

Investigation Report

Employer: Franklin County

Report Prepared for: Suzanne Michael of Michael & Alexander PLLC

Investigator: Jim Webber

Date of Report: April 17, 2012

Scope of Investigation

Suzanne Michael of Michael & Alexander PLLC engaged me to conduct an investigation related to allegations that a former Franklin County employee (Dennis Huston, Public Works Director of Accounting and Administration) embezzled more than \$1 million from the county. (Ms. Michael provides legal representation to the County). Specifically, Ms. Alexander asked me to investigate whether Mr. Huston's managers and/or co-workers knew or should have known about the embezzlement before the news became public.

As part of my investigation, I reviewed the news coverage related to the allegations as well as the following materials provided to me by the County:

- Sample Voucher Approval forms/packets
- Franklin County Classification Description for Director of Public Works/County Engineer
- Annual Performance Review (in letter format dated 9/8/09) for Tim Fife
- Annual Performance Review (in letter format dated 8/4/08) for Tim Fife
- Franklin County Performance review for Tim Fife for period ending 8/8/08
- Annual Performance Review/Merit Increase (in letter format dated 6/7/05) for Tim Fife
- Annual Performance Review/Merit Increase (in letter format dated 6/11/02) for Tim Fife
- Franklin County Employee Performance Evaluation for Tim Fife signed 2/27/01
- Annual Performance Review/Merit Increase (in letter format dated 6/28/00) for Tim Fife
- Franklin County Classification Description for Assistant Director - Public Works
- Franklin County Public Works Employee Policies and Procedures Acknowledgement form
- Employee Performance Evaluation for Guy Walters dated 5/2/08
- Employee Performance Evaluation for Guy Walters dated 7/10/03

- Employee Performance Evaluation for Guy Walters dated 5/31/01
- Motor Vehicle Fund Purchasing & Payment Process (with handwritten notation at top: “Dennis: Sent 1/13”)¹ (attached as Appendix A)
- County Road Fund Purchasing & Payment Process (with handwritten notation at top: “Len: Sent 1/23”)
- Franklin County Public Works Inventory Report (12 pages, run date of 2/13/12)
- Franklin County Public Works Vendor Report (35 pages, run date of 2/13/12)

During my investigation, I interviewed the following individuals:

- Fred Bowen (County Administrator)
- Raenette Carle (Parts Technician)
- Tim Fife (Public Works Director)
- Gary Fitch (Roads Supervisor)
- Robert Koch (County Commissioner)
- Len Langston (Accounting Assistant)
- Rick Miller (County Commissioner)
- Brad Peck (County Commissioner)
- Laura Stark (Confidential Secretary/Administrative Secretary)
- Guy Walters (Public Works Deputy Director)
- John White (Road Supervisor)

Conclusions

Based on my investigation, I do not believe that any of Mr. Huston’s managers or co-workers were aware or even suspected that he was embezzling money from Franklin County. (No one other than Mr. Huston has been arrested). Employees credibly exhibited emotions toward Mr. Huston ranging from anger to betrayal.

¹ The witnesses confirmed that this summary correctly describes the department’s practice(s) for issuing payments. I will not repeat the practices in this Report. I did not conduct an accounting audit or attempt to determine if particular accounting practices conformed to acceptable guidelines.

Although there was no actual knowledge or suspicion of wrongdoing, I conclude that information was readily available that should have alerted managers to the possibility of or opportunity for wrongdoing. This information includes:

- Knowledge of Mr. Huston's past criminal record
- Accounting forms related to a defunct vendor
- Failure to implement cross-training
- Failure to use accounting software for the Motor Vehicle Fund
- Lack of inventory controls

I do not believe that allegations of drug use or gambling were sufficient to put managers or anyone else on notice that Mr. Huston might be involved in criminal activity.

Knowledge of Past Conviction

Before he joined Franklin County as an accountant with the Public Works Department in 1989, Mr. Huston was convicted of and served a prison sentence for embezzlement related to his work for a public employer in Montana². According to newspaper accounts, the County was not aware of the past conviction when it hired Mr. Huston and the County did not conduct reference checking.

Although the witnesses who I interviewed did not participate in Mr. Huston's hiring process, most of them subsequently learned about his criminal conviction. With the exception of the three Franklin County Commissioners, they received the information directly from Mr. Huston "a few years ago"³ when the F.B.I. was investigating possible fraud⁴. None of the witnesses believed at that time that Mr. Huston had engaged in wrongdoing while working for the County; they believed that Mr. Huston's former son-in-law was trying to cause problems. Without exception, the employees stated that they understood that the F.B.I. had "cleared" Mr. Huston and the incident did not cause them to doubt Mr. Huston's trustworthiness.

