

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



**AGENCY: OHIO DEPARTMENT OF COMMERCE
DIVISION OF LIQUOR CONTROL
FILE ID NO.: 2011-187
DATE OF REPORT: JUNE 7, 2012**

The Office of the Ohio Inspector General.... The State Watchdog

“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

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The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL
RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2011-187

SUBJECT NAME: Gideon A. Fetterolf Jr.

POSITION: Liquor Control Compliance Officer

AGENCY: Ohio Department of Commerce
Division of Liquor Control

BASIS FOR INVESTIGATION: Complaint

ALLEGATIONS: Misuse of position or office;
Misuse of state time and property;
Falsification of records.

INITIATED: October 12, 2011

DATE OF REPORT: June 7, 2012

INITIAL ALLEGATION AND COMPLAINT SUMMARY

The Office of the Ohio Inspector General (OIG) received a complaint alleging Ohio Department of Commerce Division of Liquor Control Compliance Officer Gideon A. Fetterolf Jr., also known as Bud Fetterolf, was accepting campaign contributions from liquor permit holders while running as a write-in candidate for mayor of Newton Falls, Ohio, in the November 8, 2011, general election. Also, Fetterolf was alleged to have conducted campaign business while at work on state time and using a state-issued vehicle. It was further reported that the liquor permit holders specifically assigned to Fetterolf for inspection and approval, were due for renewal of their permits in October 2011, only weeks before the November 8, 2011, general election.

BACKGROUND

The Ohio Department of Commerce (ODC) Division of Liquor Control is responsible for regulating the manufacture, distribution, and sale of alcoholic beverages in Ohio. The division is the state's sole purchaser and distributor of spirituous liquor, which contains more than 21 percent alcohol by volume. Spirituous liquor is sold by 458 private liquor agencies that contract with the division, and serve as the division's exclusive sales agents. The division issues permits to the state's approximately 23,000 privately owned and operated manufacturers, distributors, and retailers of alcoholic beverages.

In addition to the initial inspection conducted at the time the liquor permit application is submitted, the ODC Division of Liquor Control may conduct periodic and annual renewal inspections of the permit holders' premises to ensure compliance with the liquor laws and rules. ODC Division of Liquor Control compliance officers conduct inspections of liquor permit premises to determine and ensure that permit holders and applicants are adhering to state liquor laws and Ohio Liquor Control Commission regulations. ODC Division of Liquor Control compliance officers work from their homes, and are given assignments to complete each month which include a list of permit holders they are required to inspect. Compliance officers maintain a daily activity report to account for their work hours, which is submitted to division management.

Ohio Department of Commerce, Use of State Vehicles Policy 514, provides guidance for the proper use of state-issued vehicles by employees of the department. Policy 514 Section II identifies examples of impropriety involving the use of state vehicles. The policy states “Using state vehicle for activities not approved in advance” is a violation. **(Exhibit 1)**

Ohio Department of Commerce, Political Activities Policy 204 states, in part, “All State of Ohio employees are strictly prohibited from using State time, facilities or resources for political purposes.” **(Exhibit 2)**

Ohio Department of Commerce, Inspection Assignments Policy 502.1 states, “Under no circumstances is any inspection, most notably a final inspection, to be worked without an assignment and/or verbal instructions from Central Office.”

Ohio Revised Code §3517.13 (F) - Failure to file statements, states, “No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.”

Ohio Revised Code §3517.13 (G) (1) - Failure to file statements, states, “No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code.”

Ohio Revised Code §2921.13 (A) states, “No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies: (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.”

Ohio Revised Code §2913.42 (A)(1)(4) states:

No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface, or mutilate any writing, computer software, data, or record;
- (4) If the writing, data, computer software, or record is kept by or belongs to a local, state, or federal governmental entity, a felony of the third degree.

INVESTIGATIVE SUMMARY

On September 22, 2011, U.S. Federal Bureau of Investigation (FBI) Special Agent Anthony Sano contacted the Office of the Ohio Inspector General to report that an Ohio Department of Commerce (ODC) Division of Liquor Control inspector was allegedly accepting a campaign contribution from a liquor permit holder. This information was provided to Sano by Newton Falls Police Chief John Kuivila.

