



NSAA 2024
AWARD FOR EXCELLENCE
Forensic Report Award

OHIO AUDITOR OF STATE
KEITH FABER



VINTON TOWNSHIP
VINTON COUNTY

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FRAUD EXAMINATION REPORT

Vinton Township
Vinton County
38000 Arbaugh Road
Wilkesville, OH 45695

To the Township Fiscal Officer and Trustees:

Summary

The Auditor of State, Special Investigations Unit (SIU) conducted a criminal investigation and special audit of Vinton Township (the Township) predicated on information received from the Vinton County Auditor regarding suspected theft by the Township's Fiscal Officer.

The investigation identified over \$310,000 in misappropriated Township expenses which resulted in findings for recovery and supported criminal charges against the former Township Fiscal Officer, Cyril Vierstra (Cy¹).

A prosecutor packet was presented to the Auditor of State Special Prosecutor, serving by appointment of the Vinton County Prosecuting Attorney.

On October 15, 2021, Cy was indicted by the Vinton County grand jury on 13 counts, including one count each of Engaging in a Pattern of Corrupt Activity, Theft in Office, Theft, Telecommunications Fraud, and Dereliction of Duty, and eight counts of Tampering with Records.

On October 26, 2022, Cy entered a negotiated plea of guilty to Engaging in a Pattern of Corrupt Activity, in violation of Ohio Rev. Code § 2923.32(A)(1) (felony of the 2nd degree), Theft in Office, in violation of Ohio Rev. Code § 2921.41(A)(1) (felony of the 3rd degree), three counts of Tampering with Records, in violation of Ohio Rev. Code § 2913.42(A)(2) (each count a felony of the 3rd degree), and Dereliction of Duty, in violation of Ohio Rev. Code § 2921.44(E) (misdemeanor of the 2nd degree).

On February 6, 2023, the Honorable Judge James P. Salyer sentenced Cy to 59 months in prison and mandatory post-release control for up to three years but not less than eighteen months. In addition, Judge Salyer ordered Cy to pay restitution of \$339,717.86, which includes the theft amount and cost of the special audit. Lastly, Judge Salyer ordered the following items to be forfeited to the Township Trustees:

- One 2020 Cushman Hauler 1200X utility vehicle.
- One 2019 Cub Cadet XT1-LT42 riding lawn mower.
- One 2006 Chevrolet animal rescue trailer.
- Six Jeld-Wen vinyl windows.

Any proceeds from the sale of the forfeited property shall be properly credited to Cy in partial payment of the ordered restitution.

¹ On September 25, 2017, the Probate Court of Vinton County ordered the name of Cyril Vierstra be changed to Cy based on an application for change of name heard by the Court.

Background

The investigation began on July 13, 2020, after SIU received a letter from the Vinton County Auditor. It was alleged Cy was misusing a Township debit card and credit card and some of the transactions were for purchases related to the Union Ridge Wildlife Center (URWC). In addition, the Vinton County Auditor notified SIU that Cy was the operator of URWC. SIU obtained URWC's articles of incorporation from the Ohio Secretary of State. URWC's articles of incorporation were certified on February 6, 2014 and documented URWC was formed to provide native and non-native wildlife rehabilitation and sanctuary. Cy was documented as the statutory agent for URWC. On July 21, 2020, a search warrant was executed by SIU at the location of Cy's personal residence and URWC, with assistance from the Vinton County Sheriff's Office (VCSO), Ohio Department of Agriculture - Animal Health Inspection, Ohio Department of Natural Resources (ODNR) - Office of Law Enforcement, and the U.S. Fish and Wildlife Service. A review of documents obtained pursuant to the first search warrant by SIU, and observation of specific items located on the property at that time, identified several pieces of property that constituted the proceeds of unauthorized purchases by Cy utilizing Township funds. These items included a golf cart, riding lawn mower, animal rescue trailer, and six vinyl windows awaiting installation in a building under construction at URWC. Accordingly, on July 29, 2020, a second search warrant was executed by SIU on the property, with assistance from the VCSO and ODNR and the listed items of property were seized. SIU, with assistance from the Ohio State Highway Patrol and ODNR, transported the seized items to a secure location. Cy resigned from his position at the Township on July 29, 2020.

After the information obtained from interviews, preliminary examination of Township and subpoenaed records, and the search warrants were considered, a special audit was declared by the Auditor of State.

Scope and Approach

We defined our audit period as covering January 1, 2016 through July 29, 2020 (the Period) based on the risk factors identified.

The specific objectives we tested to establish whether fraud was committed at the Township were to examine:

- Whether debit card and credit card transactions had supporting documentation, were related to the operations of the Township, and were for a proper public purpose.
- Whether certain non-payroll disbursements had supporting documentation and were for a proper public purpose.
- Payroll disbursements and health care reimbursements for the Trustees and Fiscal Officer to determine if they were paid in accordance with the Ohio Revised Code.

The objectives and procedures are described more fully in the attached Supplement to the Fraud Examination Report for the Period.

This engagement was conducted in accordance with the [Auditor of State Special Investigations Unit, Quality Standards](#).

Findings

Based on the special audit procedures and investigation, the Auditor of State confirmed the allegation that Cy misappropriated Township expenses over a span of four and a half years.

Cy was elected as the Township Fiscal Officer and assumed that office effective April 1, 2014. SIU's investigation and special audit uncovered \$311,608 taken by Cy through multiple schemes due to a lack of internal controls and management oversight. Cy used the Township's funds to purchase goods and services for his non-profit agency, URWC, to start a lodging service through Airbnb at his personal residence, and for his personal use. Cy created false documents which included invoices, written statements, and Trustee meeting minutes to mislead Township Trustees and auditors.

Our report includes findings for recovery. In general terms, a finding for recovery means that an individual or entity (e.g., a vendor) illegally spent or received public money.

