



COMPTROLLER'S INVESTIGATIVE REPORT

Paint Rock Volunteer Fire Department, Inc.

December 5, 2023

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

December 5, 2023

Paint Rock Volunteer Fire Department Board Members
3710 Tunnel Hill Road
Helenwood, TN 37755

and

Scott County Mayor
and Board of Commissioners
2845 Baker Highway
Huntsville, TN 37756

Paint Rock Volunteer Fire Department Board Members and Scott County Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Paint Rock Volunteer Fire Department, Inc., and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 8th Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", with a long horizontal flourish extending to the right.

Jason E. Mumpower
Comptroller of the Treasury

JEM/MLC

INVESTIGATIVE REPORT

Paint Rock Volunteer Fire Department, Inc.

The Office of the Comptroller of the Treasury investigated allegations of malfeasance related to the Paint Rock Volunteer Fire Department, Inc. This investigation was initiated after Scott County officials reported concerns of questionable financial activity within Paint Rock Volunteer Fire Department, Inc. The investigation was limited to selected records for the period January 2022 through March 2023. The results of the investigation were communicated with the Office of the District Attorney General of the 8th Judicial District.

BACKGROUND



Located in Scott County, the Paint Rock Volunteer Fire Department, Inc. (PRVFD) was established on May 10, 1985, to provide emergency services in the Paint Rock community. Additionally, the PRVFD supports, through mutual aid calls, neighboring volunteer fire departments. Comprised of volunteer members, the PRVFD is supported by contributions from the Scott County government, donations, and fundraisers.

Austin Lewallen served as PRVFD assistant fire chief from February 16, 2022, through April 17, 2022. After this time, he served as PRVFD fire chief from April 18, 2022, through March 27, 2023, on which date he was removed from his position by a vote of PRVFD members. Prior to Lewallen's removal, the PRVFD did not have a board structure outside of a fire chief who handled all financial responsibilities, and an assistant fire chief. Immediately after Lewallen was removed as fire chief, PRVFD members created a six-person board of directors.

RESULTS OF INVESTIGATION

1. FORMER FIRE CHIEF AUSTIN LEWALLEN MISAPPROPRIATED PRVFD FUNDS TOTALING AT LEAST \$13,716.71

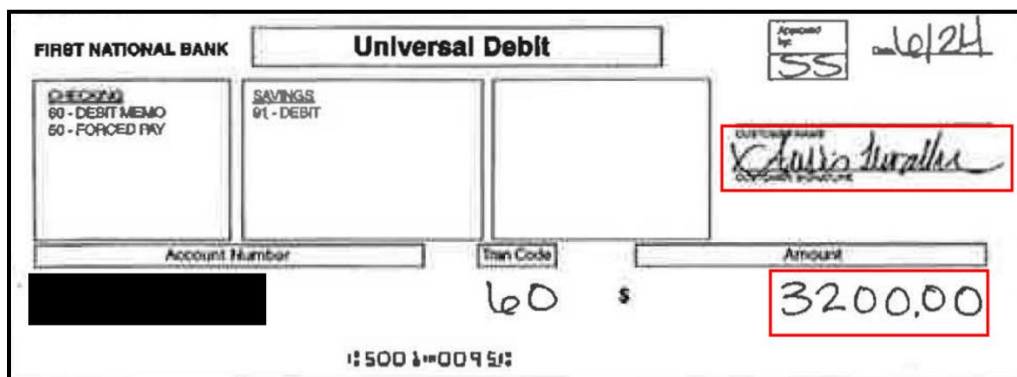
Our investigation revealed that between May 2022 and January 2023, Lewallen knowingly misappropriated PRVFD funds totaling at least \$13,716.71, as follows:

- A. Lewallen knowingly misappropriated at least \$8,240 from the PRVFD bank account by making five unauthorized over-the-counter withdrawals. Investigators determined Lewallen was in sole control of the PRVFD bank account when these withdrawals occurred, the withdrawal

slips were signed by Lewallen, and the withdrawals were either fully deposited into Lewallen’s personal bank account and used for personal expenses, or he directly used the cash withdrawn for his personal expenses and benefit. Examples of these unauthorized counter withdrawals include:

- On June 24, 2022, Lewallen made a \$3,200 over-the-counter cash withdrawal from the PRVFD bank account (**Refer to Exhibit 1**). On the same day, Lewallen deposited \$3,200 cash into his personal bank account (**Refer to Exhibit 2**).

