



JUDITH H. DUTCHER
STATE AUDITOR

STATE OF MINNESOTA

OFFICE OF THE STATE AUDITOR

SUITE 400
525 PARK STREET
SAINT PAUL, MN 55103-2139

(651) 296-2551 (Voice)
(651) 296-4755 (Fax)
stateauditor@osa.state.mn.us (E-mail)
1-800-627-3529 (Relay Service)

INVESTIGATIVE REPORT OTTER TAIL COUNTY SOLID WASTE DEPARTMENT August 7, 2001

I. INTRODUCTION

The Special Investigations Division of the Office of the State Auditor (hereinafter "OSA") received a letter dated March 7, 2001, pursuant to Minn. Stat. § 609.456, regarding the apparent loss of public funds from the Otter Tail County Solid Waste Department (hereinafter "Department"). Specifically, the letter requested the OSA's assistance with an investigation into a potential theft of public monies by Ms. Robin Lane, an employee who worked at the Otter Tail County Recycling Center in the City of Fergus Falls (hereinafter "Center").¹ In addition, the letter requested that the OSA review the Center's internal control policies and advise the Department of any internal control weaknesses and recommended improvements.²

The mission of the OSA's Special Investigations Division is to review allegations of malfeasance, misfeasance, and nonfeasance by local government employees or officers. Since the Division is a fact-finding entity and has no prosecutorial powers, its role is to evaluate allegations brought to the OSA's attention and, when appropriate, to provide specialized auditing techniques, initiate an independent investigation, or refer the matter to appropriate oversight authorities.

II. BACKGROUND

A. Otter Tail County Recycling Centers

Otter Tail County (hereinafter "County") operates recycling centers in the Cities of Fergus Falls, Pelican Rapids and Perham.³ The recycling centers pay citizens cash, at a fluctuating rate, for

¹ Ms. Lane was employed by the Department from September 17, 1997 until March 12, 2001.

² The Audit Division of the OSA will review the internal controls for the Center.

³ The facility in the City of Fergus Falls is open Mondays through Saturdays, except holidays, and the facilities in the Cities of Perham and Pelican Rapids are open only on Fridays and Saturdays, except holidays. The OSA did not investigate the Perham facility's records because Ms. Lane did not operate that facility.

aluminum.⁴ The Department provides the recycling centers with Redemption sheets to record the amount of aluminum redeemed by weight and the equivalent value in dollars paid to each citizen. Citizens are required to sign the Redemption sheets to signify the receipt of cash. The County eventually sells the redeemed aluminum to vendors.

The County established a separate redemption fund bank account for each recycling center. The purpose of these bank accounts was to provide accessible accounts to the recycling center operators, so that they could withdraw funds each morning to have cash on hand for purchasing aluminum, and to provide depositories for the monies remaining from the morning withdrawals. According to the Department, each recycling center's daily operator was responsible for making a withdrawal each morning and a deposit each evening.⁵ The amount of each day's deposit was expected to equal the amount of the morning withdrawal less the amount of redemption money paid out to citizens for that particular day.⁶

B. Fergus Falls and Pelican Rapids Recycling Centers

The Center maintained the redemption fund account numbered 6510608257 at Community First National Bank (hereinafter "Bank") in the City of Fergus Falls. The Department noticed the appearance of a theft of public monies when it discovered vendor checks had been deposited into the Center's redemption fund Bank account instead of being received by the Department, and the Center's redemption fund Bank account balance did not reflect those additional monies. Thereafter, the Fergus Falls Police Department initiated an investigation into the Center's missing funds. The Fergus Falls Police Department identified Ms. Lane as the Department employee who had primary access to the Center's redemption fund Bank account.

After receiving the March 7, 2001 letter requesting the OSA's assistance with an investigation, the OSA requested all original documents maintained by the Fergus Falls Police Department and Otter Tail County (hereinafter "County") regarding the Fergus Falls and Pelican Rapids recycling centers.⁷ Mr. Mike Hanan, Director of the Department, brought all available original documentation regarding

⁴ The recycling centers accept other materials, but only pay citizens for aluminum.

⁵ Until November of 1998, the Department allowed Friday and Saturday deposits to be combined. This practice was stopped when Department Director Mike Hanan requested that each day's deposit be made every evening.