Pursuant to Ohio Rev. Code Section 117.28, when the Auditor of State's office issues a finding for recovery, the individual or entity can repay the amount voluntarily, or the finding for recovery also empowers the public office's statutory legal counsel or the Attorney General's office to institute legal proceedings to collect that amount.

We issued five findings for recovery against Cy totaling \$345,049 for misappropriated Township funds during the Period as noted below:

| Examination Area | Amount |
|--|------------------|
| Debit Card Transactions | \$220,868 |
| Credit Card Transactions | 4,294 |
| Non-payroll Disbursements | 74,223 |
| Health Care Reimbursements | 4,541 |
| Internal Revenue Service (IRS) Penalties and Interest | 7,682 |
| Total | \$311,608 |
| Audit Costs | 33,441 |
| Total with Audit Costs | \$345,049 |

In addition to the findings for recovery, we issued management recommendations regarding segregation of duties, records retention, debit and credit cards, minutes, health care reimbursements, fiscal officer bond, inadequate oversight by those charged with governance, and tax and W-2 filings. The full details of the findings for recovery and management recommendations are located in the Appendix.

On April 3, 2023, we held an exit conference with the following individuals representing the Township:

Megan Malone, Fiscal Officer
Alice Malone, Trustee
James Wells, Trustee
Glendon Barnes, Trustee

The attendees were informed they had five business days to respond to this fraud examination report. A response was received on April 6, 2023. A response was provided by Megan Malone, Fiscal Officer and was evaluated in the final preparation of this report.



Keith Faber
Auditor of State
Columbus, Ohio

March 2, 2023

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SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Objective 1 – Examine whether debit card and credit card transactions had supporting documentation, were related to the operations of the Township, and were for a proper public purpose.

PROCEDURES

We examined available documentation for all debit card transactions made by the Township and all credit card transactions made by the Fiscal Officer to determine if they had proper supporting documentation indicating the nature and purpose of the transactions, were related to the operations of the Township, and were for a proper public purpose.

We identified debit card and credit card transactions that did not have supporting documentation maintained by the Township; therefore, we issued subpoenas to certain vendors to obtain documentation for the transactions.

RESULTS

Debit Card Transactions

During the Period, the Township maintained and used debit cards to make purchases. On August 7, 2019, the Independent Public Accounting (IPA) firm conducting the Township's calendar year 2017-2018 financial audit notified Cy through an email that the Township was no longer allowed to use debit cards per the Ohio Revised Code and needed to bring it to the attention of the Township Trustees. On August 29, 2019, the Township Trustees had a regular meeting and discussed transitioning from using debit cards to credit cards. Township Trustees approved to proceed with applying for credit cards to be used in place of previously used debit cards. The Township obtained four credit cards, one for the Fiscal Officer and each Trustee. In November 2019, Cy began to use a Township credit card to make purchases; however, he also continued to use the Township's debit card to make purchases without the Trustees' knowledge.

During the Period, the Township made 1,221 debit card transactions totaling \$246,870, which included 557 transactions totaling \$137,572 made after August 29, 2019. The Township did not have supporting documentation for 1,019 of the 1,221 debit card transactions. We issued subpoenas to certain vendors and obtained supporting documentation for 781 of the 1,019 transactions.

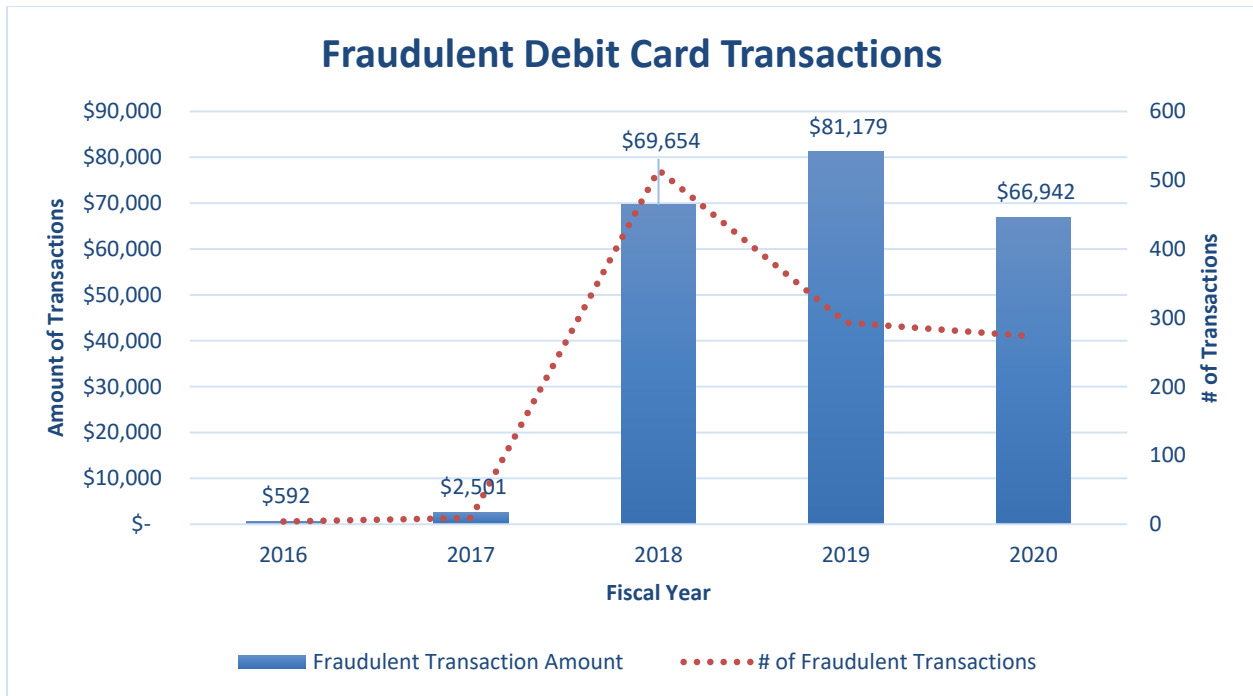
We determined 1,094 of the 1,221 debit card transactions totaling \$220,868 were fraudulent because they were not for a proper public purpose and not related to the operations of the Township which included the following:

- 778 transactions totaling \$140,690 were determined to not be for a proper public purpose and not related to the operations of the Township based on documentation obtained from the vendor through a subpoena.
- 236 transactions totaling \$32,436 had no supporting documentation maintained by the Township and were not for a proper public purpose.
- 80 transactions totaling \$47,742 had supporting documentation maintained by the Township; however, we determined the transactions were not for a proper public purpose and not related to the operations of the Township. For seven of these transactions, we subpoenaed documents from the vendor and determined the supporting documentation maintained by the Township was a false document created to give the appearance it was for the Township, but it was actually for goods and services related to URWC.