Due to the F.B.I. investigation, Mr. Huston talked to several of his co-workers and managers about his past. He told them that he was concerned that the F.B.I. matter might cause his history to become public and he wanted people to hear the information directly from him. Mr. Fife, Mr. Walters, Ms. Carle, Ms. Stark, Mr. Fitch, Mr. Langston and Mr. Bowden told me that Mr. Huston approached them for a private conversation and told them that he had a criminal conviction. While he did not provide the same details to each person, he told most of the individuals (including Mr. Fife and Mr. Bowden) that he had been convicted of embezzlement. (He did not tell people that he had been working for a public

² According to news accounts, Mr. Huston completed the prison sentence less than a year prior to being hired by Franklin County.

³ I was not able to determine an exact date or time period for these conversations.

⁴ I did not seek details about the F.B.I. investigation because a mere investigation is less serious than a criminal conviction. The parties' learned of a conviction around the same time as the F.B.I. activity and I focus on their reactions to that knowledge rather than to their reactions to the investigation.

employer or the manner in which he had committed the thefts.) All of the witnesses reported that Mr. Huston was very emotional as he talked to them and that he seemed very concerned that people would think less of him. All of the witnesses describe Mr. Huston as seeming very sincere.

Mr. Huston had worked for Franklin County for approximately twenty years before he told his managers and co-workers about his criminal conviction. The witnesses all reported that they had never doubted Mr. Huston's honesty up to that point. Based on their experience working with him for so long, they trusted him. They felt that Mr. Huston had "paid the price" (prison) and deserved a second chance. Several of the witnesses said that if news of the conviction had been revealed for someone who had not worked with them for so long, they probably would have wondered if the employee had truly been rehabilitated. In Mr. Huston's case, however, none of the witnesses reported that they lost any trust for him. The only reason I could find for this confidence was their many years of working together.

It is undisputed that no one at the County took any action in response to Mr. Huston's revelation of a criminal conviction. This includes Mr. Huston's direct supervisor (Mr. Fife) and the County Administrator (Mr. Bowden). Although the County Commissioners did not receive official notification of Mr. Huston's record at that time, Mr. Bowden described having a conversation with Commissioner Peck about the embezzlement conviction and how he had "paid his price." Commissioner Peck had no recollection of such a conversation with Mr. Bowden at that time. He stated that Mr. Bowden did not tell him about Mr. Huston's conviction until after Mr. Huston was recently arrested.

Commissioner Miller stated that he received an anonymous telephone call about possible fraud involving Mr. Huston and about Mr. Huston's past criminal record. The caller wanted to remain anonymous, so Commissioner Miller suggested that the caller write a letter. Commissioner Miller also told his wife about the call. Shortly afterward, Commissioner received an anonymous letter at his home that contained details about Mr. Huston's criminal past. He forwarded the letter to the County Prosecutor, who brought in the F.B.I. for an investigation. Commissioner Miller told me (and the press) that he subsequently learned that his wife wrote the anonymous letter. He says that she did so because he needed a letter in order to initiate an audit or investigation. Commissioner Miller told me that he did not formally notify the other Commissioners about the letter, but asserts that he told Commissioner Peck about the letter's contents. Commissioner Peck said that he never saw the letter and does not know what was in it. Commissioner Peck did hear rumors that Mr. Huston had a "shady past", but he stated that he never heard specifics until after Mr. Huston's arrest.

Commissioner Koch did not know about the anonymous letter or the F.B.I. investigation until after Mr. Huston's arrest. No one claims to have told Commissioner Koch about these matters.

I understand why the parties who worked in the Public Works Department did not take any action after learning of Mr. Huston's past conviction. Mr. Huston had worked for the County for a long time at that point and, as far as anyone knew, his employment record was clean. News of a past conviction did not outweigh nearly two decades of positive personal experience working with Mr. Huston. Nonetheless, I believe that those witnesses who were serving in management roles – whether or not Mr. Huston

reported to them – were remiss in not taking any action in response to Mr. Huston’s revelation, especially since Mr. Huston worked in a financial capacity.

At a minimum, I believe a reasonably prudent employer would have obtained specific information about Mr. Huston’s past conviction and any current status related to the conviction (probation, etc.). The prudent employer would review that information and then deliberate as to whether or not any additional action was necessary. Had anyone conducted such a minimal review, Franklin County would have learned of the similarity in working conditions and accounting responsibilities between its workplace and Mr. Huston’s prior employer from whom he stole. This knowledge would have allowed Franklin County to assess Mr. Huston’s accounting responsibilities and make an informed decision as to whether any policies or practices should be changed. I will not speculate as to whether the County would have changed any practices, but it is clear that at least one opportunity to curtail Mr. Huston’s actions was missed.

