

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON COURT
~~41001 1107CC00702~~
CAUSE NO. _____

STATE OF INDIANA *ex rel.*)
GREGORY F. ZOELLER,)
ATTORNEY GENERAL OF INDIANA,)
)
Plaintiff,)
)
v.)
)
MIKE RUDE, ANTHONY SLUSHER, and)
ARCH INSURANCE COMPANY,)
)
Defendants.)

FILED

JUL 14 2011

Sue Anne Misiniec
CLERK, JOHNSON CIRCUIT & SUPERIOR COURTS

COMPLAINT TO RECOVER PUBLIC FUNDS

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana (the "State"), by Luke P. Hodgin, Deputy Attorney General, for its Complaint to Recover Public Funds due and owing, states as follows:

FACTS

1. The State Board of Accounts ("SBOA"), pursuant to Ind. Code § 5-11-1-9, performed an examination of the books, accounts, and records of the White River Township Fire Protection District (the "District"). The results of the examination are set forth in SBOA Audit Report B38865 dated July 6, 2011. Said Audit Report is attached hereto and incorporated herein as Exhibit A.

2. The Defendant, Mike Rude ("Rude"), was a part-time firefighter for the White River Township Fire Protection District at all times during the audit period.

3. The Defendant, Anthony Slusher ("Slusher"), was a firefighter for the White River Township Fire Protection District at all times during the audit period.

4. The Audit Report disclosed malfeasance, misfeasance, or nonfeasance on the part of Rude and Slusher, and was placed by the State Examiner with Attorney General Gregory F. Zoeller pursuant to Ind. Code § 5-11-5-1(a).

5. The Audit Report also disclosed public money that had been unlawfully expended, obtained by fraud or any unlawful manner, or wrongfully withheld from the public treasury pursuant to Ind. Code § 5-11-6-3.

6. The Defendant, Arch Insurance Company (“Arch”), is a corporation duly authorized to conduct business in Indiana. Arch is now, and was at all times relevant to this action, engaged in the business, among others, of issuing insurance policies and/or surety bonds in the State of Indiana.

7. The public funds that the State seeks to recover upon this Complaint were found by the SBOA to be either:

- a. misappropriated, diverted, or unaccounted;
- b. illegally received;
- c. illegally retained;
- d. unaccountable for or not paid over any money so received;
- e. obtained by fraud or in any unlawful manner; and/or
- f. wrongfully withheld from the public treasury.

8. The Defendants are either delinquent officers, sureties of the officers, or any other proper persons against whom recovery of such misappropriated, diverted, or unaccounted for funds may be had.

9. This Complaint is brought for the benefit of the White River Township Fire Protection District.

10. This Complaint is brought by Attorney General Gregory F. Zoeller in the name of the State of Indiana pursuant to Ind. Code § 5-11-7-1.

COUNT I

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Anthony Slusher, and says:

11. During the audit period, Slusher had a duty to properly report hours worked and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

12. During the audit period, Slusher wrongfully or negligently reported payable overtime work hours and was paid for overtime hours which Slusher did not work, or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

13. The nature of the breach by Slusher was so egregious as to constitute gross negligence or an intentional disregard of his duties.

14. The total amount of loss to the District for unworked overtime hours paid to Slusher is Seven Thousand Eight Hundred Ten and 16/100 Dollars (\$7,810.16).

15. Slusher authorized the District to withhold One Thousand Eighty Three and 34/100 Dollars (\$1,083.34) from his final paycheck on April 12, 2010 to repay a portion of the District's loss.

16. As a direct and proximate result the breach of Slusher's duty to the District, the District suffered a pecuniary loss in the amount of Six Thousand Seven Hundred Twenty Six and 82/100 Dollars (\$6,726.82).

17. Slusher is liable to the State of Indiana and the White River Township Fire Protection District in the amount of \$6,726.82.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to (1) enter judgment for the State and against the Defendant, Anthony Slusher, in the amount of \$6,726.82, plus costs, attorney fees, and prejudgment interest, and (2) grant the State all other just and proper relief.

COUNT II

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Anthony Slusher, and says:

18. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count I, and those paragraphs are incorporated in Count II as if wholly set forth herein.

19. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:

- (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
- (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

20. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Slusher of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38865.

21. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Slusher, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds of the Court.

22. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Twenty Thousand One Hundred Eighty and 46/100 Dollars (\$20,180.46), plus costs, attorney fees, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to (1) enter judgment for the State and against the Defendant, Anthony Slusher, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT III

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Mike Rude, and says:

23. During the audit period, Rude had a duty to properly report hours worked and/or to commit no acts of misfeasance, malfeasance, or nonfeasance.

24. During the audit period, Rude wrongfully or negligently reported payable work hours and was paid for hours which Rude did not work and was not scheduled to work, or

otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

25. The nature of the breach by Rude was so egregious as to constitute gross negligence or an intentional disregard of his duties.