We identified 23 instances where notes (handwritten or input into financial system) with false information was created by Cy on supporting documentation (vendor receipts, vendor invoices, financial system documents) for the debit card transactions with intent to mislead auditors and/or the Trustees. Also, we determined Cy altered the Trustee meeting minutes to mislead auditors and/or the Trustees related to debit card purchases made by Cy.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

The below graph summarizes the fraudulent debit card transactions noted by year.



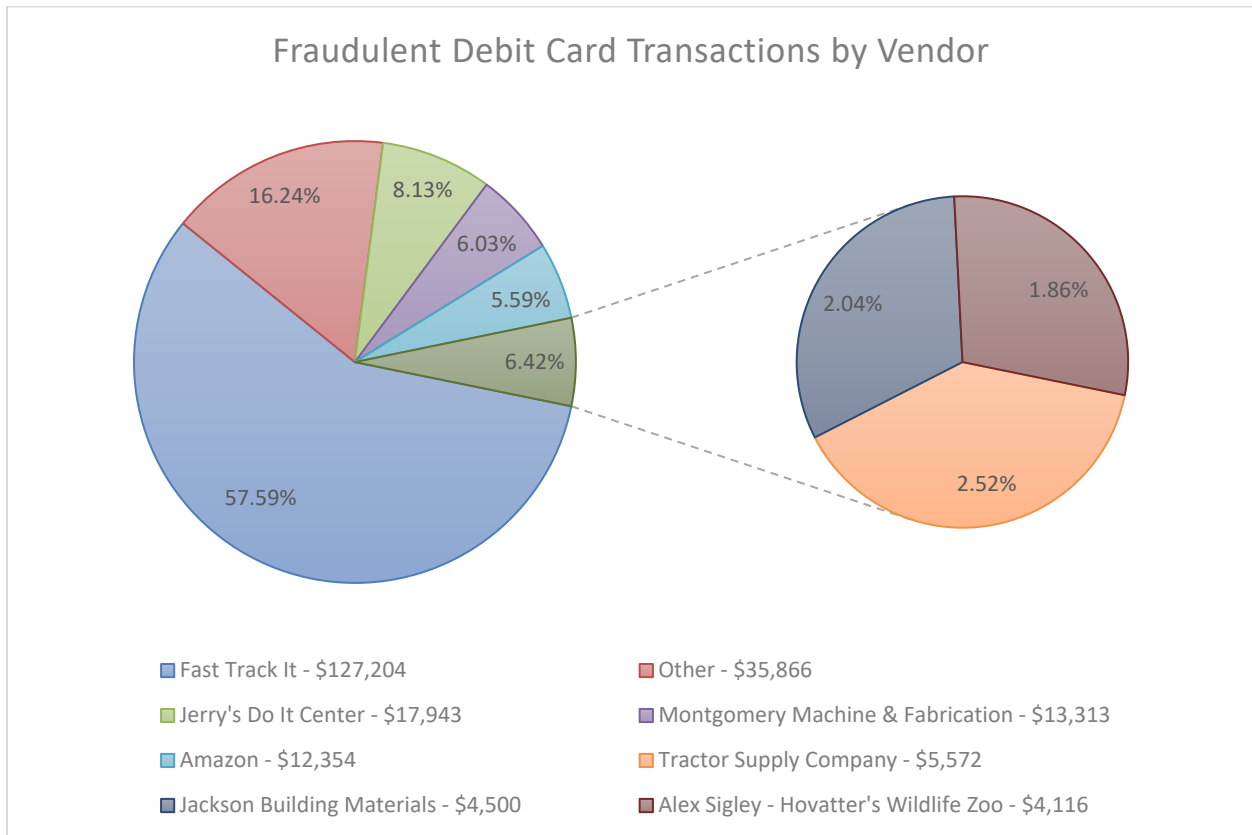
The fraudulent debit card transactions made by Cy increased significantly beginning in 2018. In September 2018, Cy began making purchases at Fast Track It with the Township’s debit card. Fast Track It is an online auction website where an individual can bid on products and, if they are the winning bidder, the individual can pick up the items won at a pickup center. During the Period, Cy made 812 debit card transactions to Fast Track It totaling \$127,204 that were not related to the operations of the Township. Some of the items purchased from Fast Track It included:

- Five hot tubs
- Tankless water heaters
- Above ground pool
- Security and surveillance system
- Gazebos
- Storage sheds
- Hunting Blind and trail cameras
- Frontload washers and dryers
- Kitchen Appliances
- Drum set
- Pressure washers
- Underground utility locator
- Drone
- Electronic devices and video game system
- Generators
- Greenhouses
- Bikes, tricycles, and scooters
- Lawn equipment
- Outdoor grills
- Popcorn cart and sno cone machine
- Projector and projector screen
- Indoor and outdoor furniture
- Kayaks
- Telescopes
- Pet products
- Vacuums
- Toilets
- CPR Manikin

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Other significant items purchased/paid for by Cy using the Township's debit card from other vendors included:

