

**STATE BOARD OF ACCOUNTS
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INDIANAPOLIS, INDIANA 46204-2769**

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

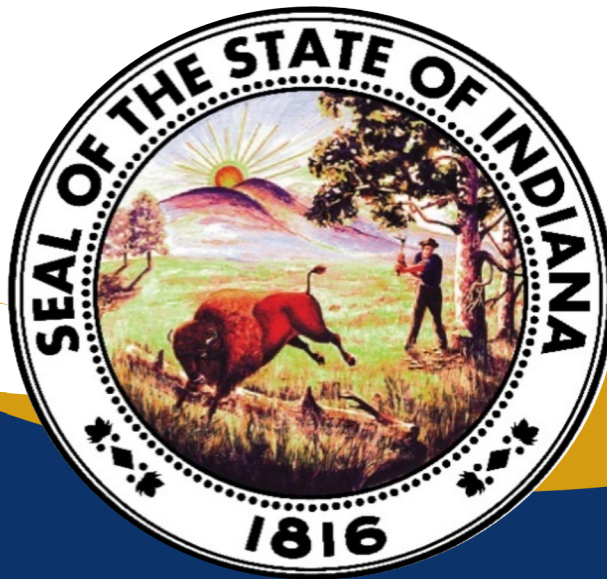
SPECIAL INVESTIGATION REPORT
OF

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED
D/B/A NEW CHAPEL FIRE & EMS, INC.
FLOYD COUNTY, INDIANA

AND

UTICA TOWNSHP FIRE PROTECTION DISTRICT
CLARK COUNTY, INDIANA

January 1, 2019 to December 31, 2023



FILED

01/29/2025

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TO: TO THE OFFICIALS OF THE UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC., FLOYD COUNTY, INDIANA, AND TO THE OFFICIALS OF THE UTICA TOWNSHIP FIRE PROTECTION DISTRICT, CLARK COUNTY, INDIANA

This is a special investigation report for the Utica Township Fire Department Incorporated d/b/a New Chapel Fire & EMS, Inc. (Nonprofit Corporation) and the Utica Township Fire Protection District (Political Subdivision), for the period January 1, 2019 to December 31, 2023, and is in addition to any other reports for the Nonprofit Corporation or the Political Subdivision as required under Indiana Code 5-11-1. All reports pertaining to the Nonprofit Corporation or Political Subdivision may be found at www.in.gov/sboa.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with contract deposits, fire truck sales, and insurance payments. The Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

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

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

December 12, 2024

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
AND UTICA TOWNSHIP FIRE PROTECTION DISTRICT
RESULTS AND COMMENTS

BACKGROUND

In July 2023, the Indiana State Police (ISP) referred a matter to the Indiana State Board of Accounts (SBOA) involving the former Clark County Sheriff, Jamey Noel. On February 15, 2024, a Special Investigation Report (SI Report 844771) was issued by the SBOA regarding Jamey Noel's misuse of the Sheriff's Jail Commissary Fund during his term as Sheriff, January 1, 2015 to December 31, 2022. As referenced in that report, Jamey Noel also had oversight and substantial involvement with other entities during portions of his timeframe as the elected Sheriff of Clark County.

Jamey Noel was the incorporator, CEO, and/or Fire Chief for the Utica Township Fire Department Incorporated d/b/a New Chapel Fire & EMS, Inc. (Fire Department), which was created in 2002 as a domestic nonprofit corporation to provide fire protection services. The Fire Department received funding from the New Albany Township Fire District and the Utica Township Fire Protection District. Both districts are political subdivisions of the State of Indiana. The Fire Department also received public money through contracts with Franklin Township, Floyd County, Indiana. The Fire Department is the subject of this investigation report.

Jamey Noel was also the CEO and/or President of the domestic nonprofit corporation, Utica Township Volunteer Fire Fighters Association d/b/a New Chapel Emergency Medical Service (EMS Service). The EMS Service was maintained and supported with public funds through contracts with Clark and Floyd counties. The SI Report 844741 was issued by the SBOA regarding this nonprofit corporation on April 29, 2024.

Here, the use of multiple business names created a layering effect, in which money or assets are moved through different businesses or different layers of a business. This process creates difficulty when tracking funds or assets through the businesses. Sometimes the formal legal entity's name is used, whereas sometimes an assumed business name (d/b/a) is used. Although the Fire Department and the EMS Service are separate and distinct assumed business names for two separate and distinct legal entities, their similar names have allowed monies from one entity to be wrongfully deposited into the other, as identified by the SBOA.

Entities Legal History and Authorized Purposes

The Fire Department was created as a domestic nonprofit corporation through the filing of its Articles of Incorporation with the Indiana Secretary of State (SOS) on August 14, 2002. The Fire Department was organized under the Indiana Nonprofit Corporation Act of 1991, which exists in its current form at Indiana Code 23-17 *et seq.* Pursuant to the Fire Department's Articles of Incorporation, the entity's "purpose for which it is formed" is "to provide the best fire protection and emergency medical services possible at all times."

On November 26, 2007, a Certificate of Assumed Business Name, or "d/b/a" designation, was filed on behalf of the Fire Department. This filing was for "New Chapel Fire & EMS, Inc." by Jamey Noel who signed the document as "CEO" of the Fire Department.

In April 1998, the Clark County Commissioners (Commissioners) issued Ordinance No. 7-1998 creating the Utica Township Fire Protection District (UTFPD) pursuant to Indiana Code 36-8-11. Ordinance No. 7-1998 finds that the Commissioners received petitions from freeholders residing in Utica Township requesting the creation of the UTPFD. Pursuant to the enabling Ordinance, the purposes of the UTPFD are as follows:

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- "(a) To ensure the adequacy of fire protection within the district;
- (b) To ensure the adequacy of fire prevention, identification, and elimination of all potential and actual sources of fire hazard;
- (c) To ensure the capability for extinguishing all fires that might occur or might be reasonably expected to occur within the territory of the district; and,
- (d) To carry out all other purposes and functions related to fire protection and fire prevention"

The UTFPD is also the subject of this report.

Bylaws, dated November 9, 2023, and February 1, 2024

The SBOA requested from the Fire Department any and all versions of bylaws in existence during the period of examination. However, the only version of bylaws which were provided to the SBOA were those that were approved and signed for by the Board of Directors on November 9, 2023. Pursuant to those bylaws, the purpose of the Fire Department was "[t]o provide fire and emergency medical services to Southern Indiana."

The SBOA also received an "Amended and Restated Bylaws" from the Fire Department's legal counsel. This version dated February 1, 2024, states that the "purpose" of the Fire Department is "[t]o provide fire and emergency medical services to Southern Indiana".

State Board of Accounts Audit Responsibility and Authority

Indiana Code 5-11-1-9(a) provides:

"The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every audited entity. However, an examination of an entity under this subsection shall be limited to matters relevant to the use of the public money received by the entity."

Pursuant to Indiana Code 5-11-1-16(e), "entity" is defined as:

"[A]ny provider of goods, services, or other benefits that is:

- (1) maintained in whole or in part at public expense; or
- (2) supported in whole or in part by appropriations or public funds or by taxation.

The term does not include the state or a municipality (as defined in this section)."

Indiana Code 5-11-1-9(c) provides:

"An examination of an entity that is organized as a not-for-profit corporation deriving:

- (1) less than fifty percent (50%); or

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(2) subject to subsection (j), at least fifty percent (50%) but less than seven hundred fifty thousand dollars- (\$750,000);

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money received by the entity."