Exhibit 1



FIRST NATIONAL BANK Universal Debit

Approved by: SS Date: 6/24

CHECKS: 60 - DEBIT MEMO, 60 - FORCED PAY
SAVINGS: 60 - DEBIT

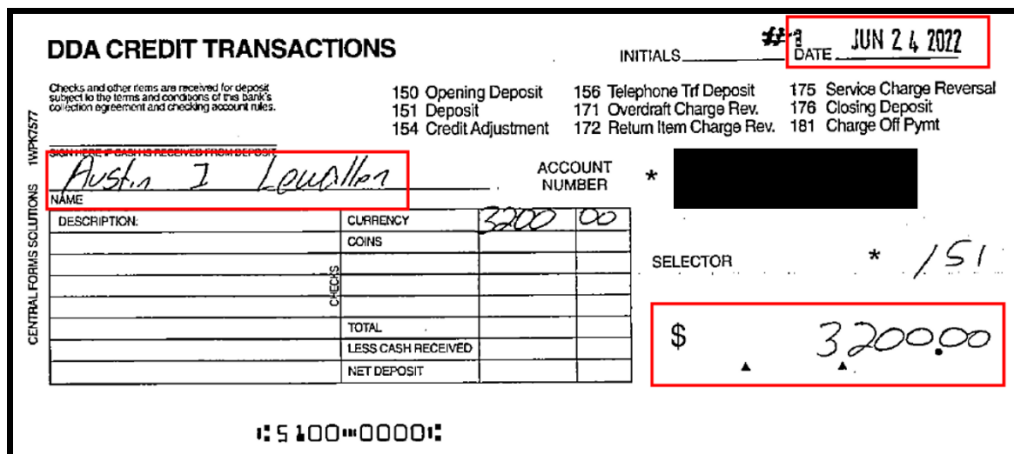
CUSTOMER SIGNATURE: Austin J. Lewallen

Account Number: [REDACTED] PIN Code: 60 Amount: \$ 3200.00

⑆500⑆⑆0095⑆

A \$3,200 over-the-counter cash withdrawal on 6/24/2022 by Lewallen from the PRVFD bank account.

Exhibit 2



DDA CREDIT TRANSACTIONS

INITIALS _____ # _____ DATE: JUN 24 2022

Checks and other items are received for deposit subject to the terms and conditions of this bank's collection agreement and checking account rules.

150 Opening Deposit 156 Telephone Trf Deposit 175 Service Charge Reversal
151 Deposit 171 Overdraft Charge Rev. 176 Closing Deposit
154 Credit Adjustment 172 Return Item Charge Rev. 181 Charge Off Pymt

NAME: Austin J. Lewallen ACCOUNT NUMBER: * [REDACTED]