26. The total amount of loss to the District for unworked overtime hours paid to Rude is Seventeen Thousand Seven Hundred Thirty Seven and 50/100 Dollars (\$17,737.50).

27. As a direct and proximate result the breach of Rude's duty to the District, the District suffered a pecuniary loss in the amount \$17,737.50.

28. Rude is liable to the State of Indiana and the White River Township Fire Protection District in the amount of \$17,737.50.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to (1) enter judgment for the State and against the Defendant, Mike Rude, in the amount of \$17,737.50, plus costs, attorney fees, and prejudgment interest, and (2) grant the State all other just and proper relief.

COUNT IV

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Mike Rude, and says:

29. The State restates and pleads each and every allegation contained in the previous paragraphs inclusive of Count III, and those paragraphs are incorporated in Count IV as if wholly set forth herein.

30. Indiana Code § 34-24-3-1 provides that if a party suffers a pecuniary loss as a result of a violation of Ind. Code Art. 35-43, he may bring a civil action against the person(s) who caused the loss for:

- (1) An amount not to exceed three times the actual damages of the person suffering the loss;
- (2) The costs of the action;
- (3) A reasonable attorney's fee;
- (4) Actual travel expenses that are not otherwise reimbursed under subdivisions (1) through (3) and are incurred by the person suffering loss to:
 - (A) have the person suffering loss or an employee or agent of that person file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) provide witnesses to testify in court proceedings related to the recovery of a judgment under this chapter;
- (5) A reasonable amount to compensate the person suffering loss for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A);
- (6) Actual direct and indirect expenses incurred by the person suffering loss to compensate employees and agents for time used to:
 - (A) file papers and attend court proceedings related to the recovery of a judgment under this chapter; or
 - (B) travel to and from activities described in clause (A); and
- (7) All other reasonable costs of collection.

31. The State is a party suffering a pecuniary loss as a result of a violation by Defendant Rude of one or more of the following: Ind. Code § 35-43-4-2, Ind. Code § 35-43-4-3, and/or Ind. Code § 35-43-5-3, as described in SBOA Audit Report B38865.

32. The State is a party suffering a pecuniary loss as a result of a breach by the Defendant Rude, of the Defendant's contract and trust, both real and constructive, which the State imposed on the Defendant by law to properly account for public funds of the Court.

33. The State is entitled to the relief described in Ind. Code § 34-24-3-1, including three times the actual loss, which is Fifty Three Thousand Two Hundred Twelve and 50/100 Dollars (\$53,212.50), plus costs, attorney fees, and prejudgment interest.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to (1) enter judgment for the State and against the

Defendant, Mike Rude, (2) grant the State the relief described in Ind. Code § 34-24-3-1, plus attorney fees, costs, and prejudgment interest, and (3) grant the State all other just and proper relief.

COUNT V

The Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, by and through its undersigned counsel, complains of the Defendant, Arch Insurance Company, and says:

34. The State restates and pleads each and every allegation contained in the previous paragraphs, inclusive of Counts I, II, III, and IV, and those paragraphs are incorporated in Count V as if wholly set forth herein.

35. Arch issued a commercial crime policy which covered Defendant Slusher in the amount of One Hundred Thousand Dollars (\$100,000.00) for the period beginning January 1, 2005 and ending December 31, 2009. Said policy is attached hereto and incorporated herein as Exhibit B.

36. During the terms of said policy coverage, Slusher wrongfully and negligently failed to properly record hours worked, reported more hours and was paid for more hours than were actually worked, or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

37. Slusher's acts, or failures to act, constitute dishonesty, gross negligence, or an intentional disregard of the requirements of his office.

38. The amount of funds that Slusher misappropriated, diverted, or misapplied during the term of said policy coverage is \$6,726.82.

39. As a result of the matters alleged in the rhetorical paragraphs above, Arch is jointly and severally liable with the Defendant Slusher in the amount of \$6,726.82.

40. Arch issued a commercial crime policy which covered Defendant Rude in the amount of One Hundred Thousand Dollars (\$100,000.00) for the period beginning March 4, 2008 and ending January 1, 2010. Said policy is attached hereto and incorporated herein as Exhibit C.

41. During the terms of said policy coverage, Rude wrongfully and negligently failed to properly record hours worked, reported more hours and was paid for more hours than were actually worked, or otherwise committed several acts of misfeasance, malfeasance, and nonfeasance which resulted in the misappropriation, diversion, and misapplication of public funds.

42. Rude's acts, or failures to act, constitute dishonesty, gross negligence, or an intentional disregard of the requirements of his office.

43. The amount of funds that Rude misappropriated, diverted, or misapplied during the term of said policy coverage is \$17,737.50.

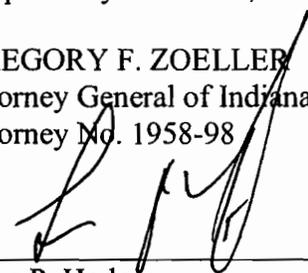
As a result of the matters alleged in the rhetorical paragraphs above, Arch is jointly and severally liable with the Defendant Rude in the amount of \$17,737.50.

