indeed, it appears that the OIG Audit Report failed completely to identify even a single exception or impropriety during the same period covered by the Clifton Gunderson Report whereas the Clifton Gunderson Report had identified numerous exceptions totaling a whopping \$216,944 in wrongful expenditures.²³

Because the OIG chose to ignore completely the request by R-CALF USA and the 25 other organizations that collectively represent a substantial, and quite possibly a majority, number of U.S. farmers and ranchers that are required to contribute to the Beef Checkoff Program to review the NCBA's fiscal management of Beef Checkoff Program funds for a period to include at least the past five years,²⁴ the OIG Audit Report was preordained to not discover or otherwise disclose anything that had not already been disclosed by the Clifton Gunderson Report. As a result of the woefully

²⁰ Letter by 26 organizations to Inspector General Fong, et al., Aug. 4, 2010, attached hereto as Exhibit 8; see also *infra*, R-CALF USA letter to OIG et al., Feb. 3, 2011, fn. 40, (R-CALF USA further expands its request for an audit to cover at least 10 years of Beef Checkoff Program financial data.).

²¹ See, *supra*, fn. 12, Exhibit 6 (Former Administrator Pegg characterized the Clifton Gunderson audit as "a targeted review of its [the Cattlemen's Beef Board's] largest contractor").

²² See, *e.g.*, OIG Audit Report, at 9 ("To examine the propriety of the total amount paid to the beef board, we selected a random sample of \$20,520,855 in checkoff fund expenditures from the universe of \$126,628,692 in assessments the beef board received for fiscal years 2008, 2009, and 2010." (Emphasis added.).)

²³ See *e.g.*, *id.*, at 14-16 (Amazingly, the OIG Audit Report did not identify a single financial transaction with an exception during the same period that the Clifton Gunderson Report identified numerous exceptions totaling \$216,944).

²⁴ See *supra*, fn. 20, Exhibit 8.

inadequate scope of the OIG Audit Report, which rendered it fatally incomplete, the OIG audit itself was nothing but a shameful waste of taxpayer money.

To restore any semblance of objectivity, the OIG Audit Report must be recalled in its entirety pending the completion of an entirely new audit that reviews financial transaction data for the several years leading up to FY 2008, thus eliminating the redundancy associated with conducting a review during the period previously, and much more thoroughly, reviewed in the Clifton Gunderson Report. If the OIG chooses not to conduct an appropriate audit that avoids the redundancy associated with the more targeted Clifton Gunderson Report, then, at the very least, the OIG must correct the OIG Audit Report by incorporating and enumerating each of the individual expense charges improperly made by NCBA against the Beef Checkoff Program that collectively totaled \$216,9044 as was disclosed by the Clifton Gunderson Report and that remained too elusive for the OIG to find on its own.

Failure to correct the fatally incomplete OIG Audit Report will marginalize USDA and the OIG in the eyes of Congress, the public, and in particular the hard working U.S. farmers and ranchers who are required to make financial contribution to the Beef Checkoff Program. There simply is no logical reason that the OIG would choose to conduct its random hunt over the same terrain and during the same period where and when, respectively, a much more targeted hunt had already extinguished all the game. Unless, of course, it was the OIG's intention all along to ensure that it came up empty-handed, which is the only plausible explanation for conducting such an incomplete report.

C. The OIG Audit Report Is Presented in a Blatantly Biased Manner.

The material deficiencies described herein as well as in R-CALF USA's April 5, 2013 original complaint demonstrate that the OIG Audit Report is biased in favor of the three parties that

first allowed the NCBA to misappropriate hundreds of thousands of producer checkoff dollars over a three-year period; then allowed the NCBA to merely repay the amount it stole and attempted to keep as a full remediation of its crimes; and, then attempted to sweep the whole matter under the rug as if the misappropriation of hundreds of thousands of producer checkoff dollars was simply a normal course of business in the eyes of the U.S. government. Those three entities favored by the OIG Audit Report are, of course, the NCBA, the USDA, and the beef board, each of which were inexplicably exonerated for their respective roles in the NCBA's temporarily successful effort to charge unauthorized expenses to the Beef Checkoff Program.

