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BILL MINOR: Barbour's policy almost cost state \$97 million

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Daily Journal

Which is better deal: \$3 million or \$100 million?

Since we're talking about how much tax money this cash-strapped state will get from the WorldCom/MCI bankruptcy, it doesn't take a genius to figure out the answer.

The \$3 million was what the State Tax Commission was willing to settle for until Attorney General Jim Hood stepped in, hired private counsel and got \$100 million for the state.

That the Tax Commission was ready to settle for \$3 million is no figment of my imagination. I've got a copy of the document the Tax Commission filed with the Bankruptcy Court of Southern New York on March 26, 2004.

It sought that amount only for owed franchise taxes. Only when Hood, through his special counsel five days later, filed an amended petition claiming WorldCom/MCI evaded as much as \$1 billion in state income taxes by fraudulently funneling billions of expenses through a "royalty" tax shelter did the state's claim go up.

From all of the chin music heard recently out of the governor's office and his media friends, you'd think Hood got snookered in landing "only" a \$100 million cash windfall. Or that state's special attorney, Joey Langston of Booneville, a Hood supporter, was handed a sweetheart \$14 million fee for settling the case.

More later

I'll discuss it more later. For now, suffice it to say that Langston's firm split the legal fee with the Lake Charles, La.-based firm of Lundy and Davis, including costs of hiring bankruptcy and tax specialists.

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An alert Lundy, Davis lawyer in their Jackson office in January, 2004, dug out references tucked away in a document filed by the New York Bankruptcy court overseeing the telecom giant's bankruptcy that showed WorldCom had used the Mississippi tax shelter to evade paying millions in state income taxes.

Billy Quin, 33, the firm's legal sleuth who played football at Ole Miss before finishing LSU Law School, had found the reference in the third (and final) report of Bankruptcy Court examiner Dick Thornburgh, who had been attorney general in the Reagan administration.

He informed Hood this could be a key to the state making a multi-million-dollar tax claim through the state income tax evasion route.

Thornburgh's report showed WorldCom got around paying millions in Mississippi income taxes during the late 1990s under the "royalty" shelter by charging its subsidiaries for use of the parent company's "management foresight," a so-called company strategy he said was subject to taxation.

Hood liked Quin's idea, but being unfamiliar with the Louisiana firm and its financial ability to take on a suit against a big corporation, he sought to pair Quin's firm with Mississippi-based lawyers. So he sent the tax suit proposal for comment around to several firms in the state, among them Dickie Scruggs, the lead guy in winning the state's huge 1996 tobacco case settlement.

Langston was willing

Only Langston showed interest in investing up-front capital to pursue the major legal undertaking, and Hood teamed Langston with Quin.

But first, Hood ran the proposed suit by the State Tax Commission whose chairman then was Ed Buelow, replaced six months later by Barbour-appointee Joe Blount.

Buelow flatly rejected Hood's proposal and stuck with the commission's in-house attorneys' plan, proceeding to file the \$3 million claim only for franchise taxes.

Five days later, the AG exercised his constitutional power to take over any state lawsuit and filed the amended claim that set a recovery goal of \$1 billion, a figure their tax expert said was well within bounds.

That got MCI thinking compromise, but after the company's in-house review of its supposed tax liability, it offered the state zero dollars. Meantime, Hood's people pushed forward, so MCI soon brought in John Corlew as its counsel. Corlew is the Jackson lawyer representing Haley Barbour in his lawsuit to grab the Partnership for a Healthy Mississippi's tobacco money.

Meantime, new Tax Commission Chairman Blount said he couldn't join the increased tax claim unless he got clearance from the governor. It never came.

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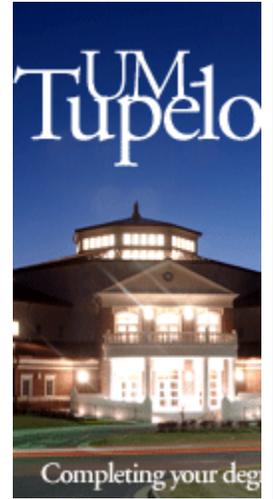
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The Hood crew, meanwhile, came up with a smoking gun to use against the company by nailing down statements from two Tax Commission employees who approved WorldCom's royalty tax exemption.

First, Corlew offered \$5 million, then \$20 million to settle, but the Hood people wouldn't bite. That's when MCI canned Corlew and called in former attorney general Mike Moore, a known ally of Hood, to break the log-jam on negotiations.

Moore got the MCI offer sweetened to \$100 million clear for the state above legal fees and Hood's crew accepted. But he added on other benefits, including a goodwill gesture to fund most of the cost of the Children's Justice Center at the Jackson Medical Mall as well as to give the state WorldCom's former office building in downtown Jackson.

The Langston-Quin team, at MCI's request, shaved \$1.25 million off their fee to match \$4.3 million from the company to fund the juvenile justice center. That left their total legal fee at 12 percent of the settlement, well below the 25 percent allowed by state law.

Hardly a bad deal.

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