
COMMONWEALTH OF PENNSYLVANIA



**A SPECIAL INVESTIGATION OF MARCUS HOOK TRAINER
VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION,
DELAWARE COUNTY**

February 2011

JACK WAGNER, AUDITOR GENERAL

PENNSYLVANIA DEPARTMENT OF THE AUDITOR GENERAL

February 15, 2011

David Shafer, President
Marcus Hook Trainer Volunteer Firefighters' Relief Association
617 East 10th Street
P. O. Box 369
Marcus Hook, PA 19061

Dear Mr. Shafer:

The Department of the Auditor General's Office of Special Investigations ("OSI") has conducted a special investigation in cooperation with the Office of the District Attorney of Delaware County concerning questionable expenditures of funds of four volunteer firefighters' relief associations ("VFRAs") during the years 2004 through 2008. The investigation arose out of a request by the Department's Bureau of Firefighters' Relief Association Audits in August 2008 for the assistance of OSI in determining the validity of certain withdrawals from the checking accounts of the Lennox Park VFRA, the Trainer VFRA, the Marcus Hook VFRA, and the Marcus Hook Trainer VFRA. The Marcus Hook Trainer VFRA was created by the merger of the other three VFRAs on January 1, 2007.

Our investigation found that Jason S. Smith, also known as Jay Smith ("Smith"), the former Treasurer of both the Marcus Hook VFRA and its successor, the Marcus Hook Trainer VFRA, embezzled a total of \$11,639.97 from the two VFRAs during the period 2004 through 2008.

The results of our investigation led to the filing by the Office of the District Attorney of Delaware County of a criminal complaint against Smith on March 16, 2010, in which he was charged with multiple counts of Forgery, Theft, and Receiving Stolen Property. On June 14, 2010, the case was bound over for court on one consolidated count of Theft by Unlawful Taking and one count of Forgery, both felonies of the third degree. All remaining charges were withdrawn by agreement.

Prior to trial in the Court of Common Pleas of Delaware County, the Office of the District Attorney of Delaware County, without seeking the concurrence of either the Marcus Hook Trainer VFRA or the Department of the Auditor General, made a motion to have the case considered for Accelerated Rehabilitative Disposition ("ARD"), a pretrial diversionary program under which a defendant, after successful completion of all conditions imposed upon him, may have the charges dismissed. After a hearing on October 12, 2010, Smith was accepted into the ARD program and was ordered to perform community service and to make full restitution to the Marcus Hook Trainer VFRA. Upon successful completion of all conditions of the program, which has a duration of 12 months, Smith will be entitled to have all charges dismissed and to have the record of his arrest expunged.

The Department of the Auditor General is disappointed that we were not given the opportunity to participate in the ARD proceedings and to object to the granting of ARD to this defendant. We also understand that you and your fellow VFRA officers were so disappointed in the outcome of the criminal case that you wrote a letter on October 25, 2010, to the District Attorney expressing your dissatisfaction. As part of your response to this report, you submitted a copy of that letter which we have reproduced on page 19 herein.

This report presents the findings and recommendations resulting from our investigation and is intended to assist the officers of the Marcus Hook Trainer VFRA in preventing such theft in the future. Our investigation was neither designed nor intended to be a detailed study of every system, procedure, or transaction at Marcus Hook Trainer VFRA. Accordingly, the findings and recommendation presented in this report only pertain to matters discovered in the investigation.

A draft of this report was furnished to the officers of the Marcus Hook Trainer VFRA for their review and response, and their written response is appended to this report. We urge the officers of the VFRA to implement the recommendations made in this report. The Department of the Auditor General will follow up at the appropriate time to determine whether all of our recommendations have been implemented.

This report is a public document and its distribution is not limited. Additional copies can be obtained through the Department of the Auditor General's website, www.auditorgen.state.pa.us.

Sincerely,

/S/

JACK WAGNER
Auditor General

cc: Kenneth Smith, Jr., Secretary
John Clausen, Treasurer
Daniel Smith, Financial Secretary

TABLE OF CONTENTS

Executive Summary	1
Background and Introduction	2
Finding and Recommendations:	
<u>FINDING</u> : Jason S. Smith, also known as Jay Smith, the former Treasurer of the Marcus Hook Volunteer Firefighters’ Relief Association and its successor, the Marcus Hook Trainer Volunteer Firefighters’ Relief Association, embezzled a total of \$11,639.97 from the two associations during the period 2004 through 2008..	5
Conclusions and Recommendations	15
Response of the Marcus Hook Trainer VFRA to Draft Report.....	17
The Department of the Auditor General’s Comments on the Response of Marcus Hook Trainer VFRA to Draft Report.....	20
Distribution List	21

