



STATE OF NEW JERSEY

COMMISSION OF INVESTIGATION

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*EXECUTIVE DIRECTOR*

May 26, 1994

Roy S. Blumenthal, Administrator  
Township of River Vale  
406 Rivervale Road  
River Vale, New Jersey 07675

Dear Mr. Blumenthal:

Responding to complaints from a number of River Vale residents, the Commission has examined the Township's Recreation Department and the operation of some of its youth sports programs. This letter reports the Commission's findings and recommendations.

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Of particular interest is an apparent diversion of funds from the girls softball program. Until recently, the Recreation Department was funded through the municipal budget. These expenditures were partially reimbursed by fees collected from participants. The Township appropriated \$4,750 for the program in each of the three years from 1990 through 1992 and increased the amount to \$5,250 in 1993. Taxpayer funds paid for umpire wages, supplies and equipment. Other appropriations of about \$40,000 per year funded Recreation Department salaries and expenses.

For twelve years prior to his resignation on January 31, 1994, James V. Commerford served as part-time Recreation Director. He was authorized by ordinance to charge each softball program participant a \$12.00 annual registration fee.

As you know, a special committee appointed by the Mayor reviewed procedures for the collection of registration fees in 1991 and 1992. That committee concluded that all funds were "properly accounted for" after reviewing four separate deposits

in 1991, totaling \$1,812, and an additional four deposits in 1992, totaling \$2,091. The committee failed to determine whether the deposits reflected all the fees that were collected - cash as well as checks. The committee examined neither registration forms nor team rosters; neither had been provided to the Township Treasurer.

Parents of participants helped the Commission reconstruct rosters of the 1992 softball season. Although rosters were not available for the 1991 season, testimony of a number of parents active in the softball program, supplemented by sworn affidavits, established the number of registrants at approximately 245 for each of the two years. Recreation Director Commerford purchased 288 uniforms each year.

Individuals who attended and participated in the registrations testified unequivocally that both cash and checks were collected. One witness provided actual registration forms which noted cash payments. However, only checks were deposited to the Township accounts for each season. Furthermore, those checks added up to only about 75 percent of the participant fees collected. Fees for 151 registrants were deposited in 1991, and for 174 registrants in 1992.

All the witnesses testified consistently that all monies, both cash and checks, were turned over to Recreation Director Commerford, with cash representing about 25% of the total. On the other hand, Commerford testified to an extraordinary disinterest in and aloofness from the 1991 and 1992 registrations and disposition of funds. He could recall making only brief appearances at registration sessions, had no recollection of giving any instructions as to how those sessions should be conducted, and denied ever asking how many girls had registered. Unable to recall accepting any registration receipts, he conceded it was possible that he had done so, but "assume[d]" that they had been turned over to the Township Treasurer.

Responding to recommendations made by the Township Auditor after questions had been raised concerning possible fiscal irregularities, Commerford maintained better records during the 1993 registration, including a detailed cash book providing dates of registration, each registrant's name, amounts collected and mode of payment. The 1993 records document the collection of \$3,816 (\$900 in cash and \$2,916 in checks) from 318 registrants. The number of registrants finally reconciled with the amounts deposited in the Township account. With cash receipts accounting for approximately one-quarter of all registration fees deposited, it can be concluded that the fees deposited in 1991 and 1992 represented only about three-quarters of what should have been collected based on the number of registrants.

The Commission was not able to determine exactly how much of

the cash collected during 1991 and 1992 was not deposited, nor was it able to identify services or goods which the cash could have purchased. It was suggested that the cash might have been used to pay umpire fees. However, the league umpires were on the Township payroll with taxes and withholdings deducted from their checks, and they were issued Federal Wage Earning Statements (Forms W-2). The Commission found no documents referring to cash payments or supplements to umpires or anyone else. Most likely about \$1,300 was somehow diverted. Commerford either failed to make the proper disposition of the money or negligently failed to arrange for its proper disposition.

The Commission has been advised that the Township no longer funds or sponsors a girls softball league. The program has been turned over in its totality to the Board of Directors of the private River Vale Girls Softball Association.

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In the past, the Recreation Department has received an annual \$1,000 appropriation to operate a non-fee, Saturday morning instructional basketball program. Although oversight of that activity was the responsibility of Recreation Director Commerford, he delegated that duty to a parent, River Vale resident Ozzie Pissarri, who coached the instructional program, as well as a "traveling" basketball league known as "The Wizards." The Wizards had no official affiliation with the Township's Recreation Department. The Township collected no fees for the traveling league and was not to be responsible for any expenses incurred by that program. However, a clear delineation was not established between The Wizards and the instructional program. According to Pissarri, Commerford authorized the use of Township funds to purchase uniforms and equipment for The Wizards, even though the private program collected registration fees to offset its expenses. Even though the Commission found invoices and canceled checks proving that municipal funds were spent for these purposes, Commerford recalled little about the payments, speculating that they had resulted from a "lack of attention."