⁶ The Center also sold sandbags, and the amount collected would be included in the balancing calculation.

⁷ The OSA was informed that Ms. Lane worked at the Pelican Rapids facility on an intermittent basis from April 2000 through June 2000.

the Center to the OSA.⁸ These documents included:

1. The Center's Bank statements from September 1997 through March 2001;
2. The Center's daily Redemption sheets from August 1997 through March 2001;
3. The Department's Redemption Fund Reconciliation reports from January 1998 through December 2000;⁹
4. Copies of deposit slips for vendor checks that had been inappropriately deposited into the Center's redemption fund Bank account;
5. Various reconciliation reports prepared by the County;
6. Copies of police reports filed by Fergus Falls Police Department Detective Carol Hart; and
7. Redemption sheets and bank statements from January 2000 through February 2001 regarding the Pelican Rapids facility.¹⁰

III. THEFT AND EMBEZZLEMENT OF COUNTY FUNDS

Pursuant to Minnesota law, a theft has occurred when a person "intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property."¹¹ It is also a theft if a person acts with intent to exercise only temporary control of the property and the control manifests an indifference to the rights of the owner or the restoration of the property to the owner.¹² A violation of the theft law could result in the imposition of a fine and/or imprisonment.¹³

⁸ The County acknowledged that some documentation regarding the Center was not completed or properly maintained.

⁹ These Redemption Fund Reconciliation sheets were used by the County Treasurer to replenish the redemption fund Bank account.

¹⁰ The OSA reviewed all available documentation regarding the recycling center in the City of Pelican Rapids and did not find the appearance of theft of public funds.

¹¹ Minn. Stat. § 609.52, subd. 2(1) (2000).

¹² Minn. Stat. § 609.52, subd. 2(5)(i) (2000).

¹³ If the property stolen exceeds \$2,500, a person may be sentenced to imprisonment for not more than ten years or payment of a fine of not more than \$20,000, or both. Minn. Stat. § 609.52, Subd. 3(2) (2000). If the property consists of public funds, a person may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both. Minn. Stat. § 609.52, subd. 3(3)(d)(iv) (2000).

The definition of embezzlement, as provided in the Minnesota Constitution, is as follows: “[i]f any person converts to his own use in any manner or form, . . . or shall deposit in his own name, or otherwise than in the name of the state of Minnesota; or shall deposit in banks or with any person or persons or exchanges for other funds or property, any portion of the funds of the state . . . every such act shall be and constitute an embezzlement . . . and shall be a felony.”¹⁴ A violation of the embezzlement law could result in the imposition of a fine and/or imprisonment.¹⁵

The OSA believes that a finding of a theft and/or embezzlement of County funds by Ms. Lane is supported by the following evidence revealed in the investigation.

A. Significant Variances in Bank Deposits

During the period reviewed, the Center’s daily deposit did not properly balance on 382 occasions (i.e. the amount of the daily withdrawal, plus recorded sandbag sales, less the recorded amount of cash paid for aluminum did not equal the actual daily deposit).¹⁶ The net total of the overages and shortages for the 382 days was \$25,618.75. From these 382 days, the OSA identified 153 days when such daily overages and shortages represented significant variances of at least \$20.00 or a percentage greater than 7% of the specific day’s cash redemption amount paid.¹⁷ The net total of these 153 overages and shortages from the Center’s deposits totaled \$25,591.76.¹⁸

According to the daily Redemption sheets and the Department’s employee time records, Ms. Lane worked at the Center on 147 of the 153 days that the OSA found a significant variance. The total net amount of monies missing from the Center’s deposits for these 147 days is \$24,949.59. A list of

¹⁴ Minn. Const. Art. XI, § 13 (2000).

¹⁵ Minn. Stat. § 609.54 (1) (2000) provides that a person who does an act which constitutes embezzlement of funds valued at \$2,500 or less may be sentenced to prison for not more than five years or to payment of a fine of not more than \$10,000, or both. Minn. Stat. § 609.54 (2) (2000) provides that if such value is more than \$2,500, the person may be sentenced to prison for not more than ten years or to payment of a fine of not more than \$20,000, or both.

¹⁶ The OSA’s period of review was from September 17, 1997 until March 12, 2001.