On September 2, 2011, a Newton Falls police officer had a conversation with the manager of the Newton Falls Convenient Food Mart, also known as the Falls Convenient Mart, located at 321 South Milton Boulevard, Newton Falls, Ohio. The manager mentioned that a couple of days earlier, Gideon “Bud” Fetterolf had visited the store and spoke with the manager about Fetterolf’s candidacy for mayor in the upcoming November 8, 2011, election. The manager told the police officer he was considering making a contribution to Fetterolf’s campaign.

Six days later, on September 8, 2011, another Newton Falls police officer had an additional conversation with the manager of the Newton Falls Convenient Food Mart. The manager said that when he initially met Fetterolf on August 30, 2011, Fetterolf introduced himself, gave the manager his ODC Division of Liquor Control business card, and indicated he was there for a meeting with the owner of the store, Mark Shafar, also known as Ammar Shafai. The manager told the police officer that at the time of Fetterolf’s arrival, Shafar was not in the store. However, when Shafar arrived later, he and Fetterolf went to the back room of the store, where the manager later learned, Shafar gave Fetterolf a campaign contribution. The Newton Falls Police Department (NFPD) prepared a report of the occurrence and forwarded the information to FBI Special Agent Sano, who later reported the incident to the Office of the Ohio Inspector General. **(Exhibit 3)**

An examination of Trumbull County Board of Elections Office records by the Office of the Ohio Inspector General revealed that Fetterolf had filed a declaration of intent to run as a write-in candidate for mayor of Newton Falls for the November 8, 2011, general election. **(Exhibit 4)**

The Office of the Ohio Inspector General contacted the Newton Falls Police Department (NFPD), and was advised that on October 12, 2011, and October 13, 2011, Newton Falls municipal building surveillance cameras captured images of Fetterolf driving his state-issued vehicle to the NFPD, entering the building, and passing out campaign pamphlets to individuals in the building. A copy of the video recording of October 12, 2011, showed Fetterolf driving his assigned state vehicle into the NFPD parking lot at 12:40 p.m., and leaving at 1:04 p.m. Additionally, the NFPD provided a copy of the pamphlet Fetterolf gave to the police department's security officer. **(Exhibit 5)** During this visit, Fetterolf reported his campaign sign had been stolen and the NFPD completed an offense report. **(Exhibit 6)** Fetterolf then spoke to the Newton Falls zoning inspector who informed him the sign had been confiscated because it exceeded the size permitted by village zoning regulations.

The video recording of October 13, 2011, showed Fetterolf driving into the NFPD parking lot in a pick-up truck at 10:10 a.m. During this visit he was seen in the facility passing out campaign pamphlets, and then leaving the building at 10:52 a.m.

The Office of the Ohio Inspector General obtained Fetterolf's inspection assignments, daily activity reports, work schedules, gasoline records, and time sheets from the ODC Division of Liquor Control. A review of Fetterolf's completed daily activity report for October 12, 2011, shows Fetterolf traveling from Newton Falls to Campbell, Ohio,¹ from 12:30 p.m.-1:25 p.m., when he was actually at NFPD. Moreover, there was no notation listed on the report for Fetterolf's stop at the NFPD on that date. The daily activity report completed by Fetterolf for October 13, 2011, indicates Fetterolf had taken a personal leave of absence for the hours of 10:00 a.m.-12:00 p.m.

¹ MapQuest indicates the distance from Newton Falls to Campbell at 28 miles with an approximate drive time of 40 minutes.

On October 19, 2011, the Office of the Ohio Inspector General issued a subpoena for the bank records of all accounts known to be held by Fetterolf. The Associated School Employees Credit Union responded by providing two account records for Fetterolf. The first account was a joint account with his wife. The second was an individual account in Fetterolf's name, opened July 29, 2011, which detailed transactions matching Fetterolf's campaign contribution and expenditure records. An analysis of the bank records revealed a September 2, 2011, deposit of \$1,500 comprised of two checks – a check for \$1,000 from Shafar and a check for \$500 from Neal Atway of Boardman, Ohio. Additionally, a \$500 cash deposit was noted on the same day.