III. THE OIG AUDIT REPORT FAILS TO MEET EVEN THE MOST LENIENT INTERPRETATION OF THE TERM INTEGRITY UNDER OIG'S INFORMATION QUALITY GUIDELINES

As herein described and in R-CALF USA's April 5, 2013 original complaint, the OIG Audit Report fails in every respect to meet even the most lenient interpretation of the OIG's standard for integrity that unambiguously requires disseminated information to be "protected from unauthorized access, corruption, or revision to ensure that disseminated information is not compromised through corruption or falsification."²⁵

Although R-CALF USA has no direct knowledge regarding whether information contained in the OIG Audit Report was subject to unauthorized access or revision, it does, as described below, have direct knowledge that the disseminated information contained in the OIG Audit Report was compromised through corruption and/or falsification.

²⁵ *Supra*, fn. 7.

A. Through Its Omission of Relevant Complaints, the OIG Audit Report Disseminates False Information to Congress, the Public, and to Cattlemen who Are Required to Contribute to the Beef Checkoff Program.

As stated previously in R-CALF USA's original complaint,²⁶ the OIG Audit Report falsely claims that it had received only three complaints directed towards the beef board and NCBA.²⁷ Specifically, the OIG Audit Report states that the "OIG received three allegations about the potential misuse of beef checkoff program funds during the course of this audit,"²⁸ and:

During the course of our audit, we received three complaints directed towards the beef board and NCBA. The complaints alleged the misuse of beef checkoff funds and the misuse of the beef checkoff logo.²⁹

The OIG's outrageous claim is demonstrably false. On March 10, 2011, R-CALF USA and members of other organizations representing U.S. farmers and ranchers that are required to contribute to the Beef Checkoff Program participated in a meeting with OIG employees who represented themselves as OIG employees responsible for conducting the audit regarding the misappropriation of Beef Checkoff Program funds by the NCBA.³⁰ Mr. Don Pfeil led the meeting and represented himself as the Assistant Regional Inspector General charged with conducting the audit of the Beef Checkoff Program.³¹ During that meeting and in documents submitted subsequent to that meeting, R-CALF USA and the other organizational representatives registered specific complaints regarding the beef board and NCBA to the OIG auditors that included, but were not limited to, the following:

²⁶ See *supra*, fn. 1, Exhibit 1

²⁷ See OIG Audit Report, at 4, 12.

²⁸ *Id.*, at 4

²⁹ *Id.*, at 12.

³⁰ See electronic e-mail message from R-CALF USA CEO Bill Bullard to OIG employee Don Pfeil, March 11, 2011 (the e-mail specifically thanks OIG employees Don Pfeil, Charles, Steve and Teresa for the meeting held March 10), attached hereto as Exhibit 9.

³¹ See, e.g., business card provided to R-CALF USA CEO Bill Bullard by Mr. Don Pfeil during the March 10, 2011 meeting between R-CALF USA et al. and OIG employees, attached hereto as Exhibit 10.

1. A specific complaint regarding the conflict of interest resulting from an AMS official who served on the board of an entity that received checkoff expenditures from the Beef Checkoff Program.³²
2. A specific complaint regarding the NCBA's pay-to-play scheme in which the NCBA essentially expropriates hundreds of thousands of Beef Checkoff Program dollars from state beef councils for the privilege of securing voting rights.³³ R-CALF USA referred to this practice as NCBA's money laundering scheme.
3. A specific complaint that "NCBA's lobbying influence is facilitated by, and greatly enhanced by, its receipt of National Beef Checkoff Program dollars that are being used unlawfully to defeat public policy initiatives viewed as critically important to many, if not most, U.S. cattle producers and to advance public policy initiatives that are viewed by many, if not most, U.S. cattle producers as detrimental to their financial interests."³⁴
4. A specific complaint that the federal government is subsidizing NCBA's political and policy agenda with checkoff dollars; that the beef board wrongfully decided not to require reimbursement from NCBA for non-Beef Checkoff Program activities performed by NCBA; and, that NCBA's practice of charging 50% of its officer travel expenses to the checkoff represented a sizable government subsidy that was assisting NCBA to defeat political candidates.³⁵

³² See *supra*, fn. 29, Exhibit 9; see also attachment to R-CALF USA's e-mail sent to Mr. Don Pfeil on March 11, 2011, attached hereto as Exhibit 9 Attachment 1.

