



COMPTROLLER'S INVESTIGATIVE REPORT

Witt Utility District

May 17, 2023

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

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Witt Utility District Board of Commissioners
4255 S Davy Crockett Parkway
Morristown, TN 37815

Witt Utility Management:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Witt Utility District, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 3rd Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", is written over a faint, larger version of the signature.

Jason E. Mumpower
Comptroller of the Treasury

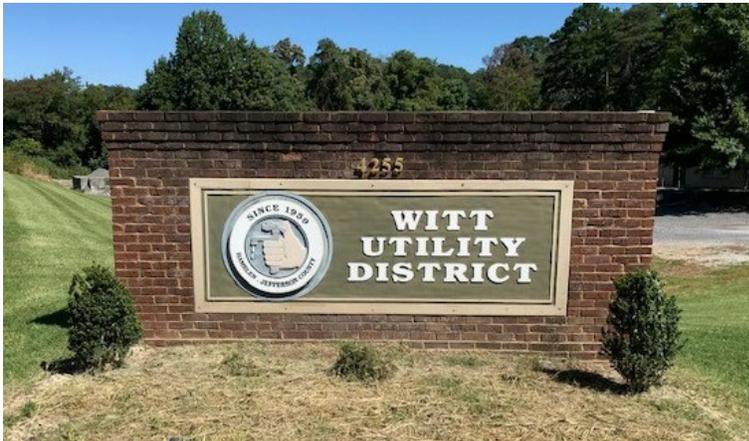
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INVESTIGATIVE REPORT

Witt Utility District

The Office of the Comptroller of the Treasury, in conjunction with the Tennessee Bureau of Investigation, investigated allegations of malfeasance related to the Witt Utility District. This investigation was limited to selected records for the period July 1, 2021, through March 15, 2023. The results of the investigation were communicated with the Office of the District Attorney General of the 3rd Judicial District.

BACKGROUND



Witt Utility District (district) in Morristown, Tennessee, provides water service to approximately 2,200 customers in Hamblen and Jefferson counties. The district operates and maintains its own water treatment plant. The district is governed by a three-person board of commissioners (board), who are appointed to four-year terms by the Hamblen and Jefferson County Mayors. The board has the responsibility to establish and

maintain an adequate system of internal controls. District manager Benjamin Harris manages daily operations for the district, and his brother, Joseph Harris, is the district water treatment operator.

RESULTS OF INVESTIGATION

1. DISTRICT MANAGER BENJAMIN HARRIS MISAPPROPRIATED DISTRICT FUNDS TOTALING AT LEAST \$12,000

Investigators determined that district manager Benjamin Harris misappropriated district funds totaling at least \$12,000. The district paid a home improvement contractor (contractor) material and labor costs for a new roof and gutters on district buildings; however, the payment to the contractor also included material and labor costs for a new roof and gutters on Benjamin Harris' personal residence (**Refer to Exhibit 1**). In May 2022, the district purchased 300 bundles of shingles (approximately 100 squares) from a hardware store totaling at least \$10,017 and paid the contractor an additional \$25,700 to remove and install shingles at the district office and fueling station. At Benjamin Harris' direction, the contractor first installed approximately 27 squares of these shingles on Benjamin Harris' personal residence. The contractor then installed approximately 65 squares of shingles on the district office and fueling station, leaving eight squares remaining, which the contractor kept as payment for other purchased materials. In September

2022, the district paid the same contractor an additional \$9,000 to remove and install new gutters for the district office. According to the contractor, Benjamin Harris did not personally pay any material or labor costs for his new roof or gutters, and Benjamin Harris instructed the contractor how to bill the district to include but conceal the installation of the new roof and gutters on Benjamin's personal residence. The contractor estimated the average material and labor costs for the projects on Benjamin Harris' personal residence, paid by the district, would total \$10,500 (\$6,500 in labor and \$4,000 in materials) for the roof and \$1,500 for gutters, had Benjamin Harris paid for the work himself. The board did not give Benjamin Harris consent or approval to use district funds to make improvements to his personal residence.

