



Dave Yost • Auditor of State

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INDEPENDENT AUDITORS' REPORT

Fairfield County Commissioners
210 E. Main Street
Lancaster, Ohio 43130

We conducted a special audit of the Fairfield County Clerk of Courts (the Clerk) by performing the procedures described in the attached Supplement to the Special Audit Report solely to:

- Quantify the amount of compensatory leave time accrued and used by certain employees of the Clerk's office related to political campaign activity performed on behalf of former Clerk Deborah Smalley for the period January 1, 2006 through July 31, 2013.
- Determine whether certain disbursements made by the Clerk's office during the period January 1, 2011 through July 31, 2013, were supported and for purposes related to the operations of the office.
- Determine whether certain deposits to and disbursements from Deborah Smalley's election campaign bank account during the period January 1, 2006 through July 31, 2013, were reported on Ohio Campaign Finance Reports.

This engagement was conducted in accordance with the Quality Standards for Inspection and Evaluation established by the Council of the Inspectors General on Integrity and Efficiency (January 2012). The procedures and associated findings are detailed in the attached Supplement to the Special Audit Report. A summary of our procedures and significant results is as follows:

1. We examined available documentation to quantify the amount of compensatory leave time accrued and used by certain employees of the Clerk's office related to political campaign activities.

Significant Results – Mrs. Smalley required certain employees of the Clerk's office to conduct political campaign related activities on her behalf during normal business hours. In exchange for the work on her campaign, Mrs. Smalley allowed the employees to accrue and use compensatory leave totaling 421 hours with a value of \$8,853.

We issued a finding for recovery against Mrs. Smalley in the amount of \$8,853.

2. We examined documentation supporting certain disbursements made by the Clerk's office.

Significant Results – We examined 578 disbursements made by the Clerk's office totaling \$651,895.

Items purchased by the Clerk's office totaling \$1,022 were located by Auditor of State's Special Investigations Unit at Mrs. Smalley's residence and returned by Mrs. Smalley to the Clerk's office storage facility. We were unable to locate additional items purchased by the office totaling \$2,173.

Personal and campaign related items were purchased by Mrs. Smalley from Amazon.com and National Pen Company and invoiced through Office Mart, a vendor used by the County. Disbursements totaling \$5,399 were made to Office Mart for the items.

An improper interest existed in a contract between the Clerk's office, Mrs. Smalley's husband, David Smalley, and 3SG Corporation, a company used by the Clerk's office for the purchase and installation of LED lighting totaling \$21,437. Mr. Smalley served as an independent commissioned sales representative for 3SG and received a commission of \$2,580 for facilitating sale of the lighting to the Clerk's office.

We issued findings for recovery against Deborah Smalley totaling \$30,031 and David Smalley totaling \$2,580.

3. We examined Mrs. Smalley's election campaign bank account and Ohio Campaign Finance Reports.

Significant Results – We identified 30 campaign account checks totaling \$35,912 issued to Mr. Smalley. Of this amount, six checks totaling \$10,000 were repayment of a loan from Mr. and Mrs. Smalley to the campaign. Both the loan and repayments were reported on the Campaign Finance Reports. We traced one other check totaling \$1,452 to a Campaign Finance Report; however, 23 checks issued to Mr. Smalley totaling \$24,460 were not reported.

Employees of the Clerk's office maintained documentation of 92 contributions totaling \$14,430 received on behalf of the campaign. We were able to trace all but eight of the contributions to Campaign Finance Reports. Six of these contributions totaling \$950 were deposited directly in Mr. and Mrs. Smalley's personal bank account rather than the campaign account.

We identified an additional seven campaign contribution checks totaling \$1,640 deposited directly in the Smalley's personal bank account. Of the 13 contribution checks deposited directly in the Smalley's personal account, five were listed on Campaign Finance Reports.

We referred this matter to the Ohio Secretary of State and Fairfield County Board of Elections.

On June 3, 2014, we held an exit conference with the following individuals representing the County:

Steve Davis, County Commissioner	Branden Meyer, Clerk of Courts
Mike Kiger, County Commissioner	Jon Slater, County Auditor
David Levacy, County Commissioner	Jeff Porter, Assistant Prosecutor
Carri Brown, Executive Director to the Commission	

The attendees were informed that they had five business days to respond to this special audit report. A response was received on June 10, 2014. The response was evaluated and changes were made to this report as we deemed necessary.



