

STATE OF OHIO
SANDUSKY COUNTY
FINDING #2020-001

ABATEMENT AGREEMENT
PURSUANT TO O.R.C. 117.33
BETWEEN SANDUSKY COUNTY
AND JUDGE BRADLEY J. SMITH

The Ohio Auditor of State's Office previously issued a Finding for Recovery against Sandusky County Juvenile & Probate Court Judge Bradley J. Smith, in the amount of \$33,300. The Finding indicates that as Judge, he made various payments to two local non-profit entities, and alleges those payments were improper, due to being categorized as payments for services rendered, with no specific contracts in place for the public services which were then provided.

After a thorough review, and with the agreement of all necessary and appropriate parties, the Sandusky County Prosecutor does hereby offer a full abatement of the entire finding amount (making the amount to be collected \$0.00) as being fair, proper, and in the best interest of the public and the county treasury.

As the Finding for Recovery is currently in the "monitoring phase", this abatement agreement requires the approval of the Ohio Attorney General's Office, which is formally requested, and has now since been received, as indicated by the attached letter, marked "Attachment #1".

The following items were respectfully submitted in support of this abatement agreement and the requested necessary approval from the Ohio Attorney General's Office:

1. At all times throughout this matter, Judge Smith has been cooperative, forthright, and consistent in his responses to all inquiries.
2. There have been no allegations of any self-interest or benefit to Judge Smith.
3. It is agreed that the County Prosecutor is specifically not representing Judge Smith in this matter, and that he has voluntarily waived utilization of independent counsel.

4. The impacted local officials legally represented by the County Prosecutor all consent to and are in agreement with this abatement request, being the Sandusky County Auditor, Jerri Miller, and the Sandusky County Commissioners, Charles Schwochow, Scott Miller, and Russ Zimmerman.
5. Sandusky County has historically and regularly relied upon Village House and C.A.S.A to provide services to Juvenile Court and the related impacted families, as well as to the Sandusky County Department of Jobs and Family Services, for the cases handled before Juvenile Court.
6. These non-profit entities, and the ongoing services they provide, save Sandusky County valuable tax dollars, as the county could not duplicate these services without spending substantial additional funds.
7. The Sandusky County Commissioners have the authority to make appropriations for, or donations to, both of these non-profit agencies that provide services to the county.
8. The Commissioners also have the authority to designate their donation authority.
9. It is agreed that Ohio Revised Code §2151.10 requires the Juvenile Court Judge to submit requests for county budget appropriations to the County Commissioners.
10. Judge Smith did properly submit budget requests to the Sandusky County Commissioners for the time periods encompassing each of the disputed expenditures.
11. The budget requests submitted by the Court through the county's standard financial software system openly and publicly requested the funds and clearly identified both of the non-profits involved in this matter.
12. After holding the appropriate budget review hearings each of the years in question, the Sandusky County Commissioners budgeted and appropriated funds earmarked to support the two non-profits, whether for services or as a donation, both of which would be allowable.
13. Proper purchase orders were put in place by the Court prior to payment, as required, and the expenditures were again approved for processing by the County Commissioners, and then appropriately paid by the Auditor; making all parties fully aware of the ongoing expenditures through multiple avenues.
14. All expended funds were for a proper public purpose and were fully received by the designated non-profits, with no misappropriation of funds in any manner.

