

# RECORDER OF DEEDS

# BERKS COUNTY

# EXAMINATION REPORT

# FOR THE PERIOD

JANUARY 1, 2004 TO DECEMBER 31, 2007

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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 P. Meuser Secretary Pennsylvania Department of Revenue Harrisburg, PA 17128

We have examined the accompanying statements of receipts and disbursements (Statements) of the Recorder of Deeds, Berks County, Pennsylvania (County Officer), for the period January 1, 2004 to December 31, 2007, pursuant to the requirements of Sections 401(b) and 401(d) of *The Fiscal Code*, 72 P.S § 401(b) and § 401(d). These Statements are the responsibility of the county office's management. Our responsibility is to express an opinion on these Statements based on our examination.

Except as discussed in the fourth paragraph, 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 Statements 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)

As discussed in Finding No. 5, cash register receipt tapes for the period January 1, 2004 to November 30, 2004 were missing and not available for the examination. Without these records, we could not perform our standard examination procedures. As a result, the scope of our examination of the County Officer's Statements was limited, and we were unable to satisfy ourselves by other examination procedures.

In our opinion, except for the effects, if any, of the matters noted in the preceding paragraph, the Statements referred to above present, in all material respects, the operations of the County Officer as it pertains to receipts made on behalf of the Pennsylvania Department of Revenue and other state agencies for the period ended December 31, 2007, 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 Statements 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 Statements are 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 Statements 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 Statements that is more than inconsequential will not be prevented or detected by the County Officer's internal control. We consider the deficiencies described in the findings below to be significant deficiencies in internal control over the reporting on the Statements:

- Misappropriated Funds Of At Least \$2,031.
- Inadequate Segregation Of Duties.

# Independent Auditor's Report (Continued)

- Inadequate Internal Controls Over Receipts.
- Inadequate Internal Controls Over Bank Accounts.
- Missing Records.

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 Statements will not be prevented or detected by the County Officer's internal control. Our consideration of the internal control over reporting on the Statements 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 all the significant deficiencies described above to be material weaknesses.

The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This examination report was not released for over four years because the Federal Bureau of Investigation requested that we not release it until they were completed with their investigation. The U.S. Attorney's Office indicted a former Recorder of Deeds on July 31, 2012.

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.

June 25, 2008

JACK WAGNER Auditor General



# RECORDER OF DEEDS BERKS COUNTY REALTY TRANSFER TAXES STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

Receipts:

Realty Transfer Taxes (Note 2)	\$ 72,595,699
Commissions (Note 3)	(725,957)
Net Receipts	71,869,742
Disbursements to Commonwealth (Note 4)	(71,869,742)
Balance due Commonwealth (County) per settled reports (Note 5)	-
Examination adjustments	
Adjusted balance due Commonwealth (County) for the period January 1, 2004 to December 31, 2007	\$ -

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

# RECORDER OF DEEDS BERKS COUNTY WRIT TAXES AND JUDICIAL COMPUTER SYSTEM/ACCESS TO JUSTICE FEES STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

Receipts:

Writ Taxes	\$ 198,836
Judicial Computer System/Access To Justice Fees	3,167,930
Total Receipts (Note 2)	3,366,766
Commissions (Note 3)	(5,965)
Net Receipts	3,360,801
Disbursements to Commonwealth (Note 4)	(3,359,491)
Balance due Commonwealth (County) per settled reports (Note 5)	1,310
Examination adjustment (Note 6)	6,028
Adjusted balance due Commonwealth (County) for the period January 1, 2004 to December 31, 2007	\$ 7,338

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

# RECORDER OF DEEDS BERKS COUNTY WRIT TAXES AND JUDICIAL COMPUTER SYSTEM/ACCESS TO JUSTICE FEES NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

#### 1. <u>Criteria</u>

The Statements of Receipts and Disbursements provide a summary of receipts and disbursements by category. The categories and the amounts of taxes and fees assessed are based on Pennsylvania laws and regulations.

The Statements were 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. <u>Receipts</u>

Receipts consist of monies collected on behalf of the Commonwealth. These include monies collected for the following taxes and fees:

- The Pennsylvania Realty Transfer Tax is a documentary stamp tax of 1 percent on the value of the interest in real property transferred by deed.
- Writ Taxes represent a \$.50 tax imposed on various types of documents and a \$10 tax on notary public commissions processed through the office.
- Judicial Computer System/Access To Justice Fees represent a \$10 fee imposed for each filing of deeds in any form, mortgages, mortgage assignments, mortgage releases, mortgage satisfaction pieces, installment sales agreements, leases for a term of 30 years or longer, and easements. These fees were temporarily increased to \$23.50 for the period December 8, 2009 to January 7, 2012.

