

INTRODUCTION

We, the members of the Forty-Fifth Statewide Investigating Grand Jury, having received and reviewed evidence regarding violations of the Pennsylvania Ethics Act and Crimes Code occurring in Franklin County, Pennsylvania, pursuant to Notice of Submission of Investigation No. 26, do hereby make the following findings of fact and recommendation of charges.

FINDINGS OF FACT

The Grand Jury conducted an investigation into the activities of Kerry Bumbaugh (“Bumbaugh”), a long-time township supervisor in Quincy Township, Franklin County. It was determined that Bumbaugh manipulated and falsified documents in order to steal county, state and federal grant funds, as well as other funds from other sources, by regularly inflating invoices associated with various township expenses. The Grand Jury also learned that Bumbaugh used his position of power for his own financial gain by requiring township employees to make improvements to his private residence during their regular work hours.

There are three elected supervisors in Quincy Township, a second class township. Each supervisor is elected for a six-year term with no term limit. The annual salary is approximately \$2,500.00. Bumbaugh has served as a township supervisor since 1990. He is also a full-time township employee, serving as the township road master. In that capacity he is responsible for all planning, maintenance requirements, and upkeep of the public roads. His annual salary for that job is approximately \$50,000.00. Evidence before the Grand Jury established, however, that Bumbaugh wielded influence over all township-related business, not just the road maintenance for which he was properly responsible.

- ***SEWER LINE DAMAGES – “THE WALL”***

The Grand Jury heard testimony that around the year 2002, Quincy Township built a public sewer line. At some point after its construction, Bumbaugh erected a large concrete block retaining wall (referred to by many as simply “the wall”) on his property located on Fox Hill Road. The wall ran perpendicular to and over the sewer line. The height of the wall was approximately 12 to 15 feet. According to several witnesses, Bumbaugh’s wall was poorly constructed, with insufficient backfill.

In 2012, Bumbaugh claimed that a breach in the sewer line caused his retaining wall to crack. Edward Wilson (“Wilson”), who was the sewer operator for the township at that time, testified that he ran a camera through the sewer line to determine if it was damaged. According to Wilson, the line was intact and there was no damage. Despite Wilson’s assessment, however, Bumbaugh’s fellow supervisors - - Wilbur Sanders and Robert Gunder - - determined that the township would cover the expenses associated with the repairs to Bumbaugh’s wall. According to Quincy Township meeting minutes, insurance would not cover replacement of Bumbaugh’s retaining wall, because the sewer line had been properly laid and inspected

At the supervisors’ request, however, Bumbaugh then procured an opinion from Rex Benchoff (“Benchoff”), a local engineer. Despite Wilson’s discovery that the line was sound, Benchoff opined that it was possible the damage to Bumbaugh’s wall could have been caused by the sewer line, and the entire wall would need to be replaced. The Grand Jury reviewed a September 14, 2012 handwritten letter provided to the township by Benchoff stating his opinion. The letter failed to detail, however, what steps Benchoff had taken to reach his conclusion. Indeed, the Grand Jury learned that Benchoff never performed any inspection beyond going to the location and looking at the wall, nor did he ever address Wilson’s contention that the sewer line was intact.

Testimony revealed that Benchoff solely relied upon the information provided to him by Bumbaugh

Although there is a board that oversees the Sewer Authority, a member of the board at that time testified that Bumbaugh never made the board aware of the supposed problem. Nonetheless, township supervisors approved payment for the removal and replacement of the entire wall.¹ In early 2013, after reviewing several quotes, Supervisors Sanders and Gunder voted to pay B&H Lawn Care to rebuild Bumbaugh's retaining wall. The Grand Jury reviewed a February 15, 2013 invoice which showed that Quincy Township paid \$12,555.00 for the completion of the project. The Grand Jury also learned that the township paid for the building materials, as well as the manpower, to demolish and dispose of the debris from the original wall. Although the township ostensibly assumed responsibility for the wall because of an alleged break in the sewer line, no one ever took any steps to repair the alleged break.