WHEREFORE, the Plaintiff, State of Indiana *ex rel.* Gregory F. Zoeller, Attorney General of Indiana, respectfully requests the Court to (1) enter judgment for the State and against the Defendant, Arch Insurance Company, in the amount of \$24,464.32, plus costs, attorney fees, and prejudgment interest, and (2) grant the State all other just and proper relief.

Respectfully submitted,

GREGORY F. ZOELLER
Attorney General of Indiana
Attorney No. 1958-98

By: _____


Luke P. Hodgins
Deputy Attorney General
Attorney No. 27162-49

Office of the Indiana Attorney General
302 West Washington Street
Indiana Government Center South, 5th Floor
Indianapolis, IN 46204-2770
Telephone: (317) 232-6356

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

EXAMINATION REPORT

OF

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT

JOHNSON COUNTY, INDIANA

January 1, 2007 to December 31, 2009



FILED
07/06/2011



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OFFICIALS

Office

Official

Term

Fiscal Officer

Jonathan D. Raker

01-01-07 to 12-31-11

President of the Board

Charles Stufflebarger
James Dobson

01-01-07 to 12-31-07
01-01-08 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT,
JOHNSON COUNTY, INDIANA

We have examined the financial information presented herein of White River Township Fire Protection District (Fire Protection District), for the period of January 1, 2007 to December 31, 2009. The Fire Protection District's management is responsible for the financial information presented herein. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting the financial information presented herein and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

In our opinion, the financial information referred to above presents fairly, in all material respects, the financial information of the Fire Protection District for the years ended December 31, 2007, 2008, and 2009, based on the criteria set forth in the uniform compliance guidelines established by the Indiana State Board of Accounts.

The Schedule of Capital Assets and Schedule of Long-Term Debt, as listed in the Table of Contents, are presented for additional analysis and are not required parts of the basic financial information. They have not been subjected to the examination procedures applied to the basic financial information and, accordingly, we express no opinion on them.

STATE BOARD OF ACCOUNTS

November 16, 2010

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
SCHEDULES OF RECEIPTS, DISBURSEMENTS, AND CASH AND INVESTMENT BALANCES
ALL GOVERNMENTAL FUND TYPES
As Of And For The Years Ended December 31, 2007, 2008, And 2009

	Cash and Investments 01-01-07	Receipts	Disbursements	Cash and Investments 12-31-07
Governmental Funds:				
General	\$ 1,822,342	\$ 5,439,353	\$ 5,132,349	\$ 2,129,346
Rainy Day	236,435	137,511	-	373,946
Building Debt	244,516	452,415	468,371	228,560
Special Fire Debt	185,050	272,608	327,406	130,252
Cumulative Fire	1,485,339	396,145	516,927	1,364,557
Capital Projects	1,531,905	-	1,231,905	300,000
House Fund	12,141	11,317	15,708	7,750
Totals	<u>\$ 5,517,728</u>	<u>\$ 6,709,349</u>	<u>\$ 7,692,666</u>	<u>\$ 4,534,411</u>

	Cash and Investments 01-01-08	Receipts	Disbursements	Cash and Investments 12-31-08
Governmental Funds:				
General	\$ 2,129,346	\$ 5,623,520	\$ 5,581,284	\$ 2,171,582
Rainy Day	373,946	236,771	-	610,717
Building Debt	228,560	469,268	468,307	229,521
Special Fire Debt	130,252	223,703	258,279	95,676
Cumulative Fire	1,364,557	360,184	211,982	1,512,759
Capital Projects	300,000	-	-	300,000
House Fund	7,750	11,874	17,379	2,245
Cadet Program	-	939	41	898
Totals	<u>\$ 4,534,411</u>	<u>\$ 6,926,259</u>	<u>\$ 6,537,272</u>	<u>\$ 4,923,398</u>

	Cash and Investments 01-01-09	Receipts	Disbursements	Cash and Investments 12-31-09
Governmental Funds:				
General	\$ 2,171,582	\$ 5,872,651	\$ 5,488,116	\$ 2,556,117
Rainy Day	610,717	178,180	-	788,897
Building Debt	229,521	467,426	468,499	228,448
Special Fire Debt	95,676	90,226	185,902	-
Cumulative Fire	1,512,759	287,681	29,756	1,770,684
Capital Projects	300,000	-	-	300,000
House Fund	2,245	16,268	11,074	7,439
Cadet Program	898	-	783	115
Totals	<u>\$ 4,923,398</u>	<u>\$ 6,912,432</u>	<u>\$ 6,184,130</u>	<u>\$ 5,651,700</u>

The accompanying notes are an integral part of the financial information.

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
NOTES TO FINANCIAL INFORMATION

Note 1. Introduction

The Fire Protection District was established under the laws of the State of Indiana. The Fire Protection District operates under an appointed governing board and provides fire protection services for the public health, safety and welfare of the residence and property owners of White River Township north of Stones Crossing Road. The Fire Protection District does not provide services to any geographic area which is part of the City of Greenwood, State of Indiana, as of October 8, 1986.

