



OHIO AUDITOR OF STATE
KEITH FABER



**CITY OF YOUNGSTOWN
MAHONING COUNTY**

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OHIO AUDITOR OF STATE KEITH FABER



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PUBLIC INTEREST REPORT

City of Youngstown
Mahoning County
26 S. Phelps Street
Youngstown, Ohio 44503

To the City of Youngstown Mayor, Finance Director, Council Members, and Citizens:

Preface

In 2015, the Auditor of State's (AoS) Special Investigations Unit¹ (SIU) was assisting in the investigation and prosecution of public corruption in the City of Niles in Trumbull County. The prosecution was handled by the Ohio Attorney General's Office Special Prosecutions Section, and SIU provided investigative and forensic audit support for that prosecution². During the course of that investigation, information was received by the team working the case of a possible public corruption scheme in the City of Youngstown in Mahoning County (the City) involving a local developer, the City Finance Director, and others. The information included allegations concerning the City sale of a fire station, possible kickbacks and phony billing on a construction project.

In conducting some initial inquiries into those allegations involving local developer Dominic Marchionda and Youngstown Finance Director David Bozanich, the team reviewed legal filings in a civil suit brought against Marchionda by the residents of the Villas di Tuscany, a condominium development built by one of Marchionda's companies. Detailed in court filings were concerns regarding the City's use of water and wastewater funds to provide a \$1.2 million Site Development Grant to Marchionda, and Marchionda's subsequent purchase of a fire station for \$1 million, the proceeds of which were placed in the City's general fund. The court filing contended this arrangement, orchestrated by Bozanich, was to replenish the nearly depleted general fund with excess funds from the water and wastewater funds.

In 2015, SIU issued subpoenas to obtain bank account records for a number of accounts tied to Marchionda and some of his companies. Analysis of the records demonstrated a concerning number of transfers between and among accounts, including additional accounts not originally known to the investigative team. Following these patterns of transfers and the flow of funds led to several additional rounds of subpoenas for records related to numerous other bank accounts tied to other Marchionda-related companies. Contemporaneous to the review of the bank account activity, the team was also reviewing the transactions surrounding the City's sale of the fire station to Marchionda.

After an assessment of the initial findings, Mahoning County Prosecuting Attorney Paul Gaines appointed the Ohio Attorney General's Office Special Prosecutions Section to also handle the prosecution of this case. SIU continued to provide investigative and forensic audit support following the Special Prosecutions appointment, and an AoS subpoena was issued to the City in December 2016, seeking documents related to the use of City water funds.

¹ Then known as Public Integrity Assurance Team

² That prosecution resulted in former Niles Mayor Ralph Infante being found guilty on 8 May 2018 of numerous felonies (including engaging in a pattern of corrupt activity, tampering with records, theft in office, and others) and misdemeanors, and being sentenced to ten years in prison. Former City Auditor Charles Nader pled guilty 18 May 2018 to felony theft in office and two misdemeanors, and received a sentence of three years of community control.

In early 2017, Grand Jury subpoenas were issued for numerous bank account records for 64 bank accounts tied to more than 50 Marchionda-related businesses. The investigative team also began interviewing City officials and office holders who had roles in approving funds related to Marchionda's development and revitalization projects. Following an insufficient response from Marchionda to an AoS subpoena seeking records relative to his business and various development projects, the Special Prosecutor and the investigative team executed search warrants on Marchionda and his businesses on March 16, 2017, seizing thousands of documents and records through the search.

Investigative and forensic audit procedures concluded after review of approximately 1.5 million pages of records and 270 interviews, with key developments discussed in the Problems section and the criminal case discussed in the Prosecution section.

Players

Dominic Marchionda grew up in Youngstown, graduated from the University of Mount Union, and had a successful career in the retail shoe industry, holding national sales manager positions with several prominent brands. In 1994, Marchionda changed career paths to one that wouldn't involve the extensive travel of a national sales manager. Marchionda and his father-in-law Fred Rubino incorporated Rubino Construction, Inc., a residential construction company. Rubino Construction completed its first residential development project in 2002, and soon after began constructing the previously-mentioned Villas di Tuscany luxury condominium development. In all, Marchionda has roughly 50 affiliated companies, often forming limited liability companies (LLC) specific to each development project undertaken. Of his numerous development projects, the forensic audit and investigative activity focused on three projects: Flats at Wick; Erie Terminal Place; and Wick Tower.