Exhibit 1



Benjamin's personal residence with new roof and gutters

Summary of Misappropriation and District Payments			
	Total District Payments	District Buildings*	Benjamin's Residence*
Shingles	\$ 10,017.00	\$ (6,017.00)	\$ 4,000.00
Shingles Installation Labor	25,700.00	(19,200.00)	6,500.00
Gutters	\$ 9,000.00	\$ (7,500.00)	\$ 1,500.00
Total	\$ 44,717.00	\$ (32,717.00)	\$ 12,000.00

** Costs estimated by the contractor*

2. BENJAMIN HARRIS, JOSEPH HARRIS, AND OTHER DISTRICT EMPLOYEES USED DISTRICT FUNDS AND OTHER ASSETS FOR PRIVATE PURPOSES

Investigators determined that Benjamin Harris, Joseph Harris, and other district employees used district funds and other assets for private purposes. Tenn. Code Ann. § 7-82-113 provides that all

expenditures of money made by a utility district must be made for a lawful district purpose. Investigators noted the following improprieties:

- A. In August 2022, Benjamin Harris ordered 5.5 cubic yards of concrete with district funds costing \$955, and a portion of the concrete was delivered to a board commissioner's farm where Benjamin Harris had performed several projects. According to Benjamin Harris, a portion of the concrete was used for a small porch on the commissioner's farm that Benjamin Harris constructed for the commissioner's personal benefit. Investigators were unable to determine how much of the 5.5 cubic yards of concrete was used at the commissioner's farm. Benjamin Harris asserted the commissioner did not know the district paid for the concrete. The commissioner issued Benjamin Harris a payment in March 2022, for \$2,200; however, investigators were unable to determine if the payment covered and included the concrete used for the porch construction.

- B. Benjamin Harris and Joseph Harris used a compact track loader (bobcat) owned by the district at a private business in Knoxville, which was not related to authorized district business for their personal benefit. The district purchased a new bobcat for \$79,655 for district use, and Benjamin Harris had it delivered to a private business in Knoxville on November 18, 2022 (**Refer to Exhibit 2**). Benjamin Harris was considered a contractor and used the district bobcat on a construction project (**Refer to Exhibit 3**) at the private business. Benjamin Harris estimated he saved approximately \$1,000-\$2,000 by using the district bobcat on the construction project. Additionally, an employee of the private business told investigators he used the district bobcat to rework a ramp needed for access to inventory. Investigators were unable to determine the hours Benjamin Harris and Joseph Harris worked at the private business while paid by the district or the hours the district bobcat was used at the private business. Benjamin Harris told investigators that he and Joseph Harris primarily drove district trucks to the private business to work on the construction project. Benjamin Harris was compensated approximately \$210,000 for his work on the project.

Exhibit 2



District bobcat purchased in November 2022

Exhibit 3



Photos of the construction project at the private business taken on January 26, 2023

- C. On December 16, 2022, investigators found a trailer owned by the district at a board commissioner's farm. The district manager stated the trailer was there for repairs and was used only for district business. Investigators were unable to determine if the trailer was at the farm for repairs, district business, or personal use.
- D. Employees at the district were allowed to use district equipment and the maintenance garage to work on their personal vehicles. Based on interviews with employees, investigators determined employees used district equipment to perform maintenance on their personal vehicles after normal work hours with parts and supplies purportedly purchased with their personal funds. For example, investigators found Benjamin Harris' personal vehicle inside the district's garage on a workday morning with the hood up and a tire removed (**Refer to Exhibit 4**). Investigators were unable to determine if work was performed on personal vehicles during normal working hours and if any district maintenance supplies were used for private purposes.

Exhibit 4



Benjamin Harris' personal vehicle in the district's garage on December 16, 2022 at 9:30am Eastern Time

- E. Benjamin Harris improperly used district funds and inventory to provide supplies, including pipe, to certain board commissioners and other private unaffiliated individuals. The

commissioners and other individuals were required to pay for the supplies; however, investigators were unable to determine if they paid for all supplies.

