



COMPTROLLER'S INVESTIGATIVE REPORT

Tarpley Shop Utility District

July 24, 2024

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

July 24, 2024

Tarpley Shop Utility District
Board of Commissioners
517 South 1st Street
Pulaski, TN 38478

Tarpley Shop Utility District Board of Commissioners:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Tarpley Shop 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 22nd 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", with a long horizontal line extending to the right.

Jason E. Mumpower
Comptroller of the Treasury

JEM/MLC

INVESTIGATIVE REPORT

Tarpley Shop Utility District

The Office of the Comptroller of the Treasury investigated allegations of malfeasance related to the Tarpley Shop Utility District. The Comptroller's Office initiated the investigation after receiving allegations that the board of commissioners allowed the contracted managers to operate the district improperly as well as use the district's assets for personal use. The investigation was limited to selected records for the period January 1, 2017, through December 31, 2023. The results of the investigation were communicated with the Office of the District Attorney General of the 22nd Judicial District.

BACKGROUND



Tarpley Shop Utility District (district) in Pulaski, Tennessee, provided water service to approximately 1,200 customers in Giles County, Tennessee. The district was governed by a three-person board of commissioners (board) appointed to a four-year term by the Giles County Executive.

The district did not have any employees. Instead, the district had a contract with Byrd Construction, owned by Freddie Byrd, to manage the district for \$8,500 a month. The contract stated that Byrd Construction was responsible for reading meters, pulling water samples, mowing, billing, collecting customer payments, and bookkeeping. Apart from the contract, Byrd Construction also performed maintenance work on water leaks for the district. Maintenance work was billed monthly to the district by Byrd Construction for labor and the use of any machinery needed. The district supplied the materials needed to repair the leaks. The district did not own any machinery, equipment, or tools. However, the district owned three trucks that Byrd Construction was permitted to use for district purposes. One truck was used by Byrd, one was used by an employee of Byrd Construction who helped read meters for the district, and one was inoperable.

At least two board members were required to approve all district invoices before signing the checks for payment. Once invoices were approved and checks were signed, the office manager mailed the checks to the appropriate vendor for payment.

Byrd Construction split district responsibilities between Freddie Byrd and Byrd's wife. Byrd served as the district's general manager, and his wife was the district's office manager. Byrd resigned on March 31, 2024, and Byrd's wife resigned on December 31, 2023. Another local utility district acquired the district on June 1, 2024.

RESULTS OF INVESTIGATION

1. FORMER TARPLEY SHOP UTILITY DISTRICT GENERAL MANAGER FREDDIE BYRD MADE PERSONAL PURCHASES TOTALING \$7,939.55

From January 1, 2017, through December 31, 2023, Byrd made unauthorized personal purchases with district funds to multiple vendors totaling \$7,939.55 (**Refer to Table 1**). Investigators determined that the majority of the purchases included battery-operated tools, small equipment and repairs, and vehicle parts that did not fit district-owned vehicles.

Table 1

Byrd's Personal Purchases	
Co-Op	\$ 1,055.09
Core and Main	413.10
Eslick Tractor	1,689.67
G&C Supply	3,433.78
NAPA	1,347.91
Total Personal Purchases	<u>\$ 7,939.55</u>

Examples of personal purchases from the Co-Op include three pairs of boots and several trailer-bearing kits (**Refer to Exhibit 1, Exhibit 2, Exhibit 3, and Exhibit 4**). The district did not approve the purchase of any uniforms, including boots. The district did not own a trailer and should not have been servicing or making repairs to a trailer.

