

Division of Investigations

Alan Dover

Chief Investigative Counsel

TENNESSEE COMPTROLLER OF THE TREASURY



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Disclaimer

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Comptroller's Office Divisions

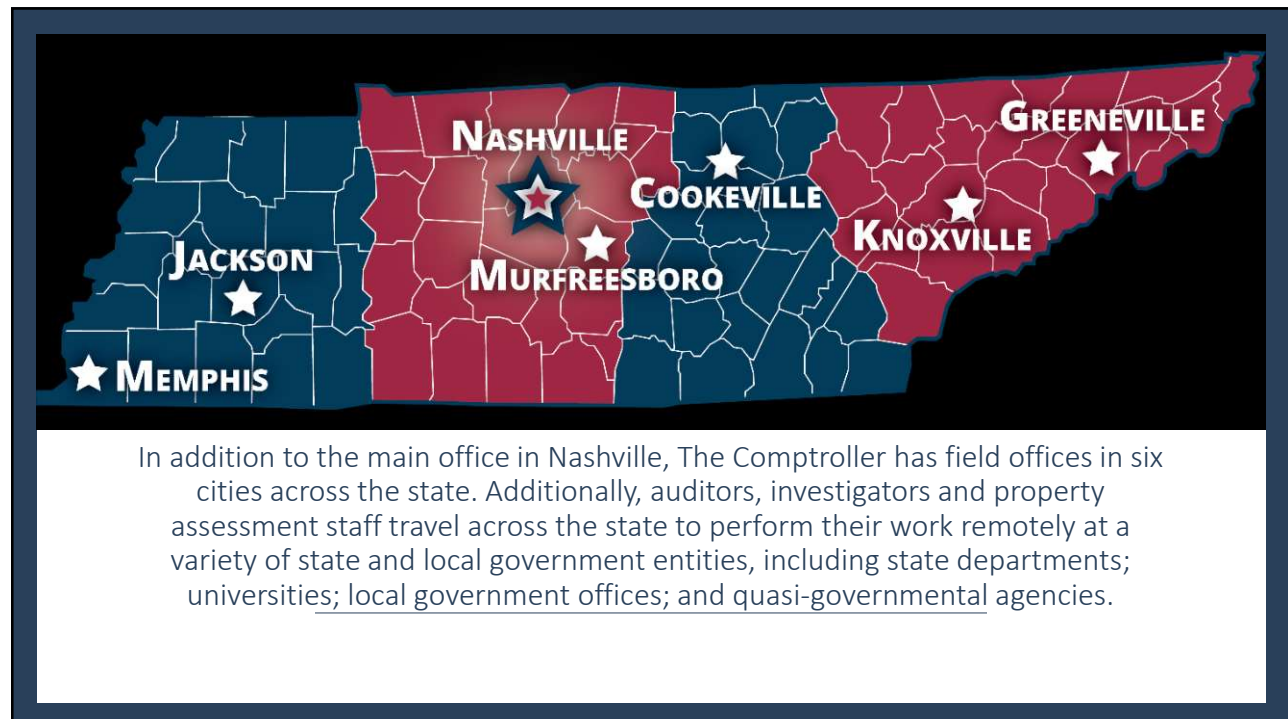
- The Comptroller's Office is comprised of 13 divisions with more than 550 employees:

| | |
|---|-----------------------------|
| Administration | State Government Finance |
| Investigations | State Assessed Properties |
| Local Government Audit | State Audit |
| Local Government Finance | State Board of Equalization |
| Management Services | Technology Solutions |
| Property Assessments | |
| Office of Research & Education Accountability | |

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About Our Team

- The Division of Investigations was created by Comptroller Justin Wilson in 2016, and supports the office's audit function by investigating allegations of fraud, waste, and abuse in government and publicly-funded entities and by working closely with law enforcement and prosecutors on criminal allegations.
- The division reports the results of its investigations, including significant internal control and compliance deficiencies noted during the investigations, to the appropriate parties and the public.
- The division also provides requested assistance and appropriate information to citizens, auditors, public officials and policy-makers at all levels of government, other state departments and agencies, law enforcement and prosecutorial agencies, and other interested parties.

