

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

SPECIAL INVESTIGATION REPORT

OF

GNAW BONE REGIONAL SEWER DISTRICT

BROWN COUNTY, INDIANA

June 1, 2019 to September 2, 2020



FILED
12/09/2021

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE GNAW BONE REGIONAL
SEWER DISTRICT, BROWN COUNTY, INDIANA

This is a special investigation report for the Gnow Bone Regional Sewer District (District), for the period June 1, 2019 to September 2, 2020, and is in addition to any other report for the District as required under Indiana Code 5-11-1. All reports pertaining to the District 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 customer billings and bank transfers. 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

November 2, 2021

GNAW BONE REGIONAL SEWER DISTRICT RESULTS AND COMMENTS

BACKGROUND

The Indiana State Board of Accounts was contacted by the Indiana State Police (ISP) after the ISP received concerns regarding unusual transfers and banking activity in an account owned by the Gnow Bone Regional Sewer District (District) and opened by Frank Muzzillo (Muzzillo), CPA. The District hired the FLM Financial Group (FLM), owned by Muzzillo, to provide billing services for the District.

UNSUPPORTED BANK TRANSFERS

In the February 2019 board minutes of the Helmsburg Regional Sewer District (HRSD), a neighboring sewer district, it was stated that the Gnow Bone Regional Sewer District was interested in joining forces with the HRSD for billing purposes. The board minutes further stated Muzzillo would take the two-day software training for the billing software and Muzzillo had offered to handle the billing for both sewer districts, charging a rate of \$8.50 per customer per month. We asked for the service contract between the District and the FLM; however, one was not provided and no one could confirm one existed.

On June 19, 2019, Muzzillo opened a business bank account in the name of the Gnow Bone Regional Sewer District. New account documents stated the purpose of the account was "billing." Muzzillo was the only authorized signer on the account.

This bank account was used to collect payments from the District's customers. Each month, Muzzillo sent bills to the customers and the customers remitted their payments to this bank account by funds transfer or by mailing the payment to the FLM office address. Per District officials, Muzzillo was to remit these collections monthly to the District's main bank account, which was held at another bank and controlled by the District's board members.

On July 8, 2019, Muzzillo began making unsupported transfers out of the District's bank account to both his personal and the FLM's bank account. Transfer amounts varied from \$39.50 to \$2,000. For the period July 8, 2019 to August 21, 2020, 40 transfers totaling \$6,660 were made to Muzzillo's personal bank account, and 101 transfers totaling \$30,499.50 were made to the FLM's bank account. Out of the 40 transfers made to Muzzillo's personal bank account, 28 transfers occurred on days that Muzzillo's bank account had casino activity. Out of the 101 transfers made to the FLM, 66 transfers occurred on days that the FLM's bank account had casino activity.

No documentation was provided to support any of the transfers to Muzzillo or the FLM's bank accounts. However, it was noted that only two checks, totaling \$1,396, were issued to the FLM for providing billing services. We did the calculation of billing service fees from June 1, 2019 to August 31, 2020, and the amount totaled \$11,305. All monthly billing fees should have been paid by check, supported by an approved claim, and not made by bank transfer.

In addition, unsupported transfers totaling \$13,268.33 were made out of the District's bank account to a bank account owned by the HRSD. The business purpose for these transfers could not be established, as the District's bank account only contained collections from the District's customers. As a result, the District should seek repayment of \$13,268.33 from the HRSD.

The District terminated services provided by the FLM on September 2, 2020.

GNAW BONE REGIONAL SEWER DISTRICT
RESULTS AND COMMENTS
(Continued)

Indiana Code 5-11-10-2 states in part:

"(a) Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity (as defined in section 1.6 of this chapter), the claim must be certified by the fiscal officer.

(b) The state board of accounts shall prescribe a form which will permit claims from two (2) or more claimants to be listed on a single document and, when such list is signed by members of the governing body showing the claims and amounts allowed each claimant and the total claimed and allowed as listed on such document, it shall not be necessary for the members to sign each claim.