Dave Yost
Auditor of State

April 18, 2014

Supplement to the Special Audit Report

Background

The former chief accountant for the Fairfield County Clerk of Court's office contacted the Auditor of State's office to report alleged misuse of public funds by Clerk Deborah Smalley. Mrs. Smalley was alleged to have provided compensatory leave time to employees of the Clerk's office in exchange for working on her election campaign. Mrs. Smalley was also alleged to have used office funds to purchase campaign supplies.

The information was considered by the Auditor of State's Special Audit Task Force and on August 6, 2013, the Auditor of State initiated a special audit of the Fairfield County Clerk of Courts.

Supplement to the Special Audit Report

Objective No. 1 – Examination of Compensatory Leave

Procedures

We examined documents obtained from employees of the Clerk's office and the Fairfield County Auditor to determine the amount of compensatory leave time related to political campaign activities employees accrued and used during the period January 1, 2006 through July 31, 2013.

Results

Employees of the Clerk's office received compensatory leave that was not recorded on the County's payroll system. Informal compensatory leave accrual and usage records were maintained internally by the Clerk's office and were not submitted to the County for tracking. The documents consisted of typed or hand written notes created by the employees to track the number of compensatory leave hours accrued and used.

According to the Clerk's records, six employees accrued 1,729 hours and used 1,568.24 hours. The value of the hours accrued and used was \$34,276 and \$35,645, respectively.

Significant time gaps existed in the records of two employees and one employee accrued a majority of compensatory leave hours earlier in the period at lower hourly wage rates and used hours later in the period at higher hourly wage rates.

In some instances, the documents contained descriptions of campaign related activities, such as "campaign meeting", "golf outing" and "placing signs". Using the descriptions, we quantified the amount of compensatory leave accrued and used related to political campaign activity conducted by the employees. During the period, six employees accrued and used 421 hours valued at \$8,853 related to political campaign activity conducted during normal business hours.

Finding for Recovery

During the period, former Clerk of Courts Deborah Smalley required certain employees of the Clerk's office to conduct political campaign related activities on her behalf during normal business hours. The employees stated they were required to use their own vacation or sick leave time to conduct the campaign activities and were reimbursed with compensatory leave.

The employees maintained documents to record their compensatory leave accrual, usage and balances. The documents recorded 421 hours valued at \$8,853 accrued and used by the employees to work on political campaign activities.

In accordance with the foregoing facts and pursuant to Ohio Revised Code Section 117.28, a finding for recovery for public monies illegally expended is hereby issued in the amount of \$8,853 against Deborah Smalley, and her bonding companies, Ohio Casualty Insurance Company and Platte River Insurance Company, jointly and severally, in favor of the Fairfield County Clerk of Courts Office.

Supplement to the Special Audit Report

Objective No. 2 – Examination of Disbursements

Procedures

Determine whether certain disbursements made during the period January 1, 2011 through July 31, 2013 were supported and for purposes related to the operation of the Clerk's office.

Determine whether expenditures made during the period using the Clerk's office credit cards were supported and for purposes related to the operation of the Clerk's office.

Results

We examined 578 disbursements made during the period by the Clerk's office totaling \$651,895. The following is a summary of the disbursements examined:

Vendor	Number of Disbursements	Amount Examined
Deborah Smalley	64	\$2,302
Hobby Lobby	6	7,538
Fairfield National Bank	41	8,135
Menards	30	12,075
Lowe's	12	13,489
Office Mart	332	144,984
3SG Corporation	29	334,583
Other Expenditures	64	128,789
Total	578	\$651,895

We noted two disbursements to Office Mart totaling \$202 that were not supported. Support for disbursements on credit card accounts at Fairfield National Bank and Lowe's were found to be complete. Disbursements to Mrs. Smalley were for mileage reimbursements supported by employee travel expense reports. All disbursements examined, except as noted in the findings for recovery below, were considered to be for purposes related to the operation of the Clerk's office.

