

ATTESTATION ENGAGEMENT

Prothonotary - Collections on Behalf
of the Department of Revenue and the
Administrative Office of
Pennsylvania Courts
Philadelphia County, Pennsylvania
For the Period
May 5, 2014 to December 31, 2014

March 2016



Commonwealth of Pennsylvania
Department of the Auditor General
Eugene A. DePasquale • Auditor General



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EUGENE A. DEPASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of the Prothonotary, Philadelphia County, Pennsylvania (County Officer), for the period May 5, 2014 to December 31, 2014, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). The County Office's management is responsible for this Statement. Our responsibility is to express an opinion on this Statement based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included examining, on a test basis, evidence supporting the Statement and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Sections 401(b) and 401(d) of *The Fiscal Code* to audit the accounts of each county officer to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Sections 401(b) and 401(d) of *The Fiscal Code*.

In our opinion, the Statement referred to above presents, in all material respects, the operations of the County Officer as it pertains to receipts made on behalf of the Commonwealth for the period May 5, 2014 to December 31, 2014, in conformity with the criteria set forth in Note 1.

Independent Auditor's Report (Continued)

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Statement; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Statement. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Statement is presented in accordance with the criteria described above and not for the purpose of expressing an opinion on internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Statement will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Statement was for the limited purpose of expressing an opinion on whether the Statement is presented in accordance with the criteria described above and was not designed to identify all deficiencies in internal control over reporting on the Statement that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies in internal control, described in the findings listed below, that we consider to be significant deficiencies.

- Receipts Were Not Deposited On The Same Day As Collected - Recurring.
- Judicial Computer System/Access To Justice Fees Were Not Properly Assessed On Divorce Complaints - Recurring.

Independent Auditor's Report (Continued)

As part of obtaining reasonable assurance about whether the Statement is free from material misstatement, we performed tests of the County Office's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of Statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We are concerned that the County Office failed to correct previously reported findings regarding the receipts not always deposited the same day as collected and Judicial Computer System/Access To Justice Fees were not properly assessed on divorce complaints. These significant deficiencies could result in uncollected fines and increase the risk for funds to be lost or misappropriated. The County Office should strive to implement the recommendations and corrective actions noted in this report.

This report is intended solely for the information and use of the Pennsylvania Department of Revenue, the Administrative Office of Pennsylvania Courts, and the County Officer and is not intended to be and should not be used by anyone other than these specified parties.

We appreciate the courtesy extended by the Prothonotary, Philadelphia County, to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



December 18, 2015

Eugene A. DePasquale
Auditor General

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PROTHONOTARY
PHILADELPHIA COUNTY
STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

Receipts:

Writ Taxes	\$	15,270
Divorce Complaint Surcharges		10,690
Judicial Computer System/Access To Justice Fees		2,272,280
Protection From Abuse Surcharges and Contempt Fines		250
Criminal Charge Information System Fees		<u>17,148</u>
Total Receipts (Note 2)		2,315,638
Commissions (Note 3)		<u>(458)</u>
Net Receipts		2,315,180
Disbursements to Commonwealth (Note 4)		<u>(2,315,181)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		(1)
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period May 5, 2014 to December 31, 2014	\$	<u>(1)</u>

Notes to the Statement of Receipts and Disbursements are an integral part of this report.

PROTHONOTARY
PHILADELPHIA COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

1. Criteria

The Statement of Receipts and Disbursements provides a summary of receipts and disbursements by category. The categories and the amounts of taxes, surcharges, fines, and fees assessed are based on Pennsylvania laws and regulations.

The Statement was prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Revenue. Under this method, only the Commonwealth portion of cash receipts and disbursements are presented, revenues are recognized when received, and expenditures are recognized when paid.

2. Receipts

Receipts consist of monies collected on behalf of the Department of Revenue and the Administrative Office of Pennsylvania Courts. These include monies collected for the following taxes, surcharges, fees, and fines:

- Writ Taxes represent a \$.50 or \$.25 tax imposed on taxable instruments filed with the Prothonotary.
- Divorce Complaint Surcharges represent a \$10 surcharge imposed on all divorce decrees.
- Judicial Computer System/Access To Justice Fees represent a \$10 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. These fees were increased to \$23.50 for the period December 8, 2009 to July 9, 2014. Effective July 10, 2014, Act 126 increased the fee to \$33.50. Effective August 8, 2014, Act 113 increased the fee to \$35.50.
- Protection From Abuse Surcharges represent a \$25 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Effective May 9, 2006, the surcharge was increased to \$100. Protection From Abuse Contempt Fines represent fines of not less than \$100 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order. Effective May 9, 2006, the fine was increased to a minimum of \$300 and maximum of \$1000.

PROTHONOTARY
PHILADELPHIA COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

2. Receipts (Continued)

- Criminal Charge Information System Fees represent a fee imposed on all custody cases. Custody fees are accessed, collected and remitted under 42 Pa. C.S.A. 1725 (c) (2) (v) of which 13% of the base fee for filing a custody petition and 13% of the respondents first responsive filing is payable to the Administrative Office of Pennsylvania Courts (AOPC).

3. Commissions

Acting in the capacity of an agent for the Commonwealth, the Prothonotary is authorized to collect a commission of 3 percent on the Commonwealth portion of Writ Taxes. Accordingly, commissions owed the county are not included in the balance due the Commonwealth.