¹⁷ For the remainder of this report, in order to avoid attributing simple errors to the calculation of amounts deemed misappropriated, the OSA will not discuss the Center’s daily overages or shortages that totaled less than \$20.00 or 7% of the specific day’s cash redemption amount paid.

¹⁸ The net total of the overages and shortages for the remaining 229 days was \$26.99.

the 147 days with significant variances is attached as Exhibit A.¹⁹ Exhibit A indicates the following:

1. Date for each day with a significant variance;
2. Name of the Center's operator for each date;
3. The amount of each daily withdrawal according to Bank records;²⁰
4. The amount of redemption monies paid to citizens, as recorded on the daily Redemption sheets, or other available record;²¹
5. The total amount collected from daily sandbag sales;
6. The amount of each daily deposit according to Bank records; and
7. Each day's variance between the actual daily deposit according to Bank records and the amount equal to the day's withdrawal, plus total daily sandbag sales, less all recorded redemption paid for that particular day.

B. "Continuous Overdraft" and "Non-Sufficient Funds" Bank Charges

According to Bank records provided to the OSA, the Center's redemption fund account incurred "continuous overdraft" and "non-sufficient funds" fees on 25 occasions from October 1999 to November 2000. These 25 debits to the Center's redemption fund account balance totaled \$625.00. A list of these Bank charges is provided in Exhibit B.

Based on the information provided by the Department, monthly statements for the Center's redemption fund account were addressed and mailed directly to the Center, where they were received and opened by Ms. Lane. Ms. Lane did not forward the monthly Bank statements to the Department. As such, the Department was not aware that the Center's redemption fund account balance was insufficient on 25 occasions to meet the amount of funds withdrawn. Moreover, the Department was not aware that the Bank was assessing fees against the redemption fund balance. From the information provided, it appears that Ms. Lane deprived the County of an additional \$625.00 by not depositing the appropriate daily monies into the Center's redemption fund Bank account.

¹⁹ Upon request, the OSA is able to provide a list containing the overages and shortages for each day within the period of review.

²⁰ The usual amount of withdrawal was \$691.00; however, the daily operator was authorized to withdraw a larger amount according to the anticipated volume of aluminum to be redeemed for that particular day.

²¹ Where the daily Redemption sheets were not available, the OSA used the Redemption Fund Reconciliation sheets originally produced by Ms. Lane for the County Treasurer. Because no other documentation was available for April, September, and December 2000, the OSA used a monthly worksheet intended to be used only at the Center's counter as a memory prompt to fill out other worksheets.

C. Cash Received Upon Deposit of Vendor Check

Bank records provided to the OSA indicate that on October 13, 1998, a County check made payable to the Center to replenish the Center's redemption fund account for the amount of \$2,863.47 was presented to the Bank for deposit. However, only \$2,663.47 was deposited into the Center's redemption fund Bank account. There was \$200.00 cash received during the transaction. The deposit ticket contained a signature that appears to be the name "Robin Lane."

The Center's Redemption Fund Reconciliation sheets for the dates October 12, through October 17, 1998, indicate that the vendor check was deposited on October 13, 1998, only for the amount of \$2,663.47. The Center's Redemption Fund Reconciliation sheets for that week do not account for the \$200.00 cash received from the Bank during the transaction. The OSA was unable to determine how Ms. Lane used the \$200.00 cash she received from the October 13, 1998 transaction.

IV. CONCLUSION

Based upon the OSA's review, it appears that Ms. Lane may have deprived the County of a total of \$25,774.59. This total comprises a net amount of \$24,949.59 missing from daily deposits, \$625.00 from assessed Bank charges on the Center's redemption fund account, and \$200.00 cash received from the Bank that reduced the October 13, 1998 deposit into the Center's redemption fund account.

The OSA has determined the next step in this investigation would be to interview Ms. Lane regarding the specific findings mentioned in this report. However, to avoid jeopardizing any potential prosecution, the OSA is turning the matter over to the Otter Tail County Attorney's Office to proceed in a manner it deems appropriate.

As always, the OSA remains available to assist if necessary. If you have any questions, please do not hesitate to contact Director of Special Investigations Lea De Souza Speeter at 651-297-7107 or Investigator Chris Royal at 651-282-2386.

Sincerely,

/s/ Judith H. Dutcher

Judith H. Dutcher
State Auditor

Attachments