DESCRIPTION	CURRENCY	<u>3200</u>	<u>00</u>
COINS			
CHECKS			
TOTAL			
LESS CASH RECEIVED			
NET DEPOSIT			

SELECTOR: * 151

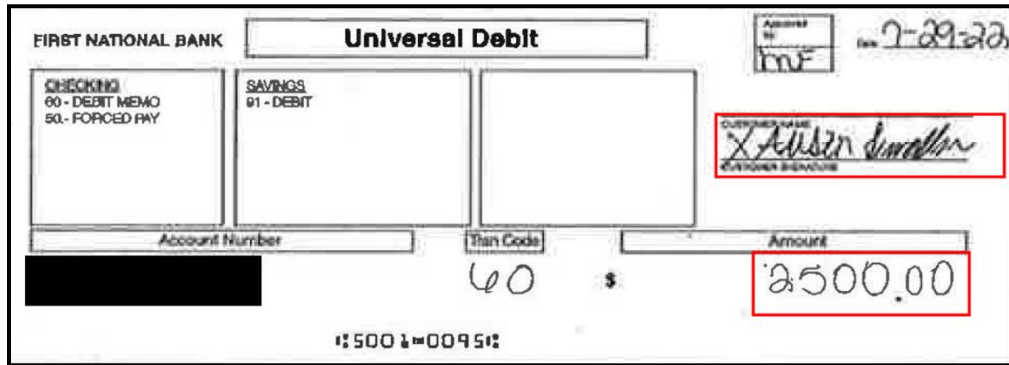
\$ 3200.00

⑆5⑆00⑆⑆0000⑆

A \$3,200 cash deposit on 6/24/2022 by Lewallen into his personal bank account.

- On July 29, 2022, Lewallen made an over-the-counter cash withdrawal of \$2,500 from the PRVFD bank account (**Refer to Exhibit 3**). On July 30, 2022, Lewallen purchased a Jeep Patriot sport utility vehicle with a \$2,000 down payment and a \$500 deferred down payment (**Refer to Exhibit 4**).

Exhibit 3



FIRST NATIONAL BANK **Universal Debit**

CHECKING 90 - DEBIT MEMO 50 - FORCED PAY | SAVINGS 91 - DEBIT

Account Number: [REDACTED] | Tran Code: 60 | Amount: \$2,500.00

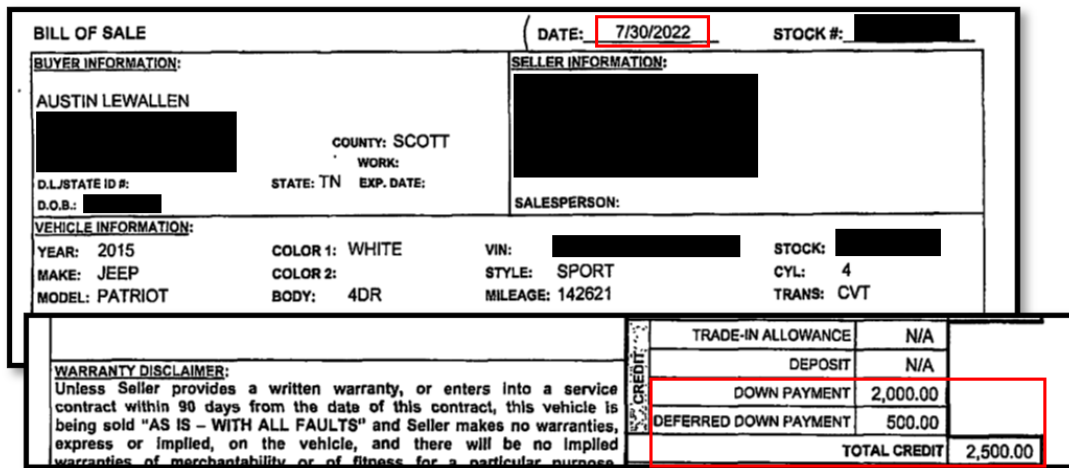
DATE: 7-29-22

CUSTOMER NAME: X Lewallen, Signature

⑆50010095⑆

A \$2,500 over-the-counter cash withdrawal on 7/29/2022 by Lewallen from the PRVFD bank account.

Exhibit 4



BILL OF SALE | DATE: 7/30/2022 | STOCK #: [REDACTED]

BUYER INFORMATION:
AUSTIN LEWALLEN
COUNTY: SCOTT
STATE: TN
D.L./STATE ID #: [REDACTED]
D.O.B.: [REDACTED]

SELLER INFORMATION:
[REDACTED]
SALESPERSON: [REDACTED]

VEHICLE INFORMATION:
YEAR: 2015 | COLOR 1: WHITE | VIN: [REDACTED] | STOCK: [REDACTED]
MAKE: JEEP | COLOR 2: [REDACTED] | STYLE: SPORT | CYL: 4
MODEL: PATRIOT | BODY: 4DR | MILEAGE: 142621 | TRANS: CVT