4. Disbursements

Total disbursements are comprised as follows:

Prothonotary checks issued to:

Department of Revenue	\$ 2,298,033
Administrative Office of Pennsylvania Courts	<u>17,148</u>
Total	<u><u>\$ 2,315,181</u></u>

5. Balance Due Commonwealth (County) For The Period May 5, 2014 To December 31, 2014

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance also reflects a summary of receipts disbursed directly to the Administrative Office of Pennsylvania Courts

6. County Officer Serving During Examination Period

Eric Feder served as Prothonotary during the period May 5, 2014 to December 31, 2014.

PROTHONOTARY
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

**Finding No. 1 - Receipts Were Not Deposited On The Same Day As Collected -
Recurring**

We cited the issue of receipts not always deposited on the same day as collected in the last two examinations with the most recent for the January 1, 2008 to May 4, 2014. Our current examination found that the prior officeholder did not correct this issue.

Our current examination disclosed that receipts were not deposited on the same day as collected. Of 8 receipts tested, all 8 receipts were not deposited on the same day as collected. The time lapse from the date of receipt to the subsequent date of deposit ranged from 2 days to 8 days.

This condition existed because the prior officeholder failed to establish adequate internal controls over receipts and take appropriate action as recommended in our prior examination report.

Good internal accounting controls require that all monies collected are to be deposited in the bank at the end of every day.

Without a good system of internal control over funds received by the office, the possibility of funds being lost or misappropriated increases significantly.

Recommendation

We strongly recommend that the office deposit all receipts at the end of each day as required by good internal accounting controls.

Management's Response

The District Court Administrator responded as follows:

Office of Judicial Records, Finance Unit has acquired the services of armed carrier company to retrieve, count, and deposit to banking institution the funds collected daily. The company is contracted for daily pick up with a schedule identified as anywhere between 9:00 a.m. through 5:00 p.m. The Office strives to maintain speed and efficiency in counting, receipting and preparing the deposits daily.

PROTHONOTARY
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

**Finding No. 1 - Receipts Were Not Deposited On The Same Day As Collected - Recurring
(Continued)**

Management's Response (continued)

From time to time, due to not specified time frame, for security purposes, the armed carrier representatives show up early, between 9:00 a.m. and 9:30 a.m. when the daily deposits are not yet ready. The finding is duly noted and the Office will strive to dedicate as much speed and efficiency as possible in compiling the necessary documents and prepare the deposits for timely pick up.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendation.

PROTHONOTARY
PHILADELPHIA COUNTY
FINDINGS AND RECOMMENDATIONS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

**Finding No. 2 - Judicial Computer System/Access To Justice Fees Not Properly Assessed
On Divorce Complaints - Recurring**

We cited the issue of the Judicial Computer System/Access to Justice (JCP/ATJ) Fees not properly assessed on divorce complaints in our three prior examination reports, with the most recent for the period January 1, 2008 to May 4, 2014. Our current examination found that the prior officeholder did not correct this issue.

Our current examination found that the JCP/ATJ Fees were not assessed per count on divorce complaints. The JCP/ATJ Fees were assessed once on every complaint regardless of the number of counts.

The Administrative Office of Pennsylvania Courts (AOPC) has issued regulations to implement 42 PA C.S.A. Section 3733 (a.1). The regulations provide that with respect to divorce actions, a separate statutory fee shall be imposed on each count in the divorce complaint in addition to the count requesting divorce.

This condition existed because the prior officeholder failed to take appropriate action as recommended in our prior examination report.

Without the proper assessment and collection of the Judicial Computer System/Access to Justice fees, the Commonwealth will not receive all funds due them.

Recommendation

We strongly recommend that the Prothonotary notify Family Court and Court Administration to start assessing the JCP/ATJ Fees on each count in a divorce complaint.

Management's Response

The District Court Administrator responded as follows:

The Family Court Division will implement procedures to begin collecting the JCP/ATJ/CJEA fee for each count included in a divorce complaint.

Auditor's Conclusion

This is a recurring finding. We strongly recommend that the office comply with our recommendation.

PROTHONOTARY
PHILADELPHIA COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

Summary Of Prior Examination Recommendations

During our prior examination, we recommended that the office:

- Deposit all receipts at the end of each day as required by good internal accounting controls.
- Notify Family Court and Court Administration to start assessing the JCP/ATJ Fees on each count in a divorce complaint.
- Establish and implement an adequate system of internal controls over voided receipts as noted above. All voided receipts should have proper documentation explaining the reason for the void.

During our current examination, we noted that the office complied with our third bulleted recommendation. However, the office did not comply with our first and second bulleted recommendations above. Please see the current year findings for additional information.

PROTHONOTARY
PHILADELPHIA COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
MAY 5, 2014 TO DECEMBER 31, 2014

This report was initially distributed to:

The Honorable Eileen H. McNulty
Secretary
Pennsylvania Department of Revenue

The Honorable Thomas B. Darr
Court Administrator of Pennsylvania
Supreme Court of Pennsylvania
Administrative Office of Pennsylvania Courts

The Honorable Eric Feder

Prothonotary

The Honorable Anthony Clark

Chairperson of the Board of Commissioners

The Honorable Alan Butkovitz

Controller

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.