Exhibit 1

Apparel							
10/06/20	2866687	JDF	21350345	MEN'S MUDS STAY COOL MID BL	2.0000	40.0000	80.00
[REDACTED]							

Purchase made by Byrd using district funds for boots from the Co-Op

Exhibit 2

Apparel							
03/09/22	1272247	JDF	1001155	DRYSHOD HAYMAKER HI BROW	1.0000	139.9900	139.99
						Apparel Total	139.99

Purchase made by Byrd using district funds for boots from the Co-Op

Exhibit 3

02/01/23	1492253	JDF	12622	4X TRAILER BEARING KIT (BT7)	1.0000	65.2000	65.20
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Purchase made by Byrd using district funds for a trailer bearing kit from the Co-Op

Exhibit 4

03/06/23	1510503	JDF	12622	4X TRAILER BEARING KIT (BT7)	1.0000	23.0000	23.00
		JDF	12622	4X TRAILER BEARING KIT (BT7)	1.0000	163.0000	163.00

Purchase made by Byrd using district funds for two trailer-bearing kits from the Co-Op

Additional examples of personal purchases of small equipment from Eslick Tractor include a blower and repairs to a chainsaw (**Refer to Exhibit 5 and Exhibit 6**). The district did not own any small equipment and should not have been making repairs to small equipment. Tenn. Code Ann. § 7-82-113 provides that all expenditures of funds by a utility district must be for a lawful district purpose.

Exhibit 5

ESLICK TRACTOR & MOTOR CO.

SALES SERVICE

222 NORTH FIRST STREET
PULASKI, TN 38478
Phone (931) 363-2485

ACCOUNTS DUE 30 DAYS
SERVICE CHARGE 1 1/2%

STHL
SIMPLICITY
BRIGGS & STRATTON

LAWN MOWER
SERVICE
CHAIN SAW SERVICE

Customer's Order No. _____ Ship Via _____ Date 1-17, 2021

Sold to Tarpley Shop Utility District

Address _____

MOS. SOLD		MOS. RET'D		REC'D ON ACC. - NOTE	MISCL.	PAID OUT
CASH	CHARGE	CASH	CREDIT			
	<input checked="" type="checkbox"/>					

QUAN.	VEHICLE	ARTICLES	LIST	AMOUNT
1		BG526C Stihl Blower		189.99

V

No Tax

SA 525863276

TAX
TOTAL

All claims and returned goods MUST be accompanied by this bill.

58524 Salesman Received By _____

427

Purchase made by Byrd using district funds for a Stihl blower from Eslick Tractor

Exhibit 6

ESLICK TRACTOR & MOTOR CO.

SALES SERVICE

222 NORTH FIRST STREET
PULASKI, TN 38478

STIHL
SIMPLICITY
BRIGGS & STRATTON

Phone (931) 363-2485

LAWN MOWER
SERVICE
CHAIN SAW SERVICE

ACCOUNTS DUE 30 DAYS
SERVICE CHARGE 1 1/2%

Customer's Order No.		Ship Via		Date 3-18-2020	
Sold to Tarpley Shop Utility					
Address FT 460					
MISE. SOLD		MISE. RET'D		REC'D. ON	MISC'L
CASH	CHARGE	CASH	CREDIT	ACCT. - NOTE	PAID OUT
	✓				
QUAN.	NUMBER	ARTICLES		LIST	AMOUNT
1	18" Chain				21.95
1	Sharpen Chain				7.50
1	Air Filter				22.99
1	Spark Plug				3.70
1	Fuel Filter				6.50
					62.64
		30 min Labor			40.00
					102.64
		Fuel Fuel			
		Repaired Safety Switch			
		No Tax			
		TOTAL			

All claims and returned goods MUST be accompanied by this bill.

Purchase made by Byrd using district funds for repairs on a chainsaw from Esllick Tractor

2. FORMER TARPLEY SHOP UTILITY DISTRICT GENERAL MANAGER FREDDIE BYRD MADE QUESTIONABLE PURCHASES TOTALING \$9,849.64

From January 1, 2017, through December 31, 2023, Byrd made questionable purchases to multiple vendors totaling \$9,849.64 (Refer to Table 2). Investigators were unable to confirm if all purchases were used exclusively for official district purposes.

