



OHIO AUDITOR OF STATE
KEITH FABER



CITY OF BEXLEY
FRANKLIN COUNTY

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OHIO AUDITOR OF STATE KEITH FABER



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Franklin County
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To the City of Bexley Council, Mayor and Auditor:

Background

The Auditor of State (AOS), Special Investigations Unit (SIU) conducted a criminal investigation and special audit of the City of Bexley (the City) predicated on an alleged theft by the City's former Assistant Finance Director.

The investigation began on November 8, 2021, after SIU received a memo from the AOS Financial Audit Division based on information from the City. It was alleged the former Assistant Finance Director, Jessica Withem, was altering her payroll deduction amounts to reduce or eliminate some or all of her insurance and tax amounts.

After the information obtained from interviews and preliminary examination of payroll and bank records was considered, a special audit was declared by the Auditor of State.

This engagement was conducted in accordance with the [Auditor of State Special Investigations Unit, Quality Standards](#).

Suspect

Jessica Withem was hired at the City on February 22, 2016 as the Assistant Finance Director and resigned on June 4, 2021.

Scheme

As the Assistant Finance Director, Ms. Withem was responsible for managing the City's accounts payable and payroll functions as well as various other tasks. Ms. Withem had full access to the City's master file, which controlled the employees' payroll deductions, which allowed her to add or remove deductions for employees, including her own, from the City's payroll. The City also provided a Health Savings Account (HSA) option for employees, where the City provided an upfront payment and then deducted a portion of the payment each pay period. Ms. Withem was responsible for making the proper payment to employees, including herself, based on City policy. After Ms. Withem resigned from the City, her replacement discovered Ms. Withem removed the various deductions from her own paychecks. Withholdings removed included the employee share of health insurance, vision insurance, and dental insurance, HSA contributions, City income tax, and Medicare. Ms. Withem also paid herself additional HSA funds above the amount allowed by City policy.

For the period February 1, 2016 through July 31, 2021 (the Period), we obtained and reviewed Ms. Withem's City payroll records, non-payroll payments made to Ms. Withem from the City, and personal banking records. We determined a loss of \$21,641 for payroll and \$84 for non-payroll expenditures as follows for the Period:

- On 146 occasions, Ms. Withem turned off health insurance related withholdings totaling \$4,537.
- \$1,230 related to the employee portion owed to Medicare by the City due to the withholding being deactivated.

- Ms. Withem received a total of \$9,360 in HSA loans from the City that were required to be repaid through payroll deductions. Ms. Withem only repaid \$2,852 of this amount.
- Ten unsupported HSA contributions to Ms. Withem totaling \$7,215.
- Ms. Withem was overpaid for 63.65 hours of vacation, sick, and comp time totaling \$2,151. The City did not follow its own policy for comp time and allowed Ms. Withem to accrue over the 24-hour limit per the policy. In addition, Ms. Withem gave herself credit at the beginning of her employment for vacation leave, although the policy stated that it would be earned during her employment.
- On January 13, 2021, Medical Mutual of Ohio submitted a check to the City for \$60. This check was addressed to the "City of Bexley, Attn: Jessica Withem". On January 21, 2021, Ms. Withem endorsed and deposited this check into her personal bank account.
- Ms. Withem received overpayments of \$24 for travel reimbursements relating to claiming mileage on days she was not working.

During an interview with Ms. Withem, she stated she was unwillingly assigned with additional tasks and duties and looked at her deduction removal as a "service fee" to the City.

Findings

Based on the special audit procedures and investigation, the Auditor of State confirmed the allegation that Jessica Withem misappropriated expenditures over a span of five years.

We issued \$21,725 in findings for recovery for misappropriated expenditures during the Period.

The full details of the findings for recovery are located in the Appendix.

Prosecution

At the conclusion of the special audit and investigation, a prosecution packet was presented to the Franklin County Prosecutor.

On June 29, 2023, Jessica Withem was indicted by the Franklin County grand jury on two counts, including one count of Theft in Office and one count of Tampering with Records.

On March 11, 2024, Ms. Withem entered a negotiated plea of guilty to one count of Tampering with Records, in violation of Ohio Rev. Code § 2913.42, a felony of the fifth degree. The Honorable Judge Kim Brown sentenced her to six months community control and ordered her to pay restitution in the amount of \$11,107.55 to the City.