EXECUTIVE SUMMARY

FINDING	RECOMMENDATIONS
<p>Jason S. Smith, also known as Jay Smith, the former Treasurer of the Marcus Hook Volunteer Firefighters' Relief Association and its successor, the Marcus Hook Trainer Volunteer Firefighters' Relief Association, embezzled a total of \$11,639.97 from the two associations during the period 2004 through 2008.</p>	<p>We recommend that the officers of the Marcus Hook Trainer VFRA take the following corrective actions:</p> <ul style="list-style-type: none">• Discontinue the practice of pre-signing VFRA checks and giving these pre-signed checks to the Treasurer;• Require all bank statements to be reconciled on a monthly basis by a second officer in addition to the Treasurer;• Ensure that that no expenditures are made without a purchase order or other supporting documentation;• Verify the authenticity of all documentation submitted as supporting documentation for VFRA expenditures; and• Require that all checks include accurate memo line information.

BACKGROUND AND INTRODUCTION

Volunteer firefighters' relief associations ("VFRAs") in Pennsylvania receive an annual distribution of state funds pursuant to the Foreign Fire Insurance Tax Distribution Law.¹ The Department of the Auditor General ("Department") conducts regular audits and investigations of these associations pursuant to the Volunteer Firefighters' Relief Association Act ("Act 84")² and The Fiscal Code.³ According to Act 84, "[a] volunteer firefighters' relief association is an organization formed primarily for the purpose of affording financial protection to volunteer firefighters against the consequences of misfortune suffered as a result of their participation in the fire service."⁴

The Marcus Hook Trainer VFRA ("VFRA") is associated with the Marcus Hook Trainer Fire Department located at 617 East 10th Street, Borough of Marcus Hook, Delaware County. A member of the Marcus Hook Trainer VFRA provided the following information to the Department's Office of Special investigations ("OSI"):

- The Marcus Hook Trainer VFRA was formed on January 1, 2007, as the result of the merger of the Marcus Hook, Trainer, and Lennox Park VFRAs.
- This merger also involved the merger of the fire departments of the same three communities.
- Jason S. Smith ("Smith") was the treasurer of the Marcus Hook VFRA prior to the merger and of the Marcus Hook Trainer VFRA after the merger.

In August 2008, the Department's Bureau of Firefighters' Relief Association Audits made a referral to OSI in which it requested the assistance of OSI in determining the validity of cash withdrawals and expenditures concerning the Lennox Park VFRA and the Trainer VFRA, which were merged with the Marcus Hook VFRA on January 1, 2007, to form the Marcus Hook Trainer VFRA.

OSI's investigation included the following investigative actions:

- Conducting interviews of VFRA officials;
- Analyzing suspicious checks and supporting documentation;
- Making third-party contacts to check the authenticity of supporting documentation for suspicious check transactions; and

¹ Act of Dec. 18, 1984, P.L. 1005, No. 205, § 701, as amended, 53 P.S. § 895.701 *et seq.* Each year, the Department of the Auditor General distributes state aid to municipalities for the further distribution to VFRAs in their jurisdictions, according to a formula based on population and property values.

² Act of June 11, 1968, P.L. 149, No. 84, as amended, 53 P.S. § 8501 *et seq.* (Volunteer Firefighters' Relief Association Act).

³ Act of April 9, 1929, P.L. 343, No. 176, as amended, 72 P.S. § 401 *et seq.* (The Fiscal Code).

⁴ 53 P.S. § 8502.

- Reviewing the meeting minutes of the Marcus Hook VFRA for the period January of 2004 through December 2006, and the Marcus Hook Trainer VFRA for the period January 2007 through April 2009.

This investigation found that Smith embezzled \$11,639.97 from the Marcus Hook VFRA and its successor, the Marcus Hook Trainer VFRA, during the years 2004 through 2008.

OSI met with representatives of the Office of the District Attorney of Delaware County on October 15, 2009, and presented the findings of this investigation. This led to the filing by the Office of the District Attorney of Delaware County of a criminal complaint against Smith on March 16, 2010, in which he was charged with multiple counts of Forgery, Theft, and Receiving Stolen Property. On June 14, 2010, the case was bound over for court on one consolidated count of Theft by Unlawful Taking and one count of Forgery, both felonies of the third degree. All remaining charges were withdrawn by agreement.