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Division of Investigations

INVESTIGATIVE TEAMS & JUDICIAL DISTRICTS

425 Rep. John Lewis Way N. • Nashville, TN 37243 • 615.401.7907

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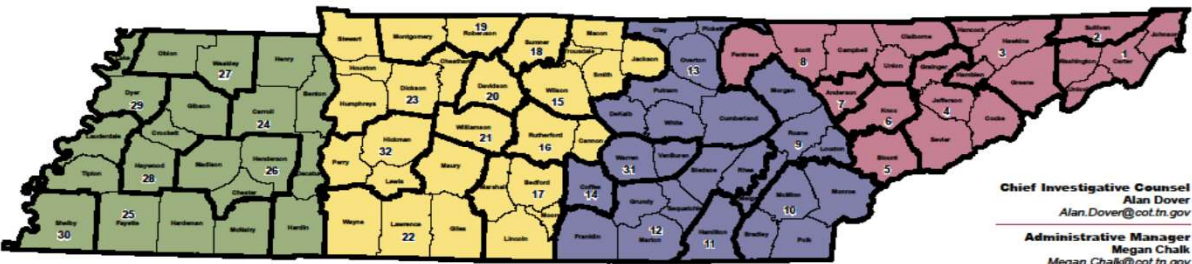
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ATTORNEYS GENERAL BY DISTRICT

| | | | | |
|-------------------|-----------------------|-----------------------|---------------------|-------------------------|
| 1 • Steve Finney | 8 • Jared Effler | 15 • Jason Lawson | 22 • Brent Cooper | 29 • Danny Goodman, Jr. |
| 2 • Barry Staubus | 9 • Russell Johnson | 16 • Jennings Jones | 23 • Ray Crouch | 30 • Steve Mulroy |
| 3 • Dan Armstrong | 10 • Stephen Hatchett | 17 • Robert Carter | 24 • Neil Thompson | 31 • Chris Stanford |
| 4 • Jimmy Dunn | 11 • Cory Wamp | 18 • Ray Whitley | 25 • Mark Davidson | 32 • Hans Schwendemann |
| 5 • Ryan Desmond | 12 • Courtney Lynch | 19 • Robert Nash | 26 • Jody Pickens | |
| 6 • Charne Allen | 13 • Bryant Dunaway | 20 • Glenn Funk | 27 • Colin Johnson | |
| 7 • Dave Clark | 14 • Craig Northcott | 21 • Stacey Edmondson | 28 • Frederick Agee | |

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Effective September 1, 2024

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Reporting Fraud, Waste, and Abuse

- **Fraud** – An intentional deception that violates a law or the public trust for personal benefit or the benefit of others.
- **Waste** – Behavior involving the extravagant, careless, or needless use of government funds, property, and/or personnel.
- **Abuse** – Behavior involving the use of government funds or property that a prudent person would not consider reasonable and necessary business practice given the facts and circumstances.

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Fraud, Waste and Abuse Hotline

Since October 1983, the Comptroller of the Treasury has provided a toll-free hotline for reporting fraud, waste and abuse of government funds and property. Periodicals throughout Tennessee publish information to alert citizens to the hotline and to encourage them to report wasteful, inefficient or fraudulent activities. In addition, all state agencies, as well as those agencies receiving community grant funds, are required to call attention to the hotline by displaying in a prominent place signs with the following language:

If you observe an agency director or employee engaging in any activity which you consider to be illegal, improper or wasteful, please call the State Comptroller's Toll-Free Hotline:

1.800.232.5454

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Mandatory Statutory Duty to Report by Public Officials

- In 2007, The General Assembly passed the “Local Government Instances of Fraud Reporting Act” T.C.A. § 8-4-501. This act provides that public officials “with knowledge based upon available information that unlawful conduct has occurred shall report the information in a reasonable amount of time to the office of the Comptroller of the Treasury.” **Good Faith Immunity** – T.C.A. § 8-4-504 and § 8-4-409(b).
- The Comptroller’s Office has prepared a Fraud Reporting Form to be used by public officials, and also provides an online fraud reporting form: <https://comptroller.tn.gov/office-functions/investigations/fraud-waste-and-abuse.html>