#### 3. <u>Commissions</u>

Acting in the capacity of an agent for the Commonwealth, the Recorder of Deeds is authorized to collect a commission on the Commonwealth portion of taxes as follows:

Tax	Commission
Realty Transfer	1%
Writ	3%

# RECORDER OF DEEDS BERKS COUNTY WRIT TAXES AND JUDICIAL COMPUTER SYSTEM/ACCESS TO JUSTICE FEES NOTES TO THE STATEMENTS OF RECEIPTS AND DISBURSEMENTS FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

#### 4. <u>Disbursements To Commonwealth</u>

#### Realty Transfer Taxes

The Recorder of Deeds participates in the Department of Revenue's cash management system for Realty Transfer Taxes. Under this system, the "Agent" deposits Realty Transfer Tax collections to a local account approved and established in the name of the Department of Revenue, thereby eliminating the need for the agent to issue a check to disburse these taxes.

Total disbursements are comprised as follows:

Deposits into the Department of Revenue's	
cash management account	\$ 71,869,742

### Writ Taxes And Judicial Computer System/Access To Justice Fees

Total disbursements are comprised as follows:

Recorder of Deeds checks issued to:

Department of Revenue

\$ 3,359,491

# 5. <u>Balance Due Commonwealth (County) For The Period January 1, 2004 To</u> December 31, 2007

This balance reflects a summary of monthly transmittal reports as settled by the Department of Revenue. The balance does not reflect adjustments disclosed by our examination. Refer to Note 6.

### 6. <u>Examination Adjustment - Writ Taxes And Judicial Computer System/Access To Justice</u> <u>Fees</u>

The examination adjustment represents interest earned on Commonwealth funds during the examination period that was not remitted to the Department of Revenue.

7. <u>County Officer Serving During Examination Period</u>

Ellie Antoine served as Recorder of Deeds during the period January 1, 2004 to December 31, 2007.

### Finding No. 1 - Misappropriated Funds Of At Least \$2,031

Our examination of the Recorder of Deeds office disclosed that, for the three days in which we performed bank deposit reconstruction, \$2,031 had been misappropriated. Because our testing revealed no commonwealth funds were involved and this matter was referred to the Federal Bureau of Investigation for a criminal investigation, no further testing was conducted.

The method used to misappropriate monies from the office was a lapping scheme, swapping checks for cash. A lapping fraud scheme is a term used to describe a method where an individual misappropriates cash from a day's collection. The amount of total cash misappropriated is replaced by using checks/money orders that were collected and not recorded. Replacing the cash with the checks/money orders allows the day's collections to equal the total amount of the deposit. This allows the perpetrator to cover the fraud by showing that the books superficially balance for the day. See Findings No. 2 and No. 3 for further internal control weaknesses over receipts that resulted in the misappropriation occurring and going undetected.

Good internal accounting controls ensure:

- That all cash and checks received are properly recorded in the computer system and deposited intact at the bank on the same day as collected.
- That the daily receipt totals, summarizing total cash and total checks for the day, are reviewed and compared to the validated deposit slip by someone other than the employee preparing the deposit slip.

Without a good system of safeguarding funds for deposit, the potential significantly increases that funds could be lost or misappropriated.

#### Recommendations

We recommend that Berks County Officials determine what action(s) should be taken to recover these funds. Furthermore, we recommend that the office establish and implement adequate internal controls over receipts.

### Finding No. 1 - Misappropriated Funds Of At Least \$2,031 (Continued)

#### Management's Response

The current Recorder of Deeds, Frederick C. Sheeler, responded as follows:

I would like to preface my response by stating that I was not the Recorder of Deeds during the audit period of January 1, 2004 to December 31, 2007. My term as Berks County Recorder of Deeds began on January 7, 2008. Based on my observations of the condition of my office prior to my tenure, I am in agreement with your findings of the audit and I have taken the following steps to ensure that these deficiencies do not re-occur again as long as I am Recorder.

[Under my tenure], all cash and checks received in my office are cashiered through our cashiering system and deposited daily. There is no longer any conversion of checks to cash as observed under the previous Recorder. The only cash that remains in the office is \$30 per cashier drawer and \$150 in the main cash register for starting cash and to make change. Steps have been taken to decrease the amount of cash taken in by the office daily such as encouraging Title Searchers to open draw down accounts to which they make receipted deposits and a monthly statement is given to each account holder.

We have also made plans to quickly phase out the old books and microfilms which require copying on machines which require magnetic cards for access and a dual control system is now in place for the emptying of all old coin operated machines.