Prior to trial in the Court of Common Pleas of Delaware County, the Office of District Attorney of Delaware County made a motion to have the case considered for Accelerated Rehabilitative Disposition (“ARD”), a pretrial diversionary program under which a defendant, after successful completion of all conditions imposed upon him, may have the charges dismissed.⁵ After a hearing on October 12, 2010, in which no representative of either the Department of the Auditor General or the Marcus Hook Trainer VFRA was afforded the opportunity to participate,⁶ Smith was accepted into the ARD program and was ordered to perform community service and to make full restitution to the Marcus Hook Trainer VFRA. Upon successful completion of all conditions of the program, which has a duration of 12 months, Smith will be entitled to have all charges dismissed and to have the record of his arrest expunged.

⁵ Accelerated Rehabilitative Disposition is governed by Rules 300 through 320 of the Pennsylvania Rules of Criminal Procedure.

⁶ The OSI investigator assigned to this case received a telephone call from a Delaware County Detective on October 14, 2010, informing him that Smith had been accepted into the ARD program two days earlier. Had OSI been notified and given an opportunity to be heard at the ARD hearing, we would have objected to the granting of ARD to this defendant. OSI has also been informed by the current treasurer of the VFRA that no officer of the VFRA was consulted with regard to disposition of this case by way of ARD and that the officers of the VFRA are all dissatisfied with the disposition. See, also, the letter of October 25, 2010, from the officers of the VFRA to the District Attorney of Delaware County, which appears on page 19 of this report.

Rule 311 of the Rules of Criminal Procedure provides, in pertinent part:

Rule 311. Application Process and Notice of Motion by Attorney for the Commonwealth

- (A) When [ARD] proceedings are initiated, the attorney for the Commonwealth’s shall advise the defendant and the defendant’s attorney of the attorney for the Commonwealth’s intention to present the case to and appropriate judge. **Notice of the proceedings shall be given also to any victim or victims of the offense charged.** [emphasis added]

The source of the stolen funds is the tax imposed upon foreign fire insurance companies, the proceeds of which are distributed each year to VFRAs throughout the Commonwealth. Among the victims of Smith’s theft of VFRA funds, therefore, are the VFRA itself and the fire companies associated with the VFRA that are the intended beneficiaries of the funds, as well as, arguably, the Commonwealth of Pennsylvania, which is the source of the funds, and the Department of the Auditor General, which is the agency of state government responsible administering the program pursuant to the Foreign Fire Insurance Tax Distribution Law, 53 P.S. § 895.701 *et seq.*

This report presents the findings and recommendations resulting from OSI's investigation and is intended to assist the officers of the Marcus Hook Trainer VFRA in instituting a system of internal controls designed to prevent or detect future attempts to misappropriate funds from the VFRA.

A draft copy of this report was provided to the VFRA for its review and comment. The VFRA's response is included at the end of this report, followed by our comments on the response. The Department of the Auditor General will follow up at the appropriate time to determine whether all of our recommendations have been implemented.

FINDING AND RECOMMENDATIONS

FINDING: Jason S. Smith, also known as Jay Smith, the former Treasurer of the Marcus Hook Volunteer Firefighters' Relief Association and its successor, the Marcus Hook Trainer Volunteer Firefighters' Relief Association, embezzled a total of \$11,639.97 from the two associations during the period 2004 through 2008.

The Department of the Auditor General's Bureau of Firefighters' Relief Association Audits referred this matter to OSI and provided the following information:

- The Marcus Hook Trainer VFRA was formed on January 1, 2007 following the closeouts of the Lennox Park and Trainer VFRAs, which disbanded and combined all of their assets with the Marcus Hook VFRA, to create a new VFRA by the name of Marcus Hook Trainer VFRA.
- Jason S. Smith, also known as Jay Smith, was the Treasurer of the Marcus Hook VFRA, and its successor, the Marcus Hook Trainer VFRA, during the period 2004 through 2008.
- A Marcus Hook Trainer VFRA official told the auditors that he suspected that former Treasurer Smith had written VFRA checks to himself.
- The President of Marcus Hook Trainer VFRA told the auditors that she had pre-signed VFRA checks that Smith wrote to himself.

Review of Cancelled Checks

On May 12, 2009, OSI met with officials of both the Marcus Hook Trainer VFRA and Marcus Hook Trainer Fire Department ("Fire Department"). The VFRA officials provided OSI with copies of 20 VFRA cancelled checks issued during the period 2004 through 2008. The VFRA officials classified these checks as questionable for the following reasons:

- Seventeen of these checks were issued to individual members of the VFRA, including Smith.
- Two of these checks were used by Smith to purchase t-shirts for a benefit after both the VFRA and the Fire Department had given cash to Smith for the purchase of t-shirts. In addition, VFRA funds could not be used to purchase t-shirts, and the money raised by the benefit did not go to the family for whom it was intended.
- One check was issued to Smith in order for Smith and two other members to attend a conference. Smith and the other two members did not attend this conference. Smith eventually returned the proceeds of this check to the VFRA.

