

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

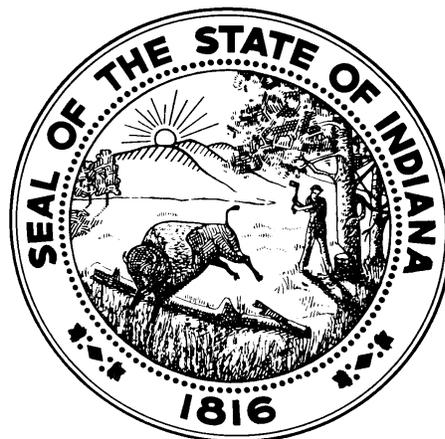
EXAMINATION REPORT

OF

WABASH TOWNSHIP

ADAMS COUNTY, INDIANA

January 1, 2006 to December 31, 2007



FILED

02/27/2009

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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Trustee	Valier G. Amstutz (deceased)	01-01-06 to 09-15-06
	Vacant	09-16-06 to 12-31-06
	Jeanene K. Neuenschwander	01-01-07 to 12-31-10
Chairman of the Township Board	Alan Bauman	01-01-06 to 12-31-08



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF WABASH TOWNSHIP, ADAMS COUNTY, INDIANA

We have examined the financial information presented herein of Wabash Township (Township), for the period of January 1, 2006 to December 31, 2007. The Township's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the Township for the years ended December 31, 2006 and 2007, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

STATE BOARD OF ACCOUNTS

November 13, 2008

WABASH TOWNSHIP, ADAMS COUNTY
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
ALL GOVERNMENTAL FUND TYPES
As Of And For The Years Ended December 31, 2006 And 2007

	Cash and Investments 01-01-06	Receipts	Disbursements	Cash and Investments 12-31-06
Governmental Funds:				
Township	\$ 8,956	\$ 23,700	\$ 24,333	\$ 8,323
Dog	1,424	1,180	2,604	-
Township Assistance	95,167	20,920	15,751	100,336
Firefighting	9,542	14,622	16,411	7,753
Buggy Plates	-	21,350	21,350	-
Library	2,705	2,383	3,480	1,608
Totals	<u>\$ 117,794</u>	<u>\$ 84,155</u>	<u>\$ 83,929</u>	<u>\$ 118,020</u>

	Cash and Investments 01-01-07	Receipts	Disbursements	Cash and Investments 12-31-07
Governmental Funds:				
Township	\$ 8,323	\$ 30,994	\$ 22,474	\$ 16,843
Township Assistance	100,336	7,694	14,349	93,681
Firefighting	7,753	16,192	17,232	6,713
Library	1,608	4,694	3,650	2,652
Cemetery Improvement	-	520	-	520
Totals	<u>\$ 118,020</u>	<u>\$ 60,094</u>	<u>\$ 57,705</u>	<u>\$ 120,409</u>

The accompanying notes are an integral part of the financial information.

WABASH TOWNSHIP, ADAMS COUNTY
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The Township was established under the laws of the State of Indiana. The Township provides the following services: public safety, health and social services, culture and recreation, and general administrative services.

Note 2. Fund Accounting

The Township uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the Township in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively. All property taxes collected by the County Treasurer and available for distribution were distributed to the Township on or prior to December 31 of the year collected.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the Township to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

WABASH TOWNSHIP, ADAMS COUNTY
EXAMINATION RESULT AND COMMENT

LUCRATIVE OFFICE

The prior Trustee, Valier Amstutz, died September 15, 2006. The Chairman of the Township Board, Alan Bauman, assumed the duties of Trustee. The Chairman paid himself \$1,900 as Trustee salary for the remaining months of 2006, in addition to his salary as Chairman of the Township Board.

The Attorney General's Office has consistently stated in numerous unofficial opinions that trustees and board members hold a lucrative office. Therefore, we are of the audit position that a township trustee or board member is not allowed to hold another lucrative office.