David Bozanich began his employment with the City in January of 1980, and served as the Finance Director for the City from November 15, 1993, until his resignation December 31, 2017. Bozanich had a reputation for ably managing the City's finances during challenging financial times. In an uncommon arrangement, Bozanich was also responsible for the City's economic development efforts, a responsibility he maintained even after the City hired an Economic Development Director, by virtue of a reporting structure that had that position reporting to Bozanich as Finance Director. Bozanich's management of the City's budget and finances had earned him the trust of City Council members, according to interviews of Council members by the investigative team. Outside of his City position, Bozanich was also a partial owner of a travel agency.

Other individuals who factored into the investigative and prosecutorial efforts related to this case include: Ray Briya, the former Chief Financial Officer of MS Consultants, a company that sought City contracts, and also a long-time friend of Bozanich; Steve Garea, a Youngstown attorney who included B&B Construction Company and Marchionda among his clients; Phil Beshara, co-owner of B&B Construction; and former Youngstown Mayor Charles Sammarone.

Projects

The Flats at Wick project was a new construction project to build student housing adjacent to the campus of Youngstown State University at the intersection of Madison Avenue and Elm Street. The project was also known as U.S. Campus Suites, and Marchionda formed an LLC in that name. This project received funding from the City that included a \$1.2 million site development grant, as well as a float loan with a \$2 million limit, for which the City reserved the option of calling for repayment of any outstanding balance at its discretion.

The Erie Terminal Place project included the renovation of the historic railroad terminal building into a mix of student housing and commercial retail space. Project funding from the City included an initial \$350,000 water utility grant for water-related costs for the project; another \$220,000 grant later in the project, also tied to water-related costs; as well as a \$2 million float loan. This project also received a Brownfield Revolving Loan Fund (BRLF) loan administered through the Ohio Development Services Agency³ (DSA) for \$800,000.

³ The Ohio Development Services Agency was previously the Ohio Department of Development until a name change effective September 28, 2012.

The Wick Tower project involved the renovation of the historic tower at West Federal Plaza into luxury apartments and long-term and extended stay units. While the City provided a \$500,000 sanitary storm and water infrastructure grant and a bridge loan for up to \$2,341,900 for this project, the main funding for the project came in the form of two DSA loans: a BRLF for \$770,000; and an Energy Loan for \$5,008,400.

Public Funds

Throughout the course of the forensic audit and investigation, over \$15 million in governmental funds received by Marchionda and his related companies were analyzed. For the Flats at Wick, Erie Terminal Place, and Wick Tower projects, the City provided grant funding through the water fund and wastewater fund as the originating source for the grants. The Flats at Wick project received a \$1.2 million Site Development grant, with \$600,000 coming from both the water fund and wastewater fund, for the purpose of installing a water line, waste-water line and associated aspects such as grading and/or upgrades to the water system for the project.

The Erie Terminal Place project similarly received an initial grant of \$350,000 from the water fund for improvements to the waterline serving the site, and installations, enhancements or upgrades to the plumbing or water system; also, this grant specified that funds were to be paid from the grant on a reimbursement basis upon receipt of paid invoices submitted from the developer for completed work on the project. This project also received a supplemental \$220,000 grant comprised of water fund and wastewater fund monies for additional costs Marchionda asserted he incurred in the course of the water and sewer line improvements to the project site. The Wick Tower project received a \$500,000 Sanitary Storm and Water Infrastructure grant funded equally from the water fund and wastewater fund.

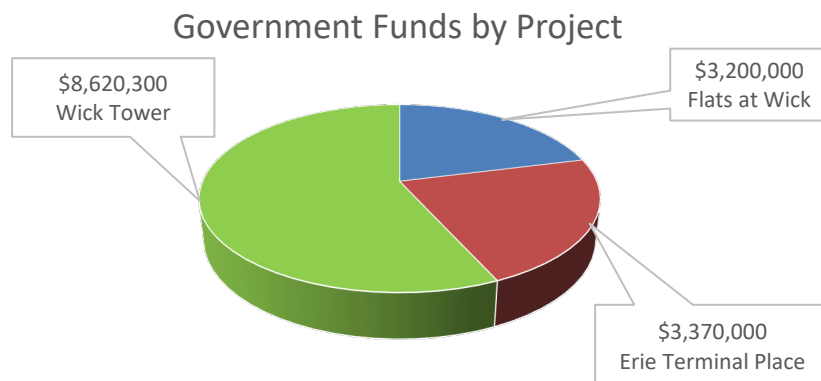
Ohio law places limitations on how certain governmental funds may be used, commonly referred to as restricted funds, and such limitations are set in law regarding revenues derived from municipal water operations.⁴ The law requires that such revenues be used for the operation, maintenance, extensions, expansion or repairs of the water system, and may not be used for other purposes. These restrictions were also included in the terms and conditions of the grants, which specified that the funds were to be used for the installation of a water line and water-related improvements, including site remediation, grading or upgrades. Another grant provision advised that failure to comply with the specified regulations for the funds could result in the developer having to pay back grant funds to the City.