On July 28, 2009, OSI met with David Shafer, the current president of the Marcus Hook Trainer VFRA, and reviewed 31 VFRA cancelled checks allegedly used for questionable expenditures during the period 2004 through 2008. All of these checks contained two signatures, with 22 of the checks containing a signature reading “David Shafer” or “Dave Shafer,” and two of these checks containing a signature reading “David Shaffer.” During this meeting, Shafer also provided the following information:

- Thirteen of these checks containing signatures reading “David Shafer” or “Dave Shafer” were not signed by him.
- Two of the 13 checks containing a signature reading “David Schaffer,” an incorrect spelling of “Shafer,” were not signed by him.
- The VFRA gave copies of 21 of these cancelled checks to Smith to give him the opportunity to verify the authenticity of the checks, but Smith submitted “not even one” invoice or other documentation to verify the authenticity of these checks.

During the course of this investigation, OSI contacted the vendors listed on three invoices submitted by Smith as documentation for reimbursement. These vendors were located in Pennsylvania, New York, and Ontario, Canada. The Pennsylvania vendor provided the following information:

- The copy of the invoice submitted by Smith was “not our invoice.”
- The Smith invoice does not contain the vendor generated invoice number.
- The item number on the Smith invoice is not the vendor’s number.

The Ontario vendor reviewed a copy of the invoice submitted by Smith and replied to OSI by fax message in which he stated: “We have researched this invoice and this doesn’t seem to have been issued by [vendor name] as indicated on this invoice.”

The New York vendor reviewed a copy of the invoice submitted by Smith, and provided the following information:

- The format of the Smith invoice is not the same as an actual vendor invoice.
- The vendor never employed a sales person with the name listed on the Smith invoice.
- The vendor has no record of a customer named Jason Smith or Marcus Hook Fire Department.
- The vendor’s Federal Tax ID number is not on the Smith invoice.
- The freight cost on the Smith invoice is not similar to what the vendor charges.

On September 10, 2009, OSI met with the following officers and members of the VFRA:

- Raleigh (Bye) Heacock, the Treasurer of the Fire Department and a member of the VFRA
- Kenneth Smith, Jr., the current Secretary of the VFRA
- James McClure, the Deputy Chief of the Fire Department and a member of the VFRA (present for part of meeting)

- John Clausen, the current Treasurer of the VFRA (present for part of meeting)

During the course of this meeting, they reviewed 28 VFRA cancelled checks suspected to have been issued for Smith's personal benefit. At the conclusion of this meeting, OSI and the meeting participants classified 23 of these checks as fraudulent checks issued for Smith's personal benefit. This classification was based on one or more of the following reasons:

- Submission of false documents for reimbursement.
- Failure to produce documents for reimbursement.
- Failure to explain suspicious transactions.
- False explanations for suspicious transactions.
- Forged signatures on checks.

Table 1 summarizes the checks classified by OSI as fraudulent:⁷

⁷ The check numbers in Table 1 and in the following discussion are not always in sequence, because Marcus Hook Trainer VFRA used two separate checking accounts at two separate banks toward the end of the period in question.

Table 1
Summary Schedule of Fraudulent Checks

<u>VFRA</u>	<u>DATE</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>	<u>PAYEE</u>
Marcus Hook	06/08/2004	436	\$396.81	Jay S. Smith
Marcus Hook	06/08/2004	438	374.26	Jay Smith
Marcus Hook	12/10/2004	458	283.07	Jay Smith
Marcus Hook	12/10/2004	462	<u>484.04</u>	Jay Smith
	Total - 2004		<u>\$1,538.18</u>	
Marcus Hook	08/12/2005	508	\$575.00	Jay Smith
Marcus Hook	09/13/2005	511	<u>250.00</u>	Jason S. Smith
	Total - 2005		<u>\$825.00</u>	
Marcus Hook	08/08/2006	551	<u>\$375.00</u>	Jason Smith
	Total - 2006		<u>\$375.00</u>	
Marcus Hook	05/24/2007	590	\$624.09	Jay Smith
Marcus Hook	05/24/2007	591	489.00	Jay Smith
Marcus Hook	05/25/2007	588	469.40	Jay Smith
Marcus Hook	06/21/2007	594	656.16	Jay Smith
Marcus Hook	09/25/2007	617	250.00	Jay Smith
Marcus Hook	09/25/2007	620	450.00	Jay Smith
Marcus Hook	11/12/2007	632	991.07	Jay Smith
Marcus Hook	12/11/2007	636	841.61	Jay Smith
Marcus Hook	12/12/2007	640	<u>381.65</u>	Jay Smith
	Total - 2007		<u>\$5,152.98</u>	
Marcus Hook	05/13/2008	661	\$750.00	Jason Smith
Marcus Hook	05/19/2008	663	135.00	Jason S. Smith
Marcus Hook	08/12/2008	664	500.00	Jason Smith
MH Trainer	08/18/2008	102	851.50	Jason S. Smith
MH Trainer	09/02/2008	103	324.86	Jason S. Smith
MH Trainer	09/03/2008	104	650.00	Shawn McConnell
MH Trainer	12/07/2008	1011	<u>537.45</u>	Jason S. Smith
	Total - 2008		<u>\$3,748.81</u>	
	Grand Total		<u>\$11,639.97</u>	