Article 2, Section 9 of the Constitution of Indiana, states in part: ". . . no person may hold more than one lucrative office at the same time, except as expressly permitted in this Constitution." Any person holding two offices which have been or may be deemed lucrative should obtain the written opinion of the attorney for the unit or units served to determine compliance with Article 2, Section 9 of the Constitution of Indiana. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

Alan Bauman, Chairman of the Township Board, was requested to repay the Township the \$1,900 Trustee salary, as he was holding two lucrative offices (Trustee and Chairman of the Township Board) simultaneously. (See Summary, page 14)

WABASH TOWNSHIP, ADAMS COUNTY
EXIT CONFERENCE

The contents of this report were discussed on November 13, 2008, with Jeanene K. Neuenschwander, Trustee; and Alan Bauman, Chairman of the Township Board. The official response has been made a part of this report and may be found on pages 8 through 13.

DuWayne W. Herman
Adam T. Miller
Mark S. Burry
Jeremy W. Brown

**BURRY, HERMAN
MILLER & BROWN**
A Professional Corporation
Attorneys at Law

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Telephone: (260) 724-2154
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Dan Burry - Of Counsel

November 17, 2008

Bruce Hartman
State Examiner
Indiana State Board of Accounts
302 West Washington Street
Room E418
Indianapolis, IN 46204

Re: Wabash Township / Adams County, Indiana
Alan Bauman

Official Response / Appeal of Examination Results and Comments

Dear State Examiner Hartman:

This morning there was an Indiana State Board of Accounts exit conference for Wabash Township, Adams County, Indiana covering the period of January 1, 2006 through December 31, 2007. Those in attendance at the meeting were:

Jeanene Neunschwander - Current Township Trustee
Alan Bauman - Township Advisory Board Chairman
Susan Bauman - Wife of Alan Bauman
Gary DeWitt - Field Supervisor, Indiana State Board of Accounts
Susan Popplewell - State Board of Accounts Examiner
Adam Miller, local counsel for Adams County Township Trustees

Attached is a copy of the Examination Results and Comments. Let me begin by stating that Ms. Popplewell and Mr. DeWitt were very courteous and respectful during the meeting today. This type of meeting can be very stressful for those involved and although very professional, they did not come across heavy handed.

As Adams County township trustee counsel, I disagree that Mr. Bauman held two lucrative positions as stated in the Examination Results and Comments. As a brief explanation of what occurred, Valier Amstutz was the Wabash Township Trustee and his wife, Ermal Amstutz, was his chief deputy. Mr. Amstutz died on September 15, 2006. Mrs. Amstutz, having just lost her husband, stated that she was not able to assume the duties of the Trustee position. Since she did not accept the position, under IC 3-13-11-17, Alan Bauman, as the Chairman of the Advisory Board assumed the township office duties. IC 3-13-11-17 states:

Sec. 17. (a) This section does not apply to the office of a judge or a township board member. (b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a township office or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township office until the office is filled under this chapter.

Alan Bauman, the chairman of the Wabash Township Advisory Board agreed to assume the duties until there was a new Trustee elected. Thereafter, a caucus was advertised and held on the 16th day of October, 2006. However, under the statutory requirement for certain notices, the caucus was rescheduled for October 27, 2006. At that time, Jeanene Neuenschwander, had placed her name in the caucus to be listed as a candidate on the November ballot for the election. Those at the caucus discussed the issue of an appointment of an individual to fill the remainder of Mr. Amstutz' term until the end of the year. However, since by this time there were only 2 months remaining in the term, it was determined that Mr. Bauman would simply continue to assume the duties of the office until the end of the year pursuant to IC 3-13-11-17.

As a member of the Township Advisory Board, Mr. Bauman was paid \$300.00 for the entire year. He assumed the duties of the township office until the office was filled pursuant to the statute, he did not assume the office of Trustee, only the duties. He was not appointed or elected the Trustee. Therefore, he was not holding two offices. He remained the Township Advisory Board Chairman. He was compensated for the services he provided for the township based upon the amount that was appropriated for the services of the Trustee. As a result of Mr. Amstutz' death and his illness before his death, Mr. Bauman and his wife spent a great deal of time bringing all of the township books up to date and taking care of the duties of the office. The \$1,900.00 likely did not compensate them for all of the time that they expended.

As I review I.C. 3-13-11-17 and I.C. 3-13-11-18, I do not see how this situation can be considered two lucrative positions or how the State Board of Accounts can believe that Mr. Bauman should not have been compensated for his services. I.C. 3-13-11-18 provides:

A person who assumes the duties of a vacant office under this chapter has all of the office's rights and duties. Except as provided in IC 3-13-6, the person serves for the remainder of the unexpired term.

