

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

SPECIAL INVESTIGATION REPORT

OF

OHIO TOWNSHIP

WARRICK COUNTY, INDIANA

January 1, 2011 to February 29, 2016



**FILED**  
02/10/2017



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TOWNSHIP OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Trustee	Lorraine S. Wittenbraker Chad Bennett	01-01-11 to 12-31-14 01-01-15 to 12-31-18
Chairman of the Township Board	Chad Bennett Dan Saylor	01-01-11 to 12-31-14 01-01-15 to 12-31-16



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
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TO: THE OFFICIALS OF OHIO TOWNSHIP, WARRICK COUNTY

We have conducted a special investigation of the records of Ohio Township (Township) for the period from January 1, 2011 to February 29, 2016. Our investigation was limited to the following records: unreasonable costs paid to township vendors; payroll reports and payments submitted to federal and state authorities; compensation paid to Trustee, and penalties, interest and other charges paid. 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 the Summary as listed in the Table of Contents. This report was forwarded to the Office of the Indiana Attorney General and to the local prosecuting attorney.

Any Official Response included herein this report has not been examined or verified for its accuracy.

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

November 22, 2016

OHIO TOWNSHIP, WARRICK COUNTY  
SPECIAL INVESTIGATION RESULTS AND COMMENTS

**LATE FEES**

Information presented for investigation showed amounts payable to vendors were not always paid in a timely manner. Payments were made from one month to six months after the due date. Therefore, late fees, finance charges and administrative fees of \$1,906.76 were paid to vendors by the Township for the period January 1, 2011 to December 31, 2014.

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 Townships, Chapter 13)

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 Townships, Chapter 13)

We requested Lorraine S. Wittenbraker (Wittenbraker), former Trustee, reimburse the Township \$1,906.76. (See Summary of Charges, page 10)

**SALES TAX PAID**

Wittenbraker allowed the sales tax exemption form filed with the Indiana Department of Revenue to expire on December 31, 2010. Without the appropriate sales tax exemption form, the Township paid to vendors and utility providers, sales tax in the amount of \$5,712.81 during the period January 28, 2011 to January 21, 2015.

Governmental funds generally are exempt from the payment of sales tax on qualifying purchases. Respective tax agencies should always be contacted concerning tax exemptions and payments. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the Township \$5,712.81. (See Summary of Charges, page 10)

OHIO TOWNSHIP, WARRICK COUNTY  
SPECIAL INVESTIGATION RESULTS AND COMMENTS  
(Continued)

**OVERPAYMENT OF COMPENSATION AND BENEFITS**

Wittenbraker received \$22,430.64 in excess of the compensation approved by the Township Board for the period June 29, 2012 to December 31, 2014. On June 29, 2012, Wittenbraker started receiving payments in amounts ranging from of \$295.14 to \$1,180.56 from Township funds for reimbursement of health, dental, and vision insurance benefits. No evidence was presented documenting approval by the Township Board for these benefits.

Indiana Code 36-6-6-10 states in part:

" . . . (b) The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances; of all officers and employees of the township.

. . . the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed . . ."

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the Township \$22,430.64. (See Summary of Charges, page 10)

**PERF CONTRIBUTIONS BY EMPLOYER**

Ohio Township joined PERF, by resolution, on July 1, 2000, which required each employee, including the Trustee as a covered position, to contribute 3 percent of their gross wages to PERF. No additional resolutions were passed by the Township Board changing the 3 percent contribution requirement for Township employees.

From January 1, 2011 to December 31, 2014, withholdings were not made from Wittenbraker's salary for the required 3 percent employee contribution to the Public Employees Retirement Fund (PERF). The Township paid the entire employee share totaling \$3,715.15.

These contributions are considered additional compensation to Wittenbraker since the Township Board did not approve changes to the PERF 3 percent employee contribute requirement.

OHIO TOWNSHIP, WARRICK COUNTY  
SPECIAL INVESTIGATION RESULTS AND COMMENTS  
(Continued)

Indiana Code 5-10.3-7-9 (b) states in part: "Each member shall contribute three percent (3%) of the member's compensation to the fund as specified in IC 5-10.2-3. . . ."

Indiana Code 36-6-6-10 states in part:

" . . . (b) The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances; of all officers and employees of the township.

. . . the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed . . ."

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the Township \$3,715.15. (See Summary of Charges, page 10)

***PENALTIES AND INTEREST***

The Township was assessed penalties and interest for failure to timely submit payroll related reports and failure to timely remit payroll withholdings/employer contributions to various federal and state agencies. Due to these failures, the Township was assessed penalties and interest totaling \$8,688.92. Of the amount assessed, Wittenbraker paid \$5,914.74 on August 7, 2015, and the remaining \$2,774.18 of the penalties and interest were paid from Township funds.