OSI has classified these checks as fraudulent for the following reasons:

- Check # 436 contained a memo line reading “Equipment Reimbursement.” The vendor on the invoice submitted by Smith told OSI that the invoice for this purchase was not the vendor’s invoice. The VFRA treasurer told OSI that he has no recollection of this equipment listed on the false invoice being purchased by the VFRA.
- Check # 438 contained a blank memo line. The vendor on the invoice submitted by Smith told OSI that the invoice for this purchase was not the vendor’s invoice. In addition, David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading “Dave Shafer” on this check was not his signature. The VFRA treasurer told OSI that he has no recollection of this equipment listed on the false invoice being purchased by the VFRA.
- Check # 458 contained a memo line reading “Equipment Purchase Reimbursement.” The vendor on the invoice submitted by Smith told OSI that the invoice for this purchase was not the vendor’s invoice. In addition, David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading “David Shafer” on this check was not his signature. The VFRA treasurer told OSI that he has no recollection of this equipment listed on the false invoice being purchased by the VFRA, and the vendor listed on this invoice was not the usual vendor from whom the VFRA purchased this type of equipment.
- Check # 462 contained a memo line reading “Equipment – Saw.” Smith submitted a handwritten invoice listing an out-of-town lawn service as the vendor to serve as supporting documentation for this reimbursement. This invoice contains no date, no business telephone number, no imprinted business name, and no business address. This invoice also contained the handwritten annotation reading: “Paid Visa [account number].” The VFRA treasurer provided the following information to OSI about this transaction:
 - The VFRA contacted the out-of-town lawn service, and this business had no record of this transaction.
 - Smith had no legitimate reason to use his personal Visa card for a VFRA purchase, when he could have used a VFRA check to pay the vendor directly.
 - The VFRA regularly uses a different vendor for saw repair service.
- Check # 508 contained a memo line reading “FDIC East Training Reimbursement.” A representative of the entity that conducted the training conference provided the following information to OSI relative to this check:
 - Smith did attend an FDIC conference in Atlantic City, New Jersey from October 4 to October 7, 2005.

- The Borough of Marcus Hook paid the conference registration fee for Smith and another VFRA member with Check # 7566, dated August 19, 2005, in the amount of \$1,150.
- In addition, David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading “David Schaffer” on this check was not his signature, and that the person who signed Shafer’s name on this check misspelled his last name. Because Smith’s reimbursement check was issued almost two months prior to the dates of the conference, because the borough paid this conference registration fee, and because of the forged signature, OSI concluded that this check was a fraudulent transaction for Smith’s personal benefit.
- Check # 511 contained a memo line reading “Cash for conference.” The Marcus Hook VFRA previously provided copies of four cash register tape-type receipts totaling \$255.93 that Smith had submitted to the VFRA for reimbursement. These four receipts did not identify the vendors that made these sales to Smith, and provided no description of the items purchased. In addition, Smith did not provide any documentation to identify the convention that he had attended. In addition, David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading “David Shafer” on this check was not his signature. Because of the questionable documentation submitted by Smith and the forged signature, OSI concluded that this check was a fraudulent transaction for Smith’s personal benefit.
- Check # 551 contained a memo line reading “Reimbursement EMS Conference.” Smith submitted a continuing education report for his attendance at the Pennsylvania Emergency Health Services Council’s 22nd Annual EMS Conference to the Marcus Hook VFRA as documentation for this reimbursement. A representative of the Pennsylvania Emergency Health Services Council told OSI that the 22nd Annual EMS Conference was actually held in 1999. In addition, David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading “David Shafer” on this check was not his signature. Because of the questionable documentation submitted by Smith and the forged signature, OSI concluded that this check was a fraudulent transaction for Smith’s personal benefit.
- Check # 588 contained a memo line reading “Expo.” The current VFRA treasurer told OSI that the VFRA had confronted Smith about this check and had requested supporting documentation for this check, but Smith did not provide the requested documentation. Because of the lack of supporting documentation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith’s personal benefit.⁸
- Check # 590 contained a memo line reading “Reimbursement expo – hoods.” The current VFRA treasurer told OSI that Smith did not provide any requested

