

# ATTESTATION ENGAGEMENT

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## Prothonotary Berks County, Pennsylvania For the Period January 1, 2015 to September 30, 2016

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July 2019



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 C. Daniel Hassell  
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, 2015 to September 30, 2016, 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 presenting this Statement in accordance with the criteria set forth in Note 1. 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Statement is presented in accordance with the criteria described above, in all material respects. An examination involves performing procedures to obtain evidence about the statement of receipts and disbursements. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Statement, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide 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, for the period January 1, 2015 to September 30, 2016, is presented in accordance with the criteria set forth in Note 1, in all material respects.

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.

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*. However, we did note another matter that, while not required to be included in this report by Government Auditing Standards, has been included in the finding below:

- Judicial Computer System/Access To Justice Fees Were Not Remitted To The Commonwealth.

The purpose of this report is to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported and promptly remitted. This report is not suitable for any other purposes.

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.



Eugene A. DePasquale  
Auditor General

June 11, 2019

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PROTHONOTARY  
 BERKS COUNTY  
 STATEMENT OF RECEIPTS AND DISBURSEMENTS  
 FOR THE PERIOD  
 JANUARY 1, 2015 TO SEPTEMBER 30, 2016

Receipts:

Writ Taxes	\$	7,950
Divorce Complaint Surcharges		19,837
Judicial Computer System/Access To Justice Fees		428,235
Protection From Abuse Surcharges and Contempt Fines		1,750
Criminal Charge Information System Fees		<u>7,206</u>
Total Receipts (Note 2)		464,978
Commissions (Note 3)		<u>(238)</u>
Net Receipts		464,740
Disbursements to Commonwealth (Note 4)		<u>(464,740)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		-
Examination adjustments (Exhibit 1)		<u>10,231</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2015 to September 30, 2016	\$	<u><u>10,231</u></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, 2015 TO SEPTEMBER 30, 2016

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 \$35.50 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. Effective October 30, 2017, Act 40 and Act 44 increased the fee to \$40.25.
- Protection From Abuse Surcharges represent a \$100 surcharge imposed against defendants when a protection order is granted as a result of a hearing. Protection From Abuse Contempt Fines represent fines of not less than \$300 nor more than \$1,000 imposed against a defendant who is found to be in violation of a protection from abuse order.
- 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 \$8 during the examination period of which \$6.40 belonged to the Commonwealth.

PROTHONOTARY  
BERKS COUNTY  
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO SEPTEMBER 30, 2016

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	\$ 457,534
Adminstrative Office of Pennsylvania Courts	<u>7,206</u>
 Total	 <u><u>\$ 464,740</u></u>

5. Balance Due Commonwealth (County) For The Period January 1, 2015 To September 30, 2016

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. It does not reflect adjustments disclosed by our examination. Refer to Exhibit 1 and the Finding for more information.

6. County Officer Serving During Examination Period

Marianne R. Sutton served as Prothonotary during the period January 1, 2015 to September 30, 2016.



PROTHONOTARY  
 BERKS COUNTY  
 EXHIBIT 1  
 FOR THE PERIOD  
 JANUARY 1, 2015 TO SEPTEMBER 30, 2016

Exhibit 1 - Schedule Of Reporting Errors And Examination Adjustments

<u>Month</u>	<u>Year</u>	<u>Examination</u> <u>Adjustments</u>
January	2015	\$ 283.50 *
February	2015	\$ 555.50 *
March	2015	\$ 709.50 *
April	2015	\$ 461.50 *
May	2015	\$ 496.50 *
June	2015	\$ 260.00 *
July	2015	\$ 514.50 *
August	2015	\$ 410.50 *
September	2015	\$ 358.50 *
October	2015	\$ 365.00 *
November	2015	\$ 637.00 *
December	2015	\$ 414.00 *
January	2016	\$ 304.50 *
February	2016	\$ 710.00 *
March	2016	\$ 378.50 *
April	2016	\$ 355.00 *
May	2016	\$ 745.50 *
June	2016	\$ 627.00 *
July	2016	\$ 520.50 *
August	2016	\$ 591.50 *
September	2016	\$ 532.50 *
<b>Total Adjustments</b>		<b><u>\$ 10,231.00</u></b>

\* ATJ/JCS fees collected but not remitted to Commonwealth

PROTHONOTARY  
BERKS COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO SEPTEMBER 30, 2016

**Finding - Judicial Computer System/Access To Justice Fees Were Not Remitted To The Commonwealth**

Our examination disclosed that office did not remit Judicial Computer System/Access to Justice (JCS/ATJ) Fees assessed and collected on Protection From Abuse (PFA) payments to the Commonwealth. Instead, the office's accounting system recorded these fees as County funds and the fees were remitted to the County in error. Our testing found that the office collected a total of \$10,231 in JCS/ATJ fees for the period January 1, 2015 to September 30, 2016, as detailed in Exhibit 1.

Title 42 Pa. C.S.A. § 3733 provides for the assessment of Judicial Computer System/Access to Justice (JCS/ATJ) Fees and these funds are to be remitted to the Department of Revenue for deposit into the appropriate accounts.

The office stated that this issue occurred because the office's computerized accounting system was incorrectly programmed to record these fees as County funds. The office did not properly monitor its computerized accounting system to ensure that the all fees on PFA payments were being correctly recorded and remitted to the Commonwealth.

The above-noted conditions resulted in the Department of Revenue not receiving Commonwealth monies totaling \$10,231 for the period January 1, 2015 to September 30, 2016.

**Recommendations**

We recommend that the office ensure that its computerized accounting system is programed to properly record and remit JCS/ATJ fees to the Commonwealth. We further recommend that the office remit the \$10,231 in JCS/ATJ fees collected during the period January 1, 2015 to September 30, 2016 to the Commonwealth.

**Management's Response**

The current County Officer responded as follows:

This office launched an investigation into why these fees were not remitted to the Commonwealth after examiners informed us of the deficiency. As a result of our investigation and after several interviews with County of Berks IT and Prothonotary staff, we have concluded that covert actions of the former Office Manager of the Prothonotary's Office caused these fees not to be remitted.

PROTHONOTARY  
BERKS COUNTY  
FINDING AND RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO SEPTEMBER 30, 2016

**Finding - Judicial Computer System/Access To Justice Fees Were Not Remitted To The Commonwealth (Continued)**

Management's Response (Continued)

We determined that the former Office Manager had given explicit direction to County IT staff, unbeknownst to anyone in the Prothonotary's Office, not to activate the computerized cashiering system controls which would have resulted in the proper collection and remittance of these fees. Why the former Office Manager who did this cannot be ascertained as I terminated the former Office Manager on December 1, 2017 prior to launching this investigation.

This deficiency was corrected immediately upon being notified by examiners that these payments were not being remitted to the Commonwealth. These fees are now being properly remitted to the Commonwealth.

Auditor's Conclusion

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

PROTHONOTARY  
BERKS COUNTY  
SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
JANUARY 1, 2015 TO SEPTEMBER 30, 2016

Summary Of Prior Examination Recommendations

During our prior examination, we recommended 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 recommended that the office should ensure that reconciled cash equals unpaid obligations monthly.

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

PROTHONOTARY  
BERKS COUNTY  
REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2015 TO SEPTEMBER 30, 2016

This report was initially distributed to:

**The Honorable C. Daniel Hassell**  
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 Jonathan K. Del Collo**  
Prothonotary

**The Honorable Sandy Graffius**  
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](http://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](mailto:news@PaAuditor.gov).