- Wildebeest
- Two snow owls from England
- Custom built enclosures at location of URWC and Cy's personal residence
- Riding and push behind lawn mowers
- Federal fine imposed against URWC
- Windows for a primate exhibit to be built at URWC
- Animal trailer
- Animal food
- Deluxe Cottage Garage
- Dishwasher
- Various building materials and supplies
- Indoor and outdoor furniture
- Rental of vehicles and excavator
- Repairs for a four wheeler



Credit Card Transactions

As mentioned above, the Township applied for and obtained credit cards for Cy and the Trustees after the IPA told Cy they were no longer allowed to use debit cards. Cy obtained a credit card as the Township's Fiscal Officer. From November 21, 2019 through February 6, 2020, Cy made 13 transactions totaling \$4,065. In addition to these transactions, the Township accrued late fees and interest on the credit card account through August 28, 2020. We identified the following issues:

- 10 transactions with no supporting documentation maintained by the Township totaling \$884. SIU obtained documentation for nine of the transactions via a subpoena to the vendor and determined all 10 of the transactions were not related to the operations of the Township and not for a proper public purpose and included the following:
 - Four PayPal transactions totaling \$320 to multiple vendors for a prepaid phone, men's clothing, foot pads and herbal cleansing.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

- A transaction to eBay totaling \$48 for men's sandals.
- Four transactions to Amazon totaling \$467 for personal items.
- A transaction to Straight Talk for \$49.
- Three transactions with supporting documentation totaling \$3,181, but they were not related to the operations of the Township and not for a proper public purpose and included the following:
 - Concrete poured at Cy's personal residence totaling \$2,159.
 - Rental car totaling \$981.
 - Fuel purchased totaling \$41.
- Eight transactions totaling \$200 for late charge fees; however, the bank waived \$175 resulting in the Township paying \$25 for late fees.
- Nine transactions totaling \$204 for interest fees.

On August 28, 2020, the Township paid the balance owed on the credit card account for Cy and closed the account.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Objective 2 – Examine whether certain non-payroll disbursements had supporting documentation and were for a proper public purpose.

PROCEDURES

We obtained all canceled non-payroll warrants issued by the Township for the Period and compared them to the data entered into the Uniform Accounting Network (UAN) used by the Township.

We examined available documentation for certain non-payroll disbursements made by the Township to determine if they had proper supporting documentation indicating the nature and purpose of the transactions, were related to the operations of the Township, and were for a proper public purpose.

We identified non-payroll disbursements that did not have supporting documentation maintained by the Township; therefore, we issued subpoenas to certain vendors to obtain documentation for the transactions.

RESULTS

Township Warrants

We examined 183 warrants totaling \$344,900 and identified the following:

- 29 warrants totaling \$76,496 had no supporting documentation.
 - We obtained documentation from vendors through a subpoena for eight of the warrants. Three of the warrants totaling \$10,977 were determined not to be for a proper public purpose and included the following:
 - Purchase of a golf cart totaling \$7,200 that was located at Cy's personal residence.
 - Labor and materials totaling \$3,750 related to an enclosure fabricated and installed at Cy's personal residence.
 - Finance charge totaling \$27 for a late payment made to a vendor for repairs on a Township tractor.
 - 10 warrants totaling \$44,601 were determined not to be for a proper public purpose based on the vendor and other investigative procedures and included the following:
 - Seven warrants totaling \$37,693 issued to URWC.
 - A warrant issued to Cy's domestic partner totaling \$4,640. The warrant was deposited into a joint checking account in the name of Cy and his domestic partner.
 - A warrant issued to Cy totaling \$568 that was voided in the UAN system, but cleared the bank.
 - A warrant issued to G&L Services totaling \$1,700. The warrant did not list an address for the vendor and no other information could be located regarding the vendor.
 - One warrant totaling \$10,037 issued to the United States Treasury did not have supporting documentation. The Township contacted the IRS and obtained documentation related to the payment. The payment was for a civil penalty totaling \$4,805 and penalties and interest totaling \$5,232 related to late tax payments made by Cy for the quarterly tax periods during January 1, 2014 through September 30, 2016.
 - 10 transactions we performed alternate audit procedures on and determined they were for a proper public purpose.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

- Four warrants had supporting documentation but were not for a proper public purpose of the Township, totaling \$5,463. These warrants were for laminate flooring installed at Cy's personal residence and lumber delivered to his personal residence.

Electronic Fund Transfers (EFT)

We examined 53 EFT payments totaling \$3,544 and identified the following:

- Nine transactions totaling \$919 had no supporting documentation. Seven of these transactions totaling \$839 were payments made to Hughes Net, Netflix, and Straight Talk and were determined to not be for a proper public purpose.

Two Verizon expenditures totaling \$80 (\$40 each) were missing supporting documentation, but through alternative procedures, we were able to determine one was for a proper public purpose and one was not for a proper public purpose (see additional information regarding Verizon in the next bullet point below).

- In March 2018, the Township Fiscal Officer switched internet providers from Verizon to Hughes Net; however, the Township did not cancel services with Verizon and paid for the same service from both vendors during the period of March 2018 through June 2019. Per the March 29, 2018 Township Trustee meeting minutes, it documented "Completing contract with Verizon, instead of paying cancellation fees will cost less"; however, there was no documentation to support how much cancellation fees would be. The Township made 14 electronic payments totaling \$562 for services provided during the period of March 21, 2018 through June 20, 2019.
- Two transactions totaling \$745 that had supporting documentation, but were not for a proper public purpose of the Township. These transactions were to pay forfeitures and interest to the Ohio Department of Job and Family Services for untimely filed quarterly reports and insufficient fund fees for a warrant issued from the Township's checking account.

During the special audit, the Township provided SIU with Form 941 IRS transcripts covering the quarterly tax periods of March 31, 2014 through December 31, 2017. While reviewing the transcripts, we determined the Township made an EFT payment to the US Treasury totaling \$999 to pay penalties and interest.