⁸ John Clausen, current VFRA treasurer, told OSI that the VFRA had requested supporting documentation from Smith for all of the suspicious checks involved in this investigation, but Smith did not provide the requested supporting documentation for many of these checks.

documentation for this check. In addition, the officials attending this meeting had no recollection of hoods being purchased by the VFRA. Because of the lack of supporting documentation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.

- Check # 591 contained a memo line reading "Reimbursement expo." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check. In addition, the officials attending this meeting had no recollection of the expo cited on the memo line of this check. Because of the lack of supporting documentation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 594 contained a memo line reading "2007 EMS conference reimbursement." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check. Because of the lack of supporting documentation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 617 contained a memo line reading "Delegate State conv." David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that Smith was not a designated VFRA delegate to a convention in 2007. Because of the lack of supporting documentation for this check and the forged signature, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 620 contained a memo line reading "Fire Officer III." The meeting participants told OSI that this memo line information probably referred to Fire Officer III training. David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check. Because of the lack of supporting documentation for this check and the forged signature, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 632 contained a memo line reading "Electrical supplies." David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that he had no recollection of the VFRA purchasing almost \$1,000 worth of electrical supplies. Because of the lack of supporting documentation for this check and the forged signature, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 636 contained a blank memo line. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that this

expenditure and all of the other checks issued to Smith were not recorded in the VFRA meeting minutes. Because of the lack of supporting documentation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.

- Check # 640 contained a memo line reading "Saw service." David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that he specifically recalled questioning Smith about this check, and Smith lied to him by telling him that he had saws serviced at a business that is no longer operating. In addition, the VFRA treasurer told OSI that the VFRA and fire department regularly dealt with a different saw service business. Because of the lack of supporting documentation for this check, the forged signature, and Smith's explanation to the VFRA treasurer, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 661 contained a memo line reading "Expo." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that there was no expo in May of 2008. Because of the lack of supporting documentation for this check and the VFRA treasurer's statement that there was no expo in May 2008, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 663 contained a memo line reading, "Expo Gloves." David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that the VFRA had no record of gloves being purchased at an expo. Because of the lack of supporting documentation for this check and the forged signature, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 664 contained a memo line reading "Delivery of air unit." David Shafer, past president of the Marcus Hook VFRA, previously told OSI that the signature reading "David Shafer" on this check was not his signature. The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check. During a telephone interview on June 1, 2009, a VFRA member provided the following information:
 - He and Smith did travel to West Virginia to transport equipment sold to the New Creek Volunteer Fire Department in West Virginia.
 - The Fire Department Chief in West Virginia paid for one night's lodging for both Smith and the VFRA member.
 - Smith and the VFRA member stayed in West Virginia for one night only.

Because of the lack of supporting documentation for this check, the forged signature, and the information provided by the VFRA member, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.

- Check # 102 contained a memo line reading "EMS Conference." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check, that he failed to provide a response when questioned about this check, and that he did not attend any conference around the time of this check. Because of the lack of supporting documentation for this check and Smith's failure to provide an explanation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 103 contained a memo line reading "Saw service." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check, that he questioned Smith about this transaction and Smith told him that he had taken saws to a service vendor located in Delaware, and that the vendor to which Smith supposedly took saws for service has been out of business for four years. Because of the lack of supporting documentation for this check and Smith's explanation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.
- Check # 104 contained a blank memo line. During the telephone interview of June 1, 2009, the VFRA member referenced with regard to Check # 664, above, provided the following additional information:
 - This check relates to the trip that he and Smith made to West Virginia to transport equipment sold to the New Creek Volunteer Fire Department in West Virginia.
 - Smith wrote Check # 104 for \$650 to him, and Smith asked him to cash this check.
 - He cashed the check and gave the entire amount to Smith.
 - Smith told him that the money was for fire company business.
 - He had known Smith for five years and had no reason not to trust him.

Because of the VFRA member's explanation for this check, OSI and the meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.