Mr. Bauman did not hold the office of Trustee as defined in Article 2, Section 9 of the Indiana Constitution. Instead, he assumed the duties of the Trustee's office for the unexpired term as required by law.

Although I do not believe he has violated the lucrative office provision of the Indiana Constitution, if it would resolve this matter, I would advise Mr. Bauman to reimburse the township the sum of \$75.00 for that portion of the year that he assumed the duties of the township office while he was serving as the Advisory Board Chairman.

I am enclosing copies of the following documents for your review:

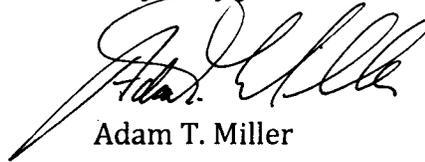
1. "Wabash Township, Adams County Examination Results and Comments."
2. October 5, 2006 "Notice of Vacancy & of Caucus."
3. October 17, 2006 "Notice of Caucus."

Finally, I simply want to state that in small counties and in small townships, it is often times difficult to find citizens who are willing to give their time and take an interest in local government. Clearly, Mr. Bauman was not serving as a Township Advisory Board member for the high pay. Nor, I'm sure, did he agree to assume the duties of the township office for the last three months for the \$1,900.00.

I ask that after you review this letter and the statutory references, that you will reconsider the State Board's determination and find that there has been no violation of the lucrative office laws.

Thank you for your consideration and attention, and if there is any additional information that I or the township office can provide to assist you, please contact me at the above listed address or telephone number.

Very truly yours,



Adam T. Miller

Enclosures: Notice of Vacancy and of Caucus
Notice of Caucus
Examination Results and Comments

ATM:rh

cc: Alan Bauman
Jeanene Neuenschwander

NOTICE OF VACANCY & OF CAUCUS

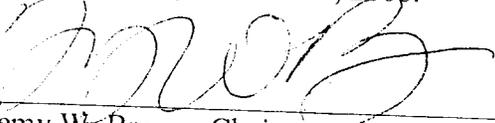
To: Landon Patterson & James Moser

From: Jeremy W. Brown

As you know, Valair Amstutz passed away which requires us to hold a caucus to elect a replacement for him on the ballot seeking the position of Wabash Township Trustee. Of the five precincts covered by Wabash Township, only two people filed their declaration of candidacy to be a precinct committeeman in the 2006 primary—the two of you. Therefore, you will be required to attend a caucus.

The caucus shall be held in the office of Burry Herman Miller & Brown on Monday, October 16, 2006 at 7:30 a.m. for the purpose of electing a replacement for Mr. Amstutz.

Dated this 5th day of October, 2006.



Jeremy W. Brown, Chairman
Adams County Republican Party

NOTICE OF CAUCUS

To: James Moser & Landon Patterson

From: Jeremy W. Brown

You are hereby notified that a caucus will be held on Friday, October 27, 2006 at 8:30 a.m. for the purpose of selecting a candidate for the 2006 election for the office of Wabash Township Trustee. The caucus will be held at the offices of Burry, Herman, Miller & Brown, P.C. located at 113 North 2nd Street in Decatur, Indiana. As chairman of the Adams County Republican Party, I will also serve as chairman of the caucus. Our first caucus did not satisfy the requirements of the Indiana Code due to the lack of a candidate declaration form filed with me at least 72 hours before the caucus.

Dated this 17th day of October, 2006.



Jeremy W. Brown, Chairman
Adams County Republican Party

WABASH TOWNSHIP, ADAMS COUNTY
EXAMINATION RESULTS AND COMMENTS

LUCRATIVE OFFICE

The prior Trustee, Valier Amstutz, died September 15, 2006. The Chairman of the Township Board, Alan Bauman, assumed the duties of Trustee. The Chairman paid himself \$1,900 as Trustee salary for the remaining months of 2006, in addition to his salary as Chairman of the Township Board.

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WABASH TOWNSHIP, ADAMS COUNTY
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Alan Bauman, Chairman of the Township Board: Amount received as Trustee salary, page 6	<u>\$ 1,900</u>	<u>\$ -</u>	<u>\$ 1,900</u>