Additionally, the Township provided two IRS Civil Penalty Account Transcripts. Both transcripts were dated as of March 15, 2021. A review of the two transcripts identified the following:

- For tax period December 31, 2016, the Township had a penalty of \$4,303 with explanation of "IRC 6721 Penalty for Intentional Disregard, Failure to File W-2s". The transcript also documented accrued interest of \$277 related to this penalty with a total balance of \$4,580 as of March 15, 2021.
- For tax period December 31, 2017, the Township had a penalty of \$3,079 with explanation of "IRC 6721 Penalty for Intentional Disregard, Failure to File W-2s". The transcript also documented accrued interest of \$23 related to this penalty with a total balance of \$3,102 as of March 15, 2021.

As of the report date, the Township has unpaid penalties and accrued interest with the IRS totaling \$7,682.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Objective 3 – Examine payroll disbursements and health care reimbursements for the Trustees and Fiscal Officer to determine if they were paid in accordance with the Ohio Revised Code.

PROCEDURES

For the period of January 1, 2019 through July 29, 2020, we performed the following:

- Obtained all payroll warrants issued to the Township Trustees and Fiscal Officer and examined them to determine if they were paid in accordance with the Ohio Revised Code.
- Obtained the Township's Official Certificate of Estimated Resources filed with the Vinton County Auditor for calendar years 2019 and 2020 and identified the allowable compensation rate for the Township Trustees and Fiscal Officer for the period of January 1, 2019 through July 29, 2020.
- Obtained all warrants issued to the Township Trustees and Fiscal Officer for health care reimbursements.
- Examined available documentation for health care reimbursements made by the Township to determine if they had proper supporting documentation and were paid in accordance with the Ohio Revised Code.

RESULTS

Payroll Disbursements

Per Ohio Rev. Code §§ 505.24 and 507.09, compensation for the Township Trustees and Fiscal Officer is based on the annual budget of the Township. The Township's annual budget for calendar year 2019 and 2020 was \$210,759 and \$223,132, respectively. Based on the Township's calendar year 2019 and 2020 annual budget, the Township Trustees were allowed to be compensated \$8,082 (\$673.50 per month) and the Fiscal Officer was allowed to be compensated \$10,918 (\$909.83 per month). The Township Trustees and Fiscal Officer were paid in accordance with the Ohio Revised Code for the period of January 1, 2019 through July 29, 2020.

Health Care Reimbursements

Beginning in March 2019, the Township started to provide health care reimbursements to the Township Trustees and Fiscal Officer. Per discussions with the Township Trustees, they stated health care reimbursements were approved during a Trustee meeting. However, for the period of January 1, 2019 through July 29, 2020, the Township only had Trustee meeting minutes documented for August 2019.

The Township does not procure health insurance. Ohio Rev. Code § 505.601 permits Townships to opt not to procure their own health care insurance plans, but still reimburse officers and employees for their healthcare premiums. For the period of March 1, 2019 through July 29, 2020, the Township paid the Trustees and Fiscal Officer for out-of-pocket premiums; however, the Township did not meet the three conditions required by Ohio Rev. Code § 505.601.

For the period of March 1, 2019 through July 29, 2020, the Township Trustees and Fiscal Officer were reimbursed health care premiums as follows:

| Name | Amount Paid in 2019 | Amount Paid in 2020 | Total Paid |
|----------------|----------------------------|----------------------------|-------------------|
| Cy | \$2,838 | \$1,703 | \$4,541 |
| Michael Malone | 3,384 | 1,822 | 5,206 |
| Glendon Barnes | 2,760 | 1,419 | 4,179 |
| James Wells | 1,932 | 981 | 2,913 |
| Total | \$10,914 | \$5,925 | \$16,839 |

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

The Township did not have any supporting documentation for the health care reimbursements paid to the Trustees or the Fiscal Officer. Subsequently, we obtained supporting documentation from the Trustees for their health care reimbursements, with one exception. For 2019, based on the documentation provided by Trustee James Wells, he should have only been reimbursed \$1,854 resulting in him being overpaid by \$78. No supporting documentation was obtained from Cy.

APPENDIX
SCHEDULE OF FINDINGS FOR RECOVERY



APPENDIX

FINDINGS FOR RECOVERY

State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951), provides that expenditures made by a governmental unit should serve a public purpose. Typically, the determination of what constitutes a “proper public purpose” rests with the judgment of the governmental entity, unless such determination is arbitrary or unreasonable. Even if a purchase is reasonable, **Ohio Attorney General Opinion 82-006** indicates that it must be memorialized by a duly enacted ordinance or resolution and may have a prospective effect only. **Auditor of State Bulletin 2003-005 Expenditure of Public Funds/Proper Public Purpose** states that the Auditor of State’s Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect.

Debit Card Transactions

Ohio Rev. Code § 9.22², states no political subdivision may hold or utilize a debit card account, except for law enforcement purposes. Possession or use of a debit card account by a political subdivision except for law enforcement purposes is a violation of section 2913.21 of the Revised Code.

During the Period, we identified 858 debit card transactions totaling \$188,432 made by Cy that were not for a proper public purpose and not related to the operations of the Township. In addition, we identified 236 debit card transactions totaling \$32,436 with no supporting documentation.

Credit Card Transactions

Ohio Rev. Code § 2913.21(A)(3), states no person shall as an officer, employee, or appointee of a political subdivision or as a public servant as defined under section 2921.01 of the Revised Code, knowingly misuse a credit card account held by a political subdivision.

During the Period, we identified 13 credit card transactions totaling \$4,065 made by Cy that were not for a proper public purpose and not related to the operations of the Township. In addition, the Township incurred and paid interest and late fees totaling \$229 related to the credit card transactions made by Cy.

Non-payroll Disbursements

Ohio Admin. Code § 117-2-01(A) states, in part, all public officials are responsible for the design and operation of a system of internal control that is adequate to provide reasonable assurance for the safeguarding of public funds.

