

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

SPECIAL INVESTIGATION REPORT

OF

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT

HAMILTON COUNTY, INDIANA

January 1, 2013 to December 31, 2016



FILED
05/25/2018

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Transmittal Letter	2
Results and Comments:	
Organizational Structure	3
Unauthorized Payments Made to Department Treasurer.....	3-4
Unauthorized Cash Withdrawals - ATM, Checks, and Checking Account Withdrawals	4-6
Unauthorized Cash Withdrawals for Petty Cash	6-7
Unauthorized Cash Withdrawal for the Lapel Community Association	7-8
Unauthorized Cash Withdrawal from Deposit of Township Distribution	8-9
Unauthorized Personal Debit Card Purchases.....	9-11
Penalties, Interest, and Other Charges	11-12
Overpayment of Payroll Taxes	12-13
Special Investigation Costs	13
Internal Controls	13
Ongoing Investigation.....	13
Exit Conference.....	14
Summary of Charges	15
Affidavit.....	17



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE WAYNE TOWNSHIP VOLUNTEER
FIRE DEPARTMENT, HAMILTON COUNTY, INDIANA

This is a special investigation report for the Wayne Township Volunteer Fire Department (Department), for the period January 1, 2013 to December 31, 2016.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. Our procedures were limited to records associated with receipts and disbursements. 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, 2018

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS

ORGANIZATIONAL STRUCTURE

The Wayne Township Volunteer Fire Department (Department) filed Articles of Incorporation, formed pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1981, on December 31, 2010. On January 2, 2011, they received a Certificate of Incorporation identifying them as a Non-Profit Domestic Corporation. No business entity report has been filed with the Indiana Secretary of State since February 6, 2012. The entity was administratively dissolved by the Secretary of State on June 4, 2014, for failure to file business entity reports.

The Department is registered with the Internal Revenue Service as an "Exempt Organization," other than Public Charity or Private Foundation, as described in Internal Revenue Code, 26 U.S.C. § 501.

Indiana Code 23-1-46-1 states in part:

"The secretary of state may commence a proceeding under section 2 of this chapter to administratively dissolve a corporation if: . . .

- (2) the corporation does not deliver for filing its biennial report to the secretary of state within sixty (60) days after it is due; . . ."

UNAUTHORIZED PAYMENTS MADE TO DEPARTMENT TREASURER

Norman Burgess (Burgess), former Treasurer of the Department, received unauthorized payments from the Department 112 times totaling \$59,656.49. No documentation or other authority for these payments was presented during the investigation. The payments in question were not reported to the third-party that provided payroll services, nor were they included in any of the payroll reports prepared on behalf of the Department.

Twenty out of twenty-one unauthorized payments in 2015 were traced to Burgess' personal bank account.

The following schedule details the unauthorized payments by year:

<u>Years</u>	<u>Unauthorized Payments</u>	<u>Number of Checks Issued</u>
2013	\$ 9,423.24	21
2014	3,718.07	12
2015	18,493.00	21
2016	<u>28,022.18</u>	<u>58</u>
Totals	<u>\$ 59,656.49</u>	<u>112</u>

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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

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

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.
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- 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. . . ."

We have requested Burgess reimburse the Department \$59,656.49 for these unauthorized payments. (See Summary of Charges, page 15)

**UNAUTHORIZED CASH WITHDRAWALS - ATM, CHECKS,
AND CHECKING ACCOUNT WITHDRAWALS**

Burgess initiated unauthorized cash withdrawals from the Department 226 times, totaling \$71,133.70.

Burgess used debit cards issued in the name of the Department for 218 unauthorized Automatic Teller Machine (ATM) cash withdrawals, totaling \$66,741.70. Two ATM withdrawals were made on March 30, 2015, and totaled \$606.50 (\$600 cash plus \$6.50 service charge). A review of Burgess' personal bank account, including deposit slips, revealed a cash deposit of \$600 made on April 2, 2015. No documentation was presented to support these withdrawals.

