

ATTESTATION ENGAGEMENT

Prothonotary Berks County, Pennsylvania For the Period January 1, 2010 to December 31, 2014

July 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, Berks County, Pennsylvania (County Officer), for the period January 1, 2010 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 January 1, 2010 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.

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. However, as described below, we identified certain deficiencies in internal control that we consider to be material weaknesses.

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. We consider the deficiency listed below to be a material weakness:

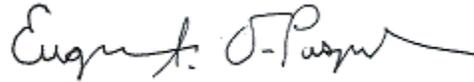
- Inadequate Internal Controls Over Funds Held In Escrow.

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*.

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.

Independent Auditor's Report (Continued)

We appreciate the courtesy extended by the Prothonotary, Berks 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.

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

April 27, 2016

Eugene A. DePasquale
Auditor General

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PROTHONOTARY
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2010 TO DECEMBER 31, 2014

Receipts:

Writ Taxes	\$	24,847
Divorce Complaint Surcharges		58,390
Judicial Computer System/Access To Justice Fees		1,100,968
Protection From Abuse Surcharges and Contempt Fines		9,800
Criminal Charge Information System Fees		<u>20,699</u>
Total Receipts (Note 2)		1,214,704
Commissions (Note 3)		<u>(745)</u>
Net Receipts		1,213,959
Disbursements to Commonwealth (Note 4)		<u>(1,213,972)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		(13)
Examination adjustments		<u>-</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2010 to December 31, 2014	\$	<u>(13)</u>

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

PROTHONOTARY
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 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. 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 \$1,000.

PROTHONOTARY
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

2. Receipts (Continued)

- Criminal Charge Information System Fees represent a fee imposed on all custody cases. Of the fee imposed, 80% is payable to the Administrative Office of Pennsylvania Courts (AOPC) and 20% is payable to the County in which the action took place. The fee was \$7.00 for the period January 1, 2008 to December 31, 2010, and \$7.50 for the period January 1, 2011 to December 31, 2014. The statement of receipts and disbursements only reflects the portion collected on behalf of the 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	\$ 1,193,273
Adminstrative Office of Pennsylvania Courts	20,699
Total	\$ 1,213,972

5. Balance Due Commonwealth (County) For The Period January 1, 2010 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. Prior Examination Period Balance Due

We noted that there was a prior examination balance due the Commonwealth of \$16,942 which was not paid as of the end of our current examination period.

PROTHONOTARY
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

7. County Officer Serving During Examination Period

Marianne R. Sutton served as Prothonotary during the period January 1, 2010 to December 31, 2014.

PROTHONOTARY
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding - Inadequate Internal Controls Over Funds Held In Escrow

Our examination disclosed that there was no accountability over undisbursed funds. There was an adjusted bank balance of \$377,605 as of December 31, 2014 without a corresponding liabilities report indicating to whom the monies were due.

Good internal accounting control procedures ensure that the ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the office bank account is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.

Without a good system of internal controls over funds held in escrow, the possibility of funds being lost or misappropriated increases significantly.

This condition existed because the office failed to establish and implement an adequate system of internal controls over funds held in escrow.

Recommendations

We recommend that the office attempt to identify all existing liabilities associated with the office bank account and take appropriate action. Any unidentified funds should be accounted for under normal escheat procedures. Furthermore, we recommend that the office should ensure that reconciled cash equals unpaid obligations monthly.

Management's Response

The County Officer responded as follows:

It is the Prothonotary Office's belief that this finding is the direct result of the limitations of our accounting system (created and maintained by our County Information Systems (IS) Department) as well as the inability to retrieve certain and specific types of data from said system. This is primarily due to the Prothonotary's Office being required to sunset [retire] its former accounting/cashiering system (a vendor product) about halfway through the audit examination period. In order to function seamlessly with the County's case management system and the Prothonotary's electronic filing system, the County IS Department created an in-house cashiering/accounting module which required our bookkeeper to essentially recover and re-establish our balances in conformance with the new system. This in turn created 2 different types of data. Because of our internal systems we discontinued the vendor products and therefore the data in that

PROTHONOTARY
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding - Inadequate Internal Controls Over Funds Held In Escrow (Continued)

Management's Response (Continued)

vendor system was not available to be obtained for this audit. The State Auditors requested certain data during their examination period that we were unable to provide because the vendor that held the data was discontinued in favor of the new in-house county cashiering/accounting module.

We believe that the State Auditors, had they taken the time and gone through each cost book (record book of escrow funds) and each case listed in each cost book, would have been able to satisfactorily access the balances in the undisbursed funds. There are many escrow balances from many cases and the work would have been long and tedious but we believe it could have been completed. Further, at no time throughout the audit did our bookkeeper or management observe the auditors examine any cost books nor did our bookkeeper or management receive any requests from the auditors to examine any cost books. Instead, the auditors required data reports [which] we were unable to provide based on the limitations spoken about above.

We acknowledge that we will need to request the County IS Department to make modifications to the accounting system. We requested guidelines from the State Auditors as to what parameters should be used in order to make the right modifications and have an accurate and complete reporting system going forward. They declined, saying that they could not provide us with that information because it would be considered giving advice, something they are prohibited from doing.

When our office learned of this finding in an email from one of the state auditors, we immediately began to take steps [to] show [that] we can properly account for all of the undisbursed (escrow) funds DESPITE having limitations on reliability and data in our accounting system. Our bookkeeper examined each and every cost book that still had outstanding funds (a task the auditors really should have done but to our knowledge did not do so) and with the Office Manager's assistance set up a spreadsheet that now has accurate running totals of all the undisbursed funds. We feel this addresses the finding but we will still commit ourselves to requesting modifications in the accounting/cashiering system in order to make the data easier to examine in future audits.

PROTHONOTARY
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Finding - Inadequate Internal Controls Over Funds Held In Escrow (Continued)

Auditor's Conclusion

Good internal accounting controls require the office maintain accountability over all undisbursed funds. These controls include maintaining an accurate list of funds held in escrow. The auditors made every attempt to identify the liabilities associated with the office bank account short of creating such a list from source documents (i.e. cost books). However, beside the fact that it is not our responsibility to create a list of funds held in escrow by the office, the reason for implementing internal controls is for the office to be able to prevent errors/fraud or detect errors/fraud in a timely manner, and the office should not rely on auditors to prevent or detect errors or fraud. It is the responsibility of the office to create and maintain an accurate list of undisbursed funds to ensure that funds are properly accounted for.

Subsequent to our examination, the office provided the auditors with documentation detailing that the \$377,605 in undisbursed funds has been significantly reduced to \$19,711 as of March 31, 2016.

We appreciate the office's attempt to correct this issue. However, it is imperative that the office maintain an accurate list of funds held in escrow to ensure that all funds held by the office are accounted for appropriately.

During our next examination, we will determine if the office complied with our recommendations.

PROTHONOTARY
BERKS COUNTY
SUMMARY OF PRIOR EXAMINATION RECOMMENDATION
FOR THE PERIOD
JANUARY 1, 2010 TO DECEMBER 31, 2014

Summary Of Prior Examination Recommendation

During our prior examination, we recommended that the office:

- Maintain oversight of assessments and disbursements of all transactions created in their computer system.

During our current examination, we noted that the office complied with our recommendation.

PROTHONOTARY
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2010 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 Marianne R. Sutton
Prothonotary

The Honorable Sandy Graffus
Controller

The Honorable Christian Y. Leinbach
Chairperson of the Board of Commissioners

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.