³³ See *id.*, fn. 29, Exhibit 9 (R-CALF USA's e-mail contains a cut-and-pasted document describing the NCBA's pay-to-play scheme).

³⁴ Letter attached to R-CALF USA's March 11, 2011 e-mail to Mr. Don Pfeil, Aug. 4, 2010, attached hereto as Exhibit 9 Attachment 2.

³⁵ See letter attached to R-CALF USA's March 11, 2011 e-mail to Mr. Don Pfeil, Jan. 17, 2011, attached hereto as Exhibit 9 Attachment 3; see also copy of NCBA political add that also was attached to the March 11, 2011 e-mail to Mr. Don Pfeil, attached hereto as Exhibit 9, Attachment 4.

5. A specific complaint that the beef board had improperly approved expenses by a senior NCBA member who recorded his/her time to the Checkoff for participating in the International Stockmen's Education Foundation (ISEF) meeting that was held for the purpose of developing revenues for the ISEF.³⁶
6. A specific complaint that the beef board improperly approved travel expenses for NCBA even though the beef board found that NCBA charged the overhead cost pool for travel expenses and two months worth of time for a new senior staff member to attend "the Policy Division's Spring Legislative Conference," which clearly is a policy-related meeting.³⁷
7. A specific complaint that the beef board improperly approved an NCBA meeting expense for a senior NCBA staff member who attended a meeting of the Five Nations Beef Conference in New Zealand.³⁸
8. A specific complaint that despite the beef board's finding that NCBA's policy for NCBA board members and officers was to split travel expenses evenly (50/50) between the NCBA's policy division and the Federation, including trips for the purpose of influencing policy, the beef board nevertheless improperly approved the expenses.³⁹
9. A specific complaint that the beef board improperly approved expenses incurred by two NCBA employees who coded their entire Young Cattlemen's College trip, which included "both Checkoff and Policy elements," to the Beef Checkoff Program.⁴⁰

³⁶ See letter attached to R-CALF USA's March 11, 2011 e-mail to Mr. Don Pfeil, Jan. 20, 2011, at 2, attached hereto as Exhibit 9 Attachment 5.

³⁷ *Id.*, at 3.

³⁸ *See id.*

³⁹ *See id.*, at 4.

⁴⁰ *Id.*, at 5.

10. A specific complaint requesting investigators to determine if NCBA unlawfully charged the Beef Checkoff Program for any one of the 20 NCBA policy/lobbying activities that R-CALF USA provided to the OIG and that covered the period March 2002 to December 2010.⁴¹
11. A specific complaint that the beef board's approval of travel expenses from the Beef Checkoff Program for NCBA officers and directors who lobbied against the interest of many, if not most, U.S. cattle producers is improper and a violation of conflict of interest principles.⁴²
12. A specific complaint that 60-70% of NCBA's overhead is paid with Beef Checkoff Program dollars.⁴³
13. A specific complaint that the July 2, 2010 edition of Ag Journal that improperly used the Beef Checkoff Program logo to legitimize the NCBA's opposition to a proposed rule supported by R-CALF USA and many U.S. farmers and ranchers but vehemently opposed by NCBA.⁴⁴ This was one of only three complaints that OIG chose to address in its OIG Audit Report.⁴⁵
14. A specific complaint that the beef board is supporting the unlawful activity of using Beef Checkoff Program funds to develop the beef board's "Beef Industry Long Range Plan" that is replete with unlawful recommendations and initiatives to influence governmental action and policy.⁴⁶

⁴¹ See Attachment 1 to the letter attached to R-CALF USA's March 11, 2011 e-mail to Mr. Don Pfeil, Feb. 3, 2011, attached hereto as Exhibit 9 Attachment 6.