Marchionda was also able to obtain loans through two programs administered by DSA, the BRLF and the Energy Loan Fund. The BRLF loan is designed to promote the redevelopment or reuse of properties that have been negatively impacted by hazardous substances, pollutants or contaminants, such as asbestos, petroleum or chemicals. BRLF funds can be used to plan, assess and remediate such contaminated sites to make the property viable for redevelopment. Marchionda received a Brownfield loan for \$800,000 to remediate asbestos for the Erie Terminal Place project site; and another Brownfield loan for \$770,000 for the Wick Tower project, also for asbestos remediation.

For the Wick Tower project, Marchionda also received a loan for \$5,008,400 from the Energy Loan Fund, a program which is designed to reduce energy usage and fossil fuel emissions in awarded projects. Loan agreements under both the BRLF and Energy Loan Fund restricted the borrower from assigning or transferring any property used as security for the loan without prior written consent of the lender. The Energy Loan Fund agreement contained very specific language restricting the use of any funds accessed through the loan to the specific project for which the loan was awarded, and only for the budgeted line items for which the proceeds were disbursed. The agreement also included a provision prohibiting any proceeds being paid to or retained by the borrower or any affiliates of the borrower without advanced disclosure and approval by the Director of DSA.

⁴ See Ohio Revised Code 743.04-06.

Exhibit



Problems

As part of the Flats at Wick development project, Marchionda purchased the Madison Street Fire Station, which was located on an adjacent parcel to the project site, from the City for \$1 million. The transaction caught the attention of AoS financial auditors in the regional office that includes Mahoning County within its territory, namely due to the proceeds of the sale being posted to the City's general fund by Bozanich. Based on the information available, the financial auditors properly noted that the funds should have been posted to the City's business development fund, and issued a finding for adjustment that required the City to move the proceeds to the appropriate fund.⁵

In the course of the forensic audit and investigation, additional details regarding this transaction were uncovered, details that the financial auditors could never have known. First and foremost, it was discovered the source of the \$1 million that Marchionda paid to the City for the Fire Station was actually from the \$1.2 million in grant funds the City provided to Marchionda, which, as noted previously, came from the City's water and wastewater funds. Marchionda wrote a \$1 million check to the City for the purchase on December 6, 2009, although the check was not deposited into the City's bank account until 9:56 a.m. on December 7, 2009. This is notable because that transaction occurred two minutes after the \$1.2 million in grant funds were deposited into the Marchionda bank account on which the check for the Fire Station purchase was drawn, an account that had just been opened by Marchionda and had no balance prior to the deposit of City grant funds.

As pieced together through the forensic audit, Bozanich had orchestrated the Fire Station transaction with Marchionda in order to replenish the City general fund, which was nearly depleted, at a time when the City needed to meet payroll expenses and make purchases from the general fund. While the water and wastewater funds had excess balances, as noted previously, those monies are restricted in their use and transfers from those funds to the general fund are not permitted. Using this Fire Station transaction as a means to accomplish the transfer obscured the true nature of the transaction from financial auditors and the general public, and Marchionda was left with the excess \$200,000 in grant funds.

Additional details related to this transaction further underscore the true motive of laundering money from the water and wastewater funds into the general fund. The City had declared the Fire Station "surplus property" on May 7, 2009, and the City Council passed an ordinance May 26, 2009, deeming the vacant Fire Station "no longer necessary for municipal purposes."⁶ Yet, as part of the purchase agreement, Marchionda agreed to lease the Fire Station back to the City for a period of ten years at \$100 per year. That means that Marchionda purchased a building from the City that he didn't need and never used, and the City leased a building it previously owned and had declared served no municipal purpose. However, there is no evidence that the City ever made payments per the lease terms, and the City continued to use the Fire Station until 2020.

⁵ Finding number 2010-03.