During the Period, we identified 18 warrants totaling \$71,078 issued by the Township that were not related to the operations of the Township and/or not a proper public purpose, including the following:

- Seven warrants totaling \$37,693 issued to Cy’s nonprofit corporation (URWC).
- Six warrants totaling \$16,413 issued to vendors for the purchase of personal goods and services for Cy.
- Two warrants to pay penalties, interest, and late fees owed by the Township totaling \$10,064.
- One warrant totaling \$4,640 issued to Cy’s domestic partner.
- One warrant totaling \$1,700 to a vendor with no supporting documentation.
- One warrant totaling \$568 to Cy.

During the Period, we identified 24 EFT transactions totaling \$3,145 made by the Township that were not related to the operations of the Township and/or not a proper public purpose, including the following:

- Three transactions totaling \$1,744 to pay forfeitures, fees, penalties, and interest owed by the Township.
- Seven transactions totaling \$839 with no supporting documentation.
- 14 transactions totaling \$562 paid to a vendor for the same services the Township was receiving from another vendor.

² Ohio Rev. Code § 9.22 was enacted by House Bill 312 and was effective November 2, 2018.

APPENDIX

IRS Penalties and Interest

26 USC § 6721 Failure to file correct information returns (a)(2)(A) states failures subject to penalty are any failure to file an information return with the Secretary on or before the required filing date.

Ohio Rev. Code § 2921.44(E) states no public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

Cy failed to file W-2's for the tax periods ending December 31, 2016 and December 31, 2017, resulting in penalties and interest assessed against the Township totaling \$7,682. While these amounts have not been paid by the Township, they were included as part of the restitution order with the intent that the Township can pay the penalties and interest to the IRS upon receipt.

Health Care Reimbursements

Ohio Rev. Code § 505.601 states, in part, if a Board of Township Trustees does not procure an insurance policy or group health care services as provided in section 505.60 of the Revised Code, the Board of Township Trustees may reimburse any Township officer or employee for each out-of-pocket premium attributable to the coverage provided for that officer or employee for insurance benefits described in division (A) of section 505.60 of the Revised Code that the officer or employee otherwise obtains.

From March 1, 2019 through July 29, 2020, the Township issued 16 warrants totaling \$4,541 to Cy for health care reimbursements; however, there was no supporting documentation provided for the payments.

Findings for Recovery Conclusion

On February 6, 2023, Judge Salyer ordered restitution of \$339,717.86 against Cy in Case #21CR0087, which included special audit costs.

Under Ohio law, public officials are strictly liable for all public money received or collected by them or their subordinates under color of law. Ohio Rev. Code § 9.39; *Cordray v. Internatl. Preparatory School*, 128 Ohio St.3d 50 (2010). The Township Trustees were responsible for authorizing health care reimbursements paid by the Township. Former Township Trustee Mike Malone and Township Trustees James Wells and Glendon Barnes signed warrants issued to Cy for health care reimbursements that were not properly supported. As a result, the Trustees and their bonding company will be jointly and severally liable.

In accordance with the foregoing facts and pursuant to **Ohio Rev. Code § 117.28**, a finding for recovery for public property converted or misappropriated is hereby issued against Cy and his bonding company, Travelers Casualty and Surety Company of America, jointly and severally, in the amount of \$345,049; and additionally against Mike Malone, James Wells, Glendon Barnes and their bonding company, Ohio Township Association Risk Management Authority, jointly and severally, in the amount of \$4,541.

APPENDIX

The finding for recovery is in favor of the following:

| Township Fund/Entity | Amount |
|---------------------------------------|---------------|
| General | \$51,985 |
| Motor Vehicle License Tax | 16,292 |
| Gasoline Tax | 105,367 |
| Garbage and Waste Disposal District | 1,749 |
| Fire District | 6,825 |
| Road District | 24,404 |
| To be determined fund(s) ³ | 109,486 |
| Auditor of State | 28,941 |

MANAGEMENT RECOMMENDATIONS

Segregation of Duties

Ohio Admin. Code § 117-2-01(D)(4) requires, in part, that entities plan for adequate segregation of duties or compensating controls. Segregation of duties provides two significant benefits: (1) a deliberate fraud is more difficult because it requires collusion of two or more persons and (2) it is more likely an error will be detected. When designing the Township's system of internal control and the specific control activities, management should plan for adequate segregation of duties or compensating controls.

Proper segregation of duties is not possible when only one or two people handle all four aspects of the internal control cycle (record keeping, authorization, custody, and reconciliation).

Cy was responsible for recording all of the financial activity, issuing warrants, preparing bank reconciliations, preparing the Trustee meeting minutes, and maintaining Township records.

Monitoring controls were not developed by management and in place to compensate for the lack of segregation of duties, allowing Cy to have unmonitored access to the overall system. The lack of segregation of duties led to public monies that were misappropriated.

While it is not always possible to segregate duties in a small government, appropriate monitoring controls should be implemented to help reduce the risk of errors or irregularities not being detected in a timely manner. Periodically, the Trustees should review bank statements, expenditure reports, expenditure support, and meeting minutes.

Procedures performed during the reviews should include:

- Verifying expenditures are with vendors used by the Township and are recorded in UAN.
- Verifying expenditures have supporting documentation and are for a proper public purpose.
- Verifying the accuracy and completeness of the meeting minutes.

³ This amount includes the finding amounts from debit card transactions, credit card transactions, and non-payroll disbursements that occurred during fiscal year 2020. It also includes IRS penalties and interest owed by the Township. The fund allocation was not readily determinable based on the audit support and should be determined by the Township.

APPENDIX

Records Retention

Ohio Rev. Code § 149.351(A), states that all records are the property of the public office concerned and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the records commission provided for under sections 149.38 to 149.42 of the Revised Code. Those records shall be delivered by outgoing officials and employees to their successors and shall not be otherwise removed, destroyed, mutilated, or transferred unlawfully.