On October 27, 2011, the Office of the Ohio Inspector General received a copy of the campaign contribution record Fetterolf was required to file with the Trumbull County Board of Elections 12 days prior to the general election. In the contribution record, Fetterolf reported receiving a check for a \$1,000 contribution on August 30, 2011, from Yasser Alsadi, and Fetterolf listed Alsadi's address as 318 Milton Boulevard, Newton Falls, Ohio. However, an examination of the Trumbull County Auditor's records revealed the property located at 318 South Milton Boulevard is a self-service car wash owned by Richard Kolovich and not by Alsadi. Moreover, the property is located across the street from the Falls Convenient Mart located at 321 South Milton Boulevard which is owned by Mark Shafar (aka Ammar Shafai). The Associated School Employees Credit Union bank statement showed a deposit on September 2, 2011, of a \$1,000 check drawn by Mark Shafar. However, Fetterolf did not report Shafar's \$1,000 contribution on his campaign contribution record filed with the Trumbull County Board of Elections. **(Exhibit 7)** Additionally, the Trumbull County Board of Elections records did list the contribution from Neal Atway on August 6, 2011, for \$500 in the form of a check, as well as a \$500 cash contribution coming from Fetterolf himself on September 2, 2011.

The Office of the Ohio Inspector General examined records maintained at the Ohio Secretary of State's office and established that Yasser Alsadi is the manager and part owner of a BP convenience store at 6565 Tod Avenue, Lordstown, Ohio. A review of Fetterolf's daily activity report revealed Fetterolf conducted a renewal inspection at this BP store from 10:30 a.m.-10:45 a.m. on September 1, 2011.

On November 3, 2011, the Office of the Ohio Inspector General interviewed Mark Shafar at his convenience store² in Warren, Ohio, regarding his contact with Fetterolf on August 30, 2011. Shafar stated he had known Fetterolf for years because Fetterolf was the assigned liquor control agent to that area. Shafar said that a couple of months earlier, his attorney, Neil Atway, informed him about Fetterolf's candidacy for Newton Falls' mayor and asked Shafar to consider contributing to his campaign. Shafar said Fetterolf came into his Newton Falls store on August 30, 2011, and that he gave Fetterolf a \$1,000 check. Shafar provided the Office of the Ohio Inspector General a copy of the check he gave to Fetterolf. **(Exhibit 8)** Shafar said Fetterolf did not inspect the store during this visit. Shafar added that Fetterolf was dressed in business attire and the incident occurred during daytime business hours. Shafar did not notice the type or make of the vehicle Fetterolf was driving on this date.

A review of Fetterolf's daily activity report for August 30, 2011, did not show a stop at the Newton Falls Convenient Food Mart. **(Exhibit 9)** When Shafar was asked if he knew of anyone else who might have contributed to Fetterolf's campaign, Shafar stated that Yasser Alsadi, who owned the BP store in Lordstown, Ohio, donated \$500, and that Shafar's attorney, Neil Atway, also donated money.

Shafar was also asked whether Fetterolf gave him an ODC Division of Liquor Control business card during that visit and Shafar said, "No, there was no reason for that since I have known Fetterolf for a long time." Shafar was then asked if Fetterolf gave a business card to his manager. Shafar initially replied that he did not know, and then proceeded to call his manager who was working at the Newton Falls store. During the phone call, the manager told Shafar that Fetterolf did present an ODC Division of Liquor Control business card during that visit.

On November 3, 2011, the Office of the Ohio Inspector General interviewed Yasser Alsadi at his BP store in Lordstown, Ohio, regarding his contact with Fetterolf. Alsadi stated Neil Atway, the attorney who represented both Shafar and Alsadi in business matters asked Alsadi to donate to Fetterolf's campaign. Alsadi stated he gave Fetterolf \$500 cash when he was at the Lordstown BP store to conduct a liquor permit renewal inspection. Alsadi said he took the money from the

² Shafar owns convenience stores in Newton Falls and Warren, Ohio.

store cash drawer, but denied the contribution had any connection to the renewal inspection. Alsadi said Fetterolf was wearing business attire and driving a white vehicle with the state of Ohio emblem on the car door. He recalled Fetterolf saying that he was retiring soon from his state job. Alsadi owns the store with his partner, Yaser Ali Mqalah, and that the liquor permit for the store is in Yaser Alualah's name. A review of Fetterolf's daily activity report for September 1, 2011, shows that he was conducting a renewal inspection at the Lordstown BP store from 10:30 a.m.-10:45 a.m. **(Exhibit 10)**