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Reporting Requirements for State Agencies

- T.C.A. §8-4-119 - Required Reports to Comptroller:
- State agencies must report to the Comptroller any theft, forgery, credit card fraud or any other intentional act of unlawful or unauthorized taking, or abuse of public money, property, or services, or other cash shortages.
- State agencies must notify the Comptroller of any confirmed or suspected unauthorized acquisition of computerized data or breach of computer information systems within a reasonable amount of time. (No longer than 5 working days.)

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Goals of Comptroller Investigations

- Confirm, expose, and publicly report the fraud, waste, or abuse
- Refer investigation to prosecutorial authority for criminal charging & accountability
- Remove or disqualify public official from position of trust or authority
- Identify internal control deficiencies and recommend future compliance measures
- Recover restitution for loss to victimized agency

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Outcomes of Comptroller Investigations

- Criminal prosecution in state or federal courts
- Ouster proceedings for removal of public officers for willful misconduct in office or neglect/failure to perform required duties of public office
- Civil action or settlement to recover damages, financial loss, restitution, or converted public funds - filed by TN Attorney General, County Attorney, or City Attorney
- Public reporting of investigations and audit findings – may lead to other administrative, regulatory, licensure, ethics, or employment actions

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Investigative Authority

- Any reasonable suspicion of fraud, (regardless of materiality) or other unlawful acts including, but not limited to theft, forgery, credit/debit card fraud, or any other act of unlawful taking, waste, or abuse of, or official misconduct, as defined in Tennessee Code Annotated, § 39-16-402, involving **public money, property, services, or agencies**.
- May investigate an allegation of a felony that is classified as Class B or higher involving **private funds** if the investigation is requested by the District Attorney General, in conjunction with an open investigation by the TBI, and if the Comptroller deems the investigation to be in the public interest. T.C.A. § 8-4-209.

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Tools in the Toolbox - Cooperation

- The Comptroller of the Treasury is hereby authorized to audit any books and records of any governmental entity created under and by virtue of the statutes of the state which handles public funds when such audit is deemed necessary or appropriate by the comptroller of the treasury. **The Comptroller of the Treasury shall have the full cooperation of officials of the governmental entity** in the performance of such audit or audits. T.C.A. § 8-4-109(a)(2).
- Any request by the Comptroller of the Treasury shall be honored and the agency so requested shall give **full aid, support and cooperation** to the Comptroller of the Treasury in such investigation. T.C.A. § 8-4-208.

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Tools in the Toolbox – Access to Records

- Auditors and investigators shall have access to all books, records and accounts, including the official bank accounts of any local government officials, for the purpose of making their audits and their reports. T.C.A. § 9-3-206.
- All books, records, documents, and other evidence (computers, cell phones, and other electronic devices) pertaining to the receipt, accounting for, use and/or expenditure of any public funds by any entity shall be available for examination by the Comptroller of the Treasury during normal business hours through on-site review. T.C.A. § 8-4-116(b).

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Tools in the Toolbox – Power to Subpoena & Require Testimony

- The Comptroller of the Treasury is empowered to issue subpoenas or subpoenas *duces tecum* to require attendance of persons and submission of documents, at specified times and places, to give testimony in the case or matter therein stated. T.C.A. § 8-4-202.
- Auditors and investigators shall also have the right to summon and examine witnesses and to administer the oaths to such witnesses in making any investigation of the records and reports of any local government officials. T.C.A. § 9-3-207 & § 8-4-201.

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Tools in the Toolbox – Aid from other State Agencies.

- The Comptroller of the Treasury may, whenever deeming such aid necessary, request the aid of any and all agencies of the state in investigation of alleged irregularities or discrepancies involving state revenue or state funds. T.C.A. § 8-4-207.
- The Division of Investigations routinely partners with the TBI, TN Dept. of Safety & Homeland Security, TN Dept. of Revenue, TN Dept. of Commerce & Insurance, TN Dept. of Finance & Administration, TN Dept. of Labor & Workforce Development, TN Attorney General, and TN District Attorneys Conference.