- F. On multiple occasions, Benjamin Harris traveled in a district-owned truck to a food and sports bar located in Knoxville after normal working hours. Benjamin Harris admitted to investigators that he consumed alcoholic beverages during these visits. Investigators could not determine whether these visits were for the benefit of the district or the extent of potential liability to the district.

3. THE DISTRICT MADE QUESTIONABLE OVERTIME PAYMENTS TO BENJAMIN HARRIS TOTALING AT LEAST \$67,392

From January 2022 to August 2022, Benjamin Harris received questionable overtime payments totaling at least \$67,392 for approximately 1,664 hours. Investigators found timecard documentation for other employees; however, they found no documentation or authorization supporting Benjamin Harris' time worked or claimed overtime compensation. For the period in question, Benjamin Harris was paid an average of 18.65 total daily hours worked (5-day work week) and 52 overtime hours per week, including one week he was paid for 73 hours of overtime. The failure of management to review and approve employee time records increases the risk that time will be reported and paid incorrectly. By the end of August 2022, Benjamin's pay was changed from an hourly wage to salaried compensation.

4. INVESTIGATORS IDENTIFIED QUESTIONABLE DISBURSEMENTS TOTALING AT LEAST \$5,243

Investigators identified at least \$5,243 in questionable disbursements of district funds. In some instances, purchases for food, fuel, and supplies were not supported with itemized receipts or other documentation. Therefore, investigators could not determine whether these purchases were exclusively for the benefit of the district. The district should only make authorized expenditures and maintain adequate supporting documentation for all disbursements.

5. THE DISTRICT DID NOT SOLICIT COMPETITIVE SEALED BIDS FOR MULTIPLE PURCHASES AND PROJECTS

District management failed to document compliance with competitive bid requirements or provide a purchasing policy noting legal bid exceptions for multiple supply purchases and projects in 2022. Tenn. Code Ann. § 12-3-1212 requires competitive sealed bids for these types of disbursements (over \$25,000), other than certain exceptions that must be board authorized in a purchasing policy. The lack of competitive sealed bids for projects and purchases increases the risk for fraud, waste, and abuse, and could result in the district paying prices above market rates. In some instances, the district received quotes for certain projects. Our examination revealed the following deficiencies:

- A. The district received three quotes for a project requiring pipe installation; however, the district did not solicit competitive sealed bids as required for the project that cost at least \$860,591.

- B. The district did not solicit competitive sealed bids for the purchase of pipe totaling at least \$407,417.
- C. The district paid approximately \$44,717 for a new roof (\$35,717) and gutters (\$9,000) for the district office and fueling station without soliciting competitive sealed bids.

On May 15, 2023, the Hamblen County Grand Jury indicted Benjamin Harris for one count of Theft of Property over \$10,000, one count of Theft of Property \$1,000 or less, and three counts of Official Misconduct.

On May 15, 2023, the Hamblen County Grand Jury indicted Joseph Harris for one count of Official Misconduct.

The charges and allegations contained in the indictment are merely accusations of criminal conduct, and not evidence. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt and convicted through due process of law.

[Witt Utility District Investigative Exhibit](#)

INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

The Witt Utility District Internal Control Manual provides that the board has responsibility to establish and maintain an adequate system of internal control to help ensure assets are not exposed to unauthorized access and use, transactions are properly recorded in the financial records, and financial information is reliable.

Our investigation revealed internal control and compliance deficiencies, some of which contributed to the district manager's misappropriation of district funds without prompt detection. These deficiencies included:

Deficiency 1: The board did not sufficiently oversee projects, manager decisions, and expenses

The board failed in its fiduciary responsibility to ensure the best use of public funds for projects and failed to provide adequate oversight of manager decisions and expenses. Governing boards of entities responsible for spending public funds must sufficiently oversee management and hold them accountable for their decisions.

