



# Ohio Auditor of State Special Investigations Unit



## Case Closing Memo

**Case Name:** Cleveland Heights-University Heights City School District

**Case #:** 2020-CA11101

**County / Region:** Northeast Region

**Investigative Team:** Todd A. Clark/Melissa Barnett

**Memo Date:** April 21, 2020

### Background:

On January 16, 2020, SIU received a complaint alleging violations of R.C. 9.03 and R.C. 3315.07 by the Cleveland Heights-University Heights City School District (the District) in connection with a proposed levy on the March 17, 2020 ballot. The complaint included the following:

1. A Consulting Agreement dated October 1, 2019 between R Strategy Group (RSG) and the District. The contracts called for the District to pay RSG \$6,000 for consulting services related to polling services and \$28,675 for polling services to be provided by Lake Research Partners (Lake). The contract was signed on behalf of the District by George Petkac, the Director of Business Services and Operations for the District.
2. The poll questions.
3. Emails between the District and RSG related to the contract and the survey.
4. A copy of a PowerPoint presentation prepared by Lake reporting on the results and findings based on the survey of "500 likely March 2020 primary voters."
5. Invoices in the amounts of \$6,000 and \$28,675 for the services provided by RSG and Lake.

In addition, the District's Treasurer provided SIU with a copy of the District's check register which reflected the District paid RSG for both invoices on October 22, 2019 with check #62167 in the amount of \$34,675.

This matter was presented to the Special Audit Task Force (SATF) on February 20, 2020. SATF determined to open a preliminary audit and investigation into the allegations.

### Work Performed:

On March 3, 2020, SIU legal counsel sent the District a letter advising of our investigation and our concerns with the expenditure of \$34,675 in public funds for what appeared to the support of a levy on the March 17, 2020 primary ballot.

On April 15, 2020, Lindsay Gingo, counsel for the District's Board of Education (Board) responded to the letter sent to the District by SIU. The response stated that the Consulting Agreement with RSG was not related to the passage of a levy because there was no levy pending on the ballot at that time. She stated that the purpose of the Agreement was to "provide a critical community communication tool to the District: polling and research." The letter went on to state that District administrators were shocked that the analysis provided was focused on the levy rather than strategic planning.

There are several facts which undermine the District's position:

1. The polling was directed to "500 likely March 2020 primary voters". If the District was concerned about what the community believes, the polling would not have been limited to those individuals who would likely vote in the primary election.
2. The contract was entered into by the District on October 1, 2019. The Board's initial resolution of necessity for the levy was certified to the county auditor on November 5, 2019. The survey was conducted between November 14<sup>th</sup> and the 19<sup>th</sup> according to Ms. Gingo's letter. The PowerPoint presentation prepared by Lake had a date on it of December 2019. On December 9, 2019, the Board passed the resolution to place the levy on the March ballot. The only reasonable conclusion from these facts is that the polling was performed in an effort to support the passage of the levy.
3. The District's response to our letter included several exhibits, including a series of emails related to the Consulting Agreement and the survey. There were several emails from October 7, 2019 and October 10, 2019 between Mike Thomas of RSG and Cathan Cavanaugh, Supervisor of Communications for the District. In one email, Thomas asked if the levy is a replacement or replacement + increase, and what was the millage of the levy being considered. Cavanaugh responded in separate emails that the levy was a new, continuing levy and that "we'd like to test 7.9 mills for the survey". If the District was shocked that the survey focused on the levy, perhaps they should have advised their Supervisor of Communications as to the purpose of the Consulting Agreement and survey.
4. The letter from the District's counsel is correct that the PowerPoint presentation was geared solely to the passage of the levy, both in its focus on the demographics of likely levy supporters and the messaging for the pro-levy campaign. The question is why the District has not advised us that they are pursuing a refund of the \$34,675 in public funds as a result of RSG and Lake providing services which were contrary to those contracted for by the District. The District's position might be more believable if it had pursued such a course.

The District's response states that the District agrees with our position that the work ultimately performed by RSG and Lake was in support of the levy campaign. However, the District maintains that their purpose was to communicate with the residents of the District and that the work performed by RSG and Lake was contrary to the work for which the District had contracted. The District's position is undermined by the facts which indicate the District was aware of the scope of the work intended to be performed by RSG and Lake prior to the work being performed.

Even if we accept the District's position that it did not intend to have work performed in support of the levy campaign, this does not excuse the payment of \$34,675 in public funds for such a result. The District should be actively pursuing repayment of these misspent funds.

### **Recommendation:**

Based on the various individuals who were involved in the securing of the contract with RSG, there is no clear individual to be held criminally liable for a charge pursuant to R.C. 9.03(C). This being the case, there is no reason to submit these facts to a county prosecutor for criminal prosecution. However, the facts clearly support the issuance of a Finding For Recovery (FFR). We recommend referring this matter to the audit region and providing all of the documents obtained by SIU in its preliminary investigation and closing the preliminary audit and investigation.