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Tools in the Toolbox – Confidentiality of Information

- Working papers created, obtained or compiled by an internal audit staff are confidential and are therefore not an open record pursuant to title 10, chapter 7. “Working papers” includes, but is not limited to, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation by internal audit staff. T.C.A. § 4-3-304(7). **See also T.C.A. § 10-7-504(22).**
- The detailed information received and generated by notifications and allegations of fraud shall be considered confidential working papers of the Comptroller of the Treasury and is therefore not an open record pursuant to title 10, chapter 7. T.C.A. § 8-4-407.

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Reporting Agency with an Investigative Division

- The Comptroller of the Treasury is primarily responsible as a reporting agency to make regular reports of audit and investigative findings and recommendations to the Governor, the Attorney General, the General Assembly, the audited agency, and the public. T.C.A. § 8-4-110.
- In the discharge of these duties, however, the Comptroller of the Treasury shall also exercise, as necessary, the authority granted for performing investigations; and if, as a result of such investigation, the Comptroller of the Treasury determines that probable cause exists to believe that a violation has occurred, then the Comptroller of the Treasury shall submit such investigatory findings to the appropriate prosecutorial authority. T.C.A. § 8-4-110 and § 8-4-114.

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Examples

- Each of these examples resulted in a public investigative report.
- Some of these examples resulted in criminal charges.

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Misappropriation of Money and Time

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Misappropriation of Money and Time

- Clerk misappropriated over \$400 in 1 year by pocketing cash collections. She concealed it by falsifying documentation or failing to document collections at all.

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Misappropriation of Money and Time

So what is the worst that can happen, it's only \$400.

- Theft under \$1,000 (Class A Misdemeanor)
- Tampering or Fabrication of Government Records (Class E Felony)
- Forgery (Class E Felony)
- Official Misconduct (Class E Felony)
- Felony Convictions could also result in collateral consequences such as loss of professional licenses, and retirement benefits.

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Misappropriation of Money and Time

- Clerk misappropriated over \$5,000 over seven months by abusing the clerk's purchasing/requisitioning duties – buying purses, headphones, tools – and concealing it by deceptive entries on purchasing documents. A purse was called a “large utility tote,” for instance.
 - Used tax exemption.

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Baggallini Gold Provence Travel Purse & Cynthia Rowley Phone Wallet



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Misappropriation of
Money and Time

Possible Consequences:

- Theft Over \$2,500 (Class D Felony)
- Falsification / Tampering with Government Records (Class E Felony)
- Forgery (Class D Felony) – Graded as Theft
- Official Misconduct
- Collateral Consequences including loss of professional license and retirement benefits.

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Misappropriation of Money and Time

- A deputy clerk misappropriated cash collections totaling at least \$6,577.
 - The deputy clerk concealed the misappropriations by voiding cash payments, adding erroneous fees, and voiding cash payments and then re-receipting the payments as lesser amounts. The deputy clerk kept the cash from each scheme.
 - There were over 120 false entries into the accounting records, which were inserted to conceal the theft.
 - The investigation resulted in criminal charges.

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Misappropriation of Money and Time

Exhibit 1

| Amt Paid | Receipt | Date | Type | Code Info | Operator | DB Docket | Name | Post | Crt F1 |
|----------|---------|------------|------|-----------|----------------|-----------|------|------|--------|
| 620.00 | | 10/09/2019 | CA | CTD | STEVEN HARV | | | P | 0.00 |
| -620.00 | | 10/09/2019 | CA | CTD | VO AMT - MANDY | | | P | 0.00 |
| 489.00 | | 10/09/2019 | CA | CTD | STEVEN HAR | | | P | 0.00 |

Original Receipt of \$620.

Voided Receipt of -\$620.

Receipted for \$131 less.

