

PROTHONOTARY  
BUTLER COUNTY  
EXAMINATION REPORT  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2009





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**Department of the Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120-0018**

**JACK WAGNER  
AUDITOR GENERAL**

Independent Auditor's Report

The Honorable Daniel Meuser  
Secretary  
Pennsylvania Department of Revenue  
Harrisburg, PA 17128

We have examined the accompanying statement of receipts and disbursements (Statement) of the Prothonotary, Butler County, Pennsylvania (County Officer), for the period January 1, 2007 to December 31, 2009, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S. § 401(b) and § 401(d). This Statement is the responsibility of the county office's management. 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. An examination includes 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*.



### Independent Auditor's Report (Continued)

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 ended December 31, 2009, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Statement and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. 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 the internal control over reporting on the Statement or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the County Officer's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the County Officer's Statement that is more than inconsequential will not be prevented or detected by the County Officer's internal control. We consider the deficiency described in the finding below to be a significant deficiency in internal control over the reporting on the Statement:

- Inadequate Accountability Over Funds Held In Escrow.

### Independent Auditor's Report (Continued)

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Statement will not be prevented or detected by the County Officer's internal control. Our consideration of the internal control over reporting on the Statement would not necessarily disclose all matters in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. We consider the significant deficiency described above to be a material weakness.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*. However, we did note an other matter that, while not required to be included in this report by *Government Auditing Standards*, has been included in the finding below:

- Failure To Assess Writ Taxes.

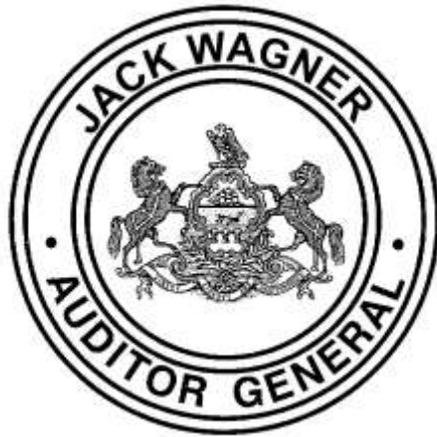
We are concerned in light of the County Officer's failure to correct a previously reported finding regarding the failure to assess writ taxes. Additionally, during our current examination, we noted several significant weaknesses in the internal controls in the accountability over funds held in escrow that need corrective action. These significant deficiencies increase the risk for funds to be lost or misappropriated. Additionally, the failure to assess writ taxes results in the loss of revenue to the Commonwealth. The County Officer should strive to implement the recommendations and corrective action noted in this examination 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.



October 19, 2010

JACK WAGNER  
Auditor General



PROTHONOTARY  
 BUTLER COUNTY  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2007 TO DECEMBER 31, 2009

Receipts:

|   |                  |
|---|------------------|
| Writ Taxes  | \$ 5,240         |
| Divorce Complaint Surcharges  | 14,890           |
| Judicial Computer System/Access To Justice Fees   | 127,969          |
| Protection From Abuse Surcharges and Contempt Fines   | 24,334           |
| Criminal Charge Information System Fees   | <u>4,543</u>     |
| Total Receipts (Note 2)   | 176,976          |
| Commissions (Note 3)  | <u>(157)</u>     |
| Net Receipts  | 176,819          |
| Disbursements to Commonwealth (Note 4)  | <u>(176,819)</u> |
| Balance due Commonwealth (County)<br>per settled reports (Note 5)                                 | -                |
| Examination adjustments   | <u>-</u>         |
| Adjusted balance due Commonwealth (County)<br>for the period January 1, 2007 to December 31, 2009 | <u>\$ -</u>      |

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

PROTHONOTARY  
BUTLER COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2009

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.
- 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  
BUTLER COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
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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 \$6.50 for the period January 1, 2007 to December 31, 2007 and \$7.00 for the period January 1, 2008 to December 31, 2009. 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:

