

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

SPECIAL INVESTIGATION REPORT

OF

ROCK CREEK TOWNSHIP

BARTHolemew COUNTY, INDIANA

January 1, 2012 to September 30, 2016



FILED
09/12/2017

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials	2
Transmittal Letter	3
Special Investigation Results and Comments:	
Salary Overpayments	4-5
Additional Employer Payroll Taxes.....	5-6
Counter Check Made Payable to Cash	6
Disbursements Made Without Supporting Documentation	6-7
Overpayments to the United States Treasury	7-9
Payment of Unallowable Data and Telephone Expenses	9
Special Investigation Costs	9-10
Internal Control Deficiencies.....	10
Bond Information	10
Exit Conference.....	11
Summary of Charges	12
Affidavit	13

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Trustee	David E. Buzzard (Vacant) Marcus D. Speer	01-01-11 to 09-12-16 09-13-16 to 09-15-16 09-16-16 to 12-31-18
Chairman of the Township Board	Garry L. Barker	01-01-01 to 12-31-17



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY

We have conducted a special investigation of the records of Rock Creek Township (Township), Bartholomew County, for the period from January 1, 2012 to September 30, 2016. The purpose of our investigation was to determine if the accountability for cash and other assets are satisfactory and that the transactions related thereto are in compliance with the laws and regulations of the State of Indiana. The results of our investigation are fully described in the Special Investigation Results and Comments and Summary of Charges as listed in the Table of Contents.

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

February 28, 2017

**ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS**

SALARY OVERPAYMENTS

David E. Buzzard (Buzzard), former Trustee, received \$24,811.80 in excess of the salaries appropriated by the Township Board for the years 2012, 2013, 2014, 2015, and 2016. Jacqueline Buzzard, former Township Clerk, received \$2,729.40 in excess of the salaries appropriated by the Township Board for the years 2012, 2013, 2014, 2015, and 2016. Included in the foregoing amounts, the Township paid the employee's share of withholding taxes to the Internal Revenue Service for the former Trustee totaling \$3,196.80 and the former Township Clerk totaling \$599.40.

The following schedule details the amount of the salary over (under) payments by year:

<u>Over (under) Payments of Salary</u>				
	David E. Buzzard	Jacqueline Buzzard	Totals	
2012	\$ 1,249.20	\$ 279.85	\$ 1,529.05	
2013	1,799.20	149.85	1,949.05	
2014	(900.80)	149.85	(750.95)	
2015	16,464.20	1,249.85	17,714.05	
2016	<u>6,200.00</u>	<u>900.00</u>	<u>7,100.00</u>	
Totals	<u>\$ 24,811.80</u>	<u>\$ 2,729.40</u>	<u>\$ 27,541.20</u>	

In addition, the salary amounts paid to Buzzard and Jacqueline Buzzard, for the years 2012, 2013, 2014, 2015, and 2016 were not properly reported to the Internal Revenue Service and Social Security Administration.

The following schedule details the combined amounts reported by year:

	<u>Salaries by Year</u>			
	<u>Salaries</u>		<u>W-2 Wages</u>	<u>941 Wages</u>
	<u>Appropriated</u>	<u>Salaries Paid</u>	<u>Reported</u>	<u>Reported</u>
2012	\$ 5,700.00	\$ 7,229.05	\$ 6,649.05	\$ 6,649.05
2013	5,700.00	7,649.05	6,649.05	6,649.05
2014	5,700.00	4,949.05	6,649.05	6,649.05
2015	5,700.00	23,414.05	6,649.05	6,649.05
*2016	<u>3,800.00</u>	<u>10,900.00</u>	-	4,986.78
Totals	<u>\$ 26,600.00</u>	<u>\$ 54,141.20</u>	<u>\$ 26,596.20</u>	<u>\$ 31,582.98</u>

*W-2s not issued yet.

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

Indiana Code 36-6-6-10(b) states in part:

"The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and . . .

of all officers and employees of the township."

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. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

We requested that Buzzard reimburse the Township for the salary overpayments in the amount of \$27,541.20. (See Summary of Charges, page 12)

Buzzard deposited \$4,500, \$2,000, and \$6,325 on August 24, 2016, August 29, 2016, and September 1, 2016, respectively, into the Township depository account for the reimbursement of the salary overpayments. (See Summary of Charges, page 12)

ADDITIONAL EMPLOYER PAYROLL TAXES

As a result of the salary overpayments, the Township incurred additional employer payroll taxes in the amount of \$335.36 for the years 2012, 2013, 2014, 2015, and 2016.

The following schedule details the amount of the additional employer payroll taxes paid by the Township by year:

	<u>Additional</u> <u>Employer Payroll</u> <u>Taxes Paid</u>
2012	\$ 63.11
2013	72.60
2014	72.60
2015	72.60
2016	<u>54.45</u>
Total	<u>\$ 335.36</u>

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 official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

We requested that Buzzard reimburse the Township for the additional employer payroll taxes paid due to the salary overpayments in the amount of \$335.36. (See Summary of Charges, page 12)

COUNTER CHECK MADE PAYABLE TO CASH

On May 3, 2016, Buzzard wrote and cashed a counter check made payable to cash in the amount of \$1,000. No evidence was provided to support the validity of this payment.