⁶ ORD 09-121

For the Erie Terminal Place, Marchionda received two grants from the City: the first grant agreement, for \$350,000, was finalized August 29, 2011; and the second grant agreement, ultimately for \$220,000, was finalized November 21, 2012. The initial grant was set up as a reimbursement grant, meaning that Marchionda was required to provide paid invoices for work performed in order to receive the funds. On February 27, 2012, Marchionda submitted the required paperwork to receive payment from the grant, claiming that the plumbing work for the project was ninety-six percent (96%) complete with invoices totaling \$409,728. As found through the forensic audit, the work at that time was really only fifty-nine percent (59%) complete, and only \$251,812 had been expended. In the end, Marchionda incurred nearly \$427,000 in plumbing expenses for the project, but needed access to the funds sooner.

For the second grant on this project, Marchionda approached the City claiming \$600,000 in unexpected costs for water-related aspects of the project, and that he needed assistance with those costs in order to complete the project. The City ultimately agreed to provide an additional \$220,000. Through records examined during the forensic audit, and through interviews with employees of B&B Construction, the general contractor for both the Erie Terminal Place and Flats at Wick projects, it was determined that the project had really only incurred around \$388,000 in additional expenses, and not all of that was water/wastewater related. The audit work determined that \$248,941 of the cost overruns were tied to water and wastewater work.

The forensic audit also uncovered examples of fictitious invoicing in order to access City-backed loans for the Erie Terminal Place project. Between examination of project records for billing, invoicing and payment, and examination of Marchionda's numerous bank accounts and how money was regularly moved around by Marchionda, it would appear that Marchionda was having trouble keeping current on so many large development projects running simultaneously, and was using nefarious practices to access funds. In this process, he employed a scheme, whereby he was accessing and using funds from a current project to try to pay for costs from a previous project, and he involved the very contractors to whom he was behind in paying for work already performed in this fictitious billing scheme. For example, one of the draw requests for the City loan provided for the Erie Terminal Place project included \$90,000 for B&B Construction for demolition costs, although the audit showed that those costs were actually incurred on the Flats at Wick project. It was similarly found that MS Consultants was paid \$105,000 for engineering work from the Erie Terminal Place loan, also for work actually performed on the Flats at Wick; and over \$35,000 for attorney fees to Garea that Marchionda still owed him from the Flats at Wick. Despite the volume of fraudulent activity associated with the City loans, ultimately the entire balance of those loans were paid back to the City. As such, there are no funds to be recovered for the City, and the billing schemes were only considered as part of the criminal case.

It is also worth noting that all three loans Marchionda received through DSA, Brownfield Loans for both the Erie Terminal Place and Wick Tower projects, and the Energy Loan for Wick Tower, have all been called and ended up with the Ohio Attorney General's Office Collections Enforcement Section. Of the original \$800,000 loan provided for the Erie Terminal Place project, Collections Enforcement reported an outstanding balance of \$294,077 as of July 9, 2021. As of that same date, the Brownfield Loan amount of \$770,000 for the Wick Tower project had been paid, but interest, penalties and collection costs of \$161,326 were still owed relative to this loan. As for the Energy Loan, originally \$5,008,400, Collections Enforcement records showed an outstanding collection balance of \$6,576,399 with penalties, interest and collections costs factored. Among the problems associated with the loans, in addition to non-payment, included evidence of fictitious invoices, use of loan proceeds to pay personal expenses, and, in the case of the Energy Loan, a failure by Marchionda to disclose his role in Rubino Construction, which received payments from loan proceeds in violation of the terms of the loan agreement.⁷

As a result of our forensic audit work and investigation, we are issuing more than \$7.8 million in findings for recovery⁸ and a finding for adjustment in the amount of \$1 million, detailed in the Appendix - Schedule of Findings section of this report.

⁷ See DSA Certification Memoranda for Wick Properties LLC and US Campus Suites LLC.

⁸ In general terms, a finding for recovery means that an individual or entity 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.

Prosecution

Based on the weight of the evidence uncovered through the investigation and forensic audit, the special prosecutor handling the case presented the findings to a Grand Jury in Mahoning County, and a one hundred one (101) count indictment was filed with the Clerk of Courts of Mahoning County (hereafter “Clerk of Courts”) on August 30, 2018.⁹ The indictment named Marchionda and a number of his businesses, Bozanich, Sammarone, nine “John Does” and six non-Marchionda businesses as part of a criminal enterprise; and among the charges were included: engaging in a pattern of corrupt activity; bribery; money laundering; tampering with records; theft; falsification; and telecommunications fraud.