The examination period is January 1, 2019 to December 31, 2023. During this period, the Fire Department was maintained and supported at public expense through direct payments of public funds from the New Albany Township Fire District, the Utica Township Fire Protection District, and Franklin Township (Floyd County).

Maintained and Supported with Public Funds

During the examination period, the Fire Department had one fire service contract with the New Albany Township Fire District (NATFPD) with terms for the period of ten (10) years beginning January 1, 2017 until December 31, 2026. The contract, dated July 14, 2016, was signed by "Jamey J. Noel, Chief" on behalf of the Fire Department. Per the payment section of the contract, the Fire Department shall receive the budgeted amount approved by the NATFPD in two (2) payments annually within ten (10) days after the NATFPD receives the tax draws during the year. Per the stipulations in the contract, the Fire Department shall use the public funding from the NATFPD to provide eleven (11) specific criteria to fulfill its obligations under the contract and provide fire protection services in the New Albany Township. The contract does require the Fire Department to have its budget approved by the NATFPD and to provide financial documentation within ten (10) days of a request by the NATFPD. The contract does not require the Fire Department to submit itemized invoices to the NATFPD in order to receive payment. Further, payment to the Fire Department is not contingent on any specific or measurable quantity of service actually performed or provided by the Fire Department.

During the examination period, the Fire Department had one fire service contract with the Utica Township Fire Protection District (UTFPD) with terms for the period of ten (10) years beginning January 1, 2022 until December 31, 2032. Per the payment section of the contract, the Fire Department shall receive the budgeted amount approved by the UTFPD in an annual payment within ten (10) days after the UTFPD receives the tax draws from the year. Per the stipulations in the contract, the Fire Department shall use the public funding from the UTFPD to provide seven (7) specific criteria to fulfill its obligations under the contract and provide fire protection services in Utica Township. The contract does not require budget approvals or financial documentation to be provided to the UTFPD by the Fire Department. The contract does not require the Fire Department to submit itemized invoices to the UTFPD in order to receive payment. Further, payment to the Fire Department is not contingent on any specific or measurable quantity of service actually performed or provided by the Fire Department.

During the examination period, Franklin Township, Floyd County, paid the Fire Department \$8,000. The SBOA requested copies of all fire service contracts with Franklin Township, Floyd County, for the examination period. The SBOA was able to obtain one contract for 2023. The contract was signed by "Jamey Noel, Chief" on September 13, 2023, on behalf of the Fire Department. Franklin Township agreed to pay the Fire Department the sum of \$2,000 for fire protection. This amount was paid by Franklin Township on January 3, 2023, according to the statement in the contract. The contract does not require the Fire Department to submit itemized invoices to Franklin Township in order to receive payment. Further, payment to the Fire Department is not contingent on any specific or measurable quantity of service actually performed or provided by the Fire Department. The Township official and the Fire Department were unable to locate contracts for 2019, 2020, and 2022 although funding was provided for these years. Without copies of the contracts, the SBOA was unable to substantiate whether these payments were made to fulfill contractual obligations.

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During the period of this examination, the Fire Department was paid a total of \$6,178,649.01 of public funds from the NATFPD, the UTFPD, and Franklin Township.

Year	NATFPD	UTFPD	Franklin Twp.	Totals
2019	\$ 1,138,000.00	\$ 111,130.00	\$ 2,000.00	\$ 1,251,130.00
2020	1,138,000.00	131,130.00	2,000.00	1,271,130.00
2021	1,275,500.00	33,841.60	-	1,309,341.60
2022	1,413,000.00	-	2,000.00	1,415,000.00
2023	844,000.00	86,047.41	2,000.00	932,047.41
Totals	<u>\$ 5,808,500.00</u>	<u>\$ 362,149.01</u>	<u>\$ 8,000.00</u>	<u>\$ 6,178,649.01</u>

Jamey Noel's Position and Authority over the Fire Department

Jamey Noel was the CEO, President, Chief, or Authorized Agent of the Fire Department. Jamey Noel did not receive any W-2 wages from the nonprofit corporation over the examination period.

Secretary of State Filings

During the entire period of this examination, January 1, 2019 to December 31, 2023, Jamey Noel was either the "CEO," "President," or "Authorized Agent" of the Fire Department. There were other individuals who held the title of "President" during the examination period.

Business Entity Report filings made with the Indiana Secretary of State (SOS) revealed the following:

- 2018 Business Entity Report: Filed on August 21, 2018, by Jamey Noel as "CEO," lists Thomas Campbell as President and Steve Gill as Director of the entity.
- 2020 Business Entity Report: Filed on June 7, 2020, by Jamey Noel as "Authorized Agent," lists Thomas Campbell as President and Steve Gill as Director of the entity.
- 2022 Business Entity Report: Filed on August 5, 2022, by Tim Franklin as "Secretary," lists Steve Gill as Director and Tim Franklin as Secretary of the entity. It does not list Jamey Noel in any capacity with the entity.

On October 10, 2023, a Notice of Change of Registered Office or Registered Agent was filed with the SOS by Jamey Noel as "President" of the entity. The registered agent listed is Heather Peters.

On January 9, 2024, a Notice of Change of Registered Office or Registered Agent was filed with the SOS by Heather R. Peters as "Legal Representative" of the entity. The registered agent listed is The Law Office of Heather Archibald-Peters, PC.

On March 13, 2024, a Change of Governing Person was filed with the SOS by Heather R. Peters as "Legal Representative" of the entity. The governing person information is listed as follows: Paul Holcomb, President; Kevin Wilkerson, Vice-President; Matt Owen, Board Member; Stephen Prather, Board Member; and Emily Oleck, Board Member. Jamey Noel is not listed in any capacity on the document.

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After the time period subject to this investigation, in 2024, the Fire Department moved from 5203 Charlestown Blvd., New Albany, Indiana, in Floyd County to 511 Little League Blvd., Clarksville, Indiana, in Clark County. This report covers the period from January 1, 2019 to December 31, 2023, in which the Fire Department operated out of the Floyd County location. Therefore, the report references the Fire Department as being located in Floyd County.

Applicable Criteria

The following criteria are applicable to New Chapel Fire and EMS, Inc. as a nonprofit corporation.

Indiana Code 23-17-4-1(a) states: "A corporation incorporated under this article has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation."

Indiana Code 23-17-2-9 defines "director" as "an individual designated in articles of incorporation or bylaws, elected by the incorporators or otherwise elected or appointed, to act as a member of a board of directors."

Indiana Code 23-17-13-1 states:

"(a) A director shall, based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows:

- (1) In good faith.
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances.
- (3) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one (1) of the following:

- (1) An officer or employee of the corporation whom the director reasonably believes to be reliable and competent in the matters presented.
- (2) Legal counsel, certified public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.
- (3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.
- (4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by subsection (b) unwarranted.

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(d) A director is not liable for an action taken as a director, or failure to take an action, unless the:

- (1) director has breached or failed to perform the duties of the director's office in compliance with this section; and
- (2) breach or failure to perform constitutes willful misconduct or recklessness.

(e) A director is not considered to be a trustee with respect to a corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property."

Indiana Code 23-17-2-10(a) defines "distribution" as:

"(a) direct or an indirect transfer of money or other property or incurrence or transfer of indebtedness by a corporation to or for the benefit of a person.

(b) The term includes a dividend and a purchase, redemption, or other acquisition of memberships.

(c) The term does not include payment of reasonable value for property received or services performed or payment of reasonable benefits in furtherance of the corporation's purposes."