With the assistance of the Clerk's staff we attempted to locate certain items purchased and were unable to locate 27 items purchased totaling \$2,173. Additionally, we were unable to verify the existence of items purchased from Hobby Lobby because the invoices did not provide sufficiently detailed item descriptions.

3SG Corporation

In March 2012, Deborah Smalley stated to Carri Brown, Executive Director of the Fairfield County Commissioners¹, that Mrs. Smalley's husband, David Smalley, was considering working for 3SG Corporation ("3SG") in the lighting portion of the business. Ms. Brown believed that at the time Mrs. Smalley was considering a contract with 3SG for scanning and imaging documents for the Clerk's office. Ms. Brown suggested to Mrs. Smalley that she contact the County Prosecutor and Ohio Ethics Commission for guidance regarding the potential conflict of interest.

¹ At the time of the conversation, Ms. Brown was serving as deputy director for Fairfield County Job and Family Services.

Supplement to the Special Audit Report

In November and December 2012, Mrs. Smalley met with the Fairfield County Data Processing Board to discuss hiring 3SG to scan documents to an electronic format for the Clerk's office. On December 18, 2012, the Board of Commissioner's issued a resolution approving a contract with 3SG not to exceed \$335,820 for the scanning project. The contract proposal was signed by Mrs. Smalley on December 4, 2012.

During the period, the Clerk's office made 26 disbursements totaling \$302,740 to 3SG for the scanning project. A duplicate payment of \$7,109 was returned by 3SG. The disbursements were supported and for purposes related to the operation of the Clerk's office.

In April and May 2013, Mrs. Smalley signed three contracts with 3SG for purchase and installation of LED lighting at three Clerk's office locations. The contracts were not approved by the Board of Commissioners. Three disbursements totaling \$31,842 were made to 3SG for the lighting project. Prior to completing installation of lights at the third location, the Board of Commissioners canceled the contract and requested 3SG return the payments associated with that location. Payments totaling \$10,405 were returned by 3SG.

On June 9, 2013, Mrs. Smalley signed a professional services contract proposal with 3SG for accounting services for the Clerk's office. The contract was not approved by the Board of Commissioners and no payments were made on the contract.

Findings for Recovery

Deborah Smalley

During the period, former Clerk of Courts Deborah Smalley made certain purchases using funds of the Clerk's office. Mrs. Smalley also directed employees to make certain purchases and approved disbursements for the office. Investigators from the Auditor of State's Special Investigations Unit ("SIU") executed a search warrant on Mrs. Smalley's residence where they found 14 items purchased by the Clerk's office totaling \$571. Investigators also located nine items purchased by the Clerk's office totaling \$451 that had been returned by Mrs. Smalley to the Clerk's storage facility. We were unable to locate an additional 27 items purchased by the Clerk's office totaling \$2,173.

SIU determined that certain campaign related items were purchased by the Clerk's office from National Pen Company and invoiced through Office Mart, a vendor used by Fairfield County. Prior to July 2011, the Clerk's office used a credit card to make purchases from National Pen. After this date, Mrs. Smalley directed National Pen to send invoices to Office Mart.

Between August 2011 and May 2013, the Clerk's office made 21 purchases from National Pen totaling \$4,710. We noted 16 National Pen invoices that were billed to Office Mart employee Megan Saum at an Office Mart address. The remaining five invoices were billed to Deborah Smalley.

Office Mart employees Pat Blake and Megan Saum stated that Deborah Smalley directed them to bill the National Pen purchases through Office Mart using different item names and numbers. We were able to tie 20 National Pen invoices to 11 Office Mart invoices totaling \$4,724. We were unable to match one National Pen invoice totaling \$59 to a corresponding Office Mart invoice.

Additionally, a staff member of the Clerk's office identified a payment of \$675 to Office Mart for two pens ordered from Amazon.com. Megan Saum of Office Mart stated that she was instructed by Deborah Smalley to purchase the pens from Amazon.com and issue the invoice through Office Mart.

Supplement to the Special Audit Report

In accordance with the foregoing facts and pursuant to Ohio Revised Code Section 117.28, a finding for recovery for public monies illegally expended is hereby issued in the amount of \$8,594 against Deborah Smalley, and her bonding companies, Platte River Insurance Company and Western Surety Company, jointly and severally, in favor of the Fairfield County Clerk of Courts Office.