Ohio Admin. Code § 117-2-02(A) states all local public offices shall maintain an accounting system and accounting records sufficient to enable the public office to identify, assemble, analyze, classify, record and report its transactions, maintain accountability for the related assets (and liabilities, if generally accepted accounting principles apply), document compliance with finance-related legal and contractual requirements, and prepare financial statements required by rule 117-2-03 of the Administrative Code.

For the Period, the following supporting documentation records were not maintained by the Township:

- 1,019 of 1,221 (83%) debit card transactions made by the Township.
- 10 of 13 (77%) credit card transactions made by the Fiscal Officer.
- 29 of 183 (16%) warrants issued for non-payroll disbursements made by the Fiscal Officer.
- Nine of 53 (17%) EFT transactions made by the Fiscal Officer.
- 67 of 67 (100%) health insurance reimbursements made to the Trustees and the Fiscal Officer.

In addition to the records not maintained by the Township, we identified seven invoices that were created by Cy to give the appearance the items purchased were for the Township and the original vendor invoice was removed and not maintained.

Furthermore, we identified handwritten notes on Township documents or inaccurate descriptions recorded in UAN for 23 debit card transactions to give the appearance the expense was for a purpose related to the operations of the Township.

Lack of supporting documentation for disbursements limits management's ability to review and approve transactions and increases the risk of errors. Failure to adequately control and maintain documents resulted in the inability to review prior transactions for accuracy or fraud.

We recommend the Township take measures, including establishing specific control procedures, to ensure all records are adequately safeguarded and maintained.

Debit and Credit Cards

Ohio Rev. Code § 505.64(A), in part states, the Board of Township Trustees of any Township may authorize an officer, employee, or appointee of the Township to use a credit card account held by the Board of Township Trustees in accordance with this section.

A board shall adopt a written policy before first holding a credit card account. The policy shall include provisions addressing all of the following:

- 1) The officers, positions, or appointees authorized to use a credit card account.
- 2) The types of expenses for which a credit card account may be used.
- 3) The procedure for acquisition, use, and management of a credit card account and presentation instruments related to the account including cards and checks.
- 4) The procedure for submitting itemized receipts to the Fiscal Officer or the Fiscal Officer's designee.
- 5) The procedure for credit card issuance, credit card reissuance, credit card cancellation, and the process for reporting lost or stolen credit cards.
- 6) The Township's credit card account's maximum credit limit or limits.
- 7) The actions or omissions by an officer, employee, or appointee that qualify as misuse of a credit card account.

On November 30, 2018, the Ohio Auditor of State (AOS) issued AOS Bulletin 2018-003 to all political subdivisions regarding House Bill 312 amendments to regulate the usage of credit and debit cards.

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The bulletin stated, in part, “no political subdivision may hold or utilize a debit card account, except for law enforcement purposes” which is documented in **Ohio Rev. Code § 9.22**. Possession or use of a debit card account by a political subdivision, except law enforcement, is a violation of section 2913.21 of the Revised Code.

On August 7, 2019, during the Township’s calendar year 2017-2018 financial audit, the IPA notified the Fiscal Officer that the Township was no longer allowed to use debit cards and referenced AOS Bulletin 2018-003 and **Ohio Rev. Code § 9.22**. Cy notified the Trustees during an August 2019 Trustee meeting but continued to use the Township debit card through July 2020. The Township made 788 debit card transactions totaling \$165,065 after the new law enacted by House Bill 312 went into effect on November 2, 2018, which included 557 transactions totaling \$137,572 after the Trustees approved to replace the debit card with credit cards.

In August 2019, during a Township Trustee meeting, the Trustees approved to apply for credit cards to be used in place of the Township debit card. The Township obtained a credit card for the Fiscal Officer and three credit cards for each of the Trustees; however, they never adopted a credit card policy.

It was management’s responsibility to implement policies and internal controls to reasonably ensure debit and credit card transactions were supported, accurately recorded, and for Township purposes. Management was also responsible for monitoring these control procedures to verify they were operating effectively.

Failure to provide detailed guidance addressing required supporting documentation and allowable expenditures and failing to review transactions, resulted in personal purchases being paid by the Township.

We recommend the Township review AOS Bulletin 2018-003 and the Ohio Revised Code to ensure they are in compliance, including but not limited to establishing a credit card policy and controls to review and monitor the expenditures made.

Minutes

Ohio Rev. Code § 121.22 (C), in part states the minutes of a regular or special meeting of any public body shall be promptly prepared, filed, and maintained and shall be open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions.

Ohio Rev. Code § 507.04(A), states the township fiscal officer shall keep an accurate record of the proceedings of the board of township trustees at all of its meetings, and of all its accounts and transactions, including the acceptance of the bonds of township officers.

During the investigation, we identified the following issues with the Trustee meeting minutes for the Period:

- No meeting minutes were documented for January 2019 through July 2019 and September 2019 through July 2020.
- Cy altered six meeting minutes provided to the IPA conducting the fiscal year 2017-2018 financial audit.

Failure to promptly prepare, file, and maintain approved minutes with sufficient detail to ensure that all significant Trustee decisions and resolutions are properly approved increases the risk that activity takes place at the Township without the Trustees knowledge or approval.

The Township should include all activities approved by the Trustees within the minutes, providing sufficient detail for readers to understand actions taken by the Trustees. Minutes should be prepared in a timely fashion and be presented at the subsequent Trustee meeting and approved by Trustees.

The date of the minutes being approved should be specified. Minutes should be signed by the Trustees affirming their accuracy.

