



**PROTHONOTARY
BERKS COUNTY
EXAMINATION REPORT
FOR THE PERIOD
JANUARY 1, 2006 TO DECEMBER 31, 2009**

Released *March 2013*

COMMONWEALTH OF PENNSYLVANIA
EUGENE A. DEPASQUALE - AUDITOR GENERAL
DEPARTMENT OF THE AUDITOR GENERAL



PROTHONOTARY

BERKS COUNTY

EXAMINATION REPORT

FOR THE PERIOD

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EUGENE A. DePASQUALE
AUDITOR GENERAL

Independent Auditor's Report

The Honorable Daniel P. Meuser
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, 2006 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 January 1, 2006 to 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.

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.

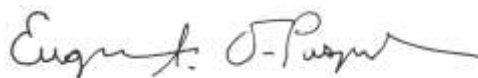
Our consideration of internal control over reporting on the Statement was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Statement.

Independent Auditor's Report (Continued)

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:

- Inadequate Assessment And Disbursement Of Judicial Computer System/Access To Justice Fees.

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.



August 10, 2011

EUGENE A. DEPASQUALE
Auditor General



PROTHONOTARY
 BERKS COUNTY
 STATEMENT OF RECEIPTS AND DISBURSEMENTS
 FOR THE PERIOD
 JANUARY 1, 2006 TO DECEMBER 31, 2009

Receipts:

Writ Taxes	\$	19,599
Divorce Complaint Surcharges		49,670
Judicial Computer System/Access To Justice Fees (Note 6)		420,245
Protection From Abuse Surcharges and Contempt Fines		10,025
Criminal Charge Information System Fees		<u>14,362</u>
Total Receipts (Note 2)		513,901
Commissions (Note 3)		<u>(588)</u>
Net Receipts		513,313
Disbursements to Commonwealth (Notes 4 & 6)		<u>(513,321)</u>
Balance due Commonwealth (County) per settled reports (Note 5)		(8)
Examination adjustments (Note 7)		<u>16,950</u>
Adjusted balance due Commonwealth (County) for the period January 1, 2006 to December 31, 2009	\$	<u><u>16,942</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, 2006 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. These fees were increased to \$23.50 for the period December 8, 2009 to December 31, 2014.
- 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, 2006 TO DECEMBER 31, 2009

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, 2006 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	\$ 498,959
Adminstrative Office of Pennsylvania Courts	14,362
Total	\$ 513,321

5. Balance Due Commonwealth (County) For The Period January 1, 2006 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. It does not reflect adjustments disclosed by our examination. Refer to Notes 6 and 7.

PROTHONOTARY
BERKS COUNTY
NOTES TO THE STATEMENT OF RECEIPTS AND DISBURSEMENTS
FOR THE PERIOD
JANUARY 1, 2006 TO DECEMBER 31, 2009

6. Examination Adjustment - Judicial Computer System/Access To Justice Fees

The Prothonotary collected, remitted, and reported \$137 in Judicial Computer System/Access To Justice (JCS/ATJ) Fees to the Department of Revenue. However, the Department of Revenue did not adjust the office's account accordingly. Both JCS/ATJ Fee category and the disbursement category were increased by \$137.

7. Examination Adjustments

As noted in the Finding and Recommendations section on page 9, the \$10 JCS/ATJ Fee per additional count of a divorce transaction was incorrectly disbursed entirely to Berks County. The total amount not remitted to the Commonwealth was \$16,380.

There was an adjustment of \$570 which represents interest earned on Commonwealth funds that was not remitted to the Commonwealth.

The total of these adjustments is \$16,950.

8. County Officer Serving During Examination Period

Marianne R. Sutton served as Prothonotary during the period January 1, 2006 to December 31, 2009.

PROTHONOTARY
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2006 TO DECEMBER 31, 2009

Finding - Inadequate Assessment And Disbursement Of Judicial Computer System/Access To Justice Fees

The Judicial Computer System/Access To Justice (JCS/ATJ) Fee, represents a \$10 fee imposed for the filing of any legal paper to initiate a civil action or proceeding. In addition, the JCS/ATJ fee is charged per count on divorce complaints. On December 8, 2009, the amount of the JCS/ATJ fee was increased to \$23.50. The entire JCS/ATJ fee collected is due the Commonwealth.

Our examination disclosed that the Prothonotary's computer system was improperly programmed to assess and disburse the JCS/ATJ Fees on additional counts of divorce transactions as mandated by law. The following was noted:

- The \$10 JCS/ATJ Fee per additional count of a divorce transaction was disbursed entirely to Berks County. The period where this incorrect disbursement of the JCS/ATJ fee occurred was from January 2, 2009 through December 31, 2009. The total amount not remitted to the Commonwealth was \$16,380. This adjustment is included in Note 7 on page 8.
- The Prothonotary's computer system was not modified to reflect the increase to the JCS/ATJ Fee on December 8, 2009 for additional counts on divorce complaints. The non modification of the computer system deprived the Commonwealth of \$13.50 in additional revenue per additional count of divorce. This resulted in a loss of revenue to the Commonwealth in the amount of \$1,579.50.

Good internal controls ensure that software program fee assessments and disbursements are properly tested to ensure monies are assessed and disbursed properly. The failure to follow these procedures resulted in the Commonwealth not receiving monies due them and a loss of revenue to the Commonwealth.

The office was unaware that the computer system was incorrectly distributing the fee or not assessing the correct increase in the fee.

Recommendations

We recommend that the office maintain oversight of assessments and disbursements of all transactions created in their computer system. Additionally, when there are software updates, these updates should be reviewed and tested to make sure that fines are being assessed and disbursed properly.

PROTHONOTARY
BERKS COUNTY
FINDING AND RECOMMENDATIONS
FOR THE PERIOD
JANUARY 1, 2006 TO DECEMBER 31, 2009

Finding - Inadequate Assessment And Disbursement Of Judicial Computer System/Access
To Justice Fees (Continued)

Management's Response

The County Officer responded as follows:

The Prothonotary Office acknowledges that an oversight was made and that revenue collected meant to be distributed to the Commonwealth was mistakenly distributed to the County of Berks. It was an honest error that occurred while implementing necessary fee increases in our cashiering and case management system. It must be emphasized that this oversight was without any intent whatsoever to cheat or defraud the Commonwealth. This was confirmed during the exit conference by [the] Auditor.

When the oversight was recognized by the auditor, the error was immediately corrected and implementation of the proper distribution of the revenue was in effect in less than a week. Also, at the time, the Prothonotary Office requested several times to immediately reimburse the Commonwealth for the revenue due it, but was informed by the auditor that the Department of Revenue will sometime in the future send an invoice to the Prothonotary Office for the amount due the Commonwealth. For the record, as of the date of this management response, no invoice has been received. But the Prothonotary Office would like it known that once the invoice is received it will be paid in an immediate and timely manner. Once this is completed, we respectfully request that the audit record be marked satisfied so that the record will reflect that the obligation was fully satisfied in a timely and immediate manner as is noted in this management response. The Prothonotary Office recognizes that the Commonwealth is battling a difficult financial future and is ready and willing to reimburse it the amount owed whenever it requests it.

Auditor's Conclusion

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

PROTHONOTARY
BERKS COUNTY
REPORT DISTRIBUTION
FOR THE PERIOD
JANUARY 1, 2006 TO DECEMBER 31, 2009

This report was initially distributed to:

The Honorable Daniel P. 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 Marianne R. Sutton	Prothonotary
The Honorable Sandy Graffius	Controller
The Honorable Mark C. Scott	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.