Disbursements, other than properly authorized petty cash disbursements, shall be by check or warrant, not by cash or other methods unless specifically authorized by law. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

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 official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

We requested that Buzzard reimburse the Township for the counter check made payable to cash in the amount of \$1,000. (See Summary of Charges, page 12)

DISBURSEMENTS MADE WITHOUT SUPPORTING DOCUMENTATION

The following disbursements were made without supporting documentation:

Check Number	Payee	Date	Amount	Description
1221	David Buzzard	01-04-12	\$ 100.00	Mileage
1253	David Buzzard	07-17-12	163.20	State Income Tax
1259	Jackie Buzzard	09-07-12	66.50	Office Supplies, Paper and Ink
1270	David Buzzard	11-17-12	150.00	Mileage Jan-Dec
1315	David Buzzard	06-21-13	150.00	Mileage
1316	Jackie Buzzard	06-26-13	56.00	Office supplies (ink)
1346	David Buzzard	06-27-14	150.00	1/2 mileage
1356	Jackie Buzzard	10-01-14	46.99	Printer Ink
1357	David Buzzard	10-01-14	150.00	Mileage
1371	David Buzzard	12-25-14	150.00	Mileage second half
Debit Card	OfficeMax	02-25-16	69.54	No description
Debit Card	Batteries Plus	03-25-16	85.59	No description
Debit Card	Bartholomew REMC	04-12-16	100.00	No description
Debit Card	OfficeMax	05-02-16	57.21	No description
Debit Card	Marsh	07-26-16	16.59	No description
Total			\$ 1,511.62	

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

No evidence was provided to support the validity of these payments.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

The township trustee is entitled to a sum for mileage in the performance of his official duties equal to the sum per mile paid to state officers and employees (IC 36-6-8-3). The State rate is \$.38 per mile. Mileage Claim Form Number 101 shall be properly completed, listing dates of authorized travel, details of travel, miles traveled, nature of business, etc., for reimbursements for mileage before payment is made.

Official Opinion 74 of the Indiana Attorney General, issued in 1953, concluded there is no statutory authority for payment of a fixed amount of travel allowance to public employees and that a public employer may not reimburse an employee for travel expense which is, in fact, not incurred by the employee. Also, there is no authority for a travel allowance to be paid without regard to the number of miles, if any, actually traveled.

Therefore, the State Board of Accounts is of the audit position that a fixed amount for travel allowance should not be paid. The prescribed method is to reimburse the employee for travel on the basis of a claim filed on Mileage Claim, Form 101. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 2)

We requested that Buzzard reimburse the Township for disbursements made without supporting documentation in the amount of \$1,511.62. (See Summary of Charges, page 12)

OVERPAYMENTS TO THE UNITED STATES TREASURY

In 2013, 2014, and 2015, payments totaling \$13,385.64 were made to the United States Treasury. For that period, the total amount due per the employer's quarterly tax returns filed was \$5,298.83, resulting in \$8,086.81 in overpayments to the United States Treasury. Subsequently, a refund of \$1,550.17 was received reducing the overpayment to \$6,536.64.

The following schedule details the amount of overpayments:

Check Number	Date	Amount
1280	01-15-13	\$ 1,391.21
1291	01-25-13	305.50
1333	01-22-14	48.53
1334	01-22-14	1,705.74
1359	11-05-14	364.43
1360	11-05-14	364.43
1361	11-05-14	364.43
1362	11-05-14	364.43
1363	11-05-14	364.43
1364	11-05-14	364.43
1365	11-05-14	612.46

**ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)**

Check Number	Date	Amount
Bank Debit	11-26-14	4,810.51
1374	12-28-14	129.44
1375	12-28-14	77.21
1376	12-28-14	120.47
1377	12-28-14	102.72
1378	12-28-14	19.02
1387	03-05-15	<u>1,876.25</u>
 Total Paid		<u>\$ 13,385.64</u>
 Amounts Due per Employer's Quarterly Tax Returns		
2012		\$ 1,887.33
2013		1,705.75
2014		1,705.75
2015		**
 ** No Payments Made as of September 30, 2016		
Total Amount Due		<u>5,298.83</u>
Total Overpayments		<u>\$ 8,086.81</u>
 Refunds from United States Treasury		
2013	Rock Creek Township	\$ (129.40)
2013	Rock Creek Township	(120.47)
2014	Rock Creek Township	(102.71)
2014	Rock Creek Township	(11.94)
2014	Rock Creek Township	<u>(1,185.65)</u>
Total of Overpayments Subsequently Refunded		<u>(1,550.17)</u>
Overpayments to the United States Treasury		<u>\$ 6,536.64</u>

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

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 1)

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

We requested that Buzzard reimburse the Township for undocumented payments to the United States Treasury in the amount of \$6,536.64. (See Summary of Charges, page 12)

PAYMENT OF UNALLOWABLE DATA AND TELEPHONE EXPENSES

Township funds were used to pay for 100 percent of the costs of a wireless home phone line and internet access in 2012, 2013, 2014, 2015, and 2016, totaling \$4,389.57.