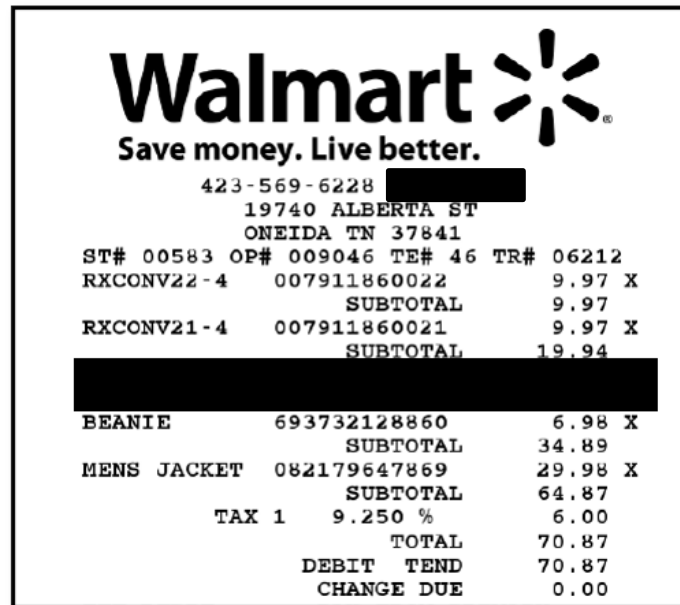
TRADE-IN ALLOWANCE	N/A
DEPOSIT	N/A
DOWN PAYMENT	2,000.00
DEFERRED DOWN PAYMENT	500.00
TOTAL CREDIT	2,500.00

WARRANTY DISCLAIMER:
Unless Seller provides a written warranty, or enters into a service contract within 90 days from the date of this contract, this vehicle is being sold "AS IS - WITH ALL FAULTS" and Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose.

Lewallen's personal vehicle bill of sale dated 7/30/2022 for a 2015 Jeep Patriot, which reflects a total down payment of \$2,500.

- B. Lewallen knowingly misappropriated at least \$3,200 from the PRVFD account by making 15 unauthorized ATM cash withdrawals. Investigators determined Lewallen was in sole control of the PRVFD bank account and ATM/debit card when these unauthorized withdrawals occurred, and the withdrawals were either fully deposited into Lewallen's personal bank account and used for personal expenses, or Lewallen told investigators he used the withdrawn cash for his personal benefit.
- C. Lewallen knowingly misappropriated at least \$2,276.71 from the PRVFD bank account by making 44 personal purchases. Lewallen told investigators he mistakenly used the PRVFD ATM/debit card but did not track the amount of his unauthorized personal transactions which included fuel, food, alcohol, groceries, and other personal items (**Refer to Exhibit 5**). Additionally, Lewallen used the PRVFD bank account to pay for a utility service payment by accessing and using the utility's telephone application for an address other than PRVFD's address.