- ***WATER LINE DAMAGES – THEFT, FORGERY, INSURANCE FRAUD***

In 2017, three years after a water line was installed near Bumbaugh's home, Bumbaugh once again complained that there was damage to his property. This time, Bumbaugh, who has no known degrees or expertise in the field of engineering, claimed that the township's water line installation had caused damage to several smaller retaining walls on his property, and to concrete slabs and the foundation area of his home. He also complained that water had entered his basement.

On July 31, 2017, Travis Schooley ("Schooley"), the Quincy Township water system operator, submitted a Notice of Claim to the Selective Insurance Company ("Selective"), which was the township's insurer. Because Bumbaugh was the claimant against the township's own

¹ According to meeting minutes, Bumbaugh abstained from the vote.

insurer, Schooley was the main point of contact. The explanation provided by Schooley in the Notice of Claim was that Quincy Township had bored underground in order to install a section of the water line. Due to heavy rain while the trench was open, water was diverted and supposedly caused damage to Bumbaugh's home.

The Grand Jury reviewed a letter dated July 25, 2017 written by Schooley and also signed by John High ("High"), an engineer with Brindle & Associates. Brindle & Associates, and specifically High, had been centrally involved in the township's installation of the main water line and subsequent extension projects. This letter, which was provided to Selective, explained the damage to Bumbaugh's property in detail. The letter also stated that, in High's opinion, Bumbaugh's stairwell - - which was located over the bored water line - - needed to be excavated, and clay dikes should be installed in order to prevent water from moving towards Bumbaugh's house and causing further damage.

On August 2, 2017, both Bumbaugh and Schooley provided separate statements to a Selective claims adjuster. The following day, High sent an e-mail to Schooley and Bumbaugh with a cost estimate and narrative to provide to the insurance company. In the body of the email, High wrote: "We need to make sure that the estimate is somewhat accurate." High estimated the cost of repairs, including the cost to replace the wall and stairs, to be \$65,127.93. On August 8, 2017, High provided a revised estimate to Bumbaugh and Schooley, noting that he "doubled some of the unit costs based on estimates from contractors like we discussed." The revised estimate was \$205,400.39 - more than triple the original estimate . The only item that was added to the revised estimate was a 1.5 inch overlay paving of Bumbaugh's driveway, which High estimated should cost \$40,012.80. Several weeks later, Selective determined that Quincy Township was not at fault and not liable to pay for the damage because, as a municipality, it was protected by government

immunity. Selective sent Bumbaugh an official denial letter on August 30, 2017. The Grand Jury reviewed e-mails from the same date wherein Quincy Township's local insurance broker explained to Schooley that Selective was relying on sovereign immunity protection under Pennsylvania's Municipal Tort Claims Act.

The following day, on August 31, 2017, Bumbaugh submitted a claim to Penn National Insurance Company ("Penn National"), the carrier of his homeowner's insurance. Penn National rejected the claim, on the ground that the township should have to pay if it was the township that caused the damage. Less than a week after this denial, Schooley wrote another letter dated November 1, 2017. Schooley once again described the damages to Bumbaugh's property. In contrast to his previous letter, which claimed that the damage had been cause by water, this time Schooley claimed that the damage was from "direct construction activity," and that the ground was "hooved up under the wall and stairs thus creating open cracks in the wall and stairs in several places." Schooley also blamed damage to the lower wall on Bumbaugh's property as being caused by "heavy construction equipment." This letter, as well as a similar letter from High with the same date, was provided to the insurance companies.

After receiving these new letters, Penn National re-opened Bumbaugh's claim. According to an engineering consultant for Penn National, the company adopted High's opinion given his expertise on the subject of directional drilling. As a result, Bumbaugh received partial coverage for his claim. Although Penn National agreed to cover the cost to reconstruct the wall and steps on Bumbaugh's property, the company explicitly denied coverage for any costs associated with excavation of the existing wall or stairs. To carry out the covered work, Bumbaugh provided Penn National with an estimate from B&H Lawn Care, the same company whose employees rebuilt the

first large retaining wall. Based upon that estimate, Penn National awarded Bumbaugh \$31,288.87.