Total Paid: 489.00

Modify by: ☐ Journal Entry ☐ Void

Buttons: Void, Reprint, Detail, Print History, Exit, Spreadsheet, Print Case Info, Release Disc Flag

Receipt showing an original charge, the void entered by Harmon and the new receipted amount.

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Misappropriation of Money and Time

The subject plead guilty to Theft of Property over \$1,000

- Other Possible Charges included:
 - Tampering or Fabrication of Government Records (Class E Felony)
 - Forgery (Class D Felony)
 - Official Misconduct

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Misappropriation of Money and Time

- A payroll clerk was in charge of processing her own checks. She paid herself over \$6,000 in unauthorized compensatory leave, annual leave, excess salary, and other payroll benefits.
 - The clerk concealed her misappropriation by making conflicting statements to the district's external accountant and its board chairman about why her paychecks were so large.

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Misappropriation of Money and Time

Exhibit 2

| PAY | Hours | Rate | Current |
|--------------|-------|-------|----------|
| Salary | - | - | 0.00 |
| Regular Pay | 80.00 | 30.05 | 2,404.00 |
| Sick Pay | 40.00 | 30.05 | 1,202.00 |
| Vacation Pay | - | 30.05 | 0.00 |
| Bonus | - | - | 0.00 |

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Misappropriation of Money and Time

Criminal Charges

- This investigation resulted in criminal charges including Theft of Property over \$2,500, Destruction of and Tampering with Government Records, and Official Misconduct.

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Total Misappropriation Breakdown

| Table 1 Misappropriated Amounts by Source | |
|--|-----------------------|
| A. Checks to Real Vendors | \$946,720.95 |
| B. Checks to Fictitious (Ghost) Vendors | \$137,359.00 |
| C. Duplicate Travel Reimbursement | <u>\$108.65</u> |
| Total Amount Misappropriated | \$1,084,188.60 |

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Misappropriation of Money and Time

• Possible Charges:

- Theft of Property over \$250,000 (Class A Felony)
- Tampering / Fabricating Government Records (Class E Felony)
- Forgery (Class A Felony)
- Official Misconduct

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Misappropriation of Money and Time

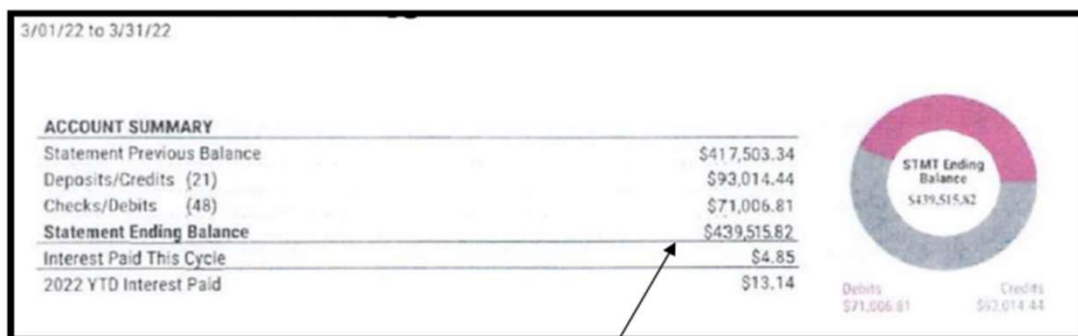
- Bookkeeper misappropriated at least \$685,404 by falsifying bank records.
- The original bank records were modified to conceal that funds were being taken.
- County became aware when payroll was not processing properly, and additional financial harm followed.
- This investigation resulted in criminal charges.

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Exhibit 2



Numbers have been altered and are not properly aligned.

