



OHIO AUDITOR OF STATE
KEITH FABER



**CUYAHOGA COUNTY CONVENTION FACILITIES DEVELOPMENT CORPORATION
CUYAHOGA COUNTY**

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FRAUD EXAMINATION REPORT

Cuyahoga County Convention Facilities Development Corporation
Cuyahoga County
1 St. Clair Avenue NE
Cleveland, OH 44114

To George A. Hillow, CPA, Executive Director, and Board of Directors:

Summary

The Auditor of State, Special Investigations Unit (SIU) conducted a criminal investigation and special audit of the Cuyahoga County Convention Facilities Development Corporation (the Corporation) predicated on information received from the Corporation's Executive Director regarding suspected improper reimbursements and duplicate billing between the Corporation and Ohio Third Frontier Entrepreneurial Service Provider (ESP) Program funds requested from the vendor, BioEnterprise Corporation (BioEnterprise).

The special audit identified \$243,331 in misappropriated Corporation funds and \$183,960 in misappropriated ESP funds, which resulted in findings for recovery totaling \$427,291 against BioEnterprise.

At the conclusion of the special audit and investigation, the special audit results were presented to the Special Prosecutor from the Ohio Attorney General's Office, serving by appointment of the Cuyahoga County Prosecuting Attorney. The Special Prosecutor declined to pursue criminal charges after settlement agreements were reached between the parties and restitution was paid, as follows:

- On September 22, 2021, a Settlement Agreement and Mutual Release of Claims was entered into between the Corporation and BioEnterprise. BioEnterprise agreed to a settlement payment totaling \$127,000 to the Corporation¹.
- On June 24, 2022, a Settlement Agreement and Mutual Release of Claims was entered into between the Ohio Development Services Agency² (ODSA), JumpStart Inc., and BioEnterprise. BioEnterprise agreed to a settlement payment totaling \$197,196.48, \$172,017.48 to ODSA and \$25,179 to JumpStart Inc.

Background

The investigation began in September 2019, after SIU received information from the Corporation's Executive Director, George Hillow, indicating the vendor, BioEnterprise, was allegedly submitting invoices for services not related to the Corporation or there was insufficient documentation to support the expense was related to the Corporation. Mr. Hillow first identified concerns with invoices submitted for reimbursement by BioEnterprise in late 2018. In June 2019, the Executive Director presented these concerns to the Corporation's Board of Directors, identifying examples of expenses that were not properly preapproved by the Corporation, did not comply with the contract agreement, or were possibly not for the

¹BioEnterprise and the Corporation each claimed certain amounts were either due for services rendered or improperly charged and paid; however, each disputed the value of those amounts. The Settlement Agreement identified an agreed upon amount due and released any further obligation between the parties.

²The Ohio Development Services Agency is currently known as the Ohio Department of Development.

purposes of the Corporation, such as lavish trips for executives, high-end restaurants, and alcohol purchases. Mr. Hillow also had concerns BioEnterprise was receiving state grant monies through the Third Frontier grant funds administered by the ODSA and may be double billing the grant funds for expenses reimbursed by the Corporation.

After the information obtained from interviews and preliminary examination of the Corporation's disbursement records were considered, a special audit was declared by the Auditor of State.

Scope and Approach

We defined our audit period as covering July 1, 2013 through December 31, 2019 (the Period) based on the risk factors identified.

The specific objectives we tested to establish whether fraud was committed at the Corporation were to:

- Examine certain disbursements made by the Corporation to determine whether the disbursements were supported and for the purposes related to the operations of the Corporation.
- Examine whether BioEnterprise received reimbursement from the Corporation and the ESP for the same expenditure.

In order to test the objectives, we reviewed available Corporation documentation, subpoenaed bank and BioEnterprise records, and interviewed key Corporation and ODSA personnel and witnesses. The objectives and procedures are described more fully in the attached Supplement to the Fraud Examination Report for the Period.

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

Findings

Based on the special audit procedures and investigation, the Auditor of State confirmed the allegation that BioEnterprise misappropriated Corporation and ESP funds over a span of six and a half years.

