

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO

IN RE: Removal of Miami Township : **CASE NO. 2025 CV 05367**
Fiscal Officer Robert Matthews :
: **Jonathan P. Hein,**
: **Judge by Assignment**

**DECISION AND JUDGMENT ENTRY –
Permanent Removal of Fiscal Officer from
Performing Duties and from Entering Township Office**

This matter came before the Court for trial on March 9, 2026 pursuant to notice.

The matter for decision is the complaint filed September 23, 2025 by Ohio Attorney General David Yost which seeks the removal of Miami Township Fiscal Officer Robert Matthews from public office.

The complainant is represented by Bryan B. Lee, Esq., Mark D. Tucker, Esq. and Thomas J. Gillen, Esq., all Assistant Attorneys General. Respondent appears *pro se*.

Applicable Legal Principles

This action is brought pursuant to R.C. 507.13, which provides, in pertinent parts, as follows:

507.13 Proceedings against fiscal officer

(A)(1) If a township fiscal officer purposely, knowingly, or recklessly fails to perform a fiscal duty expressly imposed by law with respect to the fiscal duties of the office of township fiscal officer or purposely, knowingly, or recklessly commits any act expressly prohibited by law with respect to the fiscal duties of that office, four residents of the township may submit sworn affidavits alleging the violation, together with evidence supporting the allegations, to the auditor of state. The sworn affidavits and evidence shall be submitted in the format prescribed by rule of the auditor of state under section 117.45 of the Revised Code. A person who makes a false statement in a sworn affidavit, for purposes of this section, is guilty of falsification under section 2921.13 of the Revised Code.

(3)(b) If the attorney general finds by clear and convincing evidence that an allegation is supported by the evidence, the attorney general, by certified mail, shall notify the auditor of state, the township fiscal officer, and the persons who initiated the sworn affidavits of that fact, and shall commence an action for the removal of the township fiscal officer from public office under division (B) of this section.

(B)(1)(a) The attorney general has a cause of action for removal of a township fiscal officer who purposely, knowingly, or recklessly fails to perform a fiscal duty expressly imposed by law with respect to the office of township fiscal officer or purposely, knowingly, or recklessly commits any act expressly prohibited by law with respect to the fiscal duties of the office of township fiscal officer. * * * The court of common pleas of the county in which the township fiscal officer holds office has exclusive original jurisdiction of the action. The action shall proceed de novo as in the trial of a civil action. The court is not restricted to the evidence that was presented to the auditor of state and the attorney general before the action was filed. The action is governed by the Rules of Civil Procedure.

(b) If the court finds by clear and convincing evidence that the township fiscal officer purposely, knowingly, or recklessly failed to perform a fiscal duty expressly imposed by law with respect to the fiscal duties of the office of township fiscal officer or purposely, knowingly, or recklessly committed any act expressly prohibited by law with respect to the fiscal duties of that office, the court shall issue an order removing the township fiscal officer from office and any order necessary for the preservation or restitution of public funds.

(E) For the purposes of this section:

(1) A person acts purposely when it is the person's specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the person intends to accomplish thereby, it is the person's specific intention to engage in conduct of that nature.

(2) A person acts knowingly, regardless of the person's purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

(3) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a known risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a known risk that such circumstances are likely to exist.

Summary of Facts

Respondent has served as Fiscal Officer for Miami Township, Montgomery County, Ohio, since April, 2024. The primary statute defining duties of the fiscal officer is R.C. 507.04 which provides as follows:

The township fiscal officer shall keep an accurate record of the proceedings of the board of township trustees at all of its meetings, and of all its accounts and transactions, including the acceptance of the bonds of township officers. The township fiscal officer shall personally attend at least one meeting of the board during each quarter of every year, unless prevented by the occurrence of an emergency from attending.

Additional duties are described in R.C. 507.051 (notifications to the Board of Elections); R.C. 507.06 (administering oaths regarding township matters); and R.C. 507.08 (recording township bonds). Essentially, the duties of the fiscal officer are ministerial and administrative.

On September 1, 2015, Miami Township adopted an Investment Policy [Exhibit G] which established a five-member Investment Oversight Committee and set forth the following policies relevant to this case:

6. Standards of Care

- A. * * * No person may engage in an investment transaction except as provided under the terms of this policy and under the guidance of the Investment Oversight Committee.

8. Diversification

To avoid incurring unreasonable risks inherent in over-investing in specific instruments * * * the following table lists the maximum percentage of any one investment in the Active Portfolio.

