

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

SPECIAL INVESTIGATION REPORT

OF

MORGAN COUNTY, INDIANA

January 1, 2023 to December 31, 2023



FILED
05/02/2024

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF MORGAN COUNTY, INDIANA

This is a special investigation report for Morgan County (County), for the period January 1, 2023 to December 31, 2023, and is in addition to any other report for the County as required under Indiana Code 5-11-1. All reports pertaining to the County 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 a lawsuit involving the Board of County Commissioners. 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

April 24, 2024

MORGAN COUNTY
RESULTS AND COMMENTS

BACKGROUND

The County had a contract for legal services with James K. Wisco (Wisco) until the County terminated his appointment on November 20, 2023. In accordance with Indiana Code 5-11-1-27, County officials reported they had not received a settlement check from a lawsuit that had been provided to Wisco. The Indiana State Board of Accounts examined the records and accounting of the Board of County Commissioner's lawsuit. The following describes noncompliance with statutes or the *Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana*.

AMOUNT DUE TO COUNTY

Wisco represented the Board of County Commissioners (Commissioners) in a property lawsuit. The Commissioners were ordered by the Court on January 12, 2023, to pay the Clerk of the Court (Clerk) \$34,100 for the appraised amount of damages to the property in the lawsuit. That amount was paid and remained with the Clerk through October. On October 13, 2023, both parties in the lawsuit agreed to a settlement and the Court ordered the Clerk to pay the defendant \$22,550 and refund the remainder of the money to the County. While the money was with the Clerk it accrued interest. The Clerk issued check Number 139258 in the amount of \$11,734.25 to Wisco on October 16, 2023.

Per review of Wisco's firm's bank account, the County check was deposited into the firm's bank account on October 25, 2023. As of December 31, 2023, the firm's bank account had a negative balance and Wisco had not paid the County its settlement. The Indiana State Board of Accounts was a part of a meeting with Wisco on February 20, 2024, where Wisco stated the money from the settlement had not been paid to the County and had been used on business or personal expenses. Wisco agreed the money should have been paid to the County.

Indiana Code 5-11-6-3 states:

"If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under this chapter or under any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;
- (2) that any public money has been:
 - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or
 - (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, and to the inspector general."

MORGAN COUNTY
RESULTS AND COMMENTS
(Continued)

Units have a responsibility to collect amounts owed to the unit pursuant to procedures authorized by law. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 1)

We requested that Wisco reimburse the County \$11,734.25 for the amount due to the County. (See Summary of Charges, page 7)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs in the investigation of Wisco.

Indiana Code 5-11-1-27(m) states in part:

"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 the state board of accounts . . ."

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 Counties of Indiana, Chapter 1)

We requested that Wisco reimburse the State of Indiana \$2,151.27 for special investigation costs. (See Summary of Charges, page 7)

INTERNAL CONTROLS

The County had sufficient internal controls in place monitoring the County's lawsuit that enabled County officials to detect that the refund the County was to receive in the settlement had not been received in a timely manner. It is important to continue to monitor the internal controls in place to ensure they are working properly and are sufficient.

The Indiana State Board of Accounts (SBOA) is required under IC 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:

"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.

MORGAN COUNTY
RESULTS AND COMMENTS
(Continued)

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. . . ."

INVESTIGATION BY LAW ENFORCEMENT AND OTHER AUTHORITIES

It is our understanding that an investigation into Wisco has been conducted by the Indiana State Police. Additionally, a disciplinary process has been initiated against his law license at the time of this report.

OFFICIAL BOND AND CRIME INSURANCE

Wisco was not covered by an official bond or crime insurance policy of the County.

MORGAN COUNTY
EXIT CONFERENCE

The contents of this report were discussed on April 23, 2024, with James K. Wisco, former County Attorney, and Grace Terrell, Attorney.

The contents of this report were discussed on April 24, 2024, with Joshua Messmer, County Administrator; Donald Adams, Chair of the Board of County Commissioners; Linda Pruitt, County Auditor; Deb Verley, Executive Assistant; Kim Merideth, President of the County Council; and Anne L. Cowgur, County Attorney.

MORGAN COUNTY
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	Charges	Credits	Balance Due
James K. Wisco, former County Attorney:			
Amount Due to County, pages 3 and 4	\$ 11,734.25	\$ -	\$ 11,734.25
Special Investigation Costs, page 4	2,151.27	-	2,151.27
Total for James K. Wisco, former County Attorney	\$ 13,885.52	\$ -	\$ 13,885.52

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

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AFFIDAVIT

STATE OF INDIANA)
)
marion COUNTY)

I, Gina Gambaiani, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of Morgan County, Indiana, for the period from January 1, 2023 to December 31, 2023, is true and correct to the best of my knowledge and belief.

Gina Gambaiani
Field Examiner

Subscribed and sworn to before me this 2 day of May, 2024

Nancy Gerardo
Notary Public

My Commission Expires: Feb. 12, 2031

County of Residence: marion

