

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

SPECIAL INVESTIGATION REPORT

OF

TOWN OF MILAN

RIPLEY COUNTY, INDIANA

February 1, 2013 to March 21, 2014



FILED
11/21/2016

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk-Treasurer	Dale Holbert	02-01-13 to 03-21-14
	(Vacant)	03-22-14 to 04-11-14
	Alex Poole	04-12-14 to 12-31-15
	Debra Fugate Hackman	01-01-16 to 12-31-16
President of the Town Council	Paul Hildebrand	01-01-13 to 12-31-15
	Noel Houze	01-01-16 to 12-31-16



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF MILAN, RIPLEY COUNTY, INDIANA

We have conducted a special investigation of the records of the Town of Milan (Town), for the period from February 1, 2013 to March 21, 2014. Our investigation was limited to the records related to utility customer collections not deposited, payments of penalties, interest, and other charges paid, disbursement procedures, Annual Financial Reports, utility non-sufficient fund checks, and utility customer account adjustments. The purpose of our investigation was to determine if the accountability for cash and other assets are satisfactory and that the transactions related thereto are in compliance with the laws and regulations of the State of Indiana. The results of our investigation are fully described in the Special Investigation Results and Comments and Summary of Charges as listed in the Table of Contents.

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.

Any Official Response to the Special Investigation Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

May 12, 2016

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS

BACKGROUND INFORMATION

The office of the Clerk-Treasurer was responsible for maintaining all financial records of the Town, including the financial records for the Town's Utilities.

Dale Holbert (Holbert) was appointed Clerk-Treasurer on February 1, 2013, to serve out the term of the previous Clerk-Treasurer. The Clerk-Treasurer's Office did not have any employees. Accordingly, Holbert was responsible for performing all duties pertaining to the Clerk-Treasurer's Office.

Holbert resigned his position of Clerk-Treasurer on March 21, 2014.

In April 2014, the Town Council hired a private accountant to post financial transactions to the financial ledger and to perform bank reconciliations for the period that Holbert served as Clerk-Treasurer.

COLLECTIONS NOT DEPOSITED

Holbert, as Clerk-Treasurer, was responsible for the recording and depositing of customer payments (collections) for utility services. Collections were recorded on a Daily Deposit Report. A comparison of Daily Deposit Reports to bank deposits for the period February 4, 2013 to March 21, 2014, showed collections totaling \$2,117.19 were not deposited. The following is additional information regarding collections not deposited:

1. No information was presented for examination that Holbert performed a formal reconciliation of the Daily Deposit Reports and bank deposits in order to identify variances and to research the causes for the variances.

Tickets, goods for sale, billings, and other collections, are considered accountable items for which a corresponding deposit must be made in the bank accounts of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

2. A review of when collections were posted and when they were deposited showed collections were not posted timely and were not being deposited daily.

Indiana Code 5-13-6-1(d) states in part:

". . . a town shall deposit funds not later than the next business day following the receipt of the funds in depositories:

- (1) selected by the . . . town as provided in an ordinance adopted by the . . . town; and
- (2) approved as depositories of state funds."

We requested that Holbert reimburse the Town of Milan \$2,117.19 for collections not deposited. Holbert submitted reimbursement in the form of a cashier's check dated October 29, 2016. (See Summary of Charges, page 13)

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

CUSTOMER DEPOSITS

The Town required a deposit from new customers which may be applied to the customer's utility bill if the bill is not paid.

Customer deposits collected were recorded on a Customer Deposit Report. A comparison of the Customer Deposit Report for the period February 1, 2013 to March 21, 2014, showed there was \$200 less deposited than collected.

Our comparison also showed that customer deposits collected were not being deposited timely. Bank deposits ranged from 12 to 235 days after the date received while Holbert was Clerk-Treasurer. In addition, the succeeding Clerk-Treasurer deposited numerous checks for customer deposits that were dated during the period Holbert was Clerk-Treasurer.