The Office of the Ohio Inspector General interviewed Richard Kolovich, owner of the self-serve car wash located at 318 South Milton Boulevard, Newton Falls, Ohio, to determine whether he had a connection to Fetterolf. Kolovich stated he did not make any contributions to Fetterolf, and that he had no employees working at the self-serve car wash. Moreover, the investigation established that neither Shafar (aka Ammar Shafai) nor Alsadi appeared to have any relationship to the self-service car wash or the address at which the business is located.

During a review of ODC Division of Liquor Control personnel documents concerning Fetterolf, the Office of the Ohio Inspector General found Fetterolf requested permission from the Ohio Department of Commerce to approve his decision to become a candidate for Newton Falls City Council in 2009, and to become a candidate for Newton Falls' mayor in 2010. Both requests were denied by the Ohio Department of Commerce as being inherently incompatible with his position as a liquor control compliance officer.

In August 2011, the Ohio Department of Commerce received an inquiry to evaluate the legality of Fetterolf's intention to be a write-in candidate for mayor of Newton Falls during the general election on November 8, 2011. The inquiry cited Ohio Revised Code §124.57 - Prohibition against partisan political activity by a classified service employee. The Ohio Department of Commerce responded stating that the election for mayor of Newton Falls was a non-partisan election, and Fetterolf's participation was not prohibited. Furthermore, Fetterolf had informed the ODC Division of Liquor Control he would be retiring from state service on November 1, 2011.³

³ Fetterolf did retire from the Ohio Department of Commerce on November 1, 2011.

On December 12, 2011, the Office of the Ohio Inspector General contacted Fetterolf by telephone to notify him of the investigation concerning his participation in the Newton Falls election. During this telephone conversation, Fetterolf agreed to be interviewed on December 15, 2011. On December 14, 2011, Fetterolf called the Office of the Ohio Inspector General to decline the interview.

On December 16, 2011, Fetterolf filed an amended campaign financial report with the Trumbull County Board of Elections. Fetterolf reported receiving a \$1,000 check from Mark Shafar (aka Ammar Shafai) on August 30, 2011, but again listed the wrong address for Shafar. Additionally, Fetterolf reported the \$500 cash he received from Yasser (aka Yasir) Alsadi. On his final expenditure report, Fetterolf reported that on December 14, 2011, he wrote a \$500 check to Yasser (aka Yasir) Alsadi to return the cash contribution he had received from him on September 2, 2011. Fetterolf then accepted a \$500 check from Alsadi, which was deposited in Fetterolf's campaign account. **(Exhibit 11)**

On January 23, 2012, the Office of the Ohio Inspector General again contacted Alsadi. Alsadi stated that his attorney, Neil Atway, contacted him to inform him that Fetterolf would be coming to him to correct a problem regarding the cash contribution⁴ he had given to Fetterolf. Alsadi said Fetterolf stopped at his store on December 14, 2011, and gave Alsadi a check in the amount of \$500. The check was to return the cash donation Alsadi had given him on September 1, 2011. Fetterolf then asked Alsadi to write a check for \$500 to him in order to comply with Ohio campaign contribution laws.

On January 25, 2012, the Office of the Ohio Inspector General made telephone contact with attorney Neil Atway who confirmed that he represents Shafar and Alsadi in business matters. Atway said he has known Fetterolf for several years, specifically, through his handling of legal cases involving liquor permit violations. Atway stated that in early August 2011, Fetterolf informed him that he was planning to run for mayor of Newton Falls and was going to retire from his position with the state. Atway said he gave Fetterolf a check for \$500 for his campaign and added that he had also asked Shafar and Alsadi to contribute to Fetterolf's campaign.

⁴ Ohio Revised Code §3517.13(F) prohibits cash contributions in excess of \$100.

Atway admitted to the Office of the Ohio Inspector General that Fetterolf had contacted him again and was asked if this latest contact after the election was about the problems with Fetterolf's campaign contribution report. Atway said although he did not represent Fetterolf, anything they talked about would be subject to attorney-client privilege, so "it would be a breach to disclose anything that Bud may have said to me."