Note 2. Fund Accounting

The Fire Protection District uses funds to report on its cash and investments and the results of its operations on a cash basis. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions or activities.

Note 3. Budgets

The operating budget is initially prepared and approved at the local level. In addition, funds for which property taxes are levied are subject to final approval by the Indiana Department of Local Government Finance.

Note 4. Property Taxes

Property taxes levied are collected by the County Treasurer and are distributed to the Fire Protection District in June and December. State statute (IC 6-1.1-17-16) requires the Indiana Department of Local Government Finance to establish property tax rates and levies by February 15. These rates were based upon the preceding year's March 1 (lien date) assessed valuations adjusted for various tax credits. Taxable property is assessed at 100% of the true tax value (determined in accordance with rules and regulations adopted by the Indiana Department of Local Government Finance). Taxes may be paid in two equal installments which become delinquent if not paid by May 10 and November 10, respectively. All property taxes collected by the County Treasurer and available for distribution were distributed to the Fire Protection District on or prior to December 31 of the year collected.

Note 5. Deposits and Investments

Deposits, made in accordance with Indiana Code 5-13, with financial institutions in the State of Indiana at year end were entirely insured by the Federal Depository Insurance Corporation or by the Indiana Public Deposit Insurance Fund. This includes any deposit accounts issued or offered by a qualifying financial institution.

State statute (IC 5-13-9) authorizes the Fire Protection District to invest in securities including, but not limited to, federal government securities, repurchase agreements, and certain money market mutual funds. Certain other statutory restrictions apply to all investments made by local governmental units.

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
NOTES TO FINANCIAL INFORMATION
(Continued)

Note 6. Pension Plans

A. Public Employees' Retirement Fund

Plan Description

The Fire Protection District contributes to the Indiana Public Employees' Retirement Fund (PERF), a defined benefit pension plan. PERF is an agent multiple-employer public employee retirement system, which provides retirement benefits to plan members and beneficiaries. All full-time employees are eligible to participate in this defined benefit plan. State statutes (IC 5-10.2 and 5-10.3) govern, through the PERF Board, most requirements of the system, and give the Fire Protection District authority to contribute to the plan. The PERF retirement benefit consists of the pension provided by employer contributions plus an annuity provided by the member's annuity savings account. The annuity savings account consists of members' contributions, set by state statute at 3% of compensation, plus the interest credited to the member's account. The employer may elect to make the contributions on behalf of the member.

PERF administers the plan and issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

Public Employees' Retirement Fund
Harrison Building, Room 800
143 West Market Street
Indianapolis, IN 46204
Ph. (317) 233-4162

Funding Policy and Annual Pension Cost

The contribution requirements of the plan members for PERF are established by the Board of Trustees of PERF.

B. 1977 Police Officers' and Firefighters' Pension and Disability Fund

Plan Description

The Fire Protection District contributes to the 1977 Police Officers' and Firefighters' Pension and Disability Fund, a cost-sharing multiple-employer defined benefit pension plan administered by the Indiana Public Employees' Retirement Fund (PERF) for all police officers and firefighters hired after April 30, 1977.

State statute (IC 36-8-8) regulates the operations of the system, including benefits, vesting and requirements for contributions by employers and by employees. Covered employees may retire at age fifty-five with twenty years of service. An employee with twenty years of service may leave service, but will not receive benefits until reaching age fifty-five. The plan also provides for death and disability benefits.

PERF issues a publicly available financial report that includes financial statements and required supplementary information for the plan as a whole and for its participants. That report may be obtained by contacting:

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
NOTES TO FINANCIAL INFORMATION
(Continued)

Public Employees' Retirement Fund
Harrison Building, Room 800
143 West Market Street
Indianapolis, IN 46204
Ph. (317) 233-4162

Funding Policy and Annual Pension Costs

Plan members are required to contribute 6% of the first-class police officers' and firefighters' salary and the Fire Protection District is to contribute at an actuarially determined rate. The current rate, which has not changed since the inception of the plan, is 21% of the first-class police officers' and firefighters' salary. The contribution requirements of plan members and the Fire Protection District are established by the Board of Trustees of PERF. The Fire Protection District's contributions to the plan for the years ending December 31, 2009, 2008, and 2007 were \$351,290, \$367,723, and \$330,392, respectively, equal to the required contributions for each year.

Note 7. Subsequent Event

In 2010, the Fire District purchased two ambulances and started providing ambulance service.

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
SUPPLEMENTARY INFORMATION
SCHEDULE OF CAPITAL ASSETS
December 31, 2009

Capital assets are reported at actual or estimated historical cost based on appraisals or deflated current replacement cost. Contributed or donated assets are reported at estimated fair value at the time received.

