

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

SPECIAL INVESTIGATION REPORT

OF

KEYSER TOWNSHIP

DEKALB COUNTY, INDIANA

January 1, 2013 to December 31, 2018



FILED
03/30/2020

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF KEYSER TOWNSHIP, DEKALB COUNTY, INDIANA

This is a special investigation report for Keyser Township, DeKalb County, for the period January 1, 2013 to December 31, 2018, and is in addition to any other report for the Township as required under Indiana Code 5-11-1. All reports pertaining to the Township 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 the payment of payroll and related withholding taxes, the sale of a cemetery plot, and the ledger and bank reconciliation at December 31, 2018. 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

January 21, 2020

KEYSER TOWNSHIP, DEKALB COUNTY
RESULTS AND COMMENTS

PENALTIES AND INTEREST

Clinton Lay (Lay), former Trustee, neglected to timely remit the proper payroll withholding taxes, and failed to timely file Wage and Tax Statements, Federal Forms W-2 (W-2s), and Employer's Quarterly Federal Tax Returns (941s) to the Internal Revenue Service (IRS) for the years 2013 to 2018. The IRS has assessed penalties and interest in the amount of \$5,175.83 for failure to remit the tax withholdings and file W-2s and 941s. On November 25, 2019, the Township entered into a payment plan with the IRS, with the first payment due January 15, 2020. The Township included the anticipated debt in its 2020 budget, expecting to pay the entire balance by January 15, 2020. The Township paid the assessed penalties and interest of \$5,175.83 on January 2, 2020.

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions, and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (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 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

We requested Lay to reimburse the Township \$5,175.83 for penalties and interest incurred for failure to properly file federal reports and remit payroll taxes. (See Summary of Charges, page 8)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred costs, in the amount of \$5,507.62, due to the special investigation of Keyser 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)

We requested that Lay reimburse the State of Indiana for special investigation costs in the amount of \$5,507.62. (See Summary of Charges, page 8)

KEYSER TOWNSHIP, DEKALB COUNTY
RESULTS AND COMMENTS
(Continued)

OFFICIAL BOND COVERAGE

The former Trustee obtained the following official bonds:

<u>Period</u>	<u>Amount</u>
01-01-2011 to 01-01-2015	\$ 30,000
02-26-2016 to 02-28-2017	30,000

The former Trustee failed to obtain an official bond as required by statute in 2017 and 2018.

The trustee shall file an individual official surety bond. The township board shall fix the amount of the bond as follows: (1) The amount of annual coverage must equal (\$30,000) thirty thousand dollars for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2). (2) The amount of annual coverage may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the fiscal body approves a greater amount of annual coverage for the officer or employee. The township board may, by resolution, authorize blanket bond coverage for the aforementioned. IC 5-4-1-18 (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 2)

CASH NOT DEPOSITED

Lay received a \$700 cash payment for the sale of two cemetery plots. The receipt of the cash was evidenced with a handwritten piece of paper describing the transaction on June 19, 2018, and signed by Lay. The current Trustee, Mike Lilly (Lilly), could not locate the deposit in the Township's bank account. On August 15, 2019, Lay reimbursed the Township \$700 for the cash not deposited.

All financial transactions pertaining to the unit must be recorded in the records of the unit at the time of the transaction. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

Indiana Code 5-13-6-1(c) states in part:

". . . The public funds collected by township trustees shall be deposited in the designated depository on or before the first and fifteenth day of each month. Public funds deposited under this subsection shall be deposited in the same form in which they were received."

UNDERPAYMENT OF SALARIES

During the course of researching the non-payment of payroll taxes, the Trustee discovered that the former Trustee, along with the Township Clerk and Township Board members, were underpaid based on their net pay checks, and computations made for reporting wages and withholdings for the W-2s and 941s for the years 2013 through 2018. The Township Board and Trustee agreed to pay the Township Clerk and Township Board members the salaries due totaling \$596.82. The Township Clerk and Township Board members were paid on December 18, 2019.

KEYSER TOWNSHIP, DEKALB COUNTY
RESULTS AND COMMENTS
(Continued)

When comparisons of salaries approved per the budgets were made to wages paid, it was determined that the Township Clerk remains underpaid by \$1,385.25 from 2017 and 2018, and Lay was underpaid, and remains unpaid, by \$1,768.60 for the years 2013 through 2018 as of the date of this report.

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

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

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

(d) Except as provided in subsection (h), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(f) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2. . . ."

Indiana Code 36-6-6-11(d) states in part:

"The legislative body shall include in the budget: . . .

- (2) the salaries fixed under section 10 of this chapter."

CASH NECESSARY TO BALANCE

The Township's ledger balance exceeded the Township's reconciled bank balance at December 31, 2018, by \$695.83, reflecting a cash shortage. The current Trustee was unable to identify the cause for the discrepancy; however, the investigation uncovered at least one additional outstanding check issued in 2016 that was not recorded on the current Trustee's outstanding check list totaling \$156.06. For investigative purposes, a complete analysis of detail transactions, ledger, and bank activity was not performed to determine if there were any additional errors and omissions.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance must agree. If the reconciled bank balance is less than the subsidiary or control ledgers, the amount needed to balance may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

KEYSER TOWNSHIP, DEKALB COUNTY
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS

There were no internal controls or segregation of duties in the operation of the Township and no oversight by the Township Board.

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. . . ."

KEYSER TOWNSHIP, DEKALB COUNTY
EXIT CONFERENCE

The contents of this report were discussed on February 25, 2020, with Michael J. Lilly, Trustee; Don Chaffin, Township Advisory Board Chairman; Kathryn Sattison, Township Advisory Board member; and Clinton Lay, former Trustee.

KEYSER TOWNSHIP, DEKALB COUNTY
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Clinton Lay, former Trustee			
Penalties and Interest, page 3	\$ 5,175.83	\$ -	\$ 5,175.83
Special Investigation Costs, page 3	<u>5,507.62</u>	<u>-</u>	<u>5,507.62</u>
 Totals	 <u>\$ 10,683.45</u>	 <u>\$ -</u>	 <u>\$ 10,683.45</u>

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

AFFIDAVIT

STATE OF INDIANA)
)
Porter COUNTY)

I, Michelle M. Janosky, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of Keyser Township, DeKalb County, Indiana, for the period January 1, 2013 to December 31, 2018, is true and correct to the best of my knowledge and belief.

Michelle M. Janosky
Field Examiner

Subscribed and sworn to before me this 26 day of March, 2020

Jane M. Jordan
Notary Public

My Commission Expires: 9/15/2021
County of Residence: Porter