The indictment lays out a narrative alleging bribes were paid to Bozanich and Sammarone by parties participating in the scheme in return for City contracts and to assist in obtaining funding for economic development projects, including Marchionda’s Flats at Wick project.¹⁰ According to the indictment, Bozanich accepted multiple gratuities from multiple people acting on behalf of Marchionda in exchange for securing City financial assistance for the project. Soon after, Bozanich reversed his prior opposition and the \$1.2 million grant was orchestrated, as was the purchase of the Fire Station for \$1 million described earlier, and the \$200,000 in excess funds to be retained by Marchionda with an understanding that the City would not audit the use of the funds.¹¹

Overall, the indictment paints a picture of Bozanich being showered with cash, meals, golf outings and other improper gratuities in exchange for favorable treatment of local development projects and local companies. It goes on to describe extensive misuse of public funds for personal benefit by Marchionda, including paying personal medical bills, paying off personal debt, country club memberships, charitable contributions, real estate taxes, and other non-project related spending. It is asserted that this misuse of funds was aided by the lax oversight by Bozanich of the public funds provided for the projects.¹²

As found in the forensic examination, Marchionda accomplished this primarily through a web of intricate transactions, beginning with the creation of inflated, fictitious or otherwise manipulated invoices to obtain payment from the government funds provided for the development projects. The forensic examination of 86 bank accounts tied to Marchionda and his companies found a pattern of Marchionda moving funds among his many businesses and, ultimately, into personal accounts in many instances.¹³ This intricate scheme was also aided by Marchionda’s failure to disclose key information, including his connections to Rubino Construction, when securing government funding or loans for these projects.

During the course of investigating the Marchionda development projects, and as contained in the indictment, an employee of a local engineering firm which did work for Marchionda told investigators he had given money to Sammarone in exchange for the company receiving City business. Per the indictment, there was an arrangement of monthly payments for a period of time; however, the indictment also asserts that the leadership of the company was unaware of this arrangement. The indictment charged Sammarone with several counts of bribery, and also with several counts of tampering with records relating to Sammarone’s failure to include those payments as income on the Financial Disclosure Statements he was required to file with the Ohio Ethics Commission during the time period in question.

Marchionda ultimately reached a plea agreement with the prosecutors in the criminal case naming him and a number of his affiliated businesses as defendants. Per the plea agreement and judgement entry filed with the Clerk of Courts following his plea hearing on August 7, 2020, Marchionda pled guilty to four counts of tampering with records, each of which are third degree felonies, and all four counts related to the filing of false or fraudulent invoices and billing records to receive payments related to the Flats at Wick and Erie Terminal Place projects. In the sentencing entry filed September 4, 2020, following the sentencing hearing the previous day, Marchionda was sentenced to five years of community control sanctions, was required to perform 250 hours of community service during each of those years and was subject to the supervision of the Adult Parole Authority. Per the plea agreement, Marchionda also paid \$25,000 towards the costs of the prosecution.

⁹ Criminal Case 2018-CR 853.

¹⁰ See indictment 2018-CR 853 pp. 38-39.

¹¹ Ibid. p. 43, and also Criminal Case 2018-CR 853A.

¹² See indictment 2018-CR 853 p. 49.

¹³ See Money Laundering Analysis compiled by Special Agent Henderhan (FDA-OCI) at the request of the Special Prosecutor.

Bozanich also entered into an agreement with prosecutors and pled guilty to four of the charges filed against him on August 7, 2020. Per the guilty plea and judgment entry filed with the Clerk of Courts that same day, Bozanich pled guilty to two first-degree misdemeanor charges of unlawful compensation to a public official, one third-degree felony count of acceptance of a bribe by a public official, and one third-degree felony count of tampering with records.¹⁴ At his sentencing hearing on September 3, 2020, as recorded in the sentencing entry filed with the Clerk of Courts on September 10, 2020, Bozanich was sentenced to one year in prison, up to three years of post-release control, and fined \$5,000.

Former Mayor Sammarone reached a plea agreement with prosecutors, and per the guilty plea and sentencing entry recorded with the Clerk of Courts on March 17, 2020, pled guilty to two third degree felony counts of tampering with records.¹⁵ As reflected in the sentencing entry also filed with the Clerk of Courts on March 17, 2020, Sammarone was sentenced to five years of community control, to be monitored by the Ohio Adult Parole Authority, and ordered to perform thirty days of community service.