Indiana Code 23-17-21-1 sets forth the general prohibition against "distributions" by nonprofits: "[e]xcept as authorized under section 2 of this chapter, a corporation may not make distributions."

Indiana Code 23-17-13-4 states:

"(a) Subject to section 1(d) of this chapter, a director who votes for or assents to a distribution made in violation of this article or articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds the amount that could have been distributed without violating this article or articles of incorporation.

(b) A director who is held liable for an unlawful distribution under subsection (a) is entitled to contribution from the following:

- (1) Every other director who voted for or assented to the distribution, subject to section 1(d) of this chapter.
- (2) Each person who received an unlawful distribution for the amount of the distribution accepted whether or not the person receiving the distribution knew the distribution was made in violation of this article, articles of incorporation, or the bylaws."

Indiana Code 23-17-13-3(a) states:

"A corporation may not:

- (1) lend money to; or
- (2) guarantee the obligation of;

a director or an officer of the corporation."

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Indiana Code 23-17-3-8 states:

"(a) The incorporators or board of directors of a corporation shall adopt bylaws for the corporation.

(b) The bylaws of a corporation may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with any law or the articles of incorporation."

Further, as an entity receiving financial assistance from governmental sources, the Fire Department is subject to the following SBOA compliance guidelines, found at *Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources*, Section H:

Entities receiving financial assistance from state or local governments are subject to the following general requirements:

Existence of contracts with grantor agencies for all assistance received.

Retention of financial records, supporting documents, statistical records and all other records pertinent to the agreements for a period of at least three years.

Maintaining a financial management system that provides:

- a. Accurate, current, and complete disclosure of the financial results of each government-sponsored project or program.
- b. Records that adequately identify the source and application of funds for government-sponsored activities. Records shall contain information pertaining to awards, authorizations, obligations, unobligated balances, assets, outlays, and income.
- c. Effective control over and accountability for all funds, property, and other assets.
- d. Procedures for determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of the applicable cost principles and the terms of the grant or other agreement.
- e. Accounting records that are supported by source documentation.
- f. Compliance with annual reporting requirements of the Secretary of State and the Indiana State Board of Accounts.
- g. Compliance with rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies.
- h. Adequate fidelity bonding and insurance coverage if required by the funding agency.

The above are not intended to represent the only applicable regulations since the entity may be regulated by certain state statutes, its own bylaws, and provisions within the agreements, all of which may require testing.

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The following criteria are applicable to the Utica Township Fire Protection District as a political subdivision of the State of Indiana.

Indiana Code 36-8-11-15 provides the following with respect to the powers of the Board of a Fire Protection District:

"(a) The board:

- (1) has the same powers and duties as a township executive with respect to fire protection functions, including those duties and powers prescribed by [IC 36-8-13](#), although all cooperative and joint actions permitted by that chapter must be undertaken according to this chapter;
- (2) has the same powers and duties as a township executive relative to contracting with volunteer firefighting companies, as prescribed by [IC 36-8-12](#) and [IC 36-8-13](#); . . ."

Pursuant to Indiana Code 36-8-12-2, a "volunteer fire department" is defined as:

"A department or association organized for the purposes of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services."

Indiana Code 5-22-22-12 Transfer to volunteer fire department, fire protection district, or fire protection territory

"(a) This section applies to the following surplus property:

- (1) Fire trucks.
- (2) Emergency service vehicles.
- (3) Firefighting or emergency services equipment.

(b) As used in this section, "fire department" refers to any of the following:

- (1) A volunteer fire department (as defined in [IC 36-8-12-2](#)).
- (2) The board of fire trustees of a fire protection district established under [IC 36-8-11](#).
- (3) The provider unit of a fire protection territory established under [IC 36-8-19](#).

(c) Notwithstanding section 4, 4.5, or 5 of this chapter, a governmental body may transfer title of surplus property to a fire department for the fire department's use in providing fire protection or emergency services.

(d) A fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the fire departments located in the same county as the governmental body may be transferred to any fire department in Indiana.

(e) A governmental body may transfer title of surplus property to a fire department under this section by:

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- (1) sale;
- (2) gift; or
- (3) another arrangement acceptable to the governmental body and the fire department."

The following compliance criteria are from the Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 1. They apply specifically to the Utica Township Fire Protection District.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or nonfeasance in office of any official or employee may be the personal obligation of the responsible official or employee.

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the unit. Any personal expenses paid by the unit may be the personal obligation of the responsible official or employee.

Proceeds generated by the sale or rental of property must be receipted into the fund which originally purchased the property unless otherwise provided by law.

CONTRACT PAYMENTS NOT DEPOSITED INTO THE PROPER BANK ACCOUNT

Between January 1, 2019 and December 31, 2023, Jamey Noel failed to deposit \$410,000 in contract payments into the Fire Department's WesBanco bank account. The payments were made by the Utica Township Fire Protection District (UTFPD) and the New Albany Township Fire District (NATFPD) under their respective contracts with the Fire Department.

In the examination of records of the EMS Service, the SBOA Special Investigation Report 84474I (SI Report 84474I), determined that Jamey Noel deposited the funds into the EMS Service's Fifth Third bank account. Subsequently, Jamey Noel signed two checks from the EMS Service to reimburse some of the contractual payments to the Fire Department in the amount of \$155,000. This leaves an unreimbursed balance of \$255,000 that is owed to the Fire Department. The following is a schedule of this activity:

Contract Payments Deposited into New Chapel EMS (EMS Service):

Deposit Slip Date	Deposit Amount
06-27-19	\$ 65,000
10-31-19	10,000
01-10-20	30,000
01-28-20	30,000
08-03-21	137,500
01-06-22	<u>137,500</u>
Total	<u><u>\$ 410,000</u></u>

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Reimbursement of Contract Payments to New Chapel Fire and EMS (Fire Department):

Reimbursed Check Date	Reimbursed Check Amount
12-30-19	\$ 95,000
11-23-20	<u>60,000</u>
Total	<u>\$ 155,000</u>
Unreimbursed Amount:	<u>\$ 255,000</u>

Jamey Noel held an executive position at the Fire Department, and as such, Jamey Noel was involved in various financial activities related to the entity. This is reflected by his signature found in many legal documents over the examination period such as contracts, auto loan documents, tax forms, and a signatory on the bank account. Because Jamey Noel was so intimately involved in the various financial activities of each entity, it is reasonable to infer his involvement in the act of receiving and depositing payments into the respective bank accounts. However, contract payments in the amount of \$255,000 were not deposited into the Fire Department's bank account, but were instead deposited into the bank account for the EMS Service. These contract payments became commingled with the other funds of the EMS Service. These deposits provided increased fungibility, allowing Jamey Noel to make additional unlawful distributions from the EMS Service. The SI Report 84474I, regarding the EMS Service, determined that Jamey Noel unlawfully distributed the funds of the EMS Service which would include this money. The amount requested for reimbursement in SI Report 84474I did not include the amounts that are requested for reimbursement in this report.

We request Jamey Noel to reimburse \$255,000 to the Fire Department for the contract payments that were not deposited into the bank account of the Fire Department but instead, deposited into the bank account of the EMS Service. (See Summary of Charges, page 29)

PROCEEDS FROM TRUCK SALES NOT DEPOSITED INTO THE UTICA TOWNSHIP FIRE PROTECTION DISTRICT'S BANK ACCOUNT

Between 2020 and 2022, three (3) fire trucks were sold to Brindlee Mountain Fire Apparatus, LLC (Brindlee). The fire trucks sold were a 2012 HME Intruder Ember Truck, a 2015 Freightliner M2 106 Medium Duty Truck, and a 2020 Ford E-One Mini Pumper Truck. Brindlee issued four checks for the three fire trucks purchased. One of these checks was paid to First Savings Bank to cover the loan balance on the 2020 Ford E-One Mini Pumper Truck.