BioEnterprise submitted requests for reimbursement to the Corporation during the Period for expenses related to promoting and marketing the Global Center for Health Innovation. Through a lack of governing board oversight, BioEnterprise received reimbursement for expenses from the Corporation that were not for the operations of the Corporation and not in accordance with the Agreement, totaling \$179,833. BioEnterprise also received ESP grant funding through pass-through entity, JumpStart Inc., during the Period. However, BioEnterprise received \$247,458 from ESP and the Corporation for the same expenditure by submitting requests to both parties for reimbursement.

Our report includes findings for recovery. In general terms, a finding for recovery means that an individual or entity (e.g. a vendor) illegally spent or received public money. Pursuant to Ohio Rev. Code Section 117.28, when the Auditor of State's office issues a finding for recovery, the individual or entity can repay the amount voluntarily, or the finding for recovery also empowers the public office's statutory legal counsel or the Attorney General's office to institute legal proceedings to collect that amount.

We issued findings for recovery in the amount of \$427,291 against BioEnterprise for misappropriated funds during the Period.

In addition to the findings for recovery, we issued two management recommendations regarding a proper public purpose policy and governing board oversight. The full details of the findings for recovery and management recommendations are located in the Appendix.

On June 27, 2023, we held an exit conference with the following individuals representing the Corporation:

George Hillow, Executive Director
Trevor McAleer, Governance
Michael Obi, Governance
Jeff Appelbaum, Board Legal Counsel

Julie Valyn, Financial Analyst
Brad Sellers, Governance
Majeed Maknlouf, Governance

The attendees were informed they had five business days to respond to this fraud examination report. A response to our proposed finding for recovery was received on July 7, 2023. The response was provided by Jeff Appelbaum, Board Legal Counsel, and was evaluated in the final preparation of this report.



Keith Faber
Auditor of State
Columbus, Ohio

May 30, 2023

**SUPPLEMENT TO THE FRAUD
EXAMINATION REPORT**



SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Objective 1

Examine certain disbursements made by the Corporation to determine whether the disbursements were supported and for the purposes related to the operations of the Corporation.

PROCEDURES

We examined available documentation for disbursements made to BioEnterprise to determine whether the payments made during the Period were supported and for the purposes of the Corporation and in accordance with the Agreement.

RESULTS

The Global Center for Health and Innovation (also known as the Global Center or Med Mart) is a \$465 million Cuyahoga County owned building that was originally designated to serve as a showroom for medical companies to display their goods. Beginning December 1, 2010, the County retained the Corporation to manage and operate the Global Center for Health and Innovation. The Corporation entered into a contract with BioEnterprise to promote and market the Global Center for Health Innovation, including programming and tenant relations and management of the Working Funds for the exclusive benefit of the Global Center. The contract with BioEnterprise, in place from January 1, 2018 through December 31, 2019, was not finalized until August 2018, and agreed to reimburse BioEnterprise for expenses incurred related to the operations of the Global Center beginning October 1, 2017.

During the Period, we identified 374 reimbursed expense items totaling \$1,023,903 paid by the Corporation to BioEnterprise. We examined the expenses paid and noted the following:

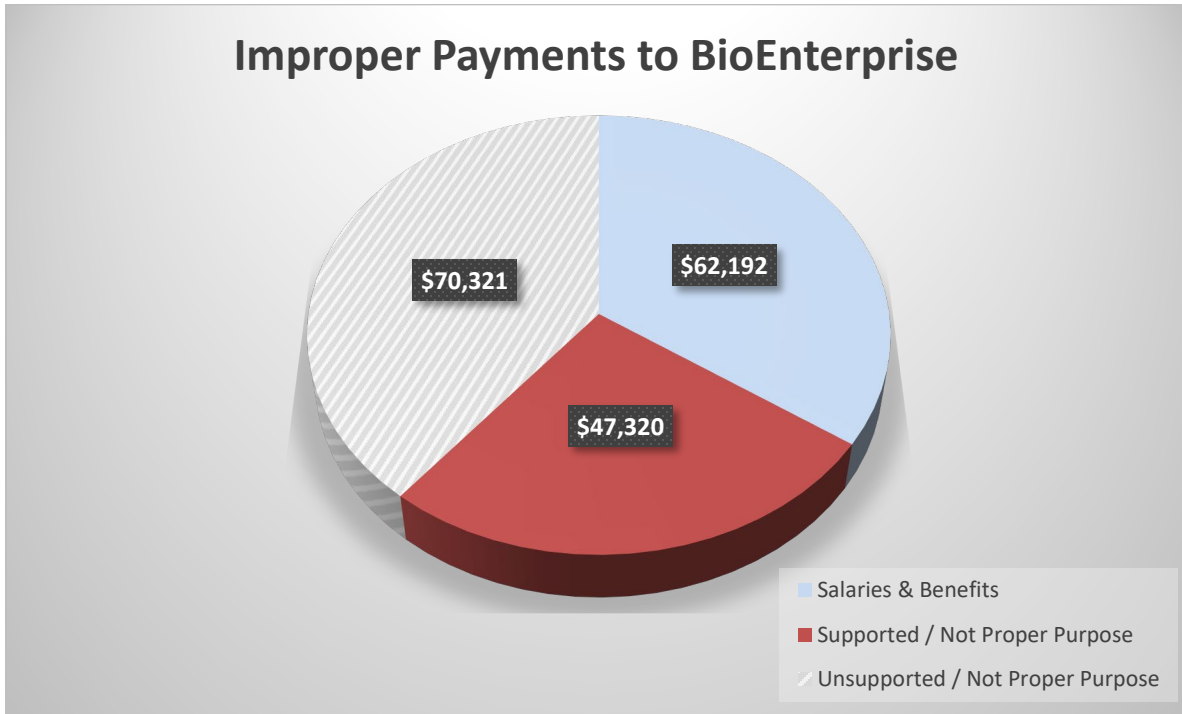
- 58 items totaling \$70,321, were not properly supported; therefore, we could not determine whether the expenses were related to the operations of the Corporation. We identified 56 expenses did not have any supporting documentation or were only supported by a credit card statement. Two expenses were only supported by an estimate for event food and beverages and did not support the actual costs incurred.
- 48 items totaling \$47,320, had documentation supporting the amount paid; however, the expense was not for the purposes of the Corporation. These purchases were for various food and beverage, conferences not related to the medical industry, and other miscellaneous travel expenses.

In addition, we identified \$62,192 in expenses related to salaries and benefits paid for three employees for work that was not for the operations of the Corporation. The following is a breakdown of the improper payments:

- \$5,000 in moving expenses related to a BioEnterprise employee. The original agreement between BioEnterprise and the Corporation allowed for \$100,000 in moving expenses and was paid to BioEnterprise on January 15, 2019. BioEnterprise submitted the \$5,000 moving expense request to the Corporation and identified the amount in the parking line item of the January 2018 expense summary; however, the Corporation did not pay the amount requested. BioEnterprise resubmitted the \$5,000 moving expense with the April 2018 expense summary. The expense was paid by the Corporation on March 1, 2019.
- \$856 in improper salaries and benefits related to the BioEnterprise employee portion of healthcare, vision and dental was improperly included on the July through September 2018 expense reimbursement request.
- \$29,665 in compensation paid for a BioEnterprise employee; however, BioEnterprise did not provide a timesheet or other documentation to the Corporation identifying how the work completed by the employee benefited the Corporation.
- \$26,671 in bonuses related to two BioEnterprise employees. BioEnterprise was unable to provide supporting documentation to the Corporation regarding how the incentive bonuses to the two employees benefited the Corporation.

SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

The below graph summarizes the improper payments made to BioEnterprise:



SUPPLEMENT TO THE FRAUD EXAMINATION REPORT

Objective 2

Examine whether BioEnterprise received reimbursement from the Corporation and the ESP for the same expenditure.