<u>Primary Government</u>	<u>Ending Balance</u>
Governmental activities:	
Capital assets, not being depreciated:	
Land/Buildings	\$ 4,772,709
Machinery and equipment	<u>3,451,037</u>
Total governmental activities, capital assets not being depreciated	<u>\$ 8,223,746</u>

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
 SUPPLEMENTARY INFORMATION
 SCHEDULE OF LONG-TERM DEBT
 December 31, 2009

The Fire District has entered into the following debt:

Description of Debt	Ending Principal Balance	Principal and Interest Due Within One Year
Governmental activities:		
General obligation bonds:		
2005 Fire Building and Equipment Bond	\$ 890,171	\$ 468,290

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
EXAMINATION RESULTS AND COMMENTS

DISBURSEMENT DOCUMENTATION

Payments were observed which were not supported by adequate documentation such as receipts, invoices and other public records. A similar comment was noted in prior examination reports.

Due to the lack of supporting information, the validity and accountability for some monies disbursed could not be established.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

FINANCE CHARGES

The Fire Protection District incurred, and subsequently paid, finance charges for delinquent payment of vendor invoices during 2009. Payment was also made to the Indiana Department of Revenue for penalty and interest.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

PAYROLL DEDUCTIONS

Payments were made to Fire Protection District Board members without payroll deductions for taxes and they did not receive forms 1099 for compensation paid.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 14)

APPROVAL OF FORMS

The White River Township Fire Protection District contracted its accounting and payroll services and purchased a software package to maintain the general ledger. The reports being used and the accounting software purchased to generate the general ledger have not been approved for use in lieu of prescribed forms. A similar comment was included in the prior reports.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

LIST OF EMPLOYEES NOT FILED WITH COUNTY TREASURER

A list of employees was not certified to the County Treasurer.

IC 6-1.1-22-14(a) states, in part: "On or before June 1 and December 1 of each year . . . the disbursing officer of each political subdivision . . . shall certify the names and addresses of each person who has money due from the political subdivision to the treasurer of each county in which the political subdivision is located."

OFFICIAL BOND

The Fire Protection District employees were covered by a liability insurance policy. It was not filed in the Office of the County Recorder:

IC 5-4-1-5.1(b) states, in part: "Every elected or appointed officer, official, deputy, or employee of a political subdivision . . . shall file the bond in the office of the county recorder. . . ."

MALFEASANCE, MISFEASANCE OR NONFEASANCE

Information was presented for examination by Chief Pell indicating that Anthony Slusher, a Firefighter, had reported overtime on his time sheets that he had not worked. This was noted by the Battalion Chief who keeps a schedule of all employees on duty. Records show that Anthony Slusher reported and was paid for excessive overtime worked, from January 1, 2005 to December 31, 2009, in the amount of \$7,810.16. On April 12, 2010, he authorized the Fire Protection District to withhold \$1,083.34 from his final pay check for hours reported he had not worked. This leaves a balance of \$6,726.82 due to the Fire Protection District for overtime reported, but not worked. Total payment of overtime reported not worked was \$6,726.82, as shown in the Summary of charges, page 21. Anthony Slusher, Firefighter, was requested to repay this amount.

Information was presented for examination by Chief Pell indicating that Mike Rude, a part-time Firefighter, had reported 1,664 hours worked, in the amount of \$17,737.50, for the period from March 3, 2008 to January 31, 2010, for which he was not scheduled to be on duty. Records indicate that after the battalion chief would submit timesheets to payroll for processing, hours worked would be added to the schedule for Mike Rude. It is believed by Chief Pell that Mike obtained a password to be able to get on the system to make these changes. Total overpayment of hours reported and paid that Mike did not work totaled \$17,737.50, as shown in the Summary of charges, page 21. Mike Rude, part-time Firefighter, was requested to repay this amount.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Special Districts, Chapter 10)

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
EXAMINATION RESULTS AND COMMENTS
(Continued)

INSURANCE COVERAGE

Anthony Slusher, Firefighter, was covered by a commercial crime policy with Arch Insurance Company for \$100,000 for the period from January 1, 2005 to December 31, 2009.

Mike Rude, part-time Firefighter, was covered by a commercial crime policy with Arch Insurance Company for \$100,000 for the period from March 4, 2008 to January 1, 2010.

AUDIT COSTS - PAYROLL DISCREPANCIES

The State of Indiana incurred additional audit costs in the investigation of the payroll discrepancies.

Audit costs incurred because of theft or shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Fire Districts, Chapter)

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
EXIT CONFERENCE

The contents of this report were discussed on April 11, 2011, with Jeremy A. Pell, Fire Chief; on April 26, 2011, with Anthony Slusher, former Firefighter; and on April 27, 2011, with Mike Rude, former part-time Firefighter. The official response has been made a part of this report and may be found on pages 14 through 20.