An examination of the bank statements and deposit slips for the Utica Township Fire Protection District (UTFPD) found three checks were not deposited into the UTPFD's bank account. Further examination determined two of the checks totaling \$385,000 had been deposited into the EMS Service bank account, while the third check in the amount of \$56,610.62 had never been deposited. A response from Brindlee to an investigatory request confirmed the third check had not cleared its bank account as of December 3, 2024, which is the date of their most recent response.

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The details regarding the three fire truck sales to Brindlee are stated below:

1. 2012 HME Intruder Ember Truck VIN 44KFT4284CWZ22276

On October 28, 2020, a check for \$235,000 from Brindlee was deposited into the EMS Service bank account. The documents provided by Brindlee showed that Jamey Noel negotiated and facilitated the sale of the 2012 HME Intruder Ember Truck and directed Brindlee to make the check payable to the Utica Twp. FD. The title provided by Brindlee named the Utica Township Fire Dept. as the owner of the fire truck. However, this name most closely resembles the legal name of the New Chapel Fire & EMS, Inc., which is the d/b/a of the Utica Township Fire Department Incorporated. The address on the title was 5820 Utica Pike, which was the location used by the UTFPD and the EMS Service; not the Fire Department.

The following facts support the loss to the UTFPD:

- The official bill of sale shows the UTFPD purchased the truck on July 25, 2012.
- On September 4, 2012, Jamey Noel applied for a new title and used two different names on the documents which were "Utica Township Fire Dept." and "Utica Twp. F.D." The Utica Twp. F.D. is not an assumed business name for the UTFPD or the Fire Department.
- A personal history log of the salesperson from Brindlee showed multiple communication attempts with Jamey Noel on the sale of the fire truck. On October 26, 2020, an entry by the salesperson shows he received a call from Jamey Noel telling them to bring a check the next day in the amount of \$235,000 made payable to the Utica Twp FD.
- Brindlee issued a check in the amount of \$235,000 to the Utica Township VFD - IN on October 27, 2020.
- On October 28, 2020, the check from Brindlee was deposited into the EMS Service bank account; not the bank account of the Fire Department or the UTFPD.
- A personal history log dated November 5, 2020, requested the title to the fire truck that Brindlee purchased from Jamey Noel.
- A title history for a motor vehicle from the Indiana Bureau of Motor Vehicles shows a title was issued in the name of the Utica Township Fire Dept on November 7, 2020, which was after the sale took place.
- The UTFPD Board of Fire Trustees' minutes dated August 18, 2021, approved the transfer of the 2012 HME Intruder Ember Truck to the Utica Twp. FF. The approval of the transfer by the UTFPD occurred 10 months after the sale had already occurred. The minutes are unsigned by the Trustees.

This investigation revealed that the transfer of the title from the UTFPD to the Fire Department did not occur until after Jamey Noel sold the fire truck to Brindlee. This means the fire truck was still owned by the UTFPD at the time of the sale, and the check received from Brindlee should have been deposited into the UTFPD's bank account.

2. 2015 Freightliner M2 106 Medium Duty Truck VIN 1FVACYCYXFHGK3008

On November 8, 2021, Jamey Noel sent a text message containing 5 pictures of a 2015 Freightliner M2 160 Medium Duty Truck to a sales representative at Brindlee. The texts show Jamey Noel and the Brindlee representative agreed to a price of \$150,000 for the truck. Jamey Noel directed them to make the check payable to the Utica Twp. Fire Department.

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
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RESULTS AND COMMENTS
(Continued)

The following are the facts that support the loss to the UTFPD:

- The official bill-of-sale, dated February 16, 2015, shows the UTFPD purchased the fire truck.
- The original title shows the UTFPD purchased the fire truck on February 20, 2015.
- A title history for a motor vehicle from the Indiana Bureau of Motor Vehicles (BMV) shows the fire truck was registered in the name of the UTFPD on April 15, 2015.
- The UTFPD Board of Fire Trustees' (Trustees) minutes dated March 9, 2020, show the approval of Trustees to give the 2015 Freightliner to the Utica Twp. FD. The minutes were not signed by the Trustees. The name is not an assumed business name for the Fire Department or the EMS Service. In addition, two versions of the minutes for March 9, 2020, were examined and one of them did not have the approval of the transfer stated. These facts bring into question the credibility of the minutes and the approval of the transfer by the Trustees.
- On November 10, 2021, Brindlee issued a check to the Utica Twp Fire Department for \$150,000 to purchase the fire truck.
- On November 10, 2021, Jamey Noel signed the original title for the sale of the fire truck to Brindlee. The original title shows the UTFPD to be the owner of the fire truck.
- On November 23, 2021, the Brindlee check was deposited into the EMS Service bank account.
- The BMV vehicle history shows the fire truck was never titled in the name of the Fire Department.

This investigation revealed that the fire truck was still in the name of the UTFPD during the time Jamey Noel transacted with Brindlee to purchase the fire truck. No documentation was provided that showed Jamey Noel attempted to put the fire truck ownership in the name of the Fire Department between March 9, 2020, and November 10, 2021. The check from Brindlee for the purchase of the fire truck should have been deposited into the UTFPD bank account.

3. 2020 Ford E-One Mini Pumper Truck VIN 1FD0W5HT4LED98374

On May 15, 2020, Jamey Noel facilitated the purchase of a 2020 Ford E-One Mini Pumper Truck from Fire Service Inc. The invoice shows it was billed to the Utica Township Volunteer Fire Fighters Association, and it was shipped to the Utica Twp. Fire Department. However, the fire truck was paid for and titled by the UTFPD. On December 14, 2022, Jamey Noel sold the fire truck to Brindlee for \$225,000.

The following are the facts that support the loss to the UTFPD:

- The sales contract for the purchase of the fire truck dated April 25, 2020, shows the buyer of the fire truck was the UTFPD. The sales contract is signed by Jamey Noel as chief of the UTFPD.
- The original title of the fire truck shows the owner to be the UTFPD. The purchase date shows May 15, 2020.
- On November 28, 2022, correspondence shows Jamey Noel presented Brindlee with the fire truck for sale. Brindlee responded with an interest in purchasing the fire truck.
- Hand-written minutes dated December 13, 2022, showed the Trustees approved the transfer of a 2021 E-one Pumper. Nothing else was stated in those minutes that showed what entity received the transferred fire truck. Further, the year of the fire truck, stated in those minutes, is different from the year of the fire truck that was sold.

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- On December 14, 2022, correspondence shows Jamey Noel provided Brindlee with the amount to pay off the loan and to pay the remaining balance to the Utica Twp FD.
- On December 14, 2022, Brindlee purchased the fire truck for \$225,000. Brindlee issued two checks for the purchase. One check was issued for \$168,389.38 to the lien holder on the fire truck. It cleared Brindlee's bank account on December 22, 2022. Brindlee issued a second check for \$56,610.62. It has not cleared Brindlee's bank account as of December 3, 2024, which is the date of their most recent response to the SBOA's investigative inquiry. Correspondence shows Jamey Noel requesting both checks be mailed to the Utica Twp FD.
- The fire truck title given to Brindlee for the sale stated that the UTFPD was the owner of the fire truck. A Brindlee representative signed the back of the fire truck title. Jamey Noel signed the back of the fire truck title as the seller. Jamey Noel wrote "chief" as his position with the entity.