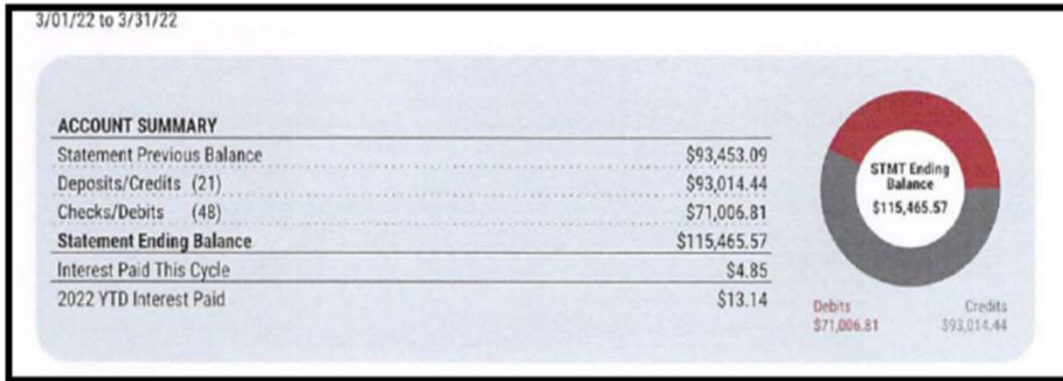
Excerpt of falsified March 2022 Bank Statement- Page 1

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Exhibit 3



Excerpt of actual March 2022 Bank Statement- Page 1

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Misappropriation of Money and Time

- The Bookkeeper was charged with one count of Theft of Property over \$250,000, one count of Official Misconduct, and one count of Tampering with Government Records.
- The Subject plead guilty and was sentenced to 15 years in TDOC.

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Use of resources for private purposes

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Use of public resources for private purposes

- District Manager used district equipment and supplies for work on personal property:
 - shingles and gutter installation for own home
 - concrete at a commissioner's home
 - used district's compact track loader at a private worksite for pay
 - district garage and equipment to work on personal vehicles
- This investigation resulted in criminal charges

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Use of public resources
for private purposes

• **The resulting Criminal Charges were presented:**

- Theft of Property over \$10,000
- Theft of Property less than \$1,000
- Three Counts of Official Misconduct

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Abuse of Position

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Abuse of Position

- Circuit Court Clerk photocopied a judge's signature on expungement orders, destroyed evidence after interviewing with investigators, received unauthorized compensation from an employee who administered a traffic school, and collected cash payments from citizens to make online payments to the TN Dept. of Safety.
- The judge's signature was photocopied on at least 117 cases, and over 497 original expungement orders were maintained in unsecure locations in the office.

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Abuse of Position

Exhibit 2



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Abuse of Position

- The investigation resulted in the following charges from two judicial districts:

- 6 Counts of Forgery
- 3 Counts of Tampering with Governmental Records
- 5 Total Counts of Official Misconduct
- 1 Count of Soliciting Unlawful Compensation
- 1 Count of Misrepresenting Information to a State Auditor



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Failure to Provide Oversight



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Failure to Provide Oversight

• Deficiency examples:

- Management did not provide adequate oversight regarding actual hours worked and hours reported
- The board did not sufficiently oversee projects, management decisions, and expenses
- District management did not adequately account for consumable assets
- The board and management failed to properly oversee district operations, which contributed to multiple purchasing deficiencies

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Failure to Provide Oversight

Deficiencies often include something like the following phrase:

“Failure to provide proper oversight increases the risk that errors or misappropriations will occur without prompt detection.”

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Failure to Provide Oversight

- Separation of duties – allowing one individual to have complete control over the use and accounting of funds increases the risk of fraud.
- Retain supporting documentation...
- And regularly review the documentation – making sure that **original** records are reviewed regularly by multiple people is valuable prevention.
- Require two signatures on checks

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Fraud, Waste and Abuse Hotline

If you observe an agency director or employee engaging in any activity which you consider to be illegal, improper or wasteful, please call the State Comptroller's Toll-Free Hotline:

1.800.232.5454

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Comptroller Website – Investigations

<https://www.comptroller.tn.gov/office-functions/investigations.html>



It is the statutory responsibility of the Comptroller of the Treasury to review all allegations of fraud, waste, or abuse of public funds, and the same may be referred to other appropriate state departments and agencies, law enforcement, or prosecutorial agencies for further action. Following receipt of an allegation, the Comptroller of the Treasury cannot confirm the existence or status of an open investigation, if any, until and unless the Comptroller issues a public report of the final results of its investigation.

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Thank you for the work you do!

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