White River Township Fire Department

April 20, 2011

850 S Mullinix Road
Greenwood, IN 46143

Administration:
(317) 888-8337

Fax:
(317) 888-9426

*"Committed to serving our
community."*

Jeremy A. Pell
Fire Chief

Joel M. Thacker
Chief of Training

Carey E. Slauter
Chief of Operations

James B. Engmark
Chief of EMS

Michael L. Arany
Fire Prevention
Coordinator

State Board of Accounts
State of Indiana
302 West Washington Street, Room E418
Indianapolis, Indiana 46204

**RE: Response to SBA Audit for the Period of January 1, 2007 to
December 31, 2009
White River Township Fire Protection District, Johnson
County**

Ladies and Gentlemen:

This letter will serve as the response of the White River Township Fire Protection District of Johnson County (the "District") to the draft Audit Report which we recently received for the above referenced audit period. It also serves to supplement the discussions that occurred throughout the audit process between the District's Fire Chief, Jeremy Pell, and the Auditor, Karen Braun. We appreciate your consideration of this response and its inclusion in your final report. This response will be organized by category as listed in the Audit Report.

1. **Disbursement Documentation**

The Audit Report provides in part that: "Payments were observed which did not contain adequate supporting documentation such as receipts, invoices and other public records. A similar comment was noted in prior reports."

Response:

The District has implemented a written policy to address this issue that was effective as of April 15, 2011. A copy of that policy is attached hereto as Exhibit "A" (the "Purchasing Policy"). In addition, the District has established internal practices to try to ensure compliance with the updated Purchasing Policy. Notice of the updated Purchasing Policy and a reminder to District employees regarding the District's purchasing practices and the requirement for compliance has been circulated by the Fire Chief to all of the District's employees by a written Memo dated April 20, 2011. A copy of the Chief's written Memo is attached hereto as Exhibit "B".

Be sure to visit the
Department's website at
www.wrtfd.org



White River Township Fire Department

2. Finance Charges

The Audit Report provides in part that: "The Fire District incurred, and subsequently paid, financial charges for delinquent payment of vendor invoices during 2009. Payment was also made to the Indiana Department of Revenue for penalty and interest."

Response:

The District took measures to try to ensure timely payment of vendor invoices and payments due to the Indiana Department of Revenue relating to payroll matters. The District will continue to take additional action to try to ensure better compliance with this requirement in the future. It is anticipated that better compliance on this issue will result from the updated Purchasing Policy and related Memo from the Chief to the District's employees as further identified in Item No. 1 above.

3. Payroll Deductions

The Audit Report provides in part that: "Payments were made to Fire Department Board Members without payroll deductions for taxes and did not receive a 1099 for compensation."

Response:

It is the policy of the District to comply with the applicable regulations of all taxing authorities.

4. Approval of Forms

The Audit Report provides in part that: "The White River Township Fire Protection District contracted its accounting and payroll services and purchased a software package to maintain the general ledger. The reports being used and the accounting software purchased to generate the general ledger have not been approved for use in lieu of prescribed forms. A similar comment was included in the prior reports."

Response:

The District intends to work with the State Board of Accounts to determine if the District's current software and related reporting system can be approved for use by the State Board of Accounts in lieu of the prescribed forms by the State Board of Accounts. The District intends to make this



White River Township Fire Department

request and related documentation submittal within forty-five (45) days from the date of this letter.

5. **List of Employees Not Filed With County Treasurer**

The Audit Report provides in part that: "A list of employees was not certified to the County Treasurer."

Response:

The list of employees has been filed with and certified by the County Treasurer as of April 21, 2011. A file-marked copy of the list is attached hereto as Exhibit "C". These lists will be filed in a timely manner in the future.

6. **Official Bond**

The Audit Report provides in part that: "The fire protection district employees were covered by a liability insurance policy. It was not filed in the Office of the County Recorder."

Response:

The liability insurance policy was filed with the Office of the County Recorder as of April 21, 2011. A file-marked copy of the list is attached hereto as Exhibit "D". All required insurance filings will be completed in a timely manner in the future.

7. **Malfeasance, Misfeasance or Nonfeasance**

The Audit Report provides in part that: "Information was presented at audit by Chief Pell that Anthony Slusher, a Fire Fighter had reported overtime on his time sheets that he had not worked. This was noted by the battalion chief that keeps a schedule of all employees on duty. Records show that Anthony Slusher reported and was paid for overtime worked from January 1, 2005 to December 31, 2009 for \$7,810.16. On April 12, 2010 he authorized the fire district to withhold \$1,083.34 from his final pay check for hours reported he had not worked. This leaves a balance of \$6,726.82 due to the fire district for overtime reported he did not work. Total payment of overtime reported not worked was \$6,726.82 as shown in the Summary of charges page. Anthony Slusher, Fire Fighter, was requested to repay this amount.

Information was presented at audit by Chief Pell that Mike Rude, a part-time Fire Fighter had reported 1,664 hours worked in the amount of \$17,737.50 for the period of March 3, 2008 to January 31, 2010 that he was not scheduled on duty. Records indicate that after the battalion chief would submit timesheets to payroll for processing that Mike would go in and add



White River Township Fire Department

hours for himself to the schedule. It is believed by Chief Pell that Mike obtained a password to be able to get on the system to make these changes. Total overpayment of hours reported worked that Mike did not work was \$17,737.50 as shown in the Summary of charges, page. Mike Rude, part-time Fire Fighter, was requested to repay this amount.