Penn National notified Selective of its partial coverage determination, but Selective did not change its original decision. On February 26, 2018, both Bumbaugh and Schooley once again provided recorded statements to Selective representatives. During the conversation, Schooley admitted to the representative that, although approximately 26,000 feet of water line was installed in the township, the only property that was supposedly damaged as a result of the installation was Bumbaugh's. However, Schooley insisted that Quincy Township should be held responsible for all of the damage to Bumbaugh's property. The following day, High provided another revised estimate to Bumbaugh. This time, however, he removed any expenses related to the replacement of the retaining wall or steps as that was to be covered by Penn National. The estimate included the cost to demolish the existing wall and pavement, excavation and repair of the water line and trenches, and replacement of the pavement and driveway overlay. Bumbaugh then provided the estimate of \$149,268.41 to Selective.

Despite Penn National's decision, Selective contacted Quincy Township on March 7, 2018, to advise that the claim would be denied once again and that no coverage would be provided to Bumbaugh. According to the insurance log notes, the Selective representative sought to provide the information to the township solicitor since the claimant – Bumbaugh - was himself a township supervisor. Upon contacting the township office, the insurance representative noted that he spoke to a secretary and another board member, both of whom refused to provide the solicitor's contact information. The representative was eventually informed that the solicitor had no knowledge of the claim or the alleged damages.

On March 8, 2018, the township's local insurance broker e-mailed Bumbaugh and Schooley. In the e-mail, the broker referred to an alleged easement between the township and Bumbaugh, and that the easement might affect the insurance dispute.

A few weeks later, the Quincy Township solicitor was provided with a copy of what appeared to be an easement agreement between the township and Bumbaugh. The agreement purported to have been executed in 2013 shortly before the water line installation. The agreement stated that Quincy Township explicitly promised to accept responsibility and liability for any damages occurring as a result of the water line installation. On March 28, 2018, the solicitor sent a letter to Selective accompanied by the easement, which had been signed and notarized. Because the easement purported to waive the township's statutory immunity, Selective reversed its previous two denials and settled the claim with Bumbaugh on June 24, 2018 for \$94,270.95. The money was deposited into Bumbaugh's personal account.

Evidence before the Grand Jury established, however, that the Bumbaugh easement agreement was fraudulent. The word processing document containing the agreement was discovered on a township computer during the course of this investigation. Metadata in the document demonstrated that it was completed not in 2013, but on March 7, 2018, at 11:07 a.m. – exactly 35 minutes after Selective had notified the township that it was again denying Bumbaugh's claim. The document had been created and modified on the township computer used by Schooley.

The easement had purportedly been witnessed in 2013 by two Quincy Township employees: Road foreman Corey Kaiser ("Kaiser") and secretary Vicki Nunemaker ("Nunemaker"). According to Kaiser's log book for the date when the easement was signed, witnessed, and officially notarized – June 30, 2013 – he was on vacation for the entire week. Both Kaiser and Nunemaker testified that it was common practice for Bumbaugh to ask them to sign

documents in the office and that they would often do so without thoroughly reviewing what they were signing. Further, Nunemaker testified that while she often signed documents for Bumbaugh, she did not recall ever doing so in the presence of Mitchell Hickock (“Hickock”), the notary public whose stamp appeared on the easement. Although the date of the notary’s commission normally appears on the actual stamp, in this instance the Grand Jury was not able to verify date because the stamp’s date failed to register on the document. In addition, while notaries are required to keep a contemporaneous log book of all signatures they witness and stamp, Hickock – who was a friend of Bumbaugh’s – apparently never kept the required books.²

The Grand Jury learned that, while many residents of Quincy Township had signed formal easements permitting the water line to be installed on their property, Bumbaugh was not one of them. Over 100 documents were filed in the Franklin County Recorder of Deeds for property easements granted for the water line. Every easement filed was accompanied by a map of the respective resident’s property and the location of the water line. A professional title searcher was unable to find any easements filed for Bumbaugh’s Fox Hill Road residence (although Bumbaugh did have easements unrelated to the water line for other properties he owned in the township, which were filed). Further, the Grand Jury heard the testimony of several witnesses who explained that the water line in front of Bumbaugh’s property was located in a public right-of-way, and thus would not have necessitated an easement. Indeed, the Grand Jury discovered an e-mail from engineer High in which High had explicitly informed Bumbaugh that the water line as it passed Bumbaugh’s property “is in the Road ROW [right of way]” – *i.e.*, that this portion of the project was built on public land, and didn’t go through Bumbaugh’s property at all.