(c) Notwithstanding subsection (b), only:

(1) the chairperson of the board of directors of a solid waste management district established under [IC 13-21](#) or [IC 13-9.5](#) (before its repeal); or

(2) the chairperson's designee;

is required to sign the claim form described under this section.

(d) The form prescribed under this section shall be prepared by or filed with the disbursing officer of the political subdivision, together with:

(1) the supporting claims if payment is made under section 1 of this chapter; or

(2) the supporting invoices or bills if payment is made under section 1.6 of this chapter.

All such documents shall be carefully preserved by the disbursing officer as a part of the official records of the office. . . ."

Indiana Code 36-1-8-11.5 states:

"(a) As used in this section, 'electronic funds transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

(b) The fiscal body of a political subdivision or the board of a municipally owned utility may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a proper body adopts a resolution under this subsection, the political subdivision or municipally owned utility may pay money from its funds by electronic funds transfer.

(c) A political subdivision or municipally owned utility that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by political subdivisions or municipal utilities."

GNAW BONE REGIONAL SEWER DISTRICT
RESULTS AND COMMENTS
(Continued)

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for examination 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 Special Districts, Chapter 1)

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

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

Payments made or received for contractual services must be supported by a written contract. Each unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 1)

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 Special Districts, Chapter 1)

Muzzillo was requested to reimburse the District \$37,159.50 for unsupported bank transfers. (See Summary of Charges, page 8)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional costs due to the special investigation of the District's records.

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 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)

Muzzillo was requested to reimburse the State of Indiana \$17,598.82 for special investigation costs. (See Summary of Charges, page 8)

GNAW BONE REGIONAL SEWER DISTRICT
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS

The District Board was responsible for all aspects of the District's financial activity. This included billing customers, receiving customer payments and depositing the funds, reconciling, preparing and issuing checks, recording financial transactions, reporting, and monitoring budget compliances. However, the District Board gave Muzzillo control over billing customers, receiving and depositing customer payments, and recording activity on the customer accounts. There was little or no oversight from the District Board on an ongoing basis.

Due to this lack of segregation of duties, Muzzillo was able to:

- Transfer District funds to his personal and business bank accounts.
- Write and sign checks on the business account.
- Transfer funds between separate governmental units he handled.

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:

"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. . . ."

INVESTIGATION BY LAW ENFORCEMENT

An investigation is currently ongoing by the Indiana State Police.

INSURANCE COVERAGE

The following is information regarding insurance coverage obtained by Muzzillo:

<u>Insurance Coverage</u>	<u>Amount</u>
01-01-19 to 01-01-20	\$ 1,000,000
01-01-20 to 01-01-21	1,000,000

GNAW BONE REGIONAL SEWER DISTRICT
EXIT CONFERENCE

The contents of this report were discussed on November 2, 2021, with David Hess, President of the District Board; Shawn D. Fosnight, Vice President of the District Board; and Donna Kelp Lutes, Bookkeeper.

GNAW BONE REGIONAL SEWER DISTRICT
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Frank Muzzillo, former Contractor:			
Unsupported Bank Transfers, pages 3 through 5	\$ 37,159.50	\$ -	\$ 37,159.50
Special Investigation Costs, page 5	<u>17,598.82</u>	<u>-</u>	<u>17,598.82</u>
Totals	<u>\$ 54,758.32</u>	<u>\$ -</u>	<u>\$ 54,758.32</u>

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

AFFIDAVIT

STATE OF INDIANA)

Marion)

I, Lynne Spencer, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the Gnow Bone Regional Sewer District, Brown County, Indiana, for the period from June 1, 2019 to September 2, 2020, is true and correct to the best of my knowledge and belief.

Lynne Spencer
Field Examiner

Subscribed and sworn to before me this 8th day of November, 2021.

Terri R. Diehl
Notary Public

My Commission Expires: 2-24-2029

County of Residence: Greene