This investigation revealed that the fire truck was still in the name of the UTFPD during the time Jamey Noel transacted with Brindlee to purchase the fire truck. No documentation was provided for examination that showed Jamey Noel attempted to put the fire truck ownership in the name of the Fire Department.

The following summarizes the three fire truck sales and the total loss to the UTFPD:

Truck VIN	2012 HME Intruder Ember Truck 44KFT4284CWZ22276	2015 Freightliner M2 106 Medium Duty Truck 1FVACYCYXFHGK3008	2020 Ford E-One Mini Pumper Truck 1FD0W5HT4LED98374	Total Improper Deposits
Original Purchase Date	07-25-12	02-20-15	05-15-20	
Original Purchase Amount	\$ 445,376	\$ 260,000	\$ 263,642	
Sale Date	10-27-20	11-10-21	12-04-22	
Sale Price	235,000	150,000	225,000	
Loan Payoff Amount	-	-	168,389	
Amt Deposited in EMS Service Account	235,000	150,000	-	
Check Amount Not Cashd	-	-	56,611	
Total Improper Deposits	235,000	150,000	-	385,000

UTFPD officials should contact Brindlee to request a replacement check for the undeposited \$56,610.62 check.

The SBOA SI Report 844741, regarding the EMS Service, determined that Jamey Noel unlawfully distributed funds of the EMS Service totaling \$4,489,063.33; of that total, the SBOA identified \$602,674.53 of inappropriate expenditures in excess of governmental funding. In the SBOA SI Report 844741 a governmental funding threshold of \$3,886,388.80 was determined by evaluating the contracts of the EMS Service with Clark County and Floyd County, amounts from wrongful deposits entitled to the UTFPD did not contribute to this threshold. These inappropriate expenditures in excess of governmental funding were sustained by the increased fungibility provided by the comingling of these wrongful deposits into the EMS Service bank account which allowed Noel to make additional unlawful distributions from the EMS Service. The amount requested for reimbursement in SI Report 844741 did not include the amounts that are requested for reimbursement in this report.

We request Jamey Noel to reimburse the Utica Township Fire Protection District in the amount of \$385,000 for the proceeds from the fire truck sales not deposited into the UTFPD's bank account. (See Summary of Charges, page 29)

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INSURANCE PAID BY NEW CHAPEL FIRE AND EMS PAID ON BEHALF OF NEW CHAPEL EMS

While examining the records of the Fire Department, it was determined the commercial insurance coverage for the EMS Service was paid from the funds of the Fire Department. It was determined the EMS Service did not reimburse the Fire Department for the cost of the commercial insurance coverage. The following are the details surrounding the commercial insurance coverage paid for by the Fire Department.

From January 1, 2019 to December 31, 2023, the Fire Department paid \$941,288.62 for an Emergency Service Insurance Package (ESIP) from McNeil & Company, Inc., which specializes in first responder coverage. This package included coverage for employee accidental death, dismemberment, and impairment; crime insurance; personal property; real property; commercial property; and general coverage pertinent to the nonprofit corporation's operations. Property insured under this policy included assets owned by the Fire Department, the EMS Service, the UTFPD, and the NATFPD.

The named insured on each year's policy and subsequent declaration pages was the Utica Township Volunteer Fire Fighters Association. Each year included a "long name insured endorsement" which was amended to include the New Chapel Fire & EMS and the Utica Township Fire Department Incorporated. The endorsement used the legal name of the New Chapel EMS, and the amendment detailed the legal name and one of the assumed business names of the Fire Department.

Policy conditions give all rights to the "first named insured" for which the Utica Township Volunteer Fire Fighters Association (EMS Service) is named first. These conditions give the EMS Service control over the policy while the Fire Department is unable to cancel, renew, amend, or otherwise oversee the coverage for which it is paying. The addition of the Fire Department to the "long name insured endorsement" allowed for the Fire Department to fulfill its contractual obligations to insure the assets of both fire protection districts.

The implementation of this policy, the assets insured therein, the "long name insured endorsement," the use of multiple business names, and the entity used to pay for coverage demonstrate characteristics of common layering techniques. By layering transactions such as these, Jamey Noel treated funds of both corporations as fungible to one another, further obfuscating funds. By paying some EMS Service operational expenses through the Fire Department, the corresponding amount which would have been spent by the EMS Service otherwise was disencumbered and available to be spent from the nonprofit corporation's bank account. Jamey Noel misappropriated funds from this account as detailed in the SBOA SI Report 84474I.

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of the Fire Department and the UTFPD.

Indiana Code 5-11-1-27(m) provides as follows:

"If the attorney general institutes civil proceedings related to this section or under [IC 5-11-5-1](#), the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by [SBOA]; and
 - (2) all costs and reasonable attorney's fees incurred by the attorney general;
- in connection with the civil proceedings."

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Audit costs incurred because of poor records, nonexistent records, or any other inadequate bookkeeping practices, or because of theft or a shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 1)

We request Jamey Noel reimburse the State of Indiana \$120,859.57 for special investigation costs. (See Summary of Charges, page 29)

INTERNAL CONTROL DEFICIENCIES - NEW CHAPEL FIRE & EMS (FIRE DEPARTMENT)

Internal control deficiencies existed that contributed to Jamey Noel's ability to deposit the Fire Department contract payments into the EMS Service bank account that were ultimately used to make unlawful distributions by that nonprofit entity (as described in SI Report 844741). The following is a list of those internal control deficiencies:

Approval Authority

- Documentation was requested, but not provided, that clearly showed the position held by Jamey Noel with the nonprofit corporation over the examination period.
- An "implied power" of Fire Chief was used as the position for Jamey Noel. This notation was found on various financial documents for the nonprofit that were signed by Jamey Noel.
- The Board of Directors' minutes were requested, but not provided for the examination period. Without minutes, it cannot be determined if the financial activity transacted by Jamey Noel was ever presented to and approved by the Board of Directors.
- The investigation revealed that the Board of Directors did not regularly conduct meetings over the examination period until November 2023. Board minutes dated November 9, 2023 to May 2, 2024, were presented for examination.
- Bylaws that covered the examination period were requested, but not provided by the nonprofit. However, Bylaws were approved by the Board of Directors in their meeting on November 9, 2023. Subsequently, the Bylaws were updated, and the nonprofit provided the Amended and Restated Bylaws dated February 1, 2024, for examination. The position of Fire Chief was not cited in either of these documents.

Segregation of Duties

- Jamey Noel initiated disbursements, signed checks, approved disbursements, and conducted financial business on behalf of the Fire Department without oversight by the Board of Directors.
- The Bylaws show the officers of the nonprofit are the president, vice president, secretary, and treasurer. The treasurer is the person in charge of all the financial activity of the nonprofit per the duties stated in the Bylaws. No documentation was presented for examination that indicated Jamey Noel was the treasurer of the nonprofit.

The Indiana State Board of Accounts *Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources*, Section H, states in part the following:

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
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"Entities receiving financial assistance from state or local governments are subject to the following general requirements: . . .

Maintaining a financial management system that provides: . . .

c. Effective control over and accountability for all funds, property and other assets. . . ."

