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Edelen Releases Audit of Former Edmonson Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Adam Edelen today released the audit of the 2013 financial statement of former Edmonson County Clerk Larry Carroll. State law requires the auditor to conduct annual audits of county clerks and sheriffs.

The audit will be referred to Attorney General's Office, the Kentucky Transportation Cabinet, and the Kentucky Department of Revenue.

Recent changes in auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the revenues, expenditures and excess fees of the former Edmonson County Clerk in accordance with generally accepted accounting principles in the United States. The report found that the financial statement of the Clerk 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 non-compliance 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 should have improved internal controls over payroll. As a result of our audit, we noted the former County Clerk's office had deficiencies in internal controls over payroll. During our review of internal controls and testing over payroll, we noted the following deficiencies:

- Payroll was being processed prior to the end of the pay period.

- Timesheets for the pay period tested had no evidence of supervisory and/or former County Clerk review.
- Employee leave balances were not properly maintained; therefore, could not be verified for accuracy.

The above deficiencies in internal controls over payroll were allowed to occur because of lack of controls and oversight over payroll. The following could have happened as a result of the above deficiencies:

- Employees estimated the hours worked prior to the end of the pay period and could have been over or under paid.
- Employees could have documented hours worked which they may not have actually worked since there was no documented review of the timesheets.
- Employees could have been paid for more leave than actually earned.

Good internal controls dictate, as part of maintaining time records, timesheets should be signed by employees and their immediate supervisor, timesheets should be reviewed for accuracy, leave balances should be properly maintained, and payroll should be processed after the end of the pay period. KRS 45.340 and Opinion of the Attorney General of Kentucky 79-448 state that checks shall be tendered to an officer or employee only after he/she has completed the work for which he/she is being paid.

The former County Clerk could have strengthened controls over payroll by:

- Processing payroll after the pay period had ended in order to prevent any over or under payments.
- Ensuring timecards/timesheets were prepared each pay period, submitted and signed by employees, reviewed for accuracy to determine that timecard/timesheet accounts for time worked, reviewed to determine clock in/out times totals were accurate, and approved by the former County Clerk or his designee before payroll was processed.
- Maintaining records of sick and vacation time for employees.

Former County Clerk's response: None.

The former County Clerk had \$541 in disallowed expenditures. During the test of expenditures, we noted expenditures for coffee in the amount of \$541. Purchasing items which are personal in nature reduces the amount of operating funds for the former County Clerk's office or reduces the amount of excess fees paid to the Fiscal Court. Good internal controls dictate that the former County Clerk should have monitored expenditures to ensure compliance with state laws and regulations. In Funk vs. Milliken, 317 S.W.2d 499 (KY 1958), Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. Since the coffee purchased is considered personal in nature we have disallowed these expenditures and recommend the former County Clerk deposit personal funds of \$541 to reimburse the 2013 fee account for disallowed expenditures.

Former County Clerk's response: None.

The former County clerk had questioned costs of \$12,647 for legal fees during calendar year 2013. During our test of expenditures, we noted questionable expenditures of \$12,647 for legal fees. The legal fees were expended from the 2013 fee account and the annual supplement account received from the Kentucky Transportation Cabinet. The legal fees were for a private attorney hired by the former County Clerk to represent him in litigation involving the Edmonson County Fiscal Court. The former County Clerk is involved in three separate lawsuits involving the Fiscal Court.

We were unable to determine how much was expended on each matter, and were unable to determine if the legal fees were incurred as a result of the former County Clerk fulfilling his statutory duties. OAG 82-439 opines that legal fees incurred by a county official as a result of a legal action against that county official in his official capacity is an allowable expense of the office, provided that (1) the county attorney declined to represent the official, thus requiring the official to obtain outside counsel, and (2) the official acted in good faith and within his official authority and scope of his statutory duties. Paying legal fees out of the public funds of the former County Clerk's office, which are not incurred as a result of the former County Clerk fulfilling his statutory duties, reduces the amount of operating funds for the former County Clerk's office or reduces the amount of excess fees paid to the Fiscal Court.

Good internal controls dictate that the former County Clerk should have documented the reason for the legal fees and how the legal fees related to his statutory duties. The former County Clerk, however, did not document the reason for legal fees or how the legal fees related to his statutory duties. We recommend the Edmonson County Fiscal Court, in consultation with the Edmonson County Attorney, consider whether the former County Clerk's legal fees of \$12,647 are related to the statutory duties of the former County Clerk, and whether they should be allowed as a proper charge against the former County Clerk's fees. The Fiscal Court, after consultation with the County Attorney, may also wish to consider the feasibility of raising the issue regarding the questioned legal fees in the current, ongoing litigation between the former County Clerk and the Fiscal Court.

Former County Clerk's response: None.

The former County Clerk overspent the amount fixed by the Fiscal Court for his official expenses. During our audit, we noted for the calendar year 2013, the former County Clerk's operating expenditures exceeded the maximum amount fixed by the Edmonson County Fiscal Court. KRS 64.530(3) states the fiscal court may fix the maximum amount the officer may expend each year for expenses of his office.

The Fiscal Court fixed, for the calendar year 2013, the maximum amount the former County Clerk could expend for expenses of his office at \$35,578; however, the former County Clerk expended \$56,482 for official expenses.

