



**CITY OF EAST CLEVELAND
CUYAHOGA COUNTY**

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OHIO AUDITOR OF STATE KEITH FABER



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Cuyahoga County
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To: City Council Members, Finance Director, Latasha Williams:

Background

The Auditor of State, Special Investigations Unit (SIU) conducted a criminal investigation and special audit of the City of East Cleveland (the City) predicated on allegations regarding a City Council member using a city-owned vehicle for personal benefit.

The investigation began in August 2021, after SIU received a complaint from a City Council member alleging another City Council member, Ernest Smith, was given a city-owned vehicle and used it for personal use as well as kept the vehicle at his personal residence. Council attempted to pass a resolution requesting the vehicle be returned to the City. This attempt was vetoed by the Mayor, Brandon King, based on his interpretation of City Ordinance § 127.08.

After the information obtained from interviews and a preliminary examination of fleet card statements, fleet fuel cards, and City vehicle listings were considered, a special audit was declared by the Auditor of State.

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

Suspect

Ernest Smith was elected as a City Council member in November 2017 and began his term for Ward 3 on January 3, 2018. Mr. Smith was re-elected for a second term; however, he was recalled in November 2022.

Scheme

We defined our audit period (the Period) as covering January 1, 2018 to March 31, 2022 because Mr. Smith was provided a 2003 Ford Taurus, a City-owned vehicle, by the Mayor when he began his term in January 2018. The vehicle was not authorized by City Council and according to the City Charter, Council members are not included in the list of individuals allotted a vehicle. No other Council member was provided this benefit. The vehicle was not reported as a fringe benefit and a mileage log for the vehicle was not maintained. Mr. Smith used a City fleet fuel credit card to purchase gasoline for the vehicle, and the City paid for the fuel and vehicle repairs. Mr. Smith used the city-owned vehicle for his personal use and maintained the city-owned vehicle at his residence. Mr. Smith was then provided a different city-owned vehicle, a 2011 Dodge Durango, in January 2020 and continued to use the City fleet fuel card to purchase gasoline for the vehicle, which he used for personal use. He conducted 157 transactions totaling \$6,791 during the Period.

Findings

Based on the special audit procedures and investigation, the Auditor of State confirmed the allegation that Ernest Smith misappropriated fuel purchases over a span of approximately four years.

We issued a \$6,791 finding for recovery for public property converted or misappropriated during the Period.

The full details of the finding for recovery are located in the Appendix.

Prosecution

At the conclusion of the special audit and investigation, the special audit results were presented to the City of East Cleveland Law Director. The City Prosecutor declined to pursue criminal charges.

The exit conference was waived by the City; however, the City Council and Management were given five days to respond to this special audit report. A response was not received from City Council.



Keith Faber
Auditor of State
Columbus, Ohio

March 8, 2024

APPENDIX
SCHEDULE OF FINDING FOR RECOVERY



APPENDIX

FINDING FOR RECOVERY

City of East Cleveland Ordinance § 127.08 indicates no employee or agent of the city shall operate any city vehicles for personal use or while off duty keep any city vehicle at a personal residence or any place other than on city property designated for the parking of such vehicle when the vehicle is not being used to conduct city business. Additionally, only the Mayor, Fire Chief, and whoever City Council by legislative action may designate from time to time, shall be considered to be continuously on duty and required to keep city vehicles at their personal residence.

We identified \$6,791 in fuel expenses paid by the City of East Cleveland from January 1, 2018 through March 31, 2022 related to a city-owned vehicle used by Council member Ernest Smith for personal use.

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).

Mayor Brandon King provided a city-owned vehicle to Council member Ernest Smith upon Mr. Smith's election into office. City Council did not approve the use of the city-owned vehicle by one member of Council and attempted to issue legislative action for the vehicle to be returned. However, the Mayor vetoed the Resolution.

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 Ernest Smith and Brandon King, jointly and severally, in the amount of \$6,791 and in favor of City of East Cleveland's General Fund.

OHIO AUDITOR OF STATE KEITH FABER



**CITY OF EAST CLEVELAND
SPECIAL AUDIT**

CUYAHOGA 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 4/30/2024

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This report is a matter of public record and is available online at
www.ohioauditor.gov