Table 2

Questionable Purchases	
C&C Maintenance Supply	\$ 109.90
Co-Op	1,058.78
Core and Main	69.97
Eslick Tractor	4,949.47
G&C Supply	2,259.61
General Supply	137.95
NAPA	86.57
O'Reillys	272.96
Tri-Green	904.43
Total Questionable Purchases	\$ 9,849.64

Investigators noted several purchases for repairs to an older lawn mower. Investigators also identified a March 2021 vendor invoice for the purchase of a new lawn mower for \$4,600 (**Refer to Exhibit 7**). The purchase of a new lawn mower was not recorded or approved in the board meeting minutes, nor was the invoice included in the district's documentation. Investigators were unable to determine if the purchase of the lawn mower was approved by the board and used solely for district purposes. Byrd returned the lawn mower to the district after he left the district and received questions about its ownership.

Exhibit 7

ESLICK TRACTOR & MOTOR CO.
SALES SERVICE

STHL, SIMPLACITY, BRIGGS & STRATTON 222 NORTH FIRST STREET, PULASKI, TN 38478 Phone (911) 363-2485 LAWN MOWER SERVICE, CHAIN SAW SERVICE

ACCOUNTS DUE 30 DAYS SERVICE CHARGE 1 1/2%

Customer's Order No. [redacted] Ship Via [redacted] Date 3-15, 2021

Sold to Tarpley Shop Utility District

Address 517 S 1st St, PO Box 262, Pulaski, TN 38478

MONEY PAID		MONEY RECEIVED		RECD ON ACCT. NOTE		MISCL.		PAID OUT	
CASH	CHARGE	CASH	CREDIT						
✓									
QUAN.		NUMBER		ARTICLE		UNIT		AMOUNT	
1		Snapper 5602 Mower						4600.00	
M/W 5901557		S/W 4000164813							
M/W 447977		TYPE 0005G1							
C/O 18101046									
								TAX	
								TOTAL	

No Tax

All claims and returned goods MUST be accompanied by this bill.

55191 Salesman Received By HP # 427

Purchase made by Byrd using district funds for a lawn mower from Eslick Tractor

3. TARPLEY SHOP UTILITY DISTRICT MADE QUESTIONABLE FUEL PURCHASES TOTALING AT LEAST \$25,035.79

Investigators determined that for the period reviewed, the district made payments to May Oil and the Co-Op for questionable fuel purchases totaling at least \$25,035.79. Questionable fuel purchases made from the Co-Op totaled at least \$17,000.93. Investigators were unable to determine who made the purchases from the Co-Op on behalf of the district. In addition, Byrd made questionable fuel purchases from May Oil totaling at least \$8,034.86. Investigators noted that in some instances, Byrd allowed relatives to purchase fuel purportedly for work performed for the district. Due to a lack of documentation, investigators are unable to determine if all the fuel purchases were used exclusively for district purposes.

On July 10, 2024, the Giles County Grand Jury indicted Freddie Byrd on one count of Theft over \$2,500 but less than \$10,000, and two counts 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.

[Tarpley Shop Utility District Investigative Exhibit](#)

INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

Our investigation revealed deficiencies in internal controls and compliance, some of which contributed to Byrd's ability to perpetrate his misappropriation without prompt detection. These deficiencies included:

Deficiency 1: The district failed to maintain supporting documentation for some disbursements

The district failed to maintain supporting documentation for numerous disbursements, including a period of 18 consecutive months during which investigators could not locate any documentation of disbursements. Requiring and maintaining adequate documentation, such as invoices or receipts, allows the board members to verify that all disbursements are proper and for the exclusive benefit of the district, and decreases the risk of errors or misappropriations occurring without prompt detection.

Deficiency 2: The board failed to document internal controls

The board failed to document internal controls over district operations. Tenn. Code Ann. § 9-18-102(a)(2) requires that utility districts "establish and maintain internal controls, which shall provide reasonable assurance that...funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation." The *Internal Control and Compliance Manual* prepared by the Comptroller's Office maintains that "developing an adequate internal control system requires written documentation as well as continual analysis and modification to address changing circumstances." The lack of documented internal controls increased the risk of fraud, waste, and abuse.