### Auditor's Conclusion

#### Finding No. 2 - Inadequate Segregation Of Duties

Our examination disclosed that only the Recorder of Deeds and the bookkeeper were responsible for performing all of the following functions on any given day:

- Balancing cash station receipts at the end of the day.
- Reconciling receipts for deposits.
- Preparing the deposit.
- Making the deposit.
- Reconciling bank records with the accounting system.
- Making all disbursements.

A good system of internal control requires adequate segregation of duties.

In order to achieve adequate segregation of duties, one employee should not have custody of cash and at the same time maintain the accounting records for the cash. These duties should be segregated and rotated daily. As an alternative control, someone independent from maintaining the accounting records and handling cash should review the employee's work daily. The reviewer should sign and date the records and documents reviewed.

This condition existed because office personnel duties involving the handling of cash and maintaining accounting records were not rotated daily.

Without adequate segregation of duties, the possibility of errors or misappropriation of funds occurring increases significantly.

### Recommendation

We recommend that the office provide for greater segregation of duties within the office. This can be done by cross-training personnel and rotating job functions that include the handling of cash and maintaining the accounting records for the cash. As an alternative and/or additional control, someone independent from the handling of cash and the accounting records should review the employee's work at the end of each day. The reviewer should sign and date the records and documents reviewed.

#### Finding No. 2 - Inadequate Segregation Of Duties (Continued)

#### Management's Response

The current Recorder of Deeds, Frederick C. Sheeler, responded as follows:

I would like to preface my response by stating that I was not the Recorder of Deeds during the examination period of January 1, 2004 to December 31, 2007. My term as Berks County Recorder of Deeds began on January 7, 2008. Based on my observations of the condition of my office prior to my tenure, I am in agreement with your findings of the examination and I have taken the following steps to ensure that these deficiencies do not re-occur again as long as I am Recorder.

[Under my tenure], I have instituted procedures that do maintain a segregation of duties. While the previous Recorder would only allow certain transactions to be handled by her, now all cashiers can process all types of transactions.

#### Auditor's Conclusion

### Finding No. 3 - Inadequate Internal Controls Over Receipts

Our examination revealed significant weaknesses in the internal controls over receipts. We noted the following discrepancies:

- There were 319 out of the 380 cash receipts days tested, where the mix of cash and checks recorded on the daily cash receipts journals did not agree with the mix of cash and checks per the corresponding daily bank deposit slips. It should be noted that although the amount deposited, in total, equaled the amount deposited in each one of these discrepancies, the cash deposited was always less than the amount recorded per the receipts.
- Cash change was given for overpayments made by check. Out of 10 days tested, there were 187 receipts in which cash change was given for overpayments made by check. Additionally, out of these 187 receipts, 96 receipts were listed as checks received in the "mail" or "overnight."
- Cash deposited by the office at M&T Bank was not listed on the deposit slips for the period January 1, 2004 to June 18, 2006.
- There were checks deposited that were receipted for the next day's collections.
- The Recorder of Deeds stated that they exchanged cash from one drawer for checks from one another drawer if cash was needed for refunds for overpayments.

Good internal accounting controls ensure that:

- All monies collected are deposited intact at the bank on the same day as collected.
- Receipts are recorded in the same manner as payments are received (i.e., cash, check, money order). Any discrepancies should be immediately investigated and resolved.
- The amount of each check and the total amount of cash deposited are identified on the deposit slip. The office copy of each deposit should be brought to the bank to be validated.
- Cash change is never given for transactions paid for by check(s). If the amount collected exceeds the amount due, a refund check should be disbursed to the remitter.

Without a good system of internal controls over funds received by the office, the potential is increased that funds could be lost or misappropriated.

### Finding No. 3 - Inadequate Internal Controls Over Receipts (Continued)

It should be noted that testing revealed that monies due the Commonwealth were remitted to the Commonwealth.

These conditions existed because the office failed to establish adequate internal controls over its receipts.

### Recommendation

We recommend that the office establish and implement an adequate system of internal controls over the receipting system as noted above.

### Management's Response

The current Recorder of Deeds, Frederick C. Sheeler, responded as follows:

I would like to preface my response by stating that I was not the Recorder of Deeds during the audit period of January 1, 2004 to December 31, 2007. My term as Berks County Recorder of Deeds began on January 7, 2008. Based on my observations of the condition of my office prior to my tenure, I am in agreement with your findings of the audit and I have taken the following steps to ensure that these deficiencies do not re-occur again as long as I am Recorder.