INTERNAL CONTROL DEFICIENCIES UTICA TOWNSHIP FIRE PROTECTION DISTRICT

The UTFPD Board of Fire Trustees (Board) and the Fiscal Officer certified the completion and implementation of an internal control policy as well as internal control training pursuant to Indiana Code 5-11-1-4 and Indiana Code 5-11-1-27(g). However, internal control deficiencies existed within the Fire District which contributed to Jamey Noel's ability to sell the UTFPD assets and deposit the proceeds into the EMS Service bank account which were ultimately used to make unlawful distributions by that nonprofit entity. The following is a list of those internal control deficiencies.

Approval Authority

- The Board minutes maintained by the UTFPD were unsigned.
- There was no record of the Board's approval of prior minutes. Unsigned, unapproved, or otherwise uncertified Board minutes pose an internal control risk as the record can be doctored or events can be misrepresented.
- An examination of the records showed there were two versions of the UTFPD's minutes dated March 9, 2020. Because the UTFPD Board did not certify the minutes, it is indiscernible which copy is correct and true. It also casts doubt on the credibility of the remaining minutes and poses a pervasive internal control risk to the unit. Both copies are shown below:

Utica Township Fire District meeting
Monday 3/9/20 4:01PM

Members present: Ray Castleberry, Joshua Grove, Tim McDonald, and Eric Ballenger

Financial report read and approved

Motion to Re-Establish Cumulative Fund by Ray Castleberry and 2nd by Tim McDonald
VOICE VOTE CARRIED 3-0

Motion to purchase & finance a 2020 Ford-Ferrara mini-pumper not to exceed \$235,000 and
Joshua Grove may sign on behalf of the district by Tim McDonald and 2nd by Eric Ballenger
VOICE VOTE CARRIED 3-0

Adjourned at 4:21PM

Joshua Grove, Fiscal Officer

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
AND UTICA TOWNSHIP FIRE PROTECTION DISTRICT
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Utica Twp. Fire District Meeting

Monday March 9 2020 4:01PM

Present: Ray Castleberry, Eric Ballenger, Tim McDonald and Josh Growe

Financial Report read and approved.

Motion to re-establish cum fire fund by Ray Castleberry, 2nd by Tim McDonald and voice vote
Carried.

Motion by Tim McDonald to approve purchase of 2020 Ferrara Pumper for \$232,000
with financing thru the REV Group / US Bancorp and pay from General and/or Cum Fund
2nd by Eric Ballenger and voice vote carried.

Motion by Tim McDonald to give 2015 Freightliner Pumper to Utica Twp. FD 2nd by Ray
Castleberry. Voice vote carried.

Adjourn at 4:21PM

Note: The differences between the two copies of minutes for the same meeting include the omission of details in Copy 1 or addition of details to Copy 2 pertaining to the approval of the 2015 HME Freightliner transfer detailed prior in this report. Also, details about financing the purchase of another fire truck were included in Copy 2 whereas they are not included in Copy 1. Formatting styles are also inconsistent between both copies.

- The total for the fire trucks listed on a 2022 capital asset list did not agree with the total presented by the UTFPD in the Indiana Gateway for Government Units financial reporting system. The UTFPD should maintain an accurate capital asset list for the proper accountability of all assets owned by the UTFPD.
- Jamey Noel conducted financial activity on behalf of the UTFPD and signed legal documents as "chief" of the UTFPD. No documentation was found during the examination period that showed Jamey Noel's actual position with the UTFPD or that he was given the authority to conduct the financial activity on behalf of the UTFPD.

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. These standards include adequate control activities. According to this manual:

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
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"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

CRIME INSURANCE POLICIES - NEW CHAPEL FIRE & EMS (FIRE DEPARTMENT)

The following is information regarding the crime insurance coverage obtained by the Fire Department:

Policy Period	Amount
06-24-18 to 06-24-19	\$ 150,000
06-24-19 to 06-24-20	500,000
06-24-20 to 06-24-21	500,000
06-24-21 to 06-24-22	500,000
06-24-22 to 06-24-23	500,000
06-24-23 to 06-24-24	500,000

OFFICIAL BOND - UTICA TOWNSHIP FIRE PROTECTION DISTRICT

The following is information regarding the official bond obtained by the UTFPD:

Policy Period	Amount
10-31-18 to 10-31-19	\$ 50,000
10-31-19 to 10-31-20	50,000
10-31-20 to 10-31-21	50,000
10-31-21 to 10-31-22	50,000
10-31-22 to 10-31-23	50,000
10-31-23 to 10-31-24	50,000

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A NEW CHAPEL FIRE & EMS, INC.,
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EXIT CONFERENCE

The contents of this report were discussed with the Officials from the Utica Township Fire Department Incorporated d/b/a New Chapel Fire & EMS, Inc. on December 12, 2024: Shanon Grant, Director; Kevin Wilkerson, Vice President of the Board of Directors; M. Paul Holcomb, President of the Board of Directors; Stephen Prather, Secretary of the Board of Directors; Matt Owen, Chief Executive Officer; Jackie Clowers, Litigation Counsel; and Heather Peters, General Counsel.

The contents of this report were discussed with the Officials from the Utica Township Fire Protection District on December 12, 2024: Joe Jarles, President of the Board of Trustees; Randy D. Leverett, Vice President of the Board of Trustees; Kelly Khuri, Secretary/ Treasurer of the Board of Trustees; Alice Butler, Fiscal Officer; Melissa M. Hofe, Attorney; and Gregory L. Taylor, Attorney.

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED'S RESPONSE

Response to Background

While the Utica Township Fire Department Incorporated d/b/a New Chapel Fire & EMS, Inc. ("Department") along with the Utica Township Fire Protection District ("District") is the subject of the State Board of Accounts Report, the "Background" section also discusses another entity that Jamey Noel ("Noel") was involved with during the reporting period, namely the Utica Township Volunteer Fire Fighters Association d/b/a New Chapel Emergency Medical Service ("EMS"). The "Background" section states that EMS was "maintained and supported" with public funds through contracts with Clark and Floyd Counties. The Department disputes that EMS was "maintained and supported" by public funds as EMS had sufficient revenue through other sources during the reporting period outside of any funds that the report refers to as "public funds."

In the subsection entitled "Maintained and Supported with Public Funds," the Report discusses the various contracts that the Department had during the reporting period which included a fire service contract with New Albany Township Fire District with a term beginning on January 1, 2017 until December 31, 2026; a fire service contract with the District with a term from January 1, 2022 through December 31, 2032; and a fire service contract with Franklin Township in Floyd County signed on September 13, 2023. The Department states that it also had a prior fire service contract with the District with a term from January 1, 2012 through December 31, 2021 which was also in effect for part of the reporting period. This contract is also substantiated by the payment to the Department in the full budgeted amount in 2020.

Response to "Contract Payments Not Deposited into the Proper Bank Account"

Noel's actions of intentionally depositing contract funds into the Association's account instead of the Department is solely ascribed to Noel. However, the Department believes that this raises questions about the board of the Department. This shows there was no oversight by the Board of Directors prior to August 2023. This is an example of the clear derogation of duties of the board in monitoring what Noel did with the Department's funds. The Department thus questions why the SBOA chose not to name any other individual(s) as being responsible for these actions.

Response to "Proceeds from Truck Sales Not Deposited into the Utica Township Fire Protection District's Bank Account"

1. 2012 HME Intruder Ember Truck VIN 44KFT4284CWZ22276

The Report found that between 2020 and 2022, three fire trucks were sold to Brindlee Mountain Fire Apparatus, LLC ("Brindlee"). The Report further found that the proceeds of

the sales was deposited in EMS' account while they were still titled in the name of the District.