Indiana Code 5-13-6-1(d) states in part:

". . . a town shall deposit funds not later than the next business day following the receipt of the funds in depositories:

- (1) selected by the . . . town as provided in an ordinance adopted by the . . . town; and
- (2) approved as depositories of state funds."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Holbert reimburse the Town of Milan \$200 for customer deposits collected but not deposited. Holbert submitted reimbursement in the form of a cashier's check dated October 29, 2016. (See Summary of Charges, page 13)

PENALTIES, INTEREST, AND OTHER CHARGES

The Town paid penalties and interest totaling \$5,983.23 as shown in the following schedule:

Paid To	Amount
Indiana Department of Revenue (1)	\$ 4,159.44
Indiana Department of Workforce Development (2)	721.14
Bank (3)	555.00
Vendors (4)	547.65
	\$ 5,983.23

Notes to Schedule:

The penalties, interest, and other charges were assessed for the following reasons:

- (1) Payroll withholdings and sales taxes were not remitted timely.

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

- (2) Employment tax was not remitted timely.
- (3) Bank overdraft fees were assessed.
- (4) Vendors were not paid timely.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Non-compliance may require corrective actions.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the governmental unit.

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit.

Any penalties, interest, or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

We requested that Holbert reimburse the Town of Milan \$5,983.23 for penalties, interest, and other charges. Holbert submitted reimbursement in the form of a cashier's check dated October 29, 2016. (See Summary of Charges, page 13)

SPECIAL INVESTIGATION COSTS

The Indiana State Board of Accounts incurred additional costs for the special investigation of collections not deposited, penalties and interest paid, and poor and/or nonexistent records.

Audit costs incurred because of theft and shortage may be the personal obligation of the responsible official or employee.

Audit costs or other costs incurred because of poor records, nonexistent records or other inadequate bookkeeping practices may be the personal obligation of the responsible official or employee of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

INTERNAL CONTROL DEFICIENCIES

The following internal control deficiencies contributed to the charges reported in the previous Special Investigation Results and Comments:

Collections Not Deposited

- 1. Due to the Clerk-Treasurer's Office not having any employees, there was a lack of segregation of duties regarding the collection, posting, depositing, and reconciling of daily collections.

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

2. There was a lack of due diligence that collections are to be posted daily; reconciled daily; deposited timely; and any variances identified and explained.
3. Holbert and the Town Council did not have procedures in place to provide for the accountability of funds in the event Holbert was absent or incapacitated.

Penalties, Interest, and Other Charges

The Town did not pay obligations timely and did not remit required reports to federal and state agencies timely resulting in the payment of penalties and interest. This was able to occur and not be detected timely due to the lack of segregation of duties and a lack of due diligence.

The Town incurred bank fees due to the Town's bank not having sufficient funds in the bank to issue payroll checks from the payroll bank account. Insufficient funds in the bank were able to occur because no bank reconciliations were performed and the cash flow needs of the payroll bank account not being monitored.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

OFFICIAL BOND

The Town obtained the following official bond for the Clerk-Treasurer:

Bond Coverage	
Term	Amount
02-01-13 to 12-31-15	<u>\$ 30,000</u>

CONDITION OF RECORDS

We noted the following deficiencies regarding the financial records for the period February 1, 2013 to March 21, 2014:

1. Financial transactions were not posted to the financial ledger and accordingly, the financial ledger did not reflect the Town's financial activity or financial condition.

All financial transactions pertaining to the governmental unit should be recorded in the records of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

2. No bank reconciliations were performed.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

3. Receipts were not issued for monies received.

Receipts shall be issued and recorded at the time of the transaction; for example, when cash or a check is received, a receipt is to be immediately prepared and given to the person making payment. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

DEPOSITS

During the period February 1, 2014 to March 21, 2014, the Town received 32 distribution checks from Ripley County for taxes or riverboat revenue sharing totaling \$473,388.20. These checks were deposited from 14 days to 357 days after date of issuance. In addition, the succeeding Clerk-Treasurer deposited numerous checks received from Ripley County that were dated during the period Holbert was Clerk-Treasurer.

Indiana Code 5-13-6-1(d) states in part: ". . . a town shall deposit funds not later than the next business day following the receipt of the funds . . ."

DISBURSEMENT PROCEDURES

An Accounts Payable Voucher requires approval by a department head that goods and ordered were received and a certification by the fiscal officer that the supporting documentation meets the requirements of the statutes. During the period February 1, 2013 to March 21, 2014, 39 percent of Accounts Payable Vouchers reviewed were not signed by the person receiving the goods or services and were not certified by the fiscal officer as being audited.