Response:

The District took immediate steps to rectify this problem once it was discovered. Each incident was thoroughly investigated by researching documents and computer data spanning several years. Each investigation confirmed that Anthony Slusher and Mike Rude were able to claim and receive pay for time that was not worked. No evidence was found that any other employee committed the same offenses as these former employees.

Upon confirmation that the offenses were committed, immediate steps were taken to minimize the possibility that this type of fraud could ever occur again. The following steps have been taken:

- The number of people with electronic access to change schedules was greatly reduced.
- All personnel with access were required to change their passwords.
- Written timecards were changed to require more specific information.
- All Chief Officers were provided with specific direction regarding validation of timecards.
- All career employees were required to attend a training session covering the proper way to document time worked or leave time taken.
- A revised policy was created regarding the documentation of timecards.
- The District contacted an Information Technology expert from another fire department to help evaluate our pay system.
- Alternative computer based systems have been evaluated in order to make the system more efficient as well as to provide electronic audit tracking.

Anthony Slusher and Mike Rude were terminated from employment and full repayment of all improperly claimed pay was requested. Neither former employee has provided full repayment.

In addition to taking the steps set forth above to address the issue from a procedural standpoint internally, the District also had communications with Todd Austin from the State Board of Accounts and sent an additional follow-up letter to Mr. Austin dated April 14, 2010, a file-marked copy of which is attached hereto as Exhibit "E". As part of that communication to the State Board of Accounts and as set forth in the above referenced letter, the District reported these two matters to the State Board of Accounts for further guidance



White River Township Fire Department

and direction in how to proceed with additional collection efforts. The letter specifically provides in part as follows:

"At this point, we understand that an auditor from your office will be communicating with the District to coordinate a review of this matter so we can all work together to further address these matters as determined necessary by your office. Based on Tricia's discussions with you, it is our understanding that the District does not need to take any additional action at this point in reporting this to any outside agencies, including, but not limited to, the Indiana Attorney General's Office and/or the Johnson County Prosecutor's Office, and that we will wait for further direction from your office as to what, if any, additional action needs to be taken by the District."

Up until this most recent Audit, the District had not been contacted by the State Board of Accounts regarding these issues that were reported. The District is waiting for direction and guidance from the State Board of Accounts as to how to proceed with the collection of these monies and/or whether they should be reported to the Indiana Attorney General's Office and/or the Johnson County Prosecutor's Office. Please provide further clarification and direction on this matter and the District can proceed accordingly.

8. Insurance Coverage

The Audit Report provides in part that:

"Anthony Slusher, Firemen, was covered by a commercial crime policy with Arch Insurance Company for \$100,000 for the period of January 1, 2005 to December 31, 2009.

Mike Rude, part-time firemen, was covered by a commercial crime policy with Arch Insurance Company for \$100,000 for the period of March 3, 2008 to January 31, 2010."

Response:

The District has commercial crime insurance. We have contacted the insurance company to inquire about filing a claim in order to recover the taxpayer funds. The insurance company requires the former employees to be formally charged in order to process an insurance claim. The District has taken actions within its legal authority to investigate the accusations and take disciplinary action, in this case the termination of the individuals. We will be able to file an insurance claim to recover the taxpayer funds if the appropriate legal authorities pursue formal charges against one or both of these



White River Township Fire Department

individuals. Both former employees have refused to return the funds on their own volition.

No evidence was found that any other employee committed the same offenses as these former employees. The District took immediate steps to resolve the problem and implement safe guards to avoid any similar issue in the future. Each former employee was held accountable for his actions by having his employment terminated and immediate repayment requested. Each failed to provide full repayment. At this point, as set forth in the Response to Item No. 7 above, we are waiting on further direction and guidance from the State Board of Accounts as to how to proceed on this issue. Please let us know if you determine to proceed with formal charges so that we can recover these taxpayer funds. If we do not hear from you further, we will understand that this issue is closed out from the State Board of Accounts perspective.

At this point, until we receive further direction from the State Board of Accounts, we believe that the issues that have been raised in the Audit have been fully resolved by the District. If that is not the case and/or if you would like to discuss this matter further, please communicate directly with the District's Fire Chief, Jeremy Pell, at (317) 888-8337. We certainly appreciate the State Board of Accounts assistance with these matters.

Very truly yours,

James H. Dodson, Chairman of the Board of Trustees

White River Township Fire Protection District

JD:kf

Enclosures

Cc: Members, District Board
Fire Chief, Jeremy Pell
Tricia A. Leminger, Counsel for the District

Mr. Mike Bozymski
Indiana State Board of Accounts
302 West Washington St.
Room E 418
Indianapolis, IN 46204-2765

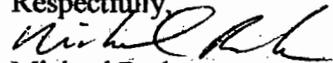
Michael Rude
5816 Lida Lane
Indianapolis, IN 46239
317-716-0918

15 May 2011

Mr. Bozymski-

This letter is in reference to option # 4 of my exit conference with Ms. Braun and Mr. Fleming, Reference the audit of the White River Township Fire Protection District, January 1, 2007-December 31, 2009.