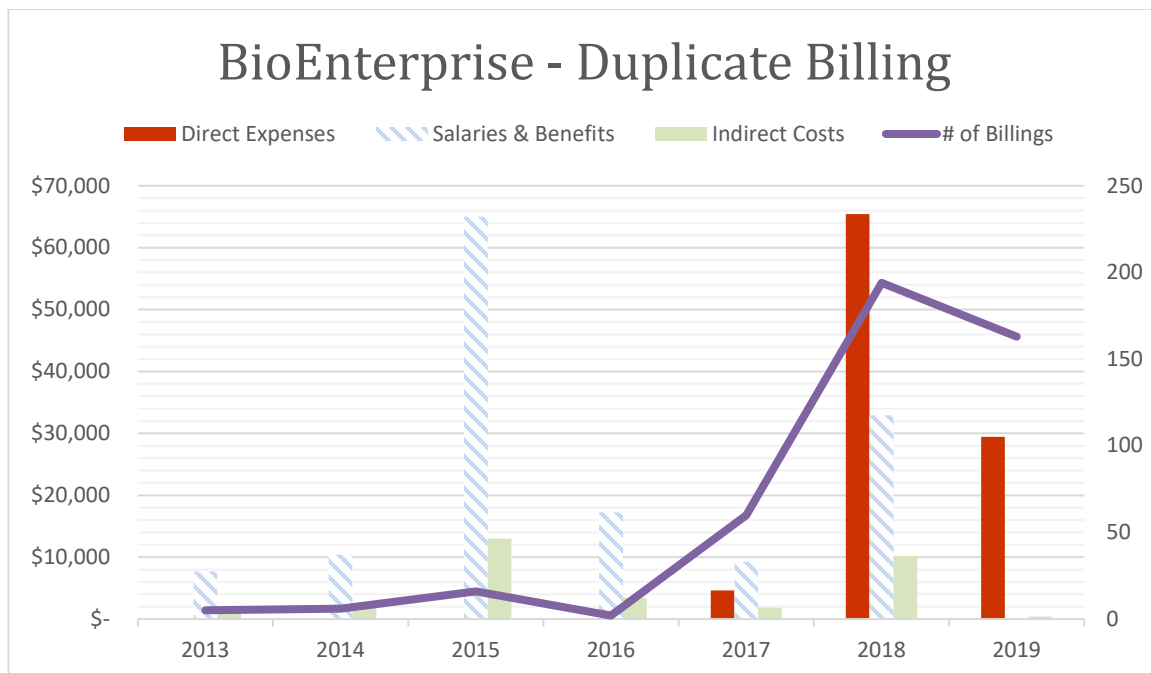
PROCEDURES

We examined available documentation from the Corporation and the ESP to determine whether BioEnterprise received reimbursement for the same expenditure from both parties.