Ray Briya, the former Chief Financial Officer of Youngstown-area engineering firm MS Consultants, entered into a plea agreement with prosecutors, and pled guilty on September 10, 2019, as documented in the judgment entry filed with the Clerk of Courts September 16, 2019.¹⁶ Under this arrangement, Briya pled guilty to two counts of fourth-degree felony attempted bribery, one count each relating to payments he made to Bozanich and Sammarone; one count of fourth-degree felony grand theft, for money he stole from his employer; a fourth-degree felony count of tampering with records; and a fifth-degree felony count of obstruction of justice. On September 3, 2020, as shown in the sentencing entry filed with the Clerk of Courts September 16, 2020, Briya was sentenced to three years of community control sanctions under the supervision of the Adult Parole Authority, ordered to complete 100 hours of community service during each of those years, and ordered to pay a fine of \$5,000 and court costs.

The criminal case against Steve Garea, an attorney who formerly represented both B&B Construction and Marchionda, is still pending.

On October 7, 2021, we held an exit conference with the following individuals representing the City:

Jamael Tito Brown, Mayor
Kristen Rogers, Accounting Supervisor
Jeff Limbian, Law Director
James Vivo, 1st Assistant Law Director
Nikki Posterli, Chief of Staff
Julius Oliver, Council
Lauren McNally, Council

Kyle Miasek, Finance Director
Annette Klimko, General Accounting Manager
Adam Buente, Senior Assistant Law Director
Valencia Marrow, Clerk of Council
DeMaine Kitchen, Council President
Mike Ray, Council

The attendees were informed they had five business days to respond to this report. A response was not received by the City.



Keith Faber
Auditor of State
Columbus, Ohio

September 23, 2021

¹⁴ See case number 2018 CR 853A.

¹⁵ See case number 2018 CR 853B.

¹⁶ See case number 2019 CR 731.

APPENDIX
SCHEDULE OF FINDINGS

APPENDIX

SCHEDULE OF FINDINGS

Finding for Adjustment

Fire Station Property Purchase

Ohio Rev. Code §§ 743.04 and 729.52 delineate the allowable usage of funds received from the collection of water and sewer charges, respectively. **Ohio Rev. Code 5705.10(I)** provides that money paid into any fund shall be used only for the purposes for which such fund was established.

Ohio Rev. Code § 5705.14 states, in part, that no transfer shall be made from one fund to any other fund, by order of the court or otherwise, unless one of the exceptions in the revised code section are met. In accordance with this Rev. Code section, a transfer cannot be made from surplus funds in the Water and Wastewater Funds to the General Fund.

In 2009, the City had excess funds in the Water and Wastewater Funds, but the General Fund budgetary balance was nearing \$0. The City granted \$1,200,000 in Water and Wastewater funds to a developer for the Flats at Wick project; however, the developer used \$1,000,000 of this money to purchase the fire station located at 145 Madison Avenue, from the City, contrary to the allowable purposes prescribed by the Ohio Rev. Code. Based on this money laundering scheme, the transaction essentially transferred money from the Water and Wastewater Funds to the General Fund through this negotiated purchase since the Ohio Rev. Code would not allow such a transfer.

In accordance with the forgoing facts, we hereby issue a finding for adjustment against the Business Development Fund in the amount of \$1,000,000 and in favor of the Water Fund and Wastewater Fund in the amount of \$500,000 each.

Findings for Recovery

Flats at Wick Grant

Section 1.1 of the Development Agreement dated November 19, 2009 states “The City agrees to provide [sic] to Developer, a One-Million Two Hundred Thousand (\$1,200,000.00) Grant for purposes of assisting in certain site preparation. The Grant shall be used by the Developer for installation of a water line and water-related, a waste water line and water water-related [sic], and any associated site remediation and grading as well as any improvements, enhancements, and/or upgrades to the water system that may be necessary for Developer to complete the project as planned.”

Further, **Section 2.2** states “Developer shall comply with all rules and regulations regarding the receipt of any Grant funds provided herein. Failure to comply with the rules and regulations of any Grant funds received may require the Developer to reimburse or refund Grant monies received to the City.”

The \$1,200,000 grant for the Flats at Wick project was received by developer Dominic Marchionda, managing member of U.S. Campus Suites, LLC, but was not used for the purposes intended. \$1,000,000 was used by U.S. Campus Suites, LLC to immediately purchase a fire station building and 0.1263 acres of land (parcel 53-006-0-120.00-0) from the City; however, the value of the fire station was only \$411,388 at the time of purchase. The fire station property was subsequently used to secure the Brownfield Loan – Erie Terminal Place, discussed in the Brownfield Revolving Loan and Energy Loan Finding below. The remaining \$200,000 was kept by the developer for his participation in the money laundering scheme perpetrated by the former Finance Director of the City, David Bozanich and himself. The City Finance Director purportedly arranged the sale as the building was no longer of value to the City; however, the City continued to utilize as a fire station, thereby establishing that the fire station was of value to the City and would not have been sold other than as part of the overall money laundering scheme. Additionally, the City paid \$3,220 in closing costs to the Hunter-Stevens Land Title Agency LTD as a result of the fire station property transaction.