Exhibit 5



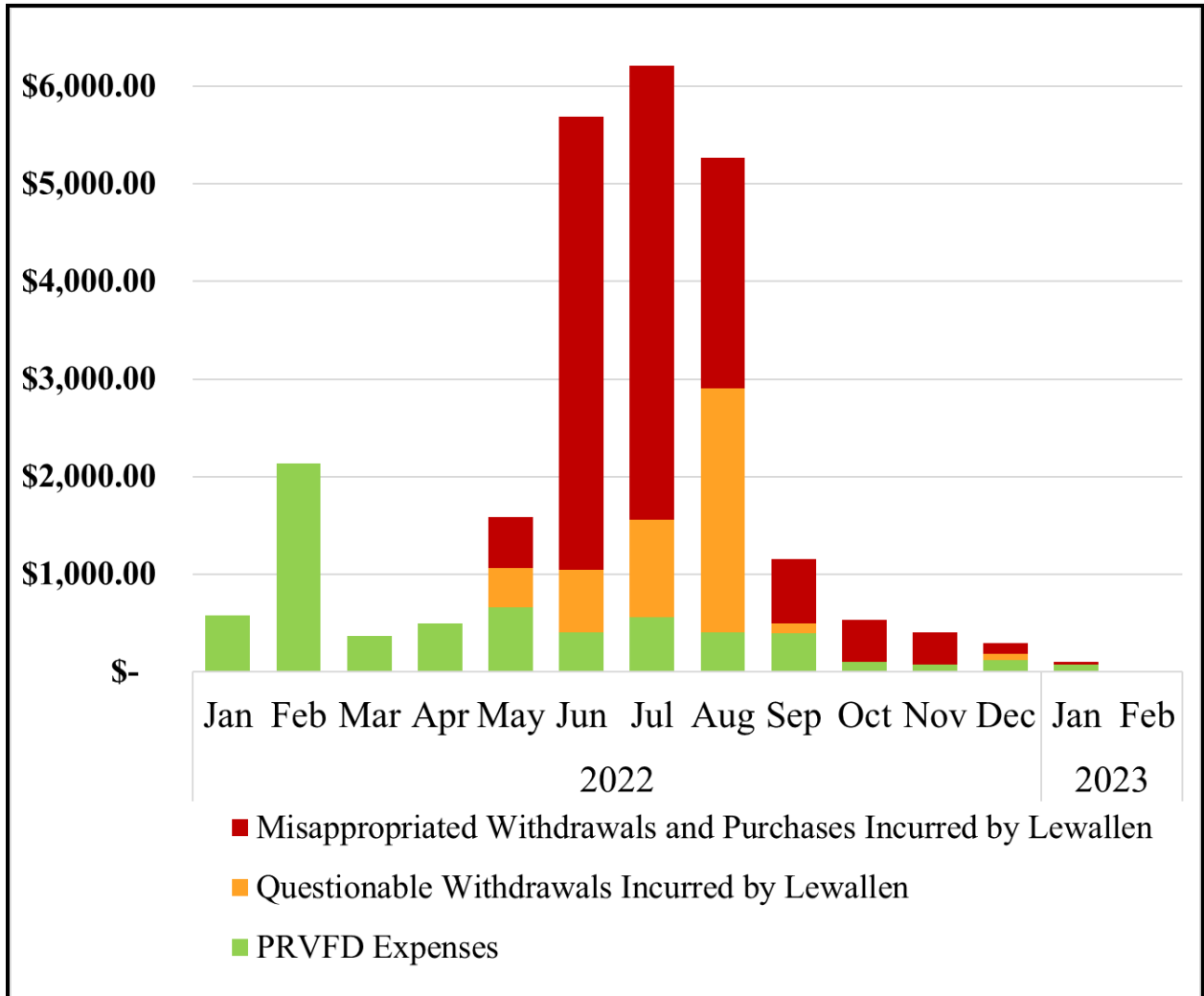
Unauthorized personal purchases including a jacket, a hat, and windshield wiper blades for a Jeep Patriot.

Summary of Misappropriation by Austin Lewallen	
A. <u>Over-the-Counter Cash Withdrawals</u>	\$ 8,240.00
B. <u>ATM Cash Withdrawals</u>	\$ 3,200.00
C. <u>Unauthorized Personal Transactions</u>	
Retail	\$ 1,076.63
Gas Station	\$ 728.03
Cash Advance	\$ 280.00
Restaurants	\$ 120.32
Utility Payment	\$ 71.73
Total Misappropriation	\$ 13,716.71

2. INVESTIGATORS IDENTIFIED OTHER QUESTIONABLE WITHDRAWALS TOTALING AT LEAST \$4,700

Investigators identified other questionable withdrawals totaling at least \$4,700, which consisted of two over-the-counter withdrawals signed by Lewallen (\$2,000) and nine ATM cash withdrawals (\$2,700) from the PRVFD bank account. Lewallen told investigators that the withdrawn cash was used for the benefit of PRVFD, but he was unable to provide receipts evidencing justification for the same. The PRVFD should maintain adequate supporting documentation for cash withdrawals and related expense receipts to document the appropriateness of the transactions.

The following chart reflects Lewallen’s misappropriation and questionable withdrawals compared to legitimate PRVFD expenses for the period reviewed:



On November 30, 2023, the Scott County Grand Jury indicted Austin Lewallen for one count of Theft of Property over \$10,000 and one count of Fraudulent use of Debit card.

The charges and allegations contained in the indictment are merely accusations of criminal conduct, and not evidence. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt and convicted through due process of law.