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

Burgess issued four unauthorized checks made payable to "Cash." All four checks were endorsed by Burgess and totaled \$3,125. One of the checks, dated August 25, 2016, in the amount of \$1,500, noted "Kitchen Supplies" in the memo section of the check. One of the checks, dated September 30, 2016, in the amount of \$625, noted "Kitchen Stuff" in the memo section of the check. No documentation was presented to support these unauthorized checks.

Burgess obtained four unauthorized cash withdrawals totaling \$1,267 through checking account withdrawal forms submitted to the bank. All checking account withdrawal forms were signed by Burgess. No documentation was presented to support these unauthorized checking account withdrawals.

The following schedule details the unauthorized cash withdrawals by year:

Years	Unauthorized Cash Withdrawals	Number of Transactions
2013	\$ 18,261.00	52
2014	24,454.75	64
2015	14,971.45	62
2016	13,446.50	48
Totals	\$ 71,133.70	226

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

- 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. . . ."

We have requested Burgess reimburse the Department \$71,133.70 for these unauthorized cash withdrawals. (See Summary of Charges, page 15)

UNAUTHORIZED CASH WITHDRAWALS FOR PETTY CASH

Burgess issued eight checks totaling \$2,708.47 to "Cash" and noted "Petty Cash" in the memo section of the check. The checks were endorsed by Burgess. Interviews with Ronald Taylor, current Fire Chief, and Bryan Mason, current Assistant Fire Chief, indicated a petty cash fund has never been used by the Department. No documentation was presented to support the withdrawals for petty cash.

The following schedule details the unauthorized cash withdrawals by year:

Years	Unauthorized Cash Withdrawals for Petty Cash
2013	\$ 1,050.00
2014	673.47
2015	400.00
2016	585.00
Totals	\$ 2,708.47

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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

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WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

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:

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- e. Accounting records that are supported by source documentation. . . ."

We have requested Burgess reimburse the Department \$2,708.47 for these unauthorized cash withdrawals for petty cash. (See Summary of Charges, page 15)

UNAUTHORIZED CASH WITHDRAWAL FOR THE LAPEL COMMUNITY ASSOCIATION

Burgess issued a check, dated July 10, 2015, made payable to "Cash" and noted "Village"[sic] Fair (Lapel)" in the memo section of the check. The check was endorsed and negotiated by Burgess on July 13, 2015. An interview with the Treasurer of the Lapel Community Association indicated the \$1,500 was not received by the Association. A review of Burgess' personal bank account indicated a cash deposit of \$1,500 on July 13, 2015.

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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Maintaining a financial management system that provides:

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

- a. Accurate, current and complete disclosure of the financial results of each government sponsored project or program.
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- 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. . . ."

We have requested Burgess reimburse the Department \$1,500 for this unauthorized cash withdrawal. (See Summary of Charges, page 15)

UNAUTHORIZED CASH WITHDRAWAL FROM DEPOSIT OF TOWNSHIP DISTRIBUTION

The Wayne Township Trustee issued a check, dated February 20, 2014, to the Department in the amount of \$5,074. Burgess deposited the check on February 20, 2014. The deposit ticket, which was signed by Burgess, reflected a "less cash received" amount of \$1,250, making the net deposit of \$3,824.

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

- 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. . . ."

We have requested Burgess reimburse the Department \$1,250 for these unauthorized cash withdrawals. (See Summary of Charges, page 15)

UNAUTHORIZED PERSONAL DEBIT CARD PURCHASES

Burgess used debit cards issued in the name of the Department for the following unauthorized personal purchases totaling \$48,299.22.

Funeral Expenses

Burgess used a debit card, issued in the name of the Department, in 2013 for funeral expenses in the amount of \$568.30. Information obtained from the funeral home indicated the payment was made on behalf of the father of Burgess.

Fuel/Convenience Stores

Interviews with the current Fire Chief, the current Assistant Fire Chief, and the Township Trustee indicated the fire department equipment used both diesel and gasoline fuels. Diesel fuel was stored in bulk tanks located on the Department property and was purchased in large quantities. Gasoline purchases, when necessary, were all made using a gas credit card. All fuel expenses were paid by the Township Trustee from township funds.

There were 251 charges at convenience stores totaling \$9,681.75. Some purchases were made at convenience stores as far as 1,000 miles from the Department.