APPENDIX

Erie Terminal Place Grant

Section 1 of City ORD 12-350, states “That the Board of Control of the City of Youngstown is hereby authorized to enter into a development agreement with Erie Terminal Place, LLC that provides \$220,000 in assistance to sewer and water line improvements needed at the site. The project has encountered \$600,000.00 in additional expenses to address improvements needed at the site.”

The **Amendment to the Development Agreement** dated January 3, 2013 states, in part, “In addition to the grant described in the original “Development Agreement,” City shall also provide Developer with \$220,000.00 in assistance for sewer and water line improvements at this site”

The Developer provided false documentation to the City when requesting the amendment claiming the project had encountered \$600,000 in additional expenses and therefore the City agreed to grant monies to cover a portion of those additional expenses. However, the project only required an additional \$248,941 for unexpected water and wastewater costs. Based on the fact that false documentation was provided as support and that the City was expecting the developer to cover the first \$380,000 in additional expenses, a finding for recovery will be issued for the \$220,000 provided by the City for public funds converted or misappropriated by the developer.

Brownfield Revolving Loan and Energy Loan Fund

Ohio Rev. Code § 122.652 provides, in part, for the grant or loan of funds for a brownfield cleanup or revitalization project. Brownfield sites are real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Ohio Rev. Code §§ 4928.61-4928.63 create and administer the advanced energy program, which is implemented as part of the Energy Loan Fund and utilized, in part, to make loans to assist in the financing of eligible projects. The purpose of the Energy Loan Fund is to reduce energy usage and associated costs, reduce fossil fuel emissions and create and retain jobs.

Within the City, developer Dominic Marchionda and his associated companies entered into multiple Brownfield Revolving Loan and Energy Loan Fund agreements with the Ohio Development Services Agency (DSA). Three of these loans were declared in default and turned over to the Attorney General’s office as bad debt for collections. The loans were in default for technical reasons as proper documentation was not provided to DSA for the weekly Davis Bacon reports or the annual financial statements of the borrower as required in Section 4.2(e) of the Energy Loan agreement, which resulted in a default of Section 20(d) of the brownfield loan agreement that prohibits defaults under any other loan document. Additionally, as a result of the indictment filed against Dominic Marchionda, Section 15(h) of the Brownfield Revolving Loan agreement was violated as it states there are no pending actions or proceedings against the borrower and Section 15(w) provides the requirement continues throughout the course of the loan. Finally, the October 1, 2017 payment on the Brownfield Revolving Loan was not made as of October 31, 2017 resulting in default under Section 20(a) of the loan agreement due to non-payment. The balances due on these loans include principal balance, certification interest and collection costs. The loans are as follows:

- Erie Terminal Place Project – On September 21, 2011, U.S. Campus Suites, LLC entered into a Brownfield Revolving Loan with the Ohio DSA totaling \$800,000, but in turn paid the loan over to Erie Terminal Place, LLC. The loan agreement was signed by both Dominic Marchionda and Jacqueline Marchionda as managing members of U.S. Campus Suites, LLC and they both served as guarantors of the loan as well. Additionally, the loan was secured by mortgages held by Erie Terminal Place, LLC, U.S. Campus Suites, LLC, DJD & C Development, Inc., and DJM Rental Properties, LLC, with Dominic Marchionda signing as the President and/or authorized member for each of these companies on the mortgage. As of July 9, 2021, the balance due is \$294,077.
- Wick Tower Project – On September 23, 2013, Wick Properties, LLC entered into a Brownfield Revolving Loan with the Ohio DSA totaling \$770,000. The loan agreement and/or loan agreement amendments were signed by both Dominic Marchionda and James Pantelidis as managing members of Wick Properties, LLC and they both served as guarantors of the loan as well.

APPENDIX

Additionally, the loan was secured by mortgages held by Youngstown Acquisition Holdings, LLC and Legal Arts Properties, LLC, with Dominic Marchionda and James Pantelidis listed as the sole owners and managing members for both of these companies. As of July 9, 2021, the balance due is \$161,326.