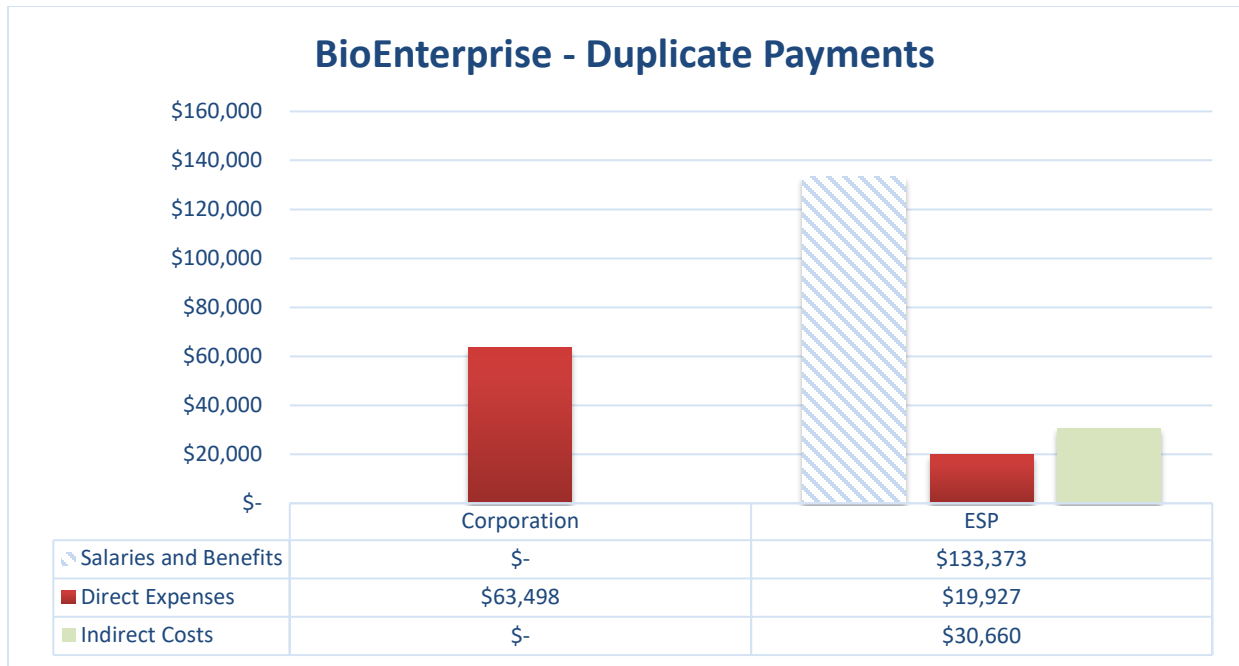
RESULTS

During the Period, BioEnterprise received 58 payments totaling \$9,461,501 in ESP grant funding through a subgrant agreement with JumpStart Inc., an ESP pass-through agency, authorized by ODSA. The grant funding allowed for reimbursement of all direct costs, payroll expenses (including salaries and fringe benefits), and indirect costs related to funding, supporting, and training biomedical entrepreneurs. Indirect costs are reimbursed at 20 percent of the total direct and payroll expense costs.

We determined BioEnterprise requested reimbursement for \$244,073 in direct costs, salaries, and benefits, from both ESP and the Corporation. Of those expenses requested, \$216,798 were paid to BioEnterprise by both ESP and the Corporation. Additionally, BioEnterprise received \$153,300 in overpaid direct expenses from ESP, resulting in \$30,660 in overpayment of indirect costs. The following charts identify the number and amount of expenses requested for reimbursement and the amount reimbursed by the Corporation and ESP to BioEnterprise for the same expenditure:



SUPPLEMENT TO THE FRAUD EXAMINATION REPORT





APPENDIX

SCHEDULE OF FINDINGS FOR RECOVERY AND MANAGEMENT RECOMMENDATIONS

APPENDIX

FINDINGS FOR RECOVERY – PARTIALLY REPAID UNDER AUDIT

Improper Expenditures

Agreement Section 2.4 between the Corporation and BioEnterprise, effective October 1, 2017, indicates BioEnterprise will be responsible for (a) the promotion, scheduling support, programming and strategic management of the Global Center (the Corporation's assigned building within the County); (b) management of the Working Funds for the exclusive benefit of the Global Center; (c) cooperation with SMG (SMG, the manager and operator of the Convention Center and Global Center) to develop a network for biohealth meetings, events and visitors; (d) assistance and coordination of its activities with SMG, the leasing broker and other partners to develop a qualified network of complementary tenants and retention of appropriate tenants; (e) in conjunction with CCCFDC (the Agreement's abbreviation for the Corporation), working with SMG and the exclusive caterer for the Global Center to develop custom menu and catering options for small company and meeting events; (f) management of all health sciences aspects of the Global Center, including programming and tenant relations, although the parties acknowledge that the "Manager" of the Global Center is SMG; and (g) use commercially reasonable good faith efforts to promote the use of the Global Center for a variety of events of interest and benefit to the Northeast Ohio community, and to promote tourism and encourage economic growth and development of the Northeast Ohio region through its activities held at the Global Center.

We identified \$179,833 in expenses, including salaries and benefits, paid to BioEnterprise by the Corporation that were not for the operations of the Corporation and not in accordance with the Agreement.

Duplicate Billing

Subgrant Agreement Section 4 between BioEnterprise and JumpStart, Inc., effective January 1, 2013, November 12, 2014, and October 16, 2016, indicates the subgrantee will provide support documentation for invoiced amounts, and the accounting systems used by the subgrantee shall be maintained in accordance with generally accepted accounting principles. The subgrantee shall establish procedures to assure proper fiscal and management practices to deposit and account for such funds.

BioEnterprise received \$247,458 from the Corporation and ESP for the same expenditure; and therefore, received duplicate payments, as follows:

	TOTAL
CORPORATION	\$63,498
ESP	\$183,960
TOTAL	\$247,458

Findings For Recovery Conclusion

Under Ohio law, public officials are strictly liable for all public money received or collected by them or their subordinates under color of law. Ohio Rev. Code § 9.39; *Cordray v. Internatl. Preparatory School*, 128 Ohio St.3d 50 (2010).