Food

Interviews with the current Fire Chief and the current Assistant Fire Chief indicated food was occasionally provided for the monthly meetings and training of the Department, which were both held on the fourth Tuesday of each month. There were 126 food purchases totaling \$6,027.45 that, based on purchase dates, were not used for monthly meetings or any other known valid Department reason.

Online Retail Merchant

Burgess used debit cards issued in the name of the Department for 104 unallowable purchases from an online retail merchant, totaling \$3,960.32. Information obtained from the online retail merchant detailed items purchased, billing addresses, mailing addresses, cost by item, etc. The detail indicated Norm Burgess was the Customer Email, Customer Name, Billing Name, Billing Phone, and Credit Card Name.

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

Child Support

Burgess' wages were being garnished for child support payments. Payments were made for child support through debit charges on the Department checking account. Child support payments made through debit charges on behalf of Burgess exceeded the amounts garnished by \$717.23.

Other

There were 290 payments totaling \$27,344.17 for other miscellaneous expenses not related to the operation of the Department. These transactions included, but were not limited to: pharmacy purchases, personal clothing, travel, payments to a youth hockey league, phone, satellite television, trash disposal, electric service, credit card payments, payments to the Bureau of Motor Vehicles as well as other unallowable vendors of the Department.

Interviews with the current Fire Chief, current Assistant Fire Chief, and Township Trustee indicated all expenses for clothing, travel (if applicable), trash disposal, and electric were paid by the Township. The Township owns all vehicles used by the Department, so payments to the Bureau of Motor Vehicles were not Department expenses. In addition, the current Fire Chief and current Assistant Fire Chief indicated they have had the same account with the current phone company since April 16, 2012, and have had the same account for satellite television since February 19, 2013.

The following schedule details the unauthorized debit charges by year:

Description	Year 2013	Year 2014	Year 2015	Year 2016	Child Support	Totals
Funeral Expenses	\$ 568.30	\$ -	\$ -	\$ -	\$ -	\$ 568.30
Fuel/Convenience Stores	3,011.40	3,379.19	2,470.77	820.39	-	9,681.75
Food	1,701.54	1,872.01	1,828.91	624.99	-	6,027.45
Online Retail Merchant	-	55.61	3,155.96	748.75	-	3,960.32
Child Support	-	-	-	-	717.23	717.23
Other	7,037.67	8,329.62	7,071.57	4,905.31	-	27,344.17
Totals	\$ 12,318.91	\$ 13,636.43	\$ 14,527.21	\$ 7,099.44	\$ 717.23	\$ 48,299.22

The Internal Revenue Service *Compliance Guide for Tax Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)* states in part:

"Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider. . . ."

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WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

Maintaining a financial management system that provides:

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- 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. . . ."

We have requested Burgess reimburse the Department \$48,299.22 for these unauthorized and or undocumented debit charges. (See Summary of Charges, page 15)

PENALTIES, INTEREST, AND OTHER CHARGES

The Department paid 200 charges associated with overdraft fees, automatic teller machine fees, penalties, interest, and other charges totaling \$6,827.28 to the depositories used by the Department.

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

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- e. Accounting records that are supported by source documentation. . . ."

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

We have requested Burgess reimburse the Department \$6,827.28 for overdraft fees, automatic teller machine fees and penalties, interest, and other charges incurred by the Department. (See Summary of Charges, page 15)

OVERPAYMENT OF PAYROLL TAXES

The Department failed to pay the proper amounts of federal and state payroll taxes during 2014, 2015, and 2016. In October 2016, the Department, as a result of an Internal Revenue Service audit, paid the U.S. Department of Treasury \$25,000 to settle the unpaid taxes, penalties, and interest. The following schedule details the total taxes due as well as the payments made:

Years	State Taxes Due	State Tax Payments Made	Federal Taxes Due	Federal Tax Payments	Total Over (Under) Payments
2013	\$ 1,918.16	\$ 1,918.16	\$ 9,175.20	\$ 9,175.20	\$ -
2014	3,417.71	3,417.71	16,493.20	7,500.00	(8,993.20)
2015	3,227.68	3,491.13	16,983.56	6,141.60	(10,578.51)
2016	<u>4,087.21</u>	<u>4,087.21</u>	<u>19,437.86</u>	<u>44,437.86</u>	<u>25,000.00</u>
Totals	<u>\$ 12,650.76</u>	<u>\$ 12,914.21</u>	<u>\$ 62,089.82</u>	<u>\$ 67,254.66</u>	<u>\$ 5,428.29</u>

Based on the information schedule above, the Department has paid \$5,428.29 in excess of the amount due for payroll taxes to the State of Indiana and the U.S. Treasury.

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- e. Accounting records that are supported by source documentation. . . ."

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
RESULTS AND COMMENTS
(Continued)

We requested Burgess to reimburse the Department \$5,428.29 for excess payments to the state and federal taxing agencies during 2014, 2015, and 2016. (See Summary of Charges, page 15)

SPECIAL INVESTIGATION COSTS

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

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.

We requested Burgess to reimburse the State of Indiana \$41,571.60 for special investigation costs.

INTERNAL CONTROLS

Burgess, as Treasurer, was responsible for all aspects of the Department's financial activity. This included preparing checks, depositing receipts, recording financial transactions, and reconciling the bank accounts.

There was no required oversight of the Department's activity on an ongoing basis by another individual nor separation of duties between individuals. The lack of monitoring and segregation of duties allowed, checks issued without supporting documentation, undocumented cash withdrawals, unauthorized ATM withdrawals, payments of penalties, service charges, and overdraft fees to occur without being identified timely.

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:

"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. . . ."

ONGOING INVESTIGATION

The Indiana State Police, in conjunction with the FBI, concurrently conducted an investigation of the issues discussed in this report. On March 13, 2018, Burgess was indicted in federal court on six counts of wire fraud.

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
EXIT CONFERENCE

The contents of this report were discussed on April 24, 2018, with Ronald Taylor, Fire Chief, and Bryan Mason, Assistant Fire Chief.

We requested an exit conference with Norman Burgess, former Treasurer, through a certified letter; however, no response was received.

WAYNE TOWNSHIP VOLUNTEER FIRE DEPARTMENT
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Norman R. Burgess, former Treasurer of the Wayne Township Volunteer Fire Department:			
Unauthorized Payments Made to Department Treasurer, pages 3 and 4	\$ 59,656.49	\$ -	\$ 59,656.49
Unauthorized Cash Withdrawals - ATM, Checks, and Checking Account Withdrawals, pages 4 through 6	71,133.70	-	71,133.70
Unauthorized Cash Withdrawals for Petty Cash, pages 6 and 7	2,708.47	-	2,708.47
Unauthorized Cash Withdrawal for the Lapel Community Association, pages 7 and 8	1,500.00	-	1,500.00
Unauthorized Cash Withdrawal from Deposit of Township Distribution, pages 8 and 9	1,250.00	-	1,250.00
Unauthorized Personal Debit Card Purchases, page 9 through 11	48,299.22	-	48,299.22
Penalties, Interest, and Other Charges, pages 11 and 12	6,827.28	-	6,827.28
Overpayment of Payroll Taxes, pages 12 and 13	5,428.29	-	5,428.29
Special Investigation Costs, page 13	<u>41,571.60</u>	-	<u>41,571.60</u>
Totals	<u>\$ 238,375.05</u>	<u>\$ -</u>	<u>\$ 238,375.05</u>

This report was forwarded to the Office of the Indiana Attorney General, the United States Attorney's Office, and the local prosecuting attorney.

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AFFIDAVIT

STATE OF INDIANA)
)
MARION COUNTY)

I, Stephanie Heath, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the Wayne Township Volunteer Fire Department, Hamilton County, Indiana, for the period from January 1, 2013 to December 31, 2016, is true and correct to the best of my knowledge and belief.

Stephanie Heath
Field Examiner

Subscribed and sworn to before me this 18 day of MAY, 2018.

Juanita M. Hendricksen
Notary Public

My Commission Expires: 10-19-23

County of Residence: HENDRICKS