CONCLUSION

Gideon Fetterolf Jr., a resident of Newton Falls, Ohio, was a long-time state employee with the Ohio Department of Commerce Division of Liquor Control. While employed in his classified position as a liquor control compliance officer, Fetterolf became interested in holding an elected office in Newton Falls. Though the elected positions Fetterolf wanted to hold would have been permissible under Ohio law because they were non-partisan, the Ohio Department of Commerce told Fetterolf those positions would have been inherently incompatible with his duties as a liquor control compliance officer. In August, 2011, Fetterolf was certified as a write-in candidate for mayor of Newton Falls in the non-partisan general election held on November 8, 2011. Fetterolf informed the Ohio Department of Commerce Division of Liquor Control he would be retiring from state employment on November 1, 2011, which would eliminate the incompatibility issue.

During the last two months of Fetterolf's state employment, while on state time and representing the state of Ohio,⁵ he met with convenience store owner and liquor permit holder Mark Shafar (aka Ammar Shafai). Fetterolf discussed with Shafar his political campaign for mayor, and accepted from Shafar a \$1,000 campaign contribution check. Fetterolf did not document his meeting with Shafar on his ODC Division of Liquor Control activity report. Fetterolf also falsely reported on his campaign contribution record submitted to the Trumbull County Board of Elections that the check he received from Mark Shafar (aka Ammar Shafai), came from Yasser Alsadi at a false address.

Fetterolf, while on state time and while using a state-issued vehicle, conducted a liquor permit renewal inspection at a BP store in Lordstown, Ohio, owned by Yasser Alsadi. During this

⁵ On August 30, 2011 Fetterolf presented his ODC Division of Liquor Control business card to the Newton Falls Convenient Food Mart manager while waiting for the store owner, Mark Shafar to arrive at the store.

inspection Fetterolf accepted a \$500 cash campaign contribution from Alsadi. Fetterolf falsely reported this contribution as coming from himself on his campaign contribution record submitted to the Trumbull County Board of Elections. ORC §3517.13(F), prohibits cash contributions of more than \$100.

Fetterolf, while on state time and while using a state-issued vehicle, went to the Newton Falls Police Department (NFPD), filed a report that his campaign sign was stolen, and complained to the Newton Falls zoning inspector about the seizure of his campaign sign. Fetterolf falsified his ODC Division of Liquor Control activity report by stating he was traveling to Campbell, Ohio, when he was actually at the NFPD.

Upon review of the documents, video recordings, and witness statements, the following allegations are substantiated. Gideon A. Fetterolf Jr.:

1. Falsified Ohio Department of Commerce Division of Liquor Control activity reports.
2. Used a state-issued vehicle to conduct political business.
3. Accepted political campaign contributions while on state time.
4. Falsified campaign contribution records.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe wrongful acts or omissions occurred in these instances.

There is no allegation or evidence that Fetterolf solicited or accepted campaign contributions in return for liquor permit approval. However, Fetterolf's acceptance of campaign contributions from vendors he inspected, even if done on his own personal time, creates an appearance of impropriety. Furthermore, Fetterolf's falsification of records for campaign contributions from liquor permit holders indicates he recognized there was an appearance of impropriety.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe an appearance of impropriety occurred in this instance.

RECOMMENDATION

The Office of the Inspector General makes the following recommendation and asks the Ohio Department of Commerce to respond within 60 days with a plan detailing how the recommendation will be implemented. The Ohio Department of Commerce should modify and clarify its policy on state-issued vehicle use to include “vehicle may only be used for official state business.”

REFERRAL

The Office of the Inspector General will forward an investigative referral packet to the Trumbull County Prosecutor’s Office, and copies of this investigation to the Ohio Elections Commission and the Ohio Ethics Commission for their consideration.



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Commerce
Division of Liquor Control
FILE ID #: 2011-187**

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

A handwritten signature in black ink, appearing to be "Jill Jones", with a long horizontal flourish extending to the right.

**Jill Jones
KEEPER OF RECORDS**

**CERTIFIED
June 7, 2012**

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