- Wick Tower Project – On September 25, 2013, Wick Properties, LLC entered into an Energy Loan with the Ohio DSA totaling \$5,008,400. The loan agreement was signed by both Dominic Marchionda and James Pantelidis as managing members of Wick Properties, LLC and they both served as guarantors of the loan as well. Additionally, the loan was secured by mortgages, including assignments of rents and leases, held by Youngstown First National Holdings, LLC, Youngstown Acquisition Holdings, LLC, and Legal Arts Properties, LLC, with Dominic Marchionda and James Pantelidis listed as the sole owners and managing members for all of these companies. As of July 9, 2021, the balance due is \$6,576,378.

Finding 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). David Bozanich, former Finance Director, was responsible for orchestrating the fire station money laundering scheme, while also signing off on the Development Agreement for the grant. As such, Mr. Bozanich, and his bonding company The Hartford, will be jointly and severally liable as described in the table below.

In accordance with the foregoing facts and pursuant to Ohio Rev. Code § 117.28, a finding for recovery for public monies converted or misappropriated is hereby issued against each of the below-listed development companies and Dominic Marchionda, Jaqueline Marchionda, and James Pantelidis, as managing partners of the companies, jointly and severally, as described in the table below.

Finding Against	Description	Finding in Favor of	Amount
U.S Campus Suites, LLC	Brownfield Loan - Erie Terminal	Ohio DSA	\$ 294,077
	Fire Station Closing Costs	Business Development Fund	3,220
	Fire Station Purchase	Fire Fund	411,388
	Flats at Wick Grant	Water Fund	100,000
	Flats at Wick Grant	Wastewater Fund	<u>100,000</u>
			\$ 908,685
Erie Terminal Place, LLC	Erie Terminal Grant	Water Fund	\$ 110,000
	Erie Terminal Grant	Wastewater Fund	110,000
	Brownfield Loan - Erie Terminal	Ohio DSA	<u>294,077</u>
			\$ 514,077
Wick Properties, LLC	Brownfield Loan – Wick Tower	Ohio DSA	\$ 161,326
	Energy Loan – Wick Tower	Ohio DSA	<u>6,576,378</u>
			\$6,737,704
DJD&C Development, Inc.	Brownfield Loan – Erie Terminal	Ohio DSA	\$ 294,077
DJM Rental Properties, LLC	Brownfield Loan – Erie Terminal	Ohio DSA	\$ 294,077
Youngstown Acquisition Holdings, LLC	Brownfield Loan – Wick Tower	Ohio DSA	\$ 161,326
	Energy Loan – Wick Tower	Ohio DSA	<u>6,576,378</u>
			\$6,737,704
Legal Arts Properties, LLC	Brownfield Loan – Wick Tower	Ohio DSA	\$ 161,326
	Energy Loan – Wick Tower	Ohio DSA	<u>6,576,378</u>
			\$6,737,704
Youngstown First National Holdings, LLC	Energy Loan – Wick Tower	Ohio DSA	\$6,576,378
Jacqueline Marchionda	Brownfield Loan – Erie Terminal	Ohio DSA	\$ 294,077

APPENDIX

Finding Against	Description	Finding in Favor of	Amount
James Pantelidis	Brownfield Loan – Wick Tower	Ohio DSA	\$ 161,326
	Energy Loan – Wick Tower	Ohio DSA	<u>6,576,378</u>
			<u>\$6,737,704</u>
Dominic Marchionda	Brownfield Loan – Erie Terminal	Ohio DSA	\$ 294,077
	Brownfield Loan – Wick Tower	Ohio DSA	161,326
	Energy Loan – Wick Tower	Ohio DSA	6,576,378
	Fire Station Closing Costs	Business Development	3,220
	Fire Station Purchase	Fund	411,388
	Flats at Wick Grant	Fire Fund	100,000
	Flats at Wick Grant	Water Fund	100,000
	Erie Terminal Grant	Wastewater Fund	110,000
	Erie Terminal Grant	Water Fund	<u>110,000</u>
	Wastewater Fund	<u>\$7,866,389</u>	
David Bozanich and his bonding company The Hartford	Fire Station Closing Costs	Business Development	\$ 3,220
	Fire Station Purchase	Fund	411,388
	Flats at Wick Grant	Fire Fund	100,000
	Flats at Wick Grant	Water Fund	<u>100,000</u>
		Wastewater Fund	<u>\$ 614,608</u>

OHIO AUDITOR OF STATE KEITH FABER



**CITY OF YOUNGSTOWN
PUBLIC INTEREST REPORT**

MAHONING 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 11/4/2021

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

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