² Hickock passed away prior to being interviewed. Members of his immediate family informed agents that he did not record his notarizations in the log books.

The Grand Jury additionally learned that Schooley, the township's point of contact for Bumbaugh's insurance claim, was the official who had been responsible for documenting, tracking, and organizing all easement agreements that had been secured for the installation of the waterline. Thus, if anyone in the township would have known about Bumbaugh's alleged easement, it would be Schooley. Yet he failed to mention the supposedly dispositive waiver agreement until more than six months after Selective had denied Bumbaugh's claim on the basis of municipal immunity.

On June 25, 2018, one day after Bumbaugh received payment from Selective, township employees were directed to dig several test holes on Bumbaugh's property to determine the location of supposed damage caused by the water line installation. The test holes were all dry and showed no damage or leakage from the water line in the trench. The Grand Jury reviewed photographs of the test holes; there was no evidence of water. However, because workers had been directed to dig the test holes in Bumbaugh's driveway, Bumbaugh was able to justify repair of the pavement.

The following week, engineer High provided a letter to the Quincy Township supervisors at Bumbaugh's request. The letter, for the first time, suggested an entirely new claim: that, despite the evidence of the test holes, the water line installation may have damaged Bumbaugh's property not because of underground water movement, but because of surface runoff from the road.

The Grand Jury learned that on November 11, 2020, agents from the Pennsylvania Office of Attorney General and the Federal Bureau of Investigation executed a search warrant at the Quincy Township municipal office. Bumbaugh was present at the time, spoke with the agents, and was made aware of the investigation. The very next day, Bumbaugh appeared at High's place of work at Franklin County. While Bumbaugh did not inform High of the search warrant, he did

state that he was under investigation by the State Ethics Committee about his “driveway issue.” Bumbaugh directed High to inform him if anyone contacted High or asked questions.

On November 23, 2020, High received three consecutive telephone calls from a number belonging to Schooley. When High called the number back, Schooley and Bumbaugh were both present on the line. Schooley was no longer working for the township at that time. During the approximately ten-minute call, Bumbaugh repeatedly instructed High to inform anyone who may come to talk to him that Bumbaugh did not ask High to write the letters, and that High was the one that was going to “keep him out of jail.” The Grand Jury also learned that Schooley’s wife (who was also the Quincy Township auditor), called High on December 10, 2020 which was unusual. According to High, he did not return the call.

- ***PROPERTY DEMOLITION - DIVERSION OF TOWNSHIP RESOURCES, CONFLICT OF INTEREST***

Although Bumbaugh received almost \$100,000 from the insurance company, he did not have to use that money to complete the work. Instead, Quincy Township employees did the job. While the work was performed free of charge to Bumbaugh, the cost was passed along to the residents of Quincy Township. According to documents provided by Selective, a portion of the insurance payment was supposed to cover the cost of the demolition of damaged walls and remediation work. The Grand Jury heard testimony that all of the demolition work was done by township employees, using township equipment, during regular business hours. The employees were not paid separately by Bumbaugh or anyone else for the work performed on his property. According to employee log books, the amount of time spent on the wall was significant – approximately three to four weeks of full time work in July and August of 2018. On days of particularly long work, employees were even awarded overtime. All of this work, which was performed at the direction of Bumbaugh, took the employees away from performing their actual

duties for the township. Township employees also confirmed that none of the work they performed was necessary to repair any conditions caused by the water line.

The Grand Jury also learned that on November 18, 2020, one week after the search warrant was executed at Quincy Township offices, Bumbaugh instructed road foreman Kaiser to tell the Quincy Township road crew members that, if questioned, they should say any work done at his property was directed by High. He further instructed Kaiser that any log book bearing Bumbaugh's name for work done at his property should include an annotation such as "quotes," and that Kaiser should get rid of any log book older than two years. Bumbaugh told Kaiser to give the same instruction to the rest of the road crew.