U.S. Treasury Obligations	100%
Authorized U.S. Federal Agency Securities and U.S. Government-sponsored Corporations	100%
Certificates of Deposit	100%
Money Market Mutual Funds	25%
State of Ohio Treasurer Investment Pool (STAR Ohio)	25%
Commercial Paper	15%

11. Authorized Investments.

The Investment Oversight Committee may invest on behalf of and in the name of the Township in the following instruments at a price not exceeding their fair market value at the time of selection:

- A. U.S. Government Securities
- B. U.S. Government Agency Securities and Instrumentalities of Government Sponsored Agencies.
- C. Interest-Bearing Certificates of Deposit
- D. Commercial paper
- E. Mutual Funds
- F. State Treasury Asset Reserve of Ohio & State Treasury Asset Reserve of Ohio Plus

12. Derivatives

Investment in derivatives is strictly forbidden. A derivative is a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract or obligation itself. * * *

Respondent was aware of terms of the Investment Policy since he was then a Trustee and approved its adoption. [Pl. Ex. A at pgs. 40, 62, 75, 110.]

It is uncontroverted that on March 26, 2025, Respondent withdrew \$9,700,000 from Miami Township's investment account with the Treasurer of State (STAR Ohio) and caused the money to be deposited in the Township's bank account at 5th / 3rd Bank.

Respondent's email on March 28, 2025 admitted this conduct and that the purpose was to "transfer some of our excess funds from paper money to gold money." [Pl. Ex. A at pg. 14; Respondent's Answer filed October 21, 2025.] The "gold money" was to have been purchased from The Texas Bullion Depository in the amount of \$9,100,000 [Pl. Ex. I]. The transaction would also have incurred a transaction fee payable to the vendors in the amount of \$380,082.50. Finally, the transaction would also have incurred an annual storage fee of \$32,612.87.

The “gold money” Respondent intended to purchase was described as 1500 American 1 oz. \$50 Gold Eagle coins. Each coin was produced by the United States Mint and denominated as \$50 in value. On March 28, 2022, the spot price of gold was \$3,065 - \$3085 per ounce. At the time of trial, the spot price was approximately \$5085 per ounce. The purchase price for a coin would be higher than spot price due to minting costs, transportation costs and dealer fees.

Due to communications between bank officials and township officials, the transaction to purchase gold was blocked.

Analysis

In this case, the alleged justifications for removal of Relator include: (1) numerous violations of R.C. 135.15 and the township’s Investment Policy; and (2) violation of R.C. 507.11.

(1) Violations of Investment Policy and R.C. 513.14

The Court finds that the following violations of the policy were committed by Respondent. First, the transfer from STAR Ohio was an unauthorized transfer of Township Funds since the transaction was not approved by the Board of Trustees. See R.C. 507.11(B)(1). Second, the attempt to make financial investment of gold money was a unilateral action which violated the Investment Policy. [In his answer, Respondent admitted that the Investment Policy applies to all Township funds; and that all investments must conform with requirements of R.C. 135.14.] Third, the attempted investment into “gold money” would have been to a category of asset not authorized by both the Investment policy and R.C. 135.14(B). Finally, had the investment occurred, the \$9,700,000 fund would not have generated any income as required by the Investment Policy. At best, there would have been increase in the principal value based on higher commodity prices for the weight of the gold; at worst, there would have been a decrease in the principal value based on lower commodity prices for the weight of the gold.

(2) Violation of R.C. 507.11

R.C. 507.11 provides as follows:

(A) The board of township trustees may authorize, by resolution, township officers and employees to incur obligations of ten thousand dollars or less on behalf of the township, or it may authorize, by resolution, the township administrator to so authorize township officers and employees. The obligations incurred on behalf of the township by a township officer or employee acting pursuant to any such resolution shall be subsequently approved by the adoption of a formal resolution of the board of township trustees.

(B)(1) No money belonging to the township shall be paid out, except upon an order signed by at least two of the township trustees, and countersigned by the township fiscal officer.

The facts are clear that Respondent attempted to incur transaction fees and storage costs of the “gold money” he intended to purchase. Further, he was not authorized to pay out any money from the STAR Ohio fund to 5th / 3rd Bank when attempting to purchase gold. Had he been successful in purchasing the gold, the transaction fees payable to the brokers (\$380,082.50) and the storage fees (est. \$32,612.87 annually) would have been incurred without authorization by the Trustees.

Respondent’s Defenses

Respondent raises several objections to the allegations and the processes leading to this case. First, he claims the four necessary complainants to the Auditor of State are actually Township officials and concludes they are ineligible to be complainants. Here, Respondent offers no legal authority that the four persons cannot hold dual roles. However, the Court notes that R.C. 507.13 does not make this distinction nor will the Court read one into the statute. The four complainants are residents of Miami Township and, therefore, meet the requirement for making a complaint against Respondent. Therefore, Respondent’s argument is a meritless fiction.