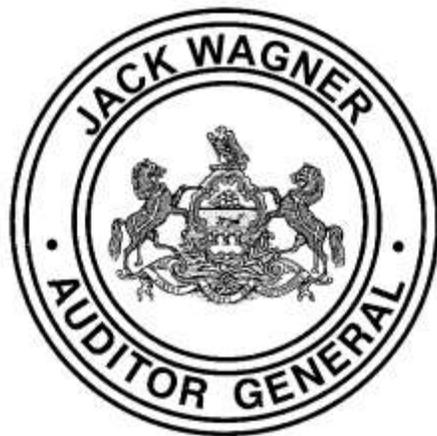
|   |    |         |
|---|----|---------|
| Department of Revenue                       | \$ | 172,276 |
| Adminstrative Office of Pennsylvania Courts |    | 4,543   |
| Total                                       | \$ | 176,819 |

5. Balance Due Commonwealth (County) For The Period January 1, 2007 To December 31, 2009

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

Glenna Walters served as Prothonotary during the period January 1, 2007 to December 31, 2009.



PROTHONOTARY  
BUTLER COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2009

Finding No. 1 - Inadequate Accountability Over Funds Held In Escrow

Our examination disclosed that accountability over funds held in escrow was inadequate. At December 31, 2009, funds on hand exceeded recorded obligations in the checking account by \$5,119.

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 the existing cash overage. Any unidentified funds should be accounted for under normal escheat procedures. Furthermore, we recommend that the office ensure that reconciled cash equals unpaid obligations monthly.

Management's Response

The County Officer responded as follows:

In the Exit conference there were two findings which I would like to address. The overage of \$5,119.44, I will be checking with the County Controller in figuring where the problem may be. In the past the Controller was able to address all money and it came out to zero. Any money paid in or paid out has a Court Order directing such.

Auditor's Conclusion

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

PROTHONOTARY  
BUTLER COUNTY  
FINDINGS AND RECOMMENDATIONS  
FOR THE PERIOD  
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Finding No. 2 - Failure To Assess Writ Taxes

Our examination disclosed that the office did not assess certain writ taxes. We noted the following discrepancies:

- Of the seven cases tested involving custody cases, the office did not assess the \$.50 writ tax on all seven cases.
- Of the five cases tested involving Protection From Abuse cases, the office did not assess the \$.50 writ tax on all five cases.

These incorrect assessments occurred because the office was not aware of up-to date laws and regulations regarding proper assessment of Commonwealth writ taxes.

Title 72 P.S. 3172 states in part, “the Prothonotary shall demand and receive on every original writ issued out of said courts on the filing of every complaint by which an action is started, and on the entry of every amicable action, the sum of fifty cents... on every entry of a judgment by confession or otherwise, where suit has not been previously commenced, the sum of fifty cents.”

The failure to comply with the Pennsylvania statutes outlined above in not assessing writ taxes resulted in the loss of revenue to the Commonwealth.

The portion of this finding regarding writ taxes on custody cases was cited in the prior examination for the period ending December 31, 2006.

Recommendation

We again recommend that the office review the laws noted above to ensure that writ taxes are assessed as mandated by law.

Management’s Response

The County Officer responded as follows:

I had my Solicitor look into the question on the Custody tax. He has directed me to collect it. So I will be collecting it on January 1, 2011. The Bar Association and the public will be notified of this change.

Auditor’s Conclusion

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

PROTHONOTARY  
BUTLER COUNTY  
COMMENT  
FOR THE PERIOD  
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Comment - Compliance With Prior Examination Recommendation

During our prior examination, we recommended:

- That the office properly assess the Judicial Computer System/Access To Justice Fee as mandated by law.

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



PROTHONOTARY  
BUTLER COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2007 TO DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Daniel Meuser  
Secretary  
Pennsylvania Department of Revenue

The Honorable Zygmunt Pines  
Court Administrator of Pennsylvania  
Supreme Court of Pennsylvania  
Administrative Office of Pennsylvania Courts

|                                     |  |
|-------------------------------------|--|
| The Honorable Glenna Walters        | Prothonotary                           |
| The Honorable John R. McMillin, Jr. | Controller                             |
| The Honorable A. Dale Pinkerton     | Chairman of the Board of Commissioners |

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us).