Such activity fostered the perception that the Township sponsored both leagues. If a program is not operated pursuant to Township ordinance, its sponsoring organization must provide proof of insurance to receive permission to use School District or Township facilities. Since both Pissarri and the Board of Education apparently assumed that The Wizards were Township-sanctioned, neither believed proof of liability insurance was necessary. Only after the insurance matter was brought to the attention of Township officials was facility access denied The Wizards. In 1993, River Vale began to sponsor a full-range basketball program encompassing Saturday clinics, intra-town leagues and The Wizards. The administration of the program became the exclusive responsibility of the Township.



## Recommendations

Although appropriations committed to the community's recreational needs are relatively minor in relation to the overall budget of River Vale, officials should implement safeguards to deter the misappropriation of Township funds and limit the Township's exposure to potential liability for non-sanctioned programs. The Commission makes the following recommendations based on its investigation.

1. The Township should consider the establishment of a Board of Recreation Commissioners and the creation of revolving fund accounts with receipts dedicated to specific recreational needs. Under current New Jersey law, there are two modes by which a municipality can operate its recreational programs: a Recreation Department (or Recreational Division of a larger department) or a Board of Recreation Commissioners (an independent entity usually appointed by the Mayor and/or Council). A Board of Recreation Commissioners sets policy, establishes fee structures and formulates rules and regulations pursuant to N.J.S.A. 40:12-1 to 8. One distinction between the two alternatives relates to the authority to utilize receipts for operations. Only a Board of Recreation Commissioners can establish revolving trust accounts and dedicate revenues collected to recreational activities. On the other hand, all revenues collected by a Recreation Department must be deposited in the municipality's general fund and are subject to spending caps established through appropriations. Program funding is constrained by budget limitations and state regulations prohibiting the transfer of appropriations by a municipality until November of each year. By that time, a particular sports season could be over.

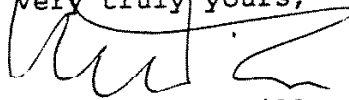
2. The Commission noted the lack of sufficient safeguards and controls over the receipt and transmittal of registration fees. Although more stringent recordkeeping requirements have recently been established, the new procedures continue to disregard internal controls that would minimize the opportunity for diversion of funds. There should be an independent reconciliation of receipts with source documents, such as registration forms and participant rosters. This function should be performed by someone independent of the collection and deposit functions. Regarding the purchasing function, ordering, approval and verification of goods and services should be segregated in order to deter misappropriation of assets.

3. The Commission recognizes that local governments cannot protect against every potential liability that may exist. But because private sports organizations or leagues have given the appearance that they are affiliated with the River Vale Recreation Department, through not only their registrations and announcements, but also the active involvement of the Recreation

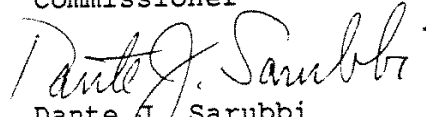
Director, the Township risks exposure to legal actions. In addition, providing the use of facilities owned by the School District or the Township to organizations that do not maintain insurance unnecessarily puts the Township and participants at risk. The Commission recommends, therefore, that a proof of insurance be presented by all public and private organizations prior to the issuance of facilities use permits. The Commission also recommends review and approval of all announcements that are disseminated through the school system or posted on public property to ensure that the Township's role, or non-role, in any program is clear.

The Commission wishes to acknowledge the cooperation it received from Township officials during this investigation.

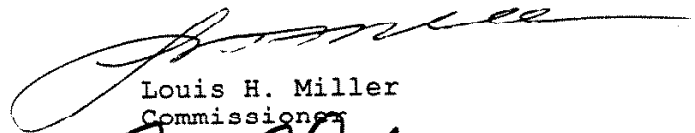
Very truly yours,



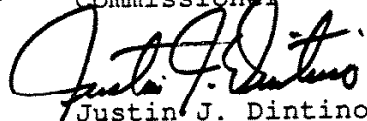
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cc: Hon. Deborah T. Poritz, Attorney General  
Hon. John J. Fahy, Bergen County Prosecutor  
Hon. Walter V. Jones, Mayor, Township of River Vale  
Beth Gates, Director, Division of Local Government  
Services