15. Judge Smith was completely unaware of the referral of the initial inquiry to the State Auditor or to the State Attorney General, whom was named Special Prosecutor by former Sandusky County Prosecutor Timothy Braun to review this matter.
16. Upon review and consideration of the special audit and related matters, no actions were initiated or pursued by the Ohio Attorney General's Office.
17. The Sandusky County Prosecutor was consulted by Judge Smith on the underlying matters at various points during the pendency of the investigation and ongoing payments, and despite the clear conflict of interest, it was not disclosed in any manner, and legal advice, counsel, and assistance was given to Judge Smith by the Prosecutor.
18. Judge Smith relied upon and followed this advice of counsel, which had the practical impact of allowing and continuing the payments, and ultimately increasing the dollar amount of payments now in contention in the finding for recovery.
19. The Finding appears to suggest that the updating of the invoices was the inappropriate action, and not the actual payments themselves.
20. Judge Smith has acknowledged from the beginning that he updated prior invoices in order to document the appropriate payment category and facilitate the budgeted payments, as had been discussed and agreed to years ago by the local officials, in an effort to comply with various requirements in an open and appropriate manner.
21. Further, it is clear that the updated invoices utilized to facilitate the payments accurately reflected the correct appropriated budget category regarding the services provided, with no misrepresentations by Judge Smith involved.
22. It is also clear from the audit findings that the payments would have been determined to be fully appropriate had Judge Smith court-ordered the payments; which he has historically avoided doing, based upon advice of counsel and his attempt to work cooperatively within the county's standard financial procedural system.
23. Throughout the many years of payments, the Court and Sandusky County Commissioners all intended to support these two non-profit agencies for the services that they provide; and that support was open, public, and obvious to all.
24. During the entire time period that this matter has been under discussion and/or investigation, each group of County Commissioners (including those who originally began the inquiry with the former Prosecutor, two of which are still in office today)

continued to budget and approve payment of funds for these non-profits, utilizing the longstanding prior custom and practice to facilitate the appropriations and payments; without question or objection.

25. It is also worth noting that there are numerous areas of significant factual dispute contained within the audit findings, which have been meticulously documented by Judge Smith and Sandusky County as simply not being accurate, which further support this abatement agreement as being fair and proper to all concerned.
26. Based upon the totality of the circumstances, and everything noted herein above, the requirement for Judge Smith to personally repay the \$33,300 would quite sincerely create an unjust recoupment of these funds to Sandusky County, as no county funds were lost, misdirected, or misappropriated in any manner whatsoever.
27. Finally, in light of this entire situation, the County has ensured that an updated process for facilitating funds for local non-profits has been implemented, in order to guarantee the continuation of important services to the local community, while fully complying with all audit requirements moving forward.

WHEREFORE, the undersigned parties hereby agree to fully abate the Finding for Recovery to zero dollars and appreciate the review and approval of the Ohio Attorney General's Office, as required, and documented by "Attachment #1" hereto.

Approved and agreed to by the undersigned parties:

x Beth A. Tischler

Date: 5 / 11 / 2023

Beth A. Tischler
(OSC Reg. #0077490)
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Sandusky County, Ohio
100 North Park Ave
Fremont, Ohio 43420
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BTischler@sanduskycountyoh.gov

Legal Counsel for Sandusky County

x



Date: 4 / 24 / 2023

Bradley J. Smith
(OSC Reg. #0066097)
Juvenile & Probate Court Judge
Sandusky County, Ohio
100 North Park Ave
Fremont, Ohio 43420
(419) 334-6204
JudgeSmith@sanduskycountyoh.gov

Self-Represented in his Personal Capacity

APPROVED BY:

The Ohio Attorney General's Office
via "Attachment #1",
letter dated April 5, 2023, from
Attorney Shelley Goodrich
(OSC Reg. #0084928)
Senior Assistant Attorney General

Legal Counsel for the State of Ohio



DAVE YOST
OHIO ATTORNEY GENERAL

Attachment #1

Collections Enforcement
Office 614-466-8360
Fax 614-752-9070

April 5, 2023

Brad Smith
100 North Park
Fremont, Ohio 43420

Re: Findings for Recovery against: Brad Smith
CLIENT: Sandusky County
ORIGINAL FINDING AMOUNT: \$33,300.00
CRN: 14705-1
CRN 2: 32496
ACCOUNT NO.: 18811112

Dear Mr. Smith:

The Finding for Recovery issued against you in the amount of \$ 33,300.00 as listed in the above audit has been abated pursuant to R.C. 117.33. No monies are due with respect to this matter, the account will be closed, and the Finding will now be considered resolved pursuant to Ohio Rev. Code § 9.24(B). Notice of the resolution of the finding(s) will be forwarded to the Auditor of State's Office so that the name of Brad Smith may be marked as resolved on the Auditor's online database.

Thank you again for your time and efforts on this matter. Please feel free to contact the undersigned if you have any questions or concerns at (614)779-0105.

Sincerely,

Shelley Goodrich
Senior Assisted Attorney General
Collections Enforcement Section

Your Initials (lowercase)