Deficiency 3: The board failed to authorize a formal written agreement with Byrd Construction for management services

The board has not had a formal written agreement with Byrd Construction since July 1, 1985. The original agreement, from July 1, 1984, through June 30, 1985, detailed the responsibilities, obligations, and expectations of both entities. However, the agreement was not updated as those responsibilities and expectations changed. Without a current formal written agreement, neither the district nor Byrd Construction had accurate guidelines detailing performance responsibilities, obligations, liabilities, or expectations. The lack of an authorized formal written agreement between parties increased the district's liability risks.

Deficiency 4: The board failed to properly oversee district operations, which contributed to multiple purchasing deficiencies

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

- The board did not establish or adopt a formal written purchasing policy, including purchasing provisions for competitive sealed bids, competitive quote bids, and legal bid exceptions until August 2023. Tenn. Code Ann. § 7-82-801 states, "Utility districts ... shall adopt a policy governing all purchases, leases, and lease-purchase agreements of the district".
- The board did not solicit competitive sealed bids for a new meter project that exceeded the bid threshold. Tenn. Code Ann. § 12-3-1212 requires competitive sealed bids for certain disbursements over \$25,000 notwithstanding 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 increased the risk of fraud, waste, and abuse.
- In some instances, the district paid sales tax during the period reviewed, resulting in the payment of avoidable tax totaling at least \$201.16. The district should have produced their tax-exempt certificate for purchases to avoid unnecessary tax.
- The board did not authorize written policies for the use of district credit cards during the period reviewed. The board should have provided written guidance identifying authorized users of district credit cards, the types of purchases for which district credit cards can be used, and internal controls safeguarding district credit cards and related purchases.
- The board did not always acquire two board members' approval for purchases. According to several board members, invoices should have at least two signatures documenting approval by the board. Investigators noted instances where there were no approval signatures or only one approval signature.
- In some instances, the district did not maintain invoices or other supporting documentation identifying the specific district vehicles for which parts were purchased. Therefore, investigators were unable to determine if all purchases were exclusively for district-owned vehicles.

- The district did not adequately account for fuel usage. The district purchased gas at the Co-Op and May Oil gas stations. There was no indication of which vehicle was being fueled at the Co-Op. May Oil had receipts of who was fueling the vehicle, but those receipts were being filled out by the people fueling the vehicle. Without proper documentation showing which vehicles were being refueled, Investigators were unable to determine if fuel was used exclusively for district purposes.

Deficiency 5: The board failed to approve or document adjustments to customer utility bills

The board failed to create a policy or process to review and approve adjustments to customer utility bills. Officials should ensure adjustments are approved by the board. A policy should be in place to direct the adjustment process, but the board had no such policy. The board also failed to ensure that personnel maintained a record of all adjustments to customers' utility bills or document that adjustments were approved. Each adjustment should be documented and maintained by the district. The district's computerized billing software was not used for adjustments; therefore, amounts noted in the software did not always match what was billed to the customer. Inadequate documentation of adjustments and approvals of adjustments increased the risk that the district's funds could be misappropriated without prompt detection.

Deficiency 6: A conflict of interest existed between the district and Byrd Construction

Byrd Construction had a contractual agreement to manage the district. Byrd Construction also performed all the leak repairs and billed the district separately for this work. The district did not receive bids on the repair work but allowed Byrd Construction to perform the work. This arrangement created a conflict of interest. Managing the district and giving all leak repair work to Byrd Construction created an inherent conflict of interest, or at least an appearance of impropriety in that Byrd was not acting solely in the district's best interest. Tenn. Code Ann. § 12-4-101 states, "it is unlawful for any person whose duty is to overlook, or in any manner to superintend any work in which any utility district... to be directly interested in any such contract."