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 Townships, Chapter 13)



OHIO TOWNSHIP, WARRICK COUNTY  
SPECIAL INVESTIGATION RESULTS AND COMMENTS  
(Continued)

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the Township \$2,774.18. (See Summary of Charges, page 10)

***EXCESSIVE OR UNREASONABLE COSTS***

The Township incurred excessive or unreasonable costs totaling \$3,148.04. These payments were for contractual legal services and accounting fees directly related to untimely filing of payroll related reports with various federal and state agencies.

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. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the Township \$3,148. (See Summary of Charges, page 10)

***SPECIAL INVESTIGATION COSTS***

The State of Indiana incurred costs totaling \$13,640.81 in the investigation of late fees and sales tax paid; overpayment of compensation and benefits; penalties and interest paid to Internal Revenue Service and Indiana Department of Revenue; and excessive and unreasonable costs paid by the Township.

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 Townships, Chapter 13)

We requested Wittenbraker reimburse the State of Indiana \$13,640.81. (See Summary of Charges, page 10)

OHIO TOWNSHIP, WARRICK COUNTY  
SPECIAL INVESTIGATION RESULTS AND COMMENTS  
(Continued)

**OFFICIAL BONDS**

The Township obtained the following official bonds:

Period	Amount
01-01-11 to 01-01-12	\$ 30,000
01-01-12 to 01-01-13	30,000
01-01-13 to 01-01-14	30,000
01-01-14 to 01-01-15	30,000

**INTERNAL CONTROL DEFICIENCIES**

The Trustee was responsible for all aspects of the Township's financial activity. This included preparing checks; recording financial transactions in the financial ledger; monitoring budget compliance; and reporting payroll information and remitting payroll taxes.

Due to the lack of segregation of duties, excess payments for late fees to vendors, sales taxes to vendors, penalties and interest on payroll withholding remittances, costs and fees associated with preparation of financial records and legal matters regarding payroll withholding remittances, employee PERF contributions paid by the Township, and compensation and benefits paid without Township Board approval were able to occur and not identified timely. The Trustee served as the Township executive and Township fiscal officer and, also, has two employees to help perform financial duties. However, the Trustee and Township Board did not set up a system of internal controls to ensure these excess payments did not occur. As a result, there was no oversight of Township financial activity on an ongoing basis by another official.

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 Townships, Chapter 13)

OHIO TOWNSHIP, WARRICK COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on November 22, 2016, with Chad Bennett, Trustee; Dan Saylor, Chairman of the Township Board; Deborah J. Reid, Township Board member; Lynda Provence, Deputy Township Clerk; and Mary Ann Beck, Clerk.

OHIO TOWNSHIP, WARRICK COUNTY  
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Due Ohio Township:			
Lorraine S. Wittenbraker, former Trustee:			
Late Fees, page 4	\$ 1,906.76	\$ -	\$ 1,906.76
Sales Tax Paid, page 4	5,712.81	-	5,712.81
Overpayment of Compensation and Benefits, page 5	22,430.64	-	22,430.64
PERF Contributions by Employer, pages 5 and 6	3,715.15	-	3,715.15
Penalties and Interest, pages 6 and 7	8,688.92	5,914.74	2,774.18
Excessive or Unreasonable Costs, page 7	<u>3,148.04</u>	<u>-</u>	<u>3,148.04</u>
Totals Due Ohio Township	<u>45,602.32</u>	<u>5,914.74</u>	<u>39,687.58</u>
Due State of Indiana:			
Lorraine S. Wittenbraker, former Trustee:			
Special Investigation Costs, page 7	<u>13,640.81</u>	<u>-</u>	<u>13,640.81</u>
Total Due State of Indiana	<u>13,640.81</u>	<u>-</u>	<u>13,640.81</u>
Total Due From Lorraine S. Wittenbraker, former Trustee	<u>\$ 59,243.13</u>	<u>\$ 5,914.74</u>	<u>\$ 53,328.39</u>

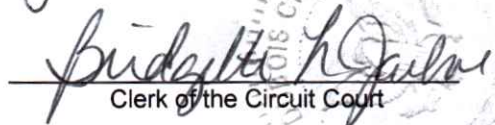
AFFIDAVIT

STATE OF INDIANA            )  
  )  
Dubois COUNTY)

I, Jonathan H. Bennington, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records as described in our letter to the officials of Ohio Township, Warrick County, Indiana, for the period from January 1, 2011 to February 29, 2016, are true and correct to the best of my knowledge and belief.

  
Field Examiner

Subscribed and sworn to before me this 3 day of January, 2017

  
Clerk of the Circuit Court