Deficiency 2: District management did not adequately account for consumable assets

District management did not adequately account for consumable assets. The failure to maintain adequate records of consumable assets weakens controls over these assets and increases the risk of inventory loss or misuse.

Deficiency 3: The board of commissioners and management failed to properly oversee district operations, which contributed to multiple purchasing deficiencies

Investigators noted the following purchasing deficiencies resulting from a lack of board and management oversight:

- Occasionally, district management issued purchase orders after purchases were made. This practice causes a purchase order to be an approval of payment rather than an approval of the purchase. The failure to properly and timely issue purchase orders increases the risk of unauthorized purchases.
- District management did not require or retain adequate supporting documentation for some disbursements. Investigators could not determine whether these disbursements were for the benefit of the district. Management should require and maintain adequate supporting documentation for all disbursements, such as invoices or receipts, so they can verify the payment is proper and reasonable.
- The district board did not establish or adopt formal written purchasing policies, including purchasing provisions for competitive sealed bids, legal bid exceptions, and credit cards. Tenn. Code Ann. § 9-2-102 requires that utility districts establish, document, and implement internal controls. The lack of formal written purchasing policies increases the risk of fraud, waste, and abuse.
- District management did not solicit competitive sealed bids for several purchases and projects that exceeded the bid threshold. Tenn. Code Ann. § 12-3-1212 requires competitive sealed bids for certain disbursements over \$25,000 other than certain exceptions that must be authorized by the board in a purchasing policy as provided in Tenn. Code Ann. § 7-82-801. The lack of competitive sealed bids for projects and purchases over the bid threshold increases the risk of fraud, waste, and abuse.
- In some instances, district management did not maintain invoices or other supporting documentation identifying district vehicles for which parts were purchased. Therefore, investigators were unable to determine if all purchases were exclusively for district vehicles or for personal use.
- District management did not adequately account for fuel usage. The district owns a mobile storage fuel tank near the maintenance shop. District employees were not required to enter the vehicle's odometer mileage during fueling at the mobile tank; therefore, investigators were unable to determine if fuel was used exclusively for district purposes.

- District management did not always label district vehicles, including those used by Benjamin Harris and Joseph Harris, as property of the district. Benjamin Harris and Joseph Harris were allowed to take district-owned vehicles home. Investigators could not determine if Benjamin Harris and Joseph Harris used the district vehicles for personal use or if any personal use was properly reported for tax purposes.

Deficiency 4: Management failed to properly oversee district operations, which contributed to multiple payroll deficiencies

Investigators noted the following payroll deficiencies resulting from a lack of management oversight:

- District management did not sign employees' timecards as evidence of review and approval. Management's failure to review and approve time records increases the risk of improper or incorrect payroll payments.
- District management did not require employees to submit a dated and signed timesheet as evidence of hours worked. The district internal control manual requires department supervisors verify payroll by examining employee submitted timesheets. Instead, employees submitted timecards as evidence of hours worked. In certain instances, employees entered time worked on their timecard instead of using the time clock to stamp their timecard. Management's failure to require timesheets and review for accuracy as required by the internal control manual, increases the risk of improper payroll payments.

Deficiency 5: The district did not issue official consecutively prenumbered receipts for some collections

In some instances, district employees did not issue official consecutively prenumbered receipts for water collections. Tenn. Code Ann. § 9-2-104 requires official consecutively prenumbered receipts to be issued for all collections. Without official consecutively prenumbered receipts, investigators were unable to determine if all funds had been accounted for properly. The practice of not issuing official consecutively prenumbered receipts weakens internal controls over collections and increases the risk of fraud and misappropriation.

Deficiency 6: The board did not authorize a formal written agreement with another utility district for work performed

During February 2023, the district began working on and overseeing a project for another utility district; however, the boards of both districts did not authorize a formal written agreement for the project. Without a formal written agreement, neither district had guidelines detailing performance responsibilities, obligations, liabilities, or expectations. Both district boards authorized a formal written agreement on March 9, 2023. The lack of an authorized formal written agreement between the districts increases each district's liability risks.