Indiana Code 5-11-10-1.6 states in part:

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless: . . .

(2) the invoice or bill is approved by the officer or person receiving the goods and services;
. . .

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct . . ."

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

ANNUAL FINANCIAL REPORT

The Annual Financial Report for the year 2013 was not filed with the Indiana State Board of Accounts until August 18, 2014. This report could not be prepared by the due date because the financial ledger was not posted as described in the Special Investigation Result and Comment titled "Condition of Records."

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7."

CUSTOMER NON-SUFFICIENT FUND CHECKS

From February 19, 2013 to December 31, 2013, the bank charged the Town's bank account \$3,152.17 for returned customer non-sufficient fund checks deposited by the Town. The checks were received from Utility customers for payment of utility services. The amount charged by the bank also included the assessment of a bank non-sufficient check fee of \$15 per check.

A fee for the returned checks was not assessed by the Town to the customer as required by Section 52.21(c) of the Town Ordinances which states the following:

"Customers shall be charged a service fee of the greater of \$20 or 5% of the face amount for each check returned to the town for any reason."

As of May 12, 2016, Town Officials have not rebilled Utility customers for the \$3,152.17 of non-sufficient checks and applicable fees resulting in a loss of revenue to the Town's Utility.

Governmental units have a responsibility to collect amounts owed to the governmental unit pursuant to procedures authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ADJUSTMENTS TO CUSTOMER UTILITY ACCOUNTS

The Clerk-Treasurer made adjustments to customer utility accounts. In most instances, these adjustments reduced the amount originally billed to the customer. There was no documentation presented documenting the purpose of the adjustments.

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Based on our review of the adjustments with the Utility Superintendent and our review of other records, no information came to our attention that the adjustments were used as a cover-up for a misappropriation of funds.

Officials or employees authorizing, directing or executing write-offs or adjustments to records which are not documented or warranted may be held personally responsible. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CONDITION OF RECORDS - CUSTOMER UTILITY DEPOSITS

The Town required a deposit from new customers which may be applied to the customer's Water Utility bill if the bill is not paid. The following deficiencies were noted regarding the accounting for customer deposits:

1. Deposits collected, refunds of deposits, and application of a deposits to customer bills were not posted to Water Customer Deposit Fund on the Town's financial ledger. These transactions were also not posted to the Customer Deposit Register.

All documents and entries to records should be done in a timely manner to ensure that accurate financial information is available to allow the governmental unit to make informed management decisions and to help ensure compliance with IC 5-15-1-1 et seq., commonly referred to as the Public Records Law. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

2. The current Customer Deposit Register identified each individual customer and their deposit balance. However, older deposits listed in another Customer Deposit Register were not listed in the most current Deposit Ledger. As a result of the above condition, the balance in the Water Customer Deposit Fund was not being reconciled with the Customer Deposit Register.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

3. Receipts issued for customer utility deposits were not prenumbered.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets, and all forms of information processing are necessary for proper internal control.

TOWN OF MILAN
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

4. No receipts were issued from August 1, 2013 to March 21, 2014.

Receipts shall be issued and recorded at the time of the transaction; for example, when cash or a check is received, a receipt is to be immediately prepared and given to the person making payment. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN OF MILAN
EXIT CONFERENCE

The contents of this report were discussed on May 12, 2016, with Debra Fugate Hackman, Clerk-Treasurer; Noel Houze, President of the Town Council; Donald E. Call, Council member; Melissa Baker, Council member; and Larry L. Eaton, Town Attorney.

TOWN OF MILAN
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Dale Holbert, former Clerk-Treasurer:			
Collections Not Deposited, page 4	\$ 2,117.19	\$ -	\$ 2,117.19
Customer Deposits, page 5	200.00	-	200.00
Penalties, Interest, and Other Charges, pages 5 and 6	5,983.23	-	5,983.23
Reimbursed with cashier's check, dated October 29, 2016	<u>-</u>	<u>8,300.42</u>	<u>-</u>
 Totals	 <u>\$ 8,300.42</u>	 <u>\$ 8,300.42</u>	 <u>\$ -</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.