



Auditor of Public Accounts
Mike Harmon

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Contact: Michael Goins
Michael.Goins@ky.gov
502.564.5841
502.209.2867

Harmon Releases Audit of Former Powell County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statement of former Powell County Clerk Rhonda Barnett. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements and excess fees of the former Powell County Clerk in accordance with accounting principles generally accepted in the United States of America. The clerk's financial statement did not follow this format. However, the clerk's financial statement is fairly presented in conformity with the regulatory basis of accounting, which is an acceptable reporting methodology. This reporting methodology is followed for all 120 clerk audits in Kentucky.

As part of the audit process, the auditor must comment on noncompliance with laws, regulations, contracts, and grants. The auditor must also comment on material weaknesses involving the internal control over financial operations and reporting.

The audit contains the following comments:

The former county clerk paid \$5,560 in disallowed disbursements: The former county clerk expended \$5,560 for the following disallowed items:

- Penalties, fees, and interest of \$3,039 for untimely payments of legal process taxes.
- Penalties, fees, and interest of \$2,358 for untimely payments of affordable housing fees.
- Penalties, fees, and interest of \$27 for untimely payments of spouse abuse shelter fund fees.
- Overdraft bank charges of \$136 in the fish and wildlife account.

According to the former county clerk, due to illness she was not present in the office to perform her duties during the last few months of 2016. Therefore, the reports for legal process taxes and affordable housing fees were not submitted timely and penalties, fees, and interest were charged. The disallowed expenditures resulted in the former county clerk personally owing \$5,560 to the 2016 fee account.

In Funk v. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature. We recommend that the former county clerk reimburse the 2016 fee account \$5,560 from her personal funds for these disallowed items.

Former County Clerk's Response: These disbursements have been reimbursed in the amount of \$5,560.00 from my personal account. These penalties, interest and fees were for monthly reports not submitted during my critical illness while on family medical leave. None of these fees were for personal use or items disallowed.

Auditor's Reply: Pursuant to Funk v. Milliken, cited above, payments of penalties and interest are disallowed because they are not necessary government expenditures.

The former county clerk did not present an annual settlement to the fiscal court and did not pay excess fees for calendar year 2016 timely: The former county clerk did not present an annual settlement to the fiscal court for calendar year 2016. Furthermore, the former county clerk did not pay excess fees to the fiscal court. The former county clerk's 2016 fee account has a bank balance of \$28,215 and she owes \$5,560 from personal funds for disallowed items. The former county clerk owes \$33,775 to the fiscal court as 2016 excess fees. Due to illness, the former county clerk was not present in the office during the last few months in 2016 through June 30, 2017 when she retired. As a result, the fiscal court was not aware of the financial activities for calendar year 2016. Furthermore, failure to issue excess fees to the fiscal court in a timely manner deprived the fiscal court the use of these funds for budgeted operations.

KRS 64.152(1) states "the county clerk shall provide to the fiscal court by March 15 of each year a complete statement for the preceding calendar year of all funds received by his office in an official capacity or for official services, and of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses." KRS 64.152(2) states "[a]t the time of filing the statement required by subsection (1) of this section, the clerk shall pay to the fiscal court any income of his office[.]" We recommend the county clerk's office implement procedures to ensure timely preparation of the annual settlement and payment of excess fees.

Former County Clerk's Response: The clerk was hospitalized during this time and on family medical leave. The annual settlement has been completed and excess fees paid to the Powell County General Fund.

The former county clerk failed to maintain adequate controls regarding oversight and review of daily functions. This is a repeat finding and was included in the prior year audit report as Finding 2015-002. The former county clerk failed to maintain adequate oversight and review of

daily office functions during calendar year 2016. Timely review and reconciliation was not performed, resulting in inaccuracies in financial reporting and penalties paid for untimely payments to the state. According to the former county clerk, due to illness, she was not present in the office to perform her duties during the last few months of 2016. As a result of inadequate review and reconciliation, the former county clerk's office overdrew the fish and wildlife bank account during September and October, which resulted in unnecessary fees totaling \$136 during the year. Lease payments were not made on a copier for some months and other months there would be multiple payments. Penalties, fees, and interest totaling \$5,424 were paid on legal process reports and affordable housing fees due to the state for 2016.

Good internal controls dictate that strong supervisory review and oversight should be in place to reduce the risk of misstatement, uncorrected errors, and unnecessary penalties. We recommend the county clerk's office strengthen controls over daily work by providing a strong oversight and review process. This review should include reviewing daily work, paying daily expenditures on time, reviewing bank statements/bank reconciliations, and providing a strong presence within the office.

Former County Clerk's Response: The clerk was unable to perform daily functions at times during her illness and on family medical leave. The clerk has since retired.

The former county clerk's office lacked adequate segregation of duties over disbursements.

The former county clerk's office lacked adequate segregation of duties over disbursements without sufficient compensating controls. According to the county clerk, due to illness, she was not present in the office to perform her duties during the last few months of 2016. Therefore, the bookkeeper performed her own duties as well as the county clerk's duties without implementing compensating controls to mitigate risks involved with inadequate segregation of duties over disbursements. Lack of segregation of duties increases the risk of misappropriation of assets, errors, and inaccurate financial reporting. If segregation is not possible, compensating controls or independent checks are needed to mitigate the risks. Strong internal controls and segregation of duties over disbursements also helps to ensure accurate financial reporting. We recommend the county clerk's office segregate incompatible duties over disbursements implement compensating controls to help mitigate risks.

Former County Clerk's Response: The clerk did have segregation of duties over disbursements prior to her illness. One employee had several duties of checking and balancing my work. However, during my illness, she was the only employee with the knowledge and who was willing to take on extra job responsibilities thus saving thousands of dollars in fees and penalties.

The former county clerk failed to maintain adequate controls over payroll processing to ensure accuracy. This is a repeat finding and was included in the prior year audit report as Finding 2015-001. The former county clerk's office lacked internal controls over the processing of timesheets. Review procedures were in place; however, they were not adequately performed to eliminate or reduce errors. The lack of adequate review over payroll records and compliance with applicable laws led to the following issues.

- One employee was paid as contract labor for part of the year and was not provided with a 1099 form; however, the employee was essentially a part-time employee all year and should have received a W-2 for all amounts paid.
- One salaried employee did not turn in a timecard but was paid her regular pay.

KRS 141.335 states that employers required to deduct and withhold from an employee a tax under KRS 141.310 or 141.315, shall furnish employees with written statement that includes the total amount of wages and deductions withheld.

KRS 337.320(1) states, “[e]very employer shall keep a record of: (a) The amount paid each pay period to each employee; (b) The hours worked each day and each week by each employee; and (c) Such other information as the commissioner requires.” KRS 337.320(2) requires that, “[s]uch records shall be kept on file for at least one (1) year after entry. They shall be open to inspection. . .at any reasonable time, and every employer shall furnish to the commissioner or the commissioner's authorized representative on demand a sworn statement of them.”

We recommend the county clerk’s office strengthen controls over payroll and ensure compliance with applicable laws and regulations. All employees should be required to submit timesheets detailing hours worked per day and should be provided a W-2 reporting all wages earned.

Former County Clerk’s Response: All employee payroll is now run through county payroll and all employees will be issued W-2 forms.

The county clerk’s responsibilities include collecting certain taxes, issuing licenses, maintaining county records and providing other services. The clerk’s office is funded through statutory fees collected in conjunction with these duties.

The audit report can be found on the [auditor’s website](#).

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