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Health Care Reimbursements

Ohio Rev. Code § 505.601, states if a Board of Township Trustees does not procure an insurance policy or group health care services as provided in section 505.60 of the Revised Code, the Board of Township Trustees may reimburse any Township officer or employee for each out-of-pocket premium attributable to the coverage provided for that officer or employee for insurance benefits described in division (A) of section 505.60 of the Revised Code that the officer or employee otherwise obtains, if all of the following conditions are met:

(A) The Board of Township Trustees adopts a resolution that states that the Township has chosen not to procure a health care plan under section 505.60 of the Revised Code and has chosen instead to reimburse its officers and employees for each out-of-pocket premium attributable to the coverage provided for them for insurance benefits described in division (A) of section 505.60 of the Revised Code that they otherwise obtain.

(B) That resolution provides for a uniform maximum monthly or yearly payment amount for each officer or employee to cover themselves and their immediate dependents, beyond which the Township will not reimburse the officer or employee.

(C) That resolution states the specific benefits listed in division (A) of section 505.60 of the Revised Code for which the Township will reimburse all officers and employees of the Township. The Township may not reimburse officers and employees for benefits other than those listed in division (A) of section 505.60 of the Revised Code.

The Township did not procure an insurance policy and, effective March 2019, began to provide health insurance reimbursements to the Fiscal Officer and Trustees. However, the Township did not have Trustee meeting minutes that documented the Township adopted a resolution to meet the requirements mentioned above. Per discussion with the Trustees, they told SIU that they did adopt a resolution at a Trustee meeting and Cy was responsible for preparing and maintaining the meeting minutes.

Without a resolution documenting the Township has chosen to reimburse its officers and employees for out-of-pocket premiums at a maximum monthly or yearly amount for specific benefits allowed, it could result in the Township improperly reimbursing officers and employees for health insurance.

If the Township is going to continue to provide health insurance reimbursements, we recommend the Board of trustees adopt a resolution, so all of the necessary conditions required by the Ohio Revised Code are met and they are in compliance.

Fiscal Officer Bond

Ohio Rev. Code § 507.03 provides the Township Fiscal Officer, before entering upon the discharge of official duties, shall give a bond, payable to the Board of Township Trustees, with sureties approved by the Board, in the sum determined by the Board but not less than the sum provided in this section, and conditioned for the faithful performance of the duties of the office of Township Fiscal Officer. This bond shall be recorded by the Township Fiscal Officer, filed with the county Treasurer, and carefully preserved.

Cy had a public official bond from April 1, 2014 through April 1, 2020. On August 5, 2020, Cy requested to get a copy of his public official bond covering April 1, 2020 through April 1, 2024. The bonding company notified Cy that the current bond had not been paid and they had been trying to collect payment for the last four months.

Failure to have the Township Fiscal Officer properly bonded could result in the Township not being protected against any potential financial loss caused by the acts of the Fiscal Officer.

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We recommend the Township ensure the Fiscal Officer is properly bonded while performing their duties to ensure the Township is protected against any potential financial loss.

Inadequate Oversight by those Charged with Governance

The governing body and management are vitally important to ensure the Township establishes and maintains effective internal controls. During the Period, the Township was governed by the Township Trustees. These individuals are responsible for monitoring the practices and activities of the Township employees, to ensure the achievement of operational and financial objectives.

Our audit noted the following conditions, which are indicative of weak and inadequate oversight by the Township Trustees:

- The Township Trustees did not approve any policies or procedures regarding the use of debit and credit cards.
- Numerous personal purchases made on Township debit and credit cards.
- Lack of documentation supporting disbursement of Township funds.
- Trustee meeting minutes not prepared, reviewed, and maintained.
- Lack of review of the Township's financial activity (ex. bank statements/reconciliations and UAN reports).
- A warrant voided in the UAN system cleared the Township's bank account.

Due to inadequate oversight, the Township suffered from disarray of records, illegal expenditures, and noncompliance with the Ohio Revised Code.

We recommend the Township assess the internal control procedures throughout the Township's operations. We further recommend the Township Trustees become more actively involved in monitoring Township activity. The Township should review the Ohio Township Handbook and Ohio Compliance Supplement to identify required records, determine officials' responsibilities, and help correct the control weaknesses and noncompliance. Detailed system derived reports, indicating payment amounts, should be provided and reviewed. In addition, Trustees should ensure all payments issued agree to the payment list, are supported by an invoice, and documentation of this review should be indicated by signing the payment list. Monthly bank reconciliations should be reviewed with the monthly bank statements and documentation of this review maintained by the Township.

Tax and W-2 Filing

Internal Revenue Code Chapter 26, § 3401, § 3402, § 3403, § 3404, and § 3102(a) require the employing government to withhold federal, state, and local income taxes. They also require the government to report and remit those tax matters to the appropriate tax authorities and to the recipients.

Further, **26 CFR § 1.6041-2(a)(1)**, in part, states wages, as defined in section 3401, paid to an employee are required to be reported on Form W-2.

During the period, we noted the following noncompliance related to tax and W-2 filings:

- The Township failed to remit and pay taxes in a timely manner to the IRS for the period of January 2014 through September 2016.
- The Township Fiscal Officer failed to file W-2's for the tax periods of December 31, 2016 and 2017.

The failure of remitting and paying taxes in a timely manner resulted in penalties and interest paid by the Township totaling \$5,232. The failure to file W-2's resulted in the Township incurring penalties and interest totaling \$7,682.

The Fiscal Officer should properly withhold the necessary amounts as determined by the Internal Revenue Code. In addition, the Fiscal Officer should report the amounts withheld and remit the amounts withheld to the proper authorities in the time frame prescribed by law.

OHIO AUDITOR OF STATE KEITH FABER



**VINTON TOWNSHIP
SPECIAL AUDIT**

VINTON COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

This is a true and correct copy of the report, which is required to be filed pursuant to Section 117.26, Revised Code, and which is filed in the Office of the Ohio Auditor of State in Columbus, Ohio.



Certified for Release 4/18/2023

88 East Broad Street, Columbus, Ohio 43215
Phone: 614-466-4514 or 800-282-0370

This report is a matter of public record and is available online at
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