During my service to the citizens of White River Twp FD (WRTFD), Johnson County, as a Part-Time Firefighter/EMT/Fire Instructor, I gave every effort to protect the life and property of the community. Mr. Pell is accusing me of receiving misappropriated funds in the amount of \$17,737.50 for which he can not account for, nor can his immediate company level supervisors be 100% sure that the hours were not worked. When I resigned on March 17, 2010, Chief Pell even stated he was not totally sure of what took place with regards to payroll, nor could he be 100% sure that I had anything to do with it. During my tenure with the White River Twp FD as a Part-Time employee, I never signed a time sheet nor did I have access to the payroll system that paid its employees. The Battalion Chief on duty or his acting representative would enter the employee into a database and based on the hours worked, you were paid that amount. My service and dedication to this department was above and beyond what I feel is satisfactory. My employee evaluations will also back this statement up. I would on numerous occasions train the employees of the WRTFD on different aspects of Fire Suppression and Driver-Operator skills. I mentored the youngest of Firefighters and befriended the oldest of the Department. I feel that all of this is a cover up to other wrong doings within the payroll system at the questioned time within the White River Twp FD. Since this has come to light, it is my understanding, The WRTFD has implemented a time sheet program for all part-time employees that employees will have to sign off on their respective time before being paid. I look forward to hearing from you.

Respectfully,

Michael Rude

WHITE RIVER TOWNSHIP FIRE PROTECTION DISTRICT
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Anthony Slusher, former Firefighter:			
Malfeasance, Misfeasance or Nonfeasance, page 11	\$ 7,810.16	\$	\$
Withheld from Anthony Slusher's last paycheck	<u> </u>	<u>1,083.34</u>	<u>6,726.82</u>
Total Anthony Slusher	<u>7,810.16</u>	<u>1,083.34</u>	<u>6,726.82</u>
Mike Rude, former part-time Firefighter:			
Malfeasance, Misfeasance or Nonfeasance, page 11	<u>17,737.50</u>	<u>-</u>	<u>17,737.50</u>
Totals	<u>\$ 25,547.66</u>	<u>\$ 1,083.34</u>	<u>\$ 24,464.32</u>

AFFIDAVIT

STATE OF INDIANA)
)
Morgan COUNTY)

I Karen Braun, Field Examiner, being duly sworn on my oath, state that the foregoing report based on the official records of the White River Township Fire Protection District, Johnson County, Indiana, for the period from January 1, 2007 to December 31, 2009, is true and correct to the best of my knowledge and belief.

Karen Braun
Field Examiner

Subscribed and sworn to before me this 2 day of June, 2011.

[Signature]
Notary Public

My Commission Expires: 6-14-15

County of Residence: Morgan

CRIME AND FIDELITY COVERAGE PART DECLARATIONS (COMMERCIAL ENTITIES)

The Crime And Fidelity Coverage Part (Commercial Entities) consists of this Declarations Form and the Commercial Crime Coverage Form.

Coverage Is Written:

Primary Excess Coindemnity Concurrent

Employee Benefit Plan(s) Included As Insureds:

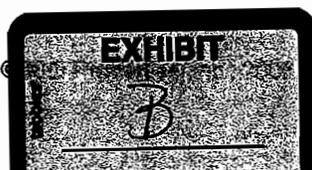
Insuring Agreements	Limit Of Insurance Per Occurrence	Deductible Amount Per Occurrence
1. Employee Theft	\$ \$100,000	\$ NA
2. Forgery Or Alteration	Not Covered	
3. Inside The Premises -- Theft Of Money And Securities	Not Covered	
4. Inside The Premises -- Robbery Or Safe Burglary Of Other Property	Not Covered	
5. Outside The Premises	Not Covered	
6. Computer Fraud	Not Covered	
7. Funds Transfer Fraud	Not Covered	
8. Money Orders And Counterfeit Money	Not Covered	

If "Not Covered" is inserted above opposite any specified Insuring Agreement, such Insuring Agreement and any other reference thereto in this policy is deleted.

If Added By Endorsement:

Insuring Agreement(s)	Limit Of Insurance Per Occurrence	Deductible Amount Per Occurrence
	\$	\$

Endorsements Forming Part Of This Coverage Part When Issued: See attached form GU207



Cancellation Of Prior Insurance Issued By Us:

By acceptance of this Coverage Part you give us notice cancelling prior policy Nos.
; the cancellation to be effective at the time this Coverage Part becomes effective.

Countersignature Of Authorized Representative

Name: McNeil & Company, Inc.

Title: President

Signature:



Date: 01/19/2010