- Check # 1011 contained a memo line reading "Saw service." The current VFRA treasurer told OSI that Smith did not provide any requested documentation for this check and that when he questioned Smith about this transaction, Smith told him the same story about taking a saw to a service vendor located in Delaware. Again, the VFRA treasurer told OSI that the vendor to which Smith supposedly took saws for service has been out of business for four years. Because of the lack of supporting documentation for this check and Smith's explanation for this check, OSI and the

meeting participants concluded that this check was a fraudulent transaction for Smith's personal benefit.

Review of Record Books of Meeting Minutes

On September 21, 2009, OSI reviewed the following two Record Books of Meeting Minutes:

- Marcus Hook Fire Department Relief Association, January 2004 – December 2006.
- Marcus Hook Trainer Fire Department Relief Association, January 2007 – April 2009.

Table 2 sets forth the dates of the regular meetings for which minutes are recorded in the Marcus Hook VFRA Record Book, January 2004 – December 2006.

Table 2
Marcus Hook VFRA Meeting Dates
Record Book, January 2004 – December 2006

01/13/2004	01/11/2005	01/10/2006
02/10/2004	02/08/2005	03/14/2006
03/09/2004	03/08/2005	04/11/2006
04/13/2004	04/xx/2005*	05/09/2006
05/11/2004	05/10/2005	06/27/2006
06/08/2004	06/14/2005	08/08/2006
07/13/2004	07/12/2005	09/12/2006
08/10/2004	08/09/2005	11/14/2006
09/14/2004	09/13/2005	12/12/2006
10/12/2004	10/11/2005	
11/09/2004	11/xx/2005*	
12/14/2004	12/13/2005	

**The date of the meeting was not recorded in the Record Book.*

This Record Book also contained minutes of a special meeting held on May 13, 2004.

Table 3 on the next page sets forth the dates of the regular meetings for which minutes are recorded in the Marcus Hook Trainer VFRA Record Book January 2007 – April 2009.

Table 3
Marcus Hook Trainer VFRA Meeting Dates
Record Book, January 2007 – April 2009

01/09/2007	01/08/2008	01/13/2009
02/13/2007	03/11/2008	02/10/2009
03/13/2007	04/08/2008	03/10/2009
04/10/2007	05/13/2008	04/14/2009
05/08/2007	06/10/2008	05/12/2009
07/10/2007	08/05/2008	06/09/2009
08/14/2007	09/09/2008	
09/11/2007	10/14/2008	
10/08/2007	11/10/2008	
11/13/2007	12/09/2008	
12/11/2007		

OSI’s review of these records of meeting minutes uncovered the following information:

- None of these records of meeting minutes contained any record of the issuance or approval of the checks allegedly transacted by Jason Smith in order to misappropriate VFRA funds.
- The minutes of the meeting of May 8, 2007, contained the following record for the payment of a bill: “Jay Smith [\$]524.00 for shipping air packs.”
- The minutes of the meeting of March 10, 2009, contained the statement reading “Jay Smith resigned from [the position of] relief [association] treasurer.”
- The minutes of the meeting of April 14, 2009, indicated that the VFRA had received a letter from the Fire Department secretary stating that Jay Smith is suspended from the Fire Department until the outcome of this investigation dealing with misappropriation of relief funds.

Conclusions and Recommendations:

Based on our investigation, we conclude that Jason S. Smith, also known as Jay Smith, the former Treasurer of the Marcus Hook VFRA and its successor, the Marcus Hook Trainer VFRA, embezzled a total of \$11,639.97 from the two VFRAs during the years 2004 through 2008.

We further conclude that the officers and members of the two VFRAs were lax in the following ways, which contributed to Smith’s ability to carry out this theft scheme:

- Although the VFRAs had a requirement that checks be signed by both the President and the Treasurer, the President routinely pre-signed checks and gave the pre-signed checks to the Treasurer.

- Smith had complete control of the VFRA's finances while he held the office of Treasurer, and no other VFRA officers or members ever questioned Smith's handling of the VFRA's finances until the theft was discovered in 2008.

We recommend that the officers of the Marcus Hook Trainer VFRA take the following corrective actions:

- Discontinue the practice of pre-signing VFRA checks and giving these pre-signed checks to the Treasurer;
- Require all bank statements to be reconciled on a monthly basis by a second officer in addition to the Treasurer;
- Ensure that that no expenditures are made without a purchase order or other supporting documentation;
- Verify the authenticity of all documentation submitted as supporting documentation for VFRA expenditures; and
- Require that all checks include accurate memo line information.