- ***DRIVEWAY PAVING - THEFT OF STATE FUNDING, CONFLICT OF INTEREST, TAMPERING WITH PUBLIC RECORDS***

After Quincy Township employees demolished existing walls and hauled away the debris at no expense to Bumbaugh, B&H Lawn Care then installed new walls. Even though B&H had provided a work estimate for the cost to rebuild the retaining wall (at Bumbaugh's request) to support the Penn National claim, Bumbaugh once again paid nothing out of pocket for the work. According to owner Jim Bakner, B&H performed the work free of charge in order to settle an old debt with Bumbaugh. A review of Bumbaugh's bank records indicated that he did use approximately \$10,000.00 of the \$31,288.87 he was awarded to buy materials for the new wall; however, no payments were made to B&H. Notably, the new block used to replace the walls now matched the block used for the large wall replacement done by B&H in 2013.

The bigger job was Bumbaugh's new driveway. According to records reviewed by the Grand Jury, AAA Paving worked on Bumbaugh's driveway on October 22, 2018 and November 12, 2018. For this work, Bumbaugh paid Aaron Moats ("Moats"), owner of AAA Paving, \$13,000.00 from his personal bank account. But that payment went only toward the first phase of

the job, and covered only a fraction of the value of all the work eventually performed. While Moats testified that the total cost of the project from start to finish would be somewhere around \$40,000.00, the initial payment of \$13,000.00 was Bumbaugh's first and last.

The Grand Jury learned that the second phase of work on the driveway was timed to coincide with another project for the township: The Mormon Church and Capitol Hill Road project. This project, wherein AAA Paving overlaid Mormon Church Road and Capitol Hill Road for the township, was funded by the Pennsylvania Municipal Liquid Fuels Program. The money was allocated to Quincy Township by the Pennsylvania Department of Transportation ("PennDOT") for the purpose of road improvements and construction. On July 23, 2019, Bumbaugh provided detailed instruction to township employees on how the remaining work on his driveway – milling, scratch coat and leveling – was to be included in invoices for work done on the township project in order to hide the costs.

The Grand Jury reviewed documents provided by Moats, as well as photographs from surveillance conducted by investigators, which showed that AAA Paving returned to perform the rest of the work on Bumbaugh's driveway on July 26 and July 30, 2019. The Grand Jury also reviewed receipts from Saint Thomas Development, Inc., which showed that all of the blacktop material used by AAA Paving on those two days was purchased by Quincy Township. Evidence also demonstrated that it was the township, not Bumbaugh, that paid the labor costs for the July 26 and 30 work on his driveway. Additionally, Bumbaugh had on-the-clock township employees directing traffic for the large project, as the paving equipment frequently necessitated the use of the roadway.

After the driveway work was finished, Bumbaugh on August 7, 2019, told Moats how to disguise the driveway costs. The Grand Jury reviewed notes prepared by Bumbaugh with explicit

directions for Moats on preparing false invoicing. The Grand Jury also reviewed separate sheets created by Moats, which documented the actual work performed for the township and the actual work performed for Bumbaugh. At Bumbaugh's direction, these were added together and billed in one invoice, which referred only to the Mormon Church and Capitol Hill Roads project. Further, the Grand Jury reviewed draft invoices wherein Bumbaugh had crossed off and made changes to Moats' work notes.

In another attempt to cover his tracks, Bumbaugh made a token payment in 2019 directly to AAA Paving for \$1,240.00. This was nowhere near actual costs; indeed, the labor and materials for Bumbaugh's driveway cost approximately three times more than the legitimate work done on the township roadways, and was a much larger project. Finally, the Grand Jury reviewed documents and invoices submitted by Quincy Township to PennDOT, confirming that the false invoice was paid by Liquid Fuels public funds.

In July 2020, the finishing touches were put on Bumbaugh's home improvement project, as township employees spent two full days restoring Bumbaugh's lawn and large yard area. While witnesses testified that water line installation sometimes disrupted a small portion of a yard, the work done for Bumbaugh was far more extensive.