The first vehicle was the 2012 HME Intruder Ember Truck with VIN # 44KFT4284CWZ22276. The Report found Noel told Brindlee to pay for the truck with a check paid to the order of "Utica Twp. FD." The title provided by Brindlee named the Utica Township Fire Dept. as the owner of the fire truck. While the registered address for the Department was on Utica Sellersburg Road, the Fire Department did partially operate at 5820 Utica Pike.

The timeline shows that the District purchased the vehicle in July 24, 2012. Noel applied for a new title under the name "Utica Township Fire Dept." and Utica Twp. F.D." Noel sold the vehicle on October 26, 2020. Brindlee paid Noel with the check for \$235,000 on October 27, 2020. Apparently, Noel did not provide a title proving that he had the authority to sell the vehicle prior Brindlee agreeing to purchase the vehicle. Noel did not even provide a title at the time of payment. Instead, Brindlee waited over a week after payment to request the title on November 5, 2020. Noel did not obtain a title showing the vehicle was in the name of Utica Township Fire Dept. until November 7, 2020. The District board minutes on August 18, 2021 show an approval of the transfer of the 2012 HME Intruder to the Department.

The Report finds that since the title was not issued until after the sale that the vehicle was still owned by the District at the time of sale.

2. 2015 Freightliner M2 106 Medium Duty Truck VIN 1FVACYCYXFHGK3008

The second vehicle is a 2015 Freightliner M2 106 Medium Duty Truck with VIN # 1FVACYCYXFHGK3008. The 2015 Freightliner was sold to Brindlee on or about November 10, 2021. The vehicle was originally purchased by the District on February 16, 2015. Noel agreed to sell the vehicle to Brindlee for 2015, and Noel requested that Brindlee make the check payable to Utica Twp. Fire Department. The Report found that the vehicle was purported to be transferred to the Department on March 9, 2020 though minutes of the District. However, the minutes were unsigned and there were two versions of the minutes: one with the transfer and one without. The 2015 Freightliner was still titled in the name of the District at the time of the sale.

3. 2020 Ford E-One Mini Pumper Truck VIN 1D0W5HT4LED98374

The third vehicle is a 2020 Ford E-One Mini Pumper Truck with VIN # 1D0W5HT4LED98374. The District was purchased by the District on April 25, 2020. The sales contract was signed by Noel as Chief of the UTFPD. Handwritten minutes from the District show on December the Trustees approved of the transfer of a 2021 Ford E-One Pumper (the wrong year of the vehicle) with no information about who was supposed to receive it. Noel then sold the 2020 Ford to Brindlee on December 14, 2022 for \$225,000. Noel requested that Brindlee send payment to Utica Twp. FD. The title showed that the vehicle was still in the District's name.

A Brindlee representative merely signed the back of the title along with Noel who signed as "Chief."

The Department takes issue with the Reports' findings over these sales for multiple reasons. First, as it pertains to the Department, it states that the report makes it clear that the Department did not receive any funds for these sales. The minutes attempt to show a paper trail approving of the transfer of the vehicles from the District to the Department. The Report notes that the SBOA found reasons to suspect that the minutes were possibly not credible. The Report does not show if any attempt was made to discuss the minutes with the other Trustees, the record keeper and/or the fiscal officers of the District at the time to verify if they were credible and/or whether the Trustees otherwise had agreed to the transfers.

It appears that all of the vehicles were never actually titled in the Department's name. To the extent the transfers from the District were legitimate exercises of the District's power, the failure to follow through with transferring the title into the name of the Department violates Ind. Code 9-17-3-3.4 which requires the owner of a vehicle to endorse the title when the ownership of a vehicle is transferred. The Department believes the SBOA, or other responsible investigation agency, should further investigate the alleged transfers of the vehicle. If the Trustees agreed to transfer the vehicles to the Department, then their nonfeasance to follow through with transferring the vehicles is violative of the Indiana statute. As it pertains to the 2012 HME Intruder, the minutes show that the documented transfer was after the sale. However, it is possible to document transfers after the fact in corporate minutes. Therefore, more investigation should be undertaken to see if the Trustees had authorized the transfer at an earlier date.

The Report also seems to deem that the minutes themselves were not legitimate to document the transfers. The question then becomes that if those minutes were not legitimate, were the minutes legitimate to document the original purchases of the vehicle? While the Report is directed at the reporting date of January 1, 2019 through December 31, 2023, the possibility that the minutes were suspect then raises questions of how legitimate are the District's previous minutes and other documentation. Additionally, if the minutes were not legitimate, why was the location of the trucks not questioned by the Trustees upon replacement and/or prior to August 2024.

Further, the description of the 2020 Ford E-One Pumper shows that Noel purchased it on behalf of the District. Noel did not have authority to purchase items on behalf of the District unless given to him by the Trustees.

It is clear that the Trustees were not acting independently from Noel during the reporting period. The Trustees had a fiduciary duty to monitor the budget as well as purchases and transfers of equipment on behalf of the tax payers of the UTPD. If the Trustees delegated those duties to Noel without any oversight, then they breached their duty to the tax payers of the District. If the Trustees were not regularly meeting as the minutes suggest, then the

Trustees breached their duty of oversight over Noel. It is clear that Noel, despite not being appointed as a Trustee for the District, was acting independently on behalf of the District with no oversight. Despite this, the Report does not name any other person as being responsible for the charges. The SBOA has simply assigned all blame to Noel as the sole “boogeyman” and let others who were situated to stop the abuses, yet failed to do so, off the hook.

Lastly, a question must be raised as to Brindlee’s responsibility in the purchases. Brindlee purchased vehicles that were titled in the name of the District and paid it to a separate entity without verifying that Noel had the authority to purchase them. For the 2012 HME, Brindlee did not even request a title at the time of purchase. For the 2020 Ford E-One, the title that Noel gave Brindlee still had the vehicle in the name of the District. Clearly, Brindlee did not do any proper due diligence before sending Noel six figure payments for vehicles. Despite this, the Report declines to find Brindlee has any responsibility for any losses to the District.

RESPONSE TO “INSURANCE PAID BY NEW CHAPEL FIRE AND EMS PAID ON BEHALF OF NEW CHAPEL EMS”

As with the failure by Noel to place the contract payments into the proper accounts discussed above, Noel’s actions of paying insurance coverage for the Association out of the funds of the Department is solely ascribed to Noel. However, the Department believes that this raises additional questions about the prior board of the Department. This is another example of the clear derogation of duties of the prior board in monitoring what Noel did with the Department’s funds. The Department thus questions why the SBOA chose not to name any other individual(s) as being responsible for these actions.

RESPONSE TO “SPECIAL INVESTIGATION COSTS”

The Department’s only response to the Special Investigation Costs section is to again note its disagreement with the SBOA’s choice to blame Noel, and only Noel, for the actions he took on behalf of the District and the Department.

RESPONSE TO “INTERNAL CONTROL DEFICIENCIES – NEW CHAPEL FIRE & EMS (FIRE DEPARTMENT)”

The Department again takes issue with the decision by the SBOA to only blame Noel for the actions. This section in particular sets out the clear derogation of duty by the prior Board of the Department during the period up to when the new Board took over. Prior to that, the board members have no evidence that they were conducting any oversight of Noel and his actions. These prior board members should be held accountable for their misfeasance or nonfeasance.