Second, Respondent claims that the four individuals used township resources for their personal gain in bringing allegations against Respondent. These resources include use of township's legal counsel, use of township employees time and use of administrative supplies. [Resp. Ex. D.] The Court acknowledges that this claim possesses theoretical validity to the extent that individuals used these resources. However, there is no defense available to Respondent for any impropriety by the four individuals whether acting individually or as Trustees and Officer. Respondent's concerns might be the subject of audit inquiry by the Auditor of State; they are not material to this litigation.

Third, Respondent claims that he was pursuing an investment for which the Township's legal counsel had given a preliminary approval. [Resp. Ex. A, pgs. 3, 4.] Unfortunately, the preliminary opinion is speculative and carries no persuasive authority. The opinion was not finalized so any reliance by Respondent was premature. Further, even if the opinion was finalized, the opinion could not have authorized an investment in "gold money" when the conduct would likely violate R.C. 135.14.

Fourth, Respondent claims the \$50 American Eagle 1 oz. gold coin is within the category of "U.S. Treasury Obligations" and therefore an appropriate investment according to the Investment Policy and R.C. 135.14. [Resp. Ex. A.] However, the Court disagrees. The value of the coin is not based on its face value and backed by the full faith and credit of the U.S. government. Instead, as explained by Respondent's witness Justin Steel, its value is based on the market value of the material. How else could you explain paying \$3000 for a \$50 face value coin. Clearly, this is a derivative investment prohibited by section 12 of the Investment Policy. Respondent may have firm convictions that holding gold provides a better return on investment than those listed in the statute and Investment Policy statement. However, regardless of his personal investment philosophy, gold falls outside the categories of approved investment.

Finally, Respondent asserts that he possesses the same financial authority afforded a government Treasurer. [Resp. Ex. B.] Unfortunately, this is not a legal reality. Instead, R.C. 507.04, which defines the duties of a township fiscal officer, grants no such authority. Instead, though important, the statutory duties of the fiscal officer are mostly clerical in nature. Respondent's reliance on outdated statutes and historical customs is unreliable.

Conclusion

In the interest of brevity while achieving thoroughness, the Court incorporates herein the following pleadings: (1) Judgment Entry filed herein on October 27, 2025 and (2) Judgment Entry filed on June 23, 2025 in Case No. 2025 CV 02185. *State ex rel Rojas v. Page*, 2022-Ohio-2226 (10th Dist.)

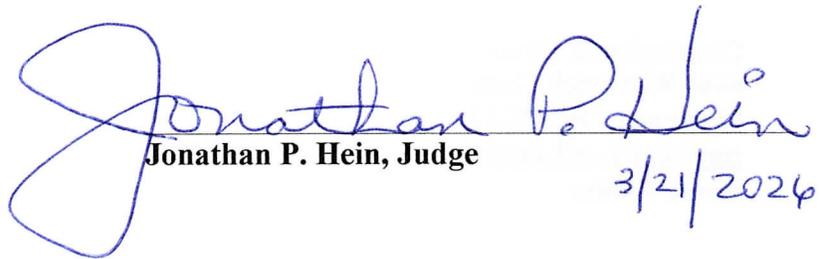
Based on the above matters, the Court finds by clear and convincing evidence as follows: (1) that Respondent transferred funds from STAR Ohio without authority of the Board of Trustees; (2) that Respondent's transfer from STAR Ohio was contrary to unambiguous terms of the Investment Policy; (3) that Respondent possessed no lawful authority to take such actions, either legally or as an agent; (4) that investment in "gold money" would have been a violation of both R.C. 135.19 and the Investment Policy; and (5) had Respondent completed the transaction, he would have incurred expenses without authorization.

The Court further finds by clear and convincing evidence that Respondent purposely and knowingly committed acts expressly prohibited by law and prohibited by the township Investment Policy.

The Court further finds that R.C. 507.13(B)(1)(b) provides no discretion as to the remedy for unlawful conduct by a public official involved in this action: the Court "shall issue an order removing the township fiscal officer from office..." However, since there was no economic loss resulting from Respondent's acts, the Court need not issue any other "order necessary for the preservation or restitution of public funds."

IT IS, THEREFORE, ORDERED AND DECREED as follows: (1) Robert Matthews is removed as Fiscal Officer for Miami Township, Montgomery County, Ohio. (2) Robert Matthews shall perform no further duties pertaining to the Township Fiscal Office, including conducting any financial transactions or financial reporting; and (3) the office of the Fiscal Officer for Miami Township is declared vacant and available for replacement according to law.

Costs to the Respondent. FINAL APPEALABLE ORDER.


Jonathan P. Hein, Judge 3/21/2026

cc: Bryan B. Lee / Mark D. Tucker / Thomas J. Gillen, Assistant Attorneys General for Movant
Robert Matthews, Respondent, 2230 Cross Village Drive, Miamisburg, OH 45342
Jonathan E. Roach / Robert J. Mumma, Attorneys for Miami Township Board of Trustees