⁴² See letter attached to R-CALF USA's March 11, 2011 e-mail to Mr. Don Pfeil, Feb. 3, 2011, attached hereto as Exhibit 9 Attachment 6.

⁴³ See *id.*

⁴⁴ See *id.*, including the 3rd page of Attachment 1.

⁴⁵ See OIG Audit Report, at 13.

⁴⁶ See *id.*, including the 4th-7th pages of Attachment 1.

15. A specific complaint that millions of Beef Checkoff Program dollars are being used against independent cattle farmers and ranchers by the Kansas Livestock Association, which is an aggressive lobbying entity that receives over 80% of its income from cattlemen's contributions to the Beef Checkoff Program.⁴⁷

16. A specific complaint that NCBA had misappropriated approximately \$400 which the beef board appeared to consider trivial though R-CALF USA viewed it as a significant violation.⁴⁸ This is the second of only three complaints the OIG chose to address in its OIG Audit Report.

As documented above, the OIG wrongfully denied that it had received at least 16 specific complaints from R-CALF USA directed toward the beef board and NCBA during the course of the OIG audit. Instead, the OIG blatantly misrepresented the information it had received from R-CALF USA both verbally and in writing by falsifying the OIG Audit Report to reflect that the OIG had only received three complaints (note that at least two of those complaints were received by R-CALF USA).

Honesty, integrity and accountability demand that the OIG Audit Report be corrected to clearly, unambiguously and prominently state that the OIG arbitrarily chose only to address three of at least 16 known specific complaints it had received during the course of its audit that were directed towards the beef board and NCBA and, therefore, the OIG cannot render any opinion regarding the merits of at least 14 specific and pending complaints it chose not to address.

⁴⁷ See electronic e-mail from R-CALF USA CEO Bill Bullard to Mr. Don Pfeil, April 12, 2011, attached hereto as Exhibit 11; see also the attachment to that April 12, 2011 e-mail attached hereto as Exhibit 11 Attachment 1.

⁴⁸ See electronic e-mail from R-CALF USA CEO Bill Bullard to Mr. Don Pfeil, Aug. 18, 2011, attached hereto as Exhibit 12; see also the attachment to that Aug. 18, 2011 e-mail attached hereto as Exhibit 12 Attachment 1.

It should go without saying that the public in general and U.S. cattle farmers and ranchers in particular will be harmed if the OIG does not take decisive steps to restore the integrity of the OIG Audit Report that has been lost because of the OIG's falsification of information.

B. The OIG Mischaracterized the Events Surrounding Its Purported Review of at Least one of the Three Complaints it Arbitrarily Chose to Address in its OIG Audit Report.

The OIG Audit Report makes the following assertions regarding its review of the complaint that NCBA had allegedly charged prohibited expenses to the Checkoff fund:

1. "A beef industry organization alleged that NCBA knowingly and deliberately submitted expenses for a policy-related event, an activity that is specifically prohibited by legislation.
2. "We examined the beef board's reimbursement records and NCBA's travel expense records for fiscal years 2008 through 2010, and found that the beef board audit staff, as part of their duties to review federation expenses, requested that NCBA reclassify \$400 in travel expenses pertaining to a policy-related event. NCBA did reclassify those expenses.
3. "Beef board officials informed us that since they did not pay NCBA's request, they took no action against NCBA. AMS officials were aware of, and supported, the beef board's actions. The beef board had the authority to take administrative action against NCBA for submitting the request for reimbursement; we concluded that its action was appropriate for the circumstances."

If the \$400 improper travel expenses discussed above by OIG is the same \$400 in improper travel expenses previously discussed in Part III A., Item 16 above, then the OIG has misrepresented and mischaracterized the nature of that complaint as well as its disposition. Though R-CALF USA recognizes the possibility that the OIG had addressed a complaint separate and distinct from the complaint it received from R-CALF USA regarding \$400 in misappropriated travel expenses, it will nevertheless proceed under the presumption that this was OIG's direct response to R-CALF USA's complaint.