During the Period, the Corporation's Board of Directors President, Matt Carroll, authorized a payment to BioEnterprise totaling, \$177,386.68 after Mr. Hillow presented his concerns to the Board with the expense requests made by BioEnterprise. Of the amount, \$113,062 was determined to not be for the operations of the Corporation.

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 BioEnterprise Corporation in the amount of \$427,291, with \$243,331 in favor of the Corporation's Global Center for Health Innovation Working Fund, and \$183,960 in favor of the ODSA's Ohio Third Frontier Entrepreneurial Fund. Additionally, Mr. Carroll will be jointly and severally liable in the amount of \$113,062 and in favor of the Corporation's Global Center for Health Innovation Working Fund.

APPENDIX

On October 5, 2021, BioEnterprise made restitution to the Corporation in the amount of \$127,000, which was deposited into the Corporation's Global Center for Health Innovation Working Fund. Therefore, the remaining finding for recovery balance owed to the Corporation is \$116,331.

On June 26, 2020 and July 25, 2022, BioEnterprise made full restitution to the ODSA in the amounts of \$11,942.52 and \$172,017.48, respectively, which were deposited into the ODSA's Ohio Third Frontier Entrepreneurial Fund.

MANAGEMENT RECOMMENDATIONS

Proper Public Purpose

State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951) provides that expenditures made by a governmental unit should serve a public purpose. Typically, the determination of what constitutes a "proper public purpose" rests with the judgment of the government entity, unless such determination is arbitrary or unreasonable. Even if a purchase is reasonable, Ohio Attorney General Opinion 82-006 indicates that it must be memorialized by a duly enacted ordinance or resolution and may have a prospective effect only. **Auditor of State Bulletin 2003-005 Expenditure of Public Funds/Proper "Public Purpose"** states that the Auditor of State's Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect.

We examined reimbursement payments to BioEnterprise from the Corporation during the Period. We identified 106 of 374 (28.3%) payments made by the Corporation that lacked sufficient evidence to support the expenditure or substantiate proper public purpose. Items purchased include conferences not related to the Global Center or medical industry, food, beverages, and other miscellaneous travel expenses not for Corporation purposes.

The Corporation did not have a policy that describes the appropriateness of expenditures regarding an acceptable proper public purpose. In the absence of such policy, expenditures that do not promote the goals or mission of the Corporation or work to achieve such goals or mission may inadvertently be entered into and approved by the Corporation.

We recommend the Corporation adopt a comprehensive proper public purpose policy that provides guidance and direction to the Corporation management and staff as to what expenditures are viewed to be for a proper public purpose that accomplish the goals and mission of the Corporation.

Governing Board Oversight

Monitoring controls include management and governing board activities established to ensure compliance with policies and procedures, contractual agreements, achievement of operational objectives, and proper and effective use of available resources.

Our audit noted the Board President authorized a payment to BioEnterprise after the Executive Director presented his concerns with the expense requests made by BioEnterprise. However, the Board did not have a control process in place to thoroughly research and investigate reimbursement request concerns raised by the Executive Director regarding BioEnterprise. Of the amount paid, we determined \$113,062 was not for the operations of the Corporation and not in accordance with the Agreement.

Lack of proper governing board oversight increases the risk that established policies and procedures are not followed, whether misinterpreted or intentional, and operational objectives are not met. In addition, the lack of oversight increases the possibility errors or irregularities could occur and not be discovered in a timely manner and increases the opportunity for fraud to occur.

We recommend the Board take a more active role in monitoring the compliance with the Corporation's operational procedures and contractual agreements.

OHIO AUDITOR OF STATE KEITH FABER



CUYAHOGA COUNTY CONVENTION FACILITIES DEVELOPMENT CORPORATION SPECIAL AUDIT

CUYAHOGA 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 7/20/2023

88 East Broad Street, Columbus, Ohio 43215
Phone: 614-466-4514 or 800-282-0370

This report is a matter of public record and is available online at
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