After the search warrant was executed on Quincy Township offices in November 2020, Bumbaugh went to Moats and asked him to provide a written estimate in order to justify what Moats referred to as the "nonsense of how costs were done" pertaining to Bumbaugh's driveway. Further, Bumbaugh claimed that he had provided Moats with undocumented cash payments for the driveway. Moats testified that this was untrue, and that Bumbaugh never made any cash payments for the work performed on his driveway.

- ***GRANT FRAUD – THEFT OF COUNTY FUNDING, TAMPERING WITH PUBLIC RECORDS***

Bumbaugh also fraudulently manipulated township expenditures in order to inflate the amount of state matching grants the township received. Quincy Township applied for road work grants from the Franklin County Dirt, Gravel, and Low Volume Road Maintenance Road Program, funded through the Pennsylvania State Conservation Commission. Because these were matching reimbursement grants, the township was required to pay for the road work up front, and then submit its costs to the program, which would cover half the amount spent. The money was to be used for a three-year project to repair and pave a dirt road, Green Corners Road.

Information for the grant application was provided by Travis Schooley, the water operator who had been so helpful to Bumbaugh in his successful efforts to secure insurance payments. The contractor for the project was AAA Paving, the same company that assisted Bumbaugh by rebuilding his driveway. Based on Schooley's data, the township filed a grant application in 2017 and was awarded \$57,324.00 in December 2018 for work done on Green Corners Road that year. Schooley submitted a new grant application in September 2018 for work to be performed the following year. Accordingly, Quincy Township received \$66,432.00 from the grant in October 2019.

Bumbaugh claimed, however, that the grant money allocated for the project in 2019 was not enough to pay AAA Paving for the work completed that year. Moats, the owner of AAA Paving, testified before the Grand Jury that Bumbaugh asked him to carry over approximately \$15,000.00 in charges to be re-paid the following year after entering the final phase of the project and receiving additional grant funding. In September 2019, Schooley submitted the cost estimate for the third and last year of the project. Quincy Township was then offered a \$70,000.00 grant for the work to be done in 2020.

The Grand Jury investigation revealed that in June 2020, Bumbaugh explicitly admitted that his plan was to overbill the grant in order to make up the 2019 debt to Moats. He provided detailed instructions to a township employee on how to manipulate the AAA Paving invoices to inflate costs by adding equipment hours and material. Later, in August 2020, Bumbaugh told Moats what costs to add and where to add them. The Grand Jury reviewed work sheets created by Moats outlining the actual work that was performed on Green Corners Road, and compared those documents with versions in which Bumbaugh crossed out the actual hours and units and inflated them in order to justify his overbilling.

On August 11, 2020, Quincy Township submitted an invoice to Franklin County, requesting reimbursement for costs of the Green Corners Project. Among them was a request to pay AAA Paving for three invoices totaling \$30,509.00. Moats confirmed that the invoices submitted to the county were based upon the fraudulently inflated invoices created at Bumbaugh's request. He also clarified that, while the work was completed by AAA Paving, the invoiced amount submitted by Quincy to the county was nearly double the actual amount owed to him for that year.

- ***OVERBILLING – THEFT BY DECEPTION, TAMPERING WITH RECORDS***

Bumbaugh committed additional fraud in connection with another township project – clean-up of a dilapidated property on Gap Road. Quincy Township employees performed the work June 22-24, 2020. The Grand Jury reviewed work sheets and employee log books documenting the hours worked and equipment used. Those documents were then compared to later versions, which were altered by Bumbaugh to include more hours than were actually worked, extra equipment hours, and exorbitant fees for tasks not actually performed. On June 30, 2020, Bumbaugh submitted a lofty invoice, charging \$19,000.00 to the estate of the deceased owner of

the property. But that was not the only fraud committed. In addition, multiple township employees reported that they were instructed to leave project codes blank so that timesheets would not identify the project in question. This deception permitted Bumbaugh to bill an entire day of labor at Gap Road – June 24 – to the Green Corners project grant. In reality, no work was actually performed that day on Green Corners Road.