The OIG's response contradicts the explanation provided by the beef board regarding how the improper \$400 transaction was discovered and how the matter was addressed. Contrary to the OIG's assertion in Item 1, above, on Feb. 3, 2011, R-CALF USA requested OIG et al. to investigate approximately 20 policy events where NCBA was known to be engaged in influencing public policy or action to determine if the NCBA had unlawfully charged the Beef Checkoff Program for any of its related expenses.⁴⁹ The beef board responded to R-CALF USA's complaint stating it could only review financial transactions for nine of the events identified by R-CALF USA and that it had determined that among those nine events, NCBA had improperly coded two items totaling less than \$400.⁵⁰

While the OIG clearly infers and/or implies through its omission of relevant facts that the beef board in its normal course of business had identified and corrected an improper expense charge by NCBA that had later been complained about by R-CALF USA, the fact is that the only reason the improper charge was even discovered, let alone remediated, was because R-CALF USA specifically directed the OIG and the beef board to specific NCBA policy events where foul play was suspected. And, the beef board did not remediate the improper expenditure at least until after R-CALF USA's Feb. 3, 2011 submission of the approximately 20 NCBA events it wanted OIG et al. to investigate.⁵¹ This latter fact calls into question both the beef board's and the OIG's assertion that the beef board did not pay NCBA's request. R-CALF USA believes it is highly unlikely that the beef board had not, prior to R-CALF USA's Feb. 3, 2011 letter, already reimbursed NCBA for expenses it submitted prior to December 2010.⁵²

⁴⁹ See *supra*, fn. 41, Exhibit 9 Attachment 6.

⁵⁰ See letter from beef board to R-CALF USA, Aug. 10, 2011, attached hereto as Exhibit 13.

⁵¹ See *supra*, fn. 41, Exhibit 9 Attachment 6.

⁵² See *id.*, (The latest event contained on R-CALF USA's list of NCBA policy activities – hence the most recent transaction reviewed by the beef board pursuant to R-CALF USA's complaint, was Dec. 8, 2010.).

The OIG's misrepresentation of the facts surrounding the nature and disposition of one of the only three complaints the OIG even bothered to mention in its OIG Audit Report constitutes a falsification of information that has misled and deceived the public.

Honesty, integrity and accountability demand that the OIG Audit Report be corrected to clearly, unambiguously and prominently state that only after a complaint was filed by an interested industry group did the beef board identify and remediate the action by NCBA to attempt to improperly charge the Beef Checkoff Program for unauthorized travel expenses. Further, R-CALF USA urges the OIG to determine how it is that expenses incurred by the NCBA on or before early December 2010 were not already processed before R-CALF USA filed its Feb. 3, 2011 complaint.

IV. THE OIG AUDIT REPORT LACKS ANY SEMBLANCE OF UTILITY

For all the reasons stated herein and in R-CALF USA's April 5, 2013 original complaint, the OIG Audit Report is far too riddled with errors, omissions and falsifications to serve any useful purpose for members of Congress, the Administration, and members of the public, including cattle farmers and ranchers whose hard-earned dollars has served to undermine their own interests by facilitating the NCBA's ability to successfully lobby Congress for policies that conflict with the interests of many independent U.S. cattle producers.

V. CONCLUSION

R-CALF-USA appreciates this opportunity to seek essential corrections to the OIG Audit Report. It is R-CALF USA's opinion, however, that the many deficiencies described herein and in R-CALF USA April 5, 2013 original complaint are so despicable and outrageous as to render the OIG Audit Report unsalvageable. Though R-CALF USA has made recommendations for correction, the egregious nature of the OIG Audit Report simply does not lend itself to correction. Therefore,

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R-CALF USA restates its original request that the OIG Audit Report be officially denounced as a colossal political sham and whitewash.⁵³

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bullard". The signature is stylized and cursive.

Bill Bullard, CEO

Attachments: Exhibits 1-13

Cc: The Honorable Tom Vilsack
The Honorable Edward Avalos
Select members of Congress

⁵³ See *supra*, fn. 1, Exhibit 1, at 4.