[Under my tenure], all cash and checks received in my office are cashiered through our cashiering system and deposited daily. There is no longer any conversion of checks to cash as observed under the previous Recorder. The only cash that remains in the office is \$30 per cashier drawer and \$150 in the main cash register for starting cash and to make change. Steps have been taken to decrease the amount of cash taken in by the office daily such as encouraging Title Searchers to open draw down accounts to which they make receipted deposits and a monthly statement is given to each account holder.

We have also made plans to quickly phase out the old books and microfilms which require copying on machines which require magnetic cards for access and a dual control system is now in place for the emptying of all old coin operated machines.

### Auditor's Conclusion

### Finding No. 4 - Inadequate Internal Controls Over Bank Accounts

Our review of the accounting records for the office disclosed the following deficiencies in the internal controls over the bank accounts:

- There was no accountability over undisbursed funds. There was no corresponding liabilities report indicating to whom the monies in the bank accounts were due.
- Seven bank accounts were maintained by the Recorder of Deeds.

A good system of internal controls ensures that:

- The ending adjusted bank balance is reconciled with liabilities on a monthly basis and any discrepancies are immediately investigated and resolved. Since the bank account of the office is essentially an escrow account on behalf of the Commonwealth, County, and other participating entities, all available funds on hand should equal unpaid obligations.
- There is an efficient use of bank accounts. The office should establish a general account into which each day's total receipts can be deposited and then transfer by check, the exact amount due the various other accounts to the respective accounts.

The use of seven bank accounts in conjunction with the lack of liabilities listings makes the potential for misplacement of deposits more likely. Additionally, without a good system of internal controls over the bank accounts, the potential is increased that funds could be lost or misappropriated.

These conditions existed because the office failed to establish adequate internal controls over its bank accounts.

### Recommendation

We recommend that the office establish and implement an adequate system of internal controls over the bank accounts as noted above.

### Finding No. 4 - Inadequate Internal Controls Over Bank Accounts (Continued)

#### Management's Response

The current Recorder of Deeds, Frederick C. Sheeler, responded as follows:

I would like to preface my response by stating that I was not the Recorder of Deeds during the examination period of January 1, 2004 to December 31, 2007. My term as Berks County Recorder of Deeds began on January 7, 2008. Based on my observations of the condition of my office prior to my tenure, I am in agreement with your findings of the examination and I have taken the following steps to ensure that these deficiencies do not re-occur again as long as I am Recorder.

[Under my tenure], I have reduced the number of bank accounts and they are reconciled monthly by my Chief Deputy and are also reconciled by the Controller' Office. The Controller's Office has also been given access to on-line banking so they can review the bank accounts at any time.

#### Auditor's Conclusion

#### Finding No. 5 - Missing Records

Our examination of the Recorder of Deeds office's records of writ tax collections required that backup journal tapes and cash register information be examined. A cash register system was used until November 30, 2004 for receipt payments. The documentation for January 1, 2004 through November 30, 2004, could not be located making it impossible to verify receipt information for that period.

Good internal accounting controls ensure that all records are properly maintained and accounted for. In addition, all documentation should be kept until audited by the Department of the Auditor General.

Without a good system of internal controls over record-keeping, 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 records.

#### Recommendation

We recommend that the office establish and implement procedures to ensure that all records are accounted for and maintained as required by good internal accounting controls. In addition, all documentation should be kept until audited by the Department of the Auditor General.

#### Management's Response

The current Recorder of Deeds, Frederick C. Sheeler, responded as follows:

I would like to preface my response by stating that I was not the Recorder of Deeds during the examination period of January 1, 2004 to December 31, 2007. My term as Berks County Recorder of Deeds began on January 7, 2008. Based on my observations with the condition of my office prior to my tenure, I am in agreement with your findings of the examination and I have taken the following steps to ensure that these deficiencies do not re-occur again as long as I am Recorder.

[Under my tenure], we maintain all records as required.

### Auditor's Conclusion

# RECORDER OF DEEDS BERKS COUNTY COMMENT FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

# Comment - Compliance With Prior Audit Recommendation

During our prior audit, we made the following recommendation:

• That the office ensure that Judicial Computer System/Access To Justice Fees are assessed as mandated by law.

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

# RECORDER OF DEEDS BERKS COUNTY REPORT DISTRIBUTION FOR THE PERIOD JANUARY 1, 2004 TO DECEMBER 31, 2007

This report was initially distributed to:

The Honorable Daniel P. Meuser Secretary Pennsylvania Department of Revenue

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

The Honorable Frederick C. Sheeler	Recorder of Deeds
The Honorable Sandy Graffius	Controller
The Honorable Mark C. Scott	Chairperson of the Board of Commissioners
The Honorable Robert M. McCord	Pennsylvania State Treasurer

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.