**RESPONSE OF THE MARCUS HOOK TRAINER VFRA TO DRAFT
REPORT**

The response of the Marcus Hook Trainer Fire Department Relief Association consists of a letter from the current Treasurer of the Association dated January 25, 2011, addressed to the Auditor General in which was enclosed a copy of a letter from the officers of the Association dated October 25, 2010, addressed to the District Attorney of Delaware County. Both of the letters are scanned into this report beginning on the next page.

**MARCUS HOOK TRAINER FIRE DEPARTMENT
RELIEF ASSOC.**

POST OFFICE BOX 369 MARCUS HOOK, PA 19061

610-485-4393

FAX: 610-485-4753

January 25, 2011

Auditor General,

Marcus Hook Trainer Relief Association is in receipt of the final special investigation audit report. **We have no discrepancies with your final report.**

Respectfully,

John Clausen
VFRA Treasurer

MARCUS HOOK TRAINER FIRE DEPARTMENT

Post Office Box 369 ♦ 617 East Tenth Street
Marcus Hook, Pennsylvania 19061

~ Organized January 11, 2007 ~

October 25, 2010

Mr. Michael Green, Delaware County District Attorney,

On behalf of the Marcus Hook Trainer Fire Department we are writing in regards to the Jason Smith case.

After a phone call I placed to Detective John Hofner we were made aware of the outcome of this case. I immediately placed a call to ADA Robert Manzi. After speaking with Mr. Manzi I made it very clear to him that we were very dissatisfied with the outcome. I also made it aware to Mr. Manzi that the quote he made in the Daily Times, "that the firefighters association, for which he served for about 15 years, was in agreement with the out-come" is in total disagreement with that statement and the Marcus Hook Trainer Fire Department would have never agreed to such a thing. Mr. Manzi said he would review his notes and reply back to me with his findings as to why he made that statement. I have still not received a reply.

On June 6, 2010 we were summoned to appear at the preliminary hearing. At this time and the only time we had any contact with Mr. Manzi. We feel the communication in this case was little to none.

After speaking with state officials with Auditor Generals Office, they to are very dissatisfied with the outcome of this case.

In closing the officers and members of the Marcus Hook Trainer Fire Department are very dissatisfied in the outcome of this case. We feel justice didn't prevail and we had no input in this case. Please feel free to contact me with any questions you may have.

Respectfully,

John Clausen
Deputy Fire Chief
VFRA Treasurer

David Shafer
VFRA President

Ken Smith Jr.
VFRA Secretary

CC: PA Auditor General Jack Wagner

Main 610-485-4393 ♦ Sub 610-494-6862 ♦ Fax 610-485-4753

STATION 68

**THE DEPARTMENT OF THE AUDITOR GENERAL'S COMMENTS ON
THE RESPONSE OF THE MARCUS HOOK TRAINER VFRA**

We commend the current officers of the Marcus Hook Trainer VFRA for their assistance and cooperation throughout this investigation. We will presume from their statement that they have “no discrepancies” with the report that they intend to implement our recommendations to safeguard the VFRA from being similarly victimized in the future.

The Department of the Auditor General will follow up in the next cyclical audit of the Association to determine whether all of our recommendations have been implemented.

DISTRIBUTION LIST

This report was distributed initially to the following:

The Honorable Tom Corbett
Governor

The Honorable William H. Ryan, Jr.
Acting Attorney General

The Honorable Robert M. McCord
State Treasurer

The Honorable Charles Zogby
Secretary of the Budget

Anna Maria Kiehl
Chief Accounting Officer
Office of the Budget

The Honorable Jake Corman
Chair
Senate Appropriations Committee

The Honorable Vincent Hughes
Democratic Chair
Senate Appropriations Committee

The Honorable William F. Adolph, Jr.
Chair
House Appropriations Committee

The Honorable Joseph Markosek
Democratic Chair
House Appropriations Committee

The Honorable G. Michael Green
District Attorney of Delaware County

The Honorable James D. Shiliro
Mayor
Borough of Marcus Hook

The Honorable Francis Zalewski
Mayor
Borough of Trainer

Marcus Hook Trainer Volunteer Firefighters Relief Association
c/o Kenneth Smith, Jr., Secretary
David Shafer, President
John Clausen, Treasurer
Daniel Smith, Financial Secretary

The Honorable Edward A. Mann
State Fire Commissioner

United States Internal Revenue Service
Fraud Detection Center
Philadelphia Service Center

This report is a matter of public record. Copies of this report are available on the Department of the Auditor General's web site, www.auditorgen.state.pa.us, and from the Department's Office of Communications, 318 Finance Building, Harrisburg, Pennsylvania 17120.