Defunct Vendor

According to news reports and background information provided to me by the Franklin County Prosecutor’s Office, Mr. Huston’s alleged embezzlement was discovered when the Franklin County Auditor conducted a routine audit to confirm that the approximately 2,000 vendors being paid by the County were legitimate. The Auditor’s Office determined that one vendor – Critzer Equipment – was defunct. It is now alleged⁵ and believed by County employees that Mr. Huston created fake invoices from “Critzter Equipment” and used them to have checks issued by Franklin County and mailed to his own post office box.

Mr. Fife and Mr. Walters told me they were not aware that Critzer Equipment had stopped operating until after news broke about embezzlement. They also stated that as part of approving purchases and expenses, they did not conduct independent reviews about the vendors (including whether the company actually existed), although they did require multiple cost estimates on larger purchases as required by County accounting policies. When asked how they would know if a vendor was still in business, the managers said they relied on their own general knowledge combined with the participation of several employees in the accounting process who were more familiar with the vendors. One of these employees, Ms. Carle, stated that she knew Critzer Equipment had stopped operating as of about eleven years ago and she would have questioned any invoice from the company. She was adamant on this point, as well as the fact that she would never have approved or authorized any invoices from the company. She does not know if the company’s closing was common knowledge because Franklin County rarely bought equipment from them before they went out of business. Although Ms. Carle knew Critzer Equipment was defunct, she had no idea that Critzer Equipment was being paid anything by the County because she never saw any of the invoices or forms that contained the company’s name. This was possible because once Ms. Carle completed initial paperwork for

⁵ I did not investigate the extent of alleged criminal activity by Mr. Huston.

vendor's to be paid, she passed the paperwork on and was not called upon to review it or any summary reports⁶ (the check authorization/approval process is described in Appendix A).

When Mr. Fife or Mr. Walters submitted Voucher Approvals to the County Commissioners⁷, they certified the paperwork by signing the following:

CERTIFICATION

I, THE UNDERSIGNED DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, AND THAT THE CLAIM IS JUST, DUE AND UNPAID OBLIGATION AGAINST FRANKLIN COUNTY, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY SAID CLAIM.⁸

Mr. Fife explained to me that before he signed these certifications, he asked himself three questions:

1. Is this a service we normally use or a product we normally purchase?
2. Do I recognize the vendor's name?
3. Are the accounting codes in order?

The problem is that Mr. Fife was familiar with Critzer's name, but mainly because it appeared among the voucher requests he saw on a regular basis. Mr. Walters also said he was familiar with Critzer from "years ago", but he did not know the company had subsequently gone out of business. He does not recall seeing the company name on any forms he reviewed, but acknowledged that he would not have questioned a form just because it related to that business.

Mr. Fife and Mr. Walters both stated that they relied upon the various initials and authorizations provided by their subordinates when approving these certifications. Both believed that having multiple people involved and requiring their initials created a safeguard against financial errors or wrongdoing. They also believed that the process was sound because of regular review by auditors. Both said they trusted their employees, in large part because of the length of time they had all worked together. Neither manager conducted independent review of vendors or purchases unless something caught their attention (such as a very large purchase or something out of the ordinary). Both men were adamant that they never suspected that the County might be paying for products that had neither been received nor ordered. On the contrary, they believed that anything listed in the voucher approval requests reflected a bona fide County purchase.

I recognize that the "certification" cited above creates a tremendous and perhaps unattainable burden upon a department director because the only way to have true personal knowledge that materials were

⁶ Critzer Equipment's name appears on pages 9 and 10 of the Inventory Report that was provided to me. (I assume this means that it would have appeared on other reports over the years).

⁷ Mr. Walters did not usually review or sign these forms. He did so when Mr. Fife was not available due to a vacation or leave. According to Mr. Fife, he processed "huge stacks" of vouchers about every two weeks.

⁸ The text is capitalized on the original paperwork.

furnished or services rendered would be to conduct a personal, physical review. It also requires the director to conduct a legal review to determine whether claims are “just”. I would not expect a director to spend all of his or her time conducting such reviews or audits. However, the certification language makes it very clear that the County expected anyone signing to take some sort of steps to ensure that the accounting process was not being misused by vendors (or employees). In my opinion, merely relying upon initials of subordinate employees, no matter how much one might trust or respect those employees, is an insufficient basis for signing the certification or issuing checks.

Although I am not an accounting expert, it seems odd to me that once Ms. Carle and other employees at the initial stages of the voucher/payment process submitted payment requests to the next level, they were basically out of the payment process. There was no reconciliation step in which Ms. Carle or others would match actual payments to what they had requested. Had there been such a review step, false payments to Critzer Equipment would have been discovered well before the County audit.

Lack of Cross Training

According to Ms. Stark, approximately two years ago she asked Mr. Fife if she could be trained about payroll and accounts payable/receivable so she could handle accounting tasks if Mr. Huston were absent. According to her, Mr. Fife said he would talk to Mr. Huston. Mr. Fife recalls general talks about cross training and said he supported it, but he could not recall specific implementations or suggestions. Ms. Stark told me that she asked about cross training from time to time since the original request, but felt “a little stonewalled”. She did not suspect wrongdoing, but felt that Mr. Huston was protecting his territory.