[Paint Rock Volunteer Fire Department, Inc. Exhibit](#)

INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

Our investigation revealed deficiencies in internal controls and compliance, some of which contributed to Lewallen's ability to make unauthorized withdrawals and purchases from the PRVFD's bank account without prompt detection:

Deficiency 1: PRVFD members did not establish an active board of directors

PRVFD members did not establish an active board of directors until after members removed Lewallen as fire chief. A board of directors is responsible for designing internal controls to give reasonable assurance of the reliability of financial reporting and the effectiveness and efficiency of operations. Providing adequate oversight and establishing internal controls reduces the risks that errors or misappropriations will occur and remain undetected. The lack of a board of directors contributed to the failure of PRVFD members to promptly identify Lewallen's unauthorized transactions. Without an active board of directors, there was a lack of financial oversight and policies, and critical PRVFD expenses were unpaid, such as insurance for the fire trucks, utility payments, and telephone payments. The PRVFD gas line was disconnected due to multiple unpaid bills, and PRVFD fire operations were temporarily paused until funds were raised to pay insurance.

Deficiency 2: PRVFD members did not adequately segregate financial duties among members

PRVFD members did not adequately segregate their financial duties. Lewallen was responsible for maintaining records and was involved in collecting, depositing, and/or disbursing funds. Sound business practices dictate that a board of directors should be responsible for designing and implementing internal controls to give reasonable assurance of the reliability of financial reporting and the effectiveness and efficiency of operations. Allowing one member to maintain exclusive control over all financial duties increases the risk that fraud, waste, or abuse will occur without prompt detection.

Deficiency 3: PRVFD members failed to maintain adequate supporting documentation for disbursements and cash withdrawals

PRVFD members failed to require or retain invoices, vendor receipts, or other adequate supporting documentation for multiple transactions using PRVFD funds to document the appropriateness of the transactions. Maintaining documentation such as invoices or receipts allows members to verify that all PRVFD transactions are for legitimate and appropriate purposes.

Deficiency 4: PRVFD members failed to adequately account for collections

PRVFD members did not oversee, document, or account for fundraisers and other collections. Members did not require, prepare, or review profit analyses for fundraisers and did not adequately account for or safeguard inventory. Providing adequate accountability and oversight of collections helps ensure all collections are accounted for and used to further the objectives of the PRVFD.

Deficiency 5: PRVFD members failed to file necessary documentation with the Secretary of State timely

PRVFD members failed to timely file the Tennessee Corporation Annual Report Form with the Tennessee Secretary of State. The Secretary of State required PRVFD to submit its annual report on or before September 1st of each year. PRVFD filed all renewal registrations for the years 1995 through 2022 during the period of March 17, 2023, through July 1, 2023. Failure to file the necessary annual reports timely may result in PRVFD losing funding from the county and other fundraising events.

Deficiency 6: PRVFD members failed to submit annual financial reports to the Comptroller of the Treasury

Based upon a review of the Comptroller of the Treasury’s database of annual financial reports for volunteer fire departments, investigators determined that PRVFD members did not submit required annual financial reports. Since 2015, volunteer fire departments receiving government appropriations are required to submit annual financial reports to the Comptroller of the Treasury. However, for the period reviewed, PRVFD members did not submit the required annual financial reports to the Comptroller of the Treasury. According to Tenn. Code Ann. § 68-102-309,

“The governing board of each recognized volunteer fire department receiving appropriations from the federal government, the state, a county, or a municipality, either directly or indirectly, shall file an annual financial report with the comptroller of the treasury and with each local government body from which the department received appropriations...”

The board should ensure that annual financial reports are filed appropriately with the Comptroller of the Treasury.

Deficiency 7: PRVFD paid avoidable bank fees totaling \$60

For the period September 2022 through February 2023, PRVFD paid avoidable bank fees totaling \$60 due to low bank account balances resulting from Lewallen’s unauthorized transactions. PRVFD members should maintain sufficient bank account balances to prevent incurring unnecessary fees.

The PRVFD board has corrected or intends to correct these deficiencies.