During the investigation period, the Township office was in the Trustee's home. The invoices for these services were in the name of "Dave Buzzard," not the Township. Authorization for the payments of these services was not documented in the Board minutes, and there was no appropriation in the Township budget for telephone or internet expenses. No evidence was provided to determine that the telephone or data was restricted to Township business; therefore, Township funds may be used to pay for up to \$2,194.78, which represents 50 percent of the cost of these services. Additionally, the cell phone was not turned over to the current Trustee when Buzzard resigned.

Indiana Code 36-6-8-3(a) states in part:

"The annual appropriation to a township executive for the expenses of renting an office and telephone . . . expenses must, as nearly as possible, be equal to the actual cost of those items. If the township executive uses a part of the executive's residence for an office, the township legislative body shall appropriate a reasonable sum for that office space."

Indiana Code 12-20-5.5-3(a) states: "The township trustee shall ensure adequate access to township assistance services, including a published telephone number in the name of the township."

For telephone, cell phone, and internet services that are not restricted to Township use, then Township funds may be used to pay for up to 50% of the cost of the base service.

Documentation should be retained to provide evidence that the telephone/cell phone number has been provided to the public as the contact number for the Township office. Common examples of acceptable documentation would include: a copy of the listing in a telephone directory, signage at the township office or a public building, listing on a governmental unit's website, etc. Using Township funds to pay for personal use of telephone, cell phone, or internet services may be the personal obligation of the responsible official or employee. (Township Bulletin, Volume 311, Page 5)

Buzzard was requested to reimburse the Township \$2,194.79 for the payment of unallowable data and telephone expenses. (See Summary of Charges, page 12)

SPECIAL INVESTIGATION COSTS

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

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 Townships, Chapter 1)

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SPECIAL INVESTIGATION RESULTS AND COMMENTS
(Continued)

We requested that Buzzard reimburse the State of Indiana \$4,444.55 for special investigation costs. (See Summary of Charges, page 12)

INTERNAL CONTROL DEFICIENCIES

The former Trustees, who served as the Township executive and the Township Fiscal Officer, were responsible for all aspects of Township financial activity. This included preparing checks, recording financial transactions, and monitoring budget compliance.

There was no required oversight of Township financial activity on an ongoing basis by another individual. Due to this lack of segregation of duties, the salary overpayment, payment of personal expenses, reimbursement for unallowable cell phone and internet expenses, and payment of penalty, interest, and overpayment of payroll taxes were able to occur and not be identified timely.

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. The 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.

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. . . ."

BOND INFORMATION

The following is information regarding official bonds obtained by the Township:

Period	Amount
01-01-11 to 12-31-11	\$ 30,000
01-01-12 to 12-31-12	30,000
01-01-13 to 12-31-13	30,000
01-01-14 to 12-31-14	30,000
01-01-15 to 12-31-15	30,000
01-01-16 to 12-31-16	30,000

ROCK CREEK TOWNSHIP, BARTHolemew COUNTY
EXIT CONFERENCE

The contents of this report were discussed on March 2, 2017, with Marcus D. Speer, Trustee; Garry L. Barker, Chairman of Township Board; and David E. Buzzard, former Trustee.

ROCK CREEK TOWNSHIP, BARTHOLOMEW COUNTY
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
David E. Buzzard, former Trustee:			
Salary Overpayments, pages 4 and 5	\$ 27,541.20	\$	\$
Paid by Cashier's Check, deposited to Township account on August 24, 2016		4,500.00	
Paid by Cashier's Check, deposited to Township account on August 29, 2016		2,000.00	
Paid by Cashier's Check, deposited to Township account on September 1, 2016		6,325.00	14,716.20
Subtotal	<u>27,541.20</u>	<u>12,825.00</u>	<u>14,716.20</u>
Additional Employer Payroll Taxes, pages 5 and 6	335.36	-	335.36
Counter Check Made Payable to Cash, page 6	1,000.00	-	1,000.00
Disbursements Made Without Supporting Documentation, pages 6 and 7	1,511.62	-	1,511.62
Overpayments to the United States Treasury, pages 7 through 9	6,536.64	-	6,536.64
Payment of Unallowable Data and Telephone Expenses, page 9	<u>2,194.79</u>	-	<u>2,194.79</u>
Totals	39,119.61	12,825.00	26,294.61
Special Investigation Costs, pages 9 and 10	<u>4,444.55</u>	-	<u>4,444.55</u>
Totals	<u>\$ 43,564.16</u>	<u>\$ 12,825.00</u>	<u>\$ 30,739.16</u>

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

AFFIDAVIT

STATE OF INDIANA)
Hancock COUNTY)

I, Eugene West, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of Rock Creek Township, Bartholomew County, Indiana, for the period from January 1, 2012 to September 30, 2016, is true and correct to the best of my knowledge and belief.

Eugene West
Field Examiner

Subscribed and sworn to before me this 5 day of APRIL, 2017.

Melvin Branson
Notary Public

My Commission Expires: 12-31-2018

County of Residence: Hancock