Several witnesses reported that Mr. Huston handled much of the accounting process himself; he tended not to delegate work. For example, Mr. Huston handled accounting for the Motor Vehicle Fund while Mr. Langston (the Accounting Assistant) handled the County Road Fund. Mr. Langston says he was “in the dark” about the Motor Vehicle Fund because there had been no cross training regarding the two accounts.

While cross training and distribution of accounting tasks would have made it more difficult for an employee to embezzle, there is no way of knowing at this time if it would have thwarted the scheme that was in place until recently. However, knowing that Mr. Huston had been convicted of embezzlement should have caused a prudent manager to ensure that Mr. Huston did not have unrestricted and/or unsupervised control over steps for approving financial disbursements. Cross training would have been one way to dilute Mr. Huston’s ability to manipulate the accounting process.

Failure To Use Software For The Motor Vehicle Fund

Mr. Langston told me that several years ago, he asked Mr. Huston and Mr. Fife if he should look into types of software that could be used with the Motor Vehicle Fund. Mr. Langston explained that Mr. Huston had been using only Excel spreadsheets since the prior accounting software system “blew up at Y2K”. Mr. Langston could not figure out why Mr. Huston used Excel instead of accounting software because this meant Mr. Huston would have to balance the year’s account “by hand” at year’s end.

After Mr. Langston asked about accounting software, Mr. Huston acquired QuickBooks, installed it on the computers but never used it for the Motor Vehicle Fund. This was in or around 2008. About a year and a half ago, Mr. Langston asked Mr. Huston about getting QuickBooks up and running for the Motor Vehicle Fund. (Mr. Langston emphasized that he did not do so because he suspected any sort of wrongdoing. He just thought it was inefficient for Mr. Huston to have to do everything manually.) Mr. Huston told him to try, but they could no longer access the system. Mr. Langston speculates that the necessary software licenses had expired. Mr. Huston told Mr. Langston that he would check with Information Services, but nothing ever happened.

Mr. Fife stated that he knew there had been discussions about software, but he did not know what systems were in place. He was not aware of any software requests being denied and says he would have supported acquisition of software had the accountants expressed a need to him.

Inventory Control

Once Public Works employees submitted invoices or inventory requests, the accounting forms worked their way up the chain of command until payments were authorized by the County Commissioners but summaries of inventory purchased were not sent back to be reconciled by the individuals who originated the requests. This made it possible for someone to insert false paperwork to obtain payment for goods that were neither ordered nor received. There appears to have been no process for a physical inspection to determine if what was being authorized was actually being received. For example, Mr. Fitch said that whether or not he knew Critzer had stopped operating⁹, he would have questioned the Critzer invoices because it was “obvious” that the number of edges supposedly being purchased were not being used or kept in inventory.

In light of the “certifications” signed by Mr. Fife before payments would be authorized, the lack of meaningful inventory control is especially troublesome. Such controls would have made embezzlement more difficult and might have thwarted the scheme recently in place. In addition, such controls would provide a basis for meaningful analysis of spending and use for budgeting purposes in the future.

Drug Use

There were no allegations of drug use until after Mr. Huston was arrested. News accounts report that Mr. Huston claims to have been stealing in order to support cocaine addiction. This made me wonder if management or employees suspected drug use. None of the witnesses suspected that Mr. Huston had been using drugs. Most of them do not believe that he was using drugs. No one reported observing erratic behavior or physical symptoms. Instead, the witnesses reported that Mr. Huston always seemed able to function without any problems.

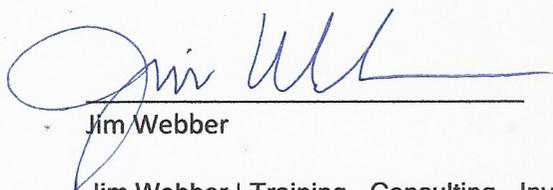
Gambling

Most employees were aware that Mr. Huston enjoyed gambling at the local casinos. Several reported hearing that “Mr. Huston had a leprechaun up his butt” because he was so lucky. However, no one felt that Mr. Huston’s gambling was excessive or addictive and no one thought that he engaged in “high

⁹ He could not recall when or how he learned that the company had gone out of business.

living.” Everyone thought Mr. Huston was living within his means. In fact, most are wondering exactly what he might have done with so much money because they saw no evidence of spending. I do not believe that knowledge of gambling in this case created a basis for managers to more closely review Mr. Huston’s actions.

Submitted on April 17, 2012

A handwritten signature in blue ink, appearing to read "Jim Webber", is written over a horizontal line.

Jim Webber

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