On July 25, 2024, we held an exit conference with the following individuals representing the City:

Ben Kessler, City Mayor
Matt McPeek, City Auditor
Karrie Martin, City Finance Director

The attendees were informed they had five business days to respond to this special audit report. A response was received on July 31, 2024. A response was provided by Matt McPeek and was evaluated in the final preparation of this report.



Keith Faber
Auditor of State
Columbus, Ohio

July 8, 2024

APPENDIX
SCHEDULE OF FINDINGS FOR RECOVERY



APPENDIX

FINDINGS FOR RECOVERY

Ohio Admin. Code § 117-2-01(D)(4) requires, in part, that entities plan for adequate segregation of duties or compensating controls. Segregation of duties provides two significant benefits: (1) a deliberate fraud is more difficult because it requires collusion of two or more persons and (2) it is more likely an error will be detected. When designing the City's system of internal controls and the specific control activities, management should plan for adequate segregation of duties or compensating controls.

As the Assistant Finance Director, Ms. Withem was solely responsible for processing the City's payroll and travel reimbursements. She was also responsible for general day to day accounting activity and monthly/yearly reporting, including preparing the monthly bank reconciliation.

Payroll

Internal Revenue Code (IRC) Chapter 26, §§ 3401 through 3405, and 3102(a) require the employing government to withhold federal, state, and local income and employment related taxes (such as Medicare). They also require the government to report and remit those tax matters to the appropriate tax authorities and to the recipients.

City of Bexley Personnel Policy Manual Section 301:1 states that the City of Bexley City Council will arrange for employee co-payments for insurance coverage to be paid by automatic payroll deduction. All co-payment provisions will be determined by City Council. All medical, dental and vision plans offered by the City require co-payments. The City offers a set dollar amount for HSA loans to employees which require repayment via payroll deductions until repaid. The City also contributes set dollar amounts to the employee HSA accounts annually, dependent on the coverage tier, in addition to the HSA loans.

City of Bexley Personnel Policy Manual Section 508:1 states that a non-exempt hourly employee may accumulate and maintain up to twenty-four (24) hours of compensatory time. Compensatory time is earned at the rate of 1.5 hours for each hour worked in excess of forty (40) hours in a work week. Compensatory time may be carried over until January 31st of the succeeding year adjusted to the rate of pay in effect in the preceding year. In the pay period following January 31st of each year, all unused compensatory time will be "cashed out."

Each pay period, Ms. Withem generated a deduction report for withholdings from the City's payroll system and agreed the deduction reports to the check remittances. The City's Finance Director reviewed the submitted reports and signed off as evidence of his approval. However, the details of Ms. Withem's actual payroll were only checked periodically, and her payroll was often approved without any review.

The actions taken by Ms. Withem were not uncovered by the City's internal controls and as a result, the City improperly paid for \$21,641 in payroll expenses, including:

- \$4,537 for the employee portion of medical, dental and vision insurance,
- \$1,230 for the employee Medicare withholding,
- \$13,723 for unsupported HSA contributions and unpaid HSA loans, and
- \$2,151 in overpaid leave time.

Nonpayroll

Due to a lack of monitoring over the bank reconciliations and travel reimbursements, the City incurred a loss of \$84 for non-payroll expenditures related to Ms. Withem. This includes \$60 for a check payable to the City, but deposited in Ms. Withem's personal bank account, and \$24 in travel reimbursements for days Ms. Withem was not working.

Findings for Recovery Conclusion:

In accordance with the foregoing facts and pursuant to **Ohio Rev. Code § 117.28**, a finding for recovery for public property converted or misappropriated is hereby issued against Jessica Withem in the amount of \$21,725 in favor of the City of Bexley's General fund.

APPENDIX

On March 11, 2024, Ms. Withem was ordered to pay \$11,107.55 in restitution to the City in Franklin County Common Pleas Court, Case No. 23 CR 003238.

On April 3, 2024, Ms. Withem made restitution to the City in the amount of \$11,107.55, which was deposited into the City's General fund. Therefore, the remaining unpaid balance of this finding is \$10,617.

OHIO AUDITOR OF STATE KEITH FABER



**CITY OF BEXLEY
SPECIAL AUDIT**

FRANKLIN COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

This is a true and correct copy of the report, which is required to be filed pursuant to Section 117.26, Revised Code, and which is filed in the Office of the Ohio Auditor of State in Columbus, Ohio.



Certified for Release 9/10/2024

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This report is a matter of public record and is available online at
www.ohioauditor.gov