Deborah and David Smalley

Ohio Revised Code Section 2921.42(A) states in part, “(n)o public official shall knowingly do any of the following:

- (1) Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest.”

Ohio Revised Code Section 2921.42(H) states in part, “(a)ny public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable.”

During the period, Deborah Smalley authorized three contracts with 3SG Corporation for the purchase and installation of LED lighting at three Clerk's office facilities. David Smalley, Mrs. Smalley's husband, served as an independent commissioned sales representative for 3SG.

The Clerk's office made disbursements totaling \$31,842 to 3SG for the lighting project. Payments totaling \$10,405 were returned by 3SG at the request of the Board of Commissioners.

Nanda Nair, president of 3SG, stated that Mr. Smalley was paid eight percent commission on signed contracts for the sale of lighting. On June 3, 2013, 3SG issued a check to David Smalley in the amount of \$2,580 as commission on the LED lighting sale. On June 4, 2013, David Smalley signed a Sales Representative Agreement with 3SG. The Agreement was dated February 1, 2013.

In accordance with the foregoing facts and pursuant to Ohio Revised Code Section 117.28, a finding for recovery for public monies illegally expended is hereby issued in the amount of \$21,437 against Deborah Smalley, and her bonding company, Western Surety Company, jointly and severally, in favor of the Fairfield County Clerk of Courts Office. David Smalley is named jointly and severally in the amount of \$2,580.

Supplement to the Special Audit Report

Objective No. 3 – Examination of Campaign Bank Account and Ohio Campaign Finance Reports

Procedures

We examined disbursements from Deborah Smalley's election campaign bank account to quantify amounts received by Deborah and David Smalley during the period January 1, 2006 through July 31, 2013.

We examined deposits to the account to determine whether certain contributions collected were deposited.

We compared certain campaign bank account deposits and disbursements to amounts reported on Ohio Campaign Finance Reports.

Results

During the time period examined, Mrs. Smalley's election campaign committee, Citizens to Elect Deborah Smalley ("Committee"), submitted 30 Ohio Campaign Finance Reports to the Fairfield County Board of Elections. The reports contained itemized lists of contributions received and expenditures made by the Committee as required by Ohio election laws and regulations. David Smalley signed 16 reports as deputy treasurer from October 2008 to December 2012.

The Committee maintained a bank account for election campaign activities. We noted 30 checks totaling \$35,912 written from the account payable to David Smalley. Of this amount, six checks totaling \$10,000 were repayment of a loan in that amount from the Smalley's to the campaign. The loan and loan repayments were reported on the Campaign Finance Reports. Of the remaining 24 checks to Mr. Smalley, one check for \$1,452 was reported on a Campaign Finance Report and 23 checks totaling \$24,460 were not reported. We traced 29 of the 30 checks to deposits to the Smalley's personal bank account.

Monetary contributions totaling \$94,021 were reported on the Campaign Finance Reports filed through December 14, 2012, the date of the last report. Contributions totaling \$99,116 were deposited to the campaign bank account through this date. The deposits included cash totaling \$12,668.

Employees of the Clerk's office were asked by Mrs. Smalley to solicit contributions for her campaign. Two employees maintained documentation of 92 contribution checks and cash received totaling \$14,430. We traced 68 of these contribution checks totaling \$11,795 to deposits to the campaign account. We traced six contribution checks totaling \$950 to deposits to the Smalley's personal bank account. We were unable to trace the remaining 18 contributions to deposits; 11 were checks made payable to an employee and seven were cash contributions. We traced 84 of the contributions to entries on Campaign Finance Reports. We could not trace the remaining eight to Campaign Finance Reports. Three contributions were reported at less than the actual amount and 12 checks were reported as cash contributions.

We identified 13 campaign contributions checks totaling \$2,590 deposited directly in the Smalley's personal bank account. Of these, five were reported on Campaign Finance Reports.

We referred these matters to the Ohio Secretary of State and Fairfield County Board of Elections.



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FAIRFIELD COUNTY CLERK OF COURTS

FAIRFIELD COUNTY

CLERK'S CERTIFICATION

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

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
JULY 1, 2014**