The statutes in the report as it pertains to the prior Board of the Department show that the board members had a fiduciary duty to oversee the actions of the Department. Ind. Code 23-17-13-1(a) provides that the director must discharge his duties in good faith, with the care of an ordinary prudent person and in a manner he reasonably believes to be in the best interests of the company. Pursuant to Ind. Code 27-17-13-1(d), a board member may not be held liable for his actions or inactions unless the director breached or failed to perform the duties and the breach constitutes willful misconduct or recklessness. The actions described in the report show that the prior board members failed to perform their duties in a reckless manner. The prior board members had no oversight over what Noel was doing and allowed him to do essentially whatever he wanted. Therefore, the prior board members should be held liable for the breach of their duties.

RESPONSE TO "INTERNAL CONTROL DEFICIENCIES – UTICA TOWNSHIP FIRE PROTECTION DISTRICT"

The Department further states its objection to decision by the SBOA to only blame Noel for the actions. This section in particular sets out the clear derogation of duty by the Trustees of the District during the investigation period. The Trustees unlawfully delegated to Noel the authority to perform essentially all actions for the District. Despite this breach of fiduciary duty, the SBOA Report declined to find any of the Trustees as liable. These Trustees should be held accountable for their actions and inactions.

As the Accounting and Uniform Compliance Guidelines Manual for Special Districts (quoted in the Report) states: "[f]unds misappropriated, diverted or unaccounted for through malfeasance, misfeasance or nonfeasance in office of any official or employee may be the personal obligation of the responsible official or employee." However, the SBOA sought only to punish Noel's malfeasance while ignoring the malfeasance, misfeasance and/or nonfeasance of the Trustees even though those acts or lack thereof had significant impacts on Utica taxpayers as well as the Southern Indiana community.

CONTRACT PAYMENTS FROM THE UTICA TOWNSHIP FIRE PROTECTION DISTRICT

An area that the SBOA did not discuss in its report is the failure by the District to pay the Department the full amount of the contract payments during the reporting period. This failure should fall upon Noel for his role with the District and Department as well as the Trustees of the District and the prior board members of the Department.

The SBOA Report merely mentions in passing that there was a fire protection contract with the District beginning on January 1, 2022 until December 31, 2032. It fails to mention that there was a previous contract from January 1, 2012 until December 31, 2021. The Report also discusses payments made by the District to the Department during the reporting period.

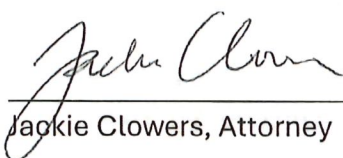
During the reporting period, the Report states that approximately \$227,149.01 was paid out during the reporting period. The fire protection contract between the District and Department states that the District will “pay the Fire Department the budgeted amount of fire protection services to be performed annually.” The District must submit a budget each year to Gateway. On the line item budget there is an entry each year for “Contractual Fire Protection. The Department believes that this is the amount that should have been paid to it each year of the contracts. The following table shows the amounts actually paid and the amounts budgeted by the District:

Year	Amount Paid	Amount Budgeted	Amounts Unpaid
2019	\$111,130.00*	\$131,130	\$20,000
2020	\$131,130**	\$131,130	\$0
2021	\$33,841.60	\$131,130	\$97,288.40
2022	\$0	\$131,130	\$131,130
2023	\$86,047.41	\$141,130	\$55,082.59
Totals	\$362,149.01	\$665,650	\$303,500.99


Notes: * The 2019 payments were made in three payments: \$65,000 (6/27/19), \$10,000 (10/31/19) and \$36,130.00 (12/30/19). The 6/27/19 and 10/31/19 payments were deposited by Noel into the Association’s account instead of the Department’s account. ** The 2020 payments were also made in three payments: \$30,000 (1/10/20), \$30,000 (1/28/20) and \$71,130 (12/27/20). The first two payments on 1/10/20 and 1/28/20 were deposited by Noel into the Association’s account.

Thus, it appears that the District underpaid the Department by \$303,500.99 during the reporting period. This includes no payment at all in calendar year 2022. However, no one is being held responsible for this underpayment in the SBOA Report, not even Noel.

Prepared by:


 Jackie Clowers, Attorney

Approved by:


 Paul Holcomb, President
 Utica Township Fire Department, Inc.


 Matt Owen, Chief Executive Officer
 Utica Township Fire Department, Inc.



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December 20, 2024

¹Also admitted in Indiana
²Also admitted in Tennessee

Indiana State Board of Accounts
302 West Washington St. Room E418
Indianapolis, IN 46204

**Re: State Board of Accounts Special Investigation Report
of Utica Township Fire Protection District**

Mr. Wheel:

Our thanks to the Indiana State Board of Accounts for many hours of diligent work and research. We must remember that, while enlightening, this review is limited in substantive scope and is only a look at the past five years. UTFPD's relationship with Jamey Noel, and consequently the New Chapel Entities, dates back to its inception in 1998. UTFPD believes that the malfeasance goes well beyond that established by this report.

In just the last five years, three of UTFPD's fire trucks were fraudulently transferred to the New Chapel Entities and sold by Jamey Noel for profit. As a result, UTFPD was forced to purchase replacement fire apparatus to ensure Utica Township had sufficient resources for fire protection. If the three trucks had not been sold, UTFPD, and therefore, the taxpayers, would not have had to expend additional funds to purchase replacement vehicles. Replacing the three fire trucks referenced in this report cost the taxpayers approximately \$1,750,000. Numerous other vehicles remain unaccounted for. The trustees of UTFPD will continue to collect evidence and take all necessary effort to identify and recover property which it has been unlawfully deprived of.

The Board of Fire Trustees remains dedicated to holding all wrongdoers accountable for the benefit of its taxpaying constituents. UTFPD knows that the SBOA's findings are just the tip of the iceberg.

Sincerely,

H. Kevin Eddins

UTICA TOWNSHIP FIRE DEPARTMENT INCORPORATED D/B/A, NEW CHAPEL FIRE & EMS, INC.,
 AND UTICA TOWNSHIP FIRE PROTECTION DISTRICT
 SUMMARY OF CHARGES
 (Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Jamey Noel, former Fire Chief:			
Utica Township Fire Department Incorporated d/b/a			
New Chapel Fire & EMS, Inc. (Fire Department):			
Contract Payments Not Deposited into the			
Proper Bank Account, pages 11 and 12	\$ 255,000.00	\$ -	\$ 255,000.00
 Utica Township Fire Protection District:			
Proceeds from Truck Sales Not Deposited into the			
Fire District's Bank Account, pages 12 through 15	441,610.52	56,610.52	385,000.00
 Special Investigation Costs, pages 16 and 17	<u>120,859.57</u>	<u>-</u>	<u>120,859.57</u>
 Totals	<u>\$ 817,470.09</u>	<u>\$ 56,610.52</u>	<u>\$ 760,859.57</u>

This report was forwarded to the Office of the Indiana Attorney General and the Special Prosecutor.



AFFIDAVIT

STATE OF INDIANA)
Clark COUNTY)

We, Chris Sedam, CPA, and James Donoho, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Utica Township Fire Department Incorporated D/B/A New Chapel Fire & EMS, Inc., Floyd County, Indiana, and the Utica Township Fire Protection District, Clark County, Indiana, for the period from January 1, 2019 to December 31, 2023, is true and correct to the best of our knowledge and belief.

Chris Sedam
Field Examiner

James Donoho
Field Examiner

Subscribed and sworn to before me this 28 day of January, 2025.

Sabrina Corbin
Notary Public

My Commission Expires: August 29, 2030
County of Residence: Clark