The former County Clerk should have maintained official expenses within the amount fixed by the Fiscal Court, monitored his budget, and requested necessary budget amendments approved by the Fiscal Court, before year end.

Former County Clerk's response: None.

The former County Clerk's office should not have changed public records in order to renew motor vehicle registrations that had delinquent taxes. During calendar year 2013, the former County Clerk's office changed social security numbers in the AVIS system from the Clerk's office. The following items were noted –

- One digit of a customer's social security number was changed during a transaction processed from the County Clerk's office in the AVIS system. If the customer's social security number had been entered correctly, the AVIS system would have required the taxpayer pay \$20 in delinquent ad valorem taxes on another vehicle he/she owed before renewing their registration.
- The last digit of a social security number was changed in five instances to an incorrect social security number.
- Social security numbers were changed to invalid social security numbers in two instances.

Before an individual can title or register any vehicle in their name, the AVIS system requires all due and delinquent ad valorem taxes related to the individual's social security number to be paid.

The former County Clerk's office should not have changed public records in order to override the controls in place and allow someone with delinquent taxes to renew a registration, without first paying the delinquent taxes owed. KRS 186.021(1) states, "a county clerk shall not issue a replacement plate, decal, or registration certificate...or a registration for renewal to any person who on January 1 of any year owned a vehicle on which...ad valorem taxes are delinquent."

KRS 186A.145 prohibits the County Clerk from processing an application for Kentucky title and registration from or to any Kentucky resident who has delinquent motor vehicle ad valorem property taxes, except for transactions involving licensed Kentucky motor vehicle dealers.

Furthermore, KRS 186A.275 states, "[n]o county clerk or other person who is authorized to utilize the automated vehicle registration and titling system, shall knowingly enter into such system, information enabling the system to produce a certificate of title and registration, certificate of registration, or certificate of title,...unless he has in his official custody at the time he enters such information into the system, an application which is believes to be bona fide and in proper form...."

The former County Clerk's office should have implemented procedures to ensure social security numbers were entered correctly in AVIS and ensured no renewal of registration was completed until all delinquent taxes associated with it were paid as required by KRS 186.021. In addition, the former County Clerk's office should have established procedures to ensure all requirements

of KRS were met when entries were made in AVIS, which includes entering information accurately. We will refer this matter to the Attorney General's Office, the Kentucky Transportation Cabinet, and the Kentucky Department of Revenue for further review.

Former County Clerk's response: None.

The former County Clerk owes excess fees of \$4,668 to the Fiscal Court and additional tangible personal property taxes to a taxing district for calendar year 2010. Based upon the prior year audit report, the former County Clerk owed \$4,668 in excess fees for calendar year 2010. The primary reasons for the additional excess fees owed are 2010 monies used to cover a deficit in calendar year 2009 (see audit report for calendar year 2009) and disallowed expenditures in calendar year 2010. As discussed in the calendar year 2009 audit, the former County Clerk covered a deficit that occurred in 2009 of \$4,522 by paying a 2009 statutorily required expenditure from the 2010 fee account. As of the audit date, this amount had not been reimbursed to the 2010 fee account from the 2009 fee account as recommended by the auditors.

We recommend the former County Clerk reimburse the 2009 fee account \$4,522 with personal funds as recommended by the 2009 audit report. We also recommend the former County Clerk reimburse the 2010 fee account \$328 for disallowed expenditures and \$29 to cover an undetermined immaterial amount. Once these funds are deposited, we recommend the former County Clerk transfer \$4,522 from the 2009 to 2010 fee account and pay additional excess fees for calendar year 2010 of \$4,668 to the Fiscal Court and \$211 to the City of Brownsville for unpaid tangible personal property taxes for calendar year 2010.

Former County Clerk's response: None.

The former County Clerk had a deficit of \$6,026 for calendar year 2011. Based upon the prior year audit report, the former County Clerk had a deficit of \$6,026 in his official 2011 fee account. The former County Clerk's office expended \$5,281 more than collected for calendar year 2011. In addition, the former County Clerk's office expended funds of \$745 for personal items and a penalty.

Failing to monitor allowable operating expenditures resulted in expending more on allowable operating expenditures than income earned and in expending funds on disallowed expenditures. Good internal controls dictate the former County Clerk should have monitored his operating expenditures to ensure he did not expend more than available revenues, expend funds on disallowed expenditures, or have a deficit in his official fee account.

We recommend the former County Clerk deposit personal funds of \$6,026 to cover the deficit in his official 2011 fee account. After this amount is deposited to the 2011 fee account, the former County Clerk should reimburse his 2012 fee account for \$4,371 of the \$4,550 of 2012 collections used to pay 2011 expenditures which has not been reimbursed, pay delinquent taxes of \$1,482 to the appropriate taxing district or official for a tax bill inadvertently not reported and paid for August 2011, and pay a refund of \$173 to an employee for health insurance inadvertently withheld.

Former County Clerk's response: None.

The former County Clerk owes excess fees of \$1,051 to the Fiscal Court for calendar year 2012. Based upon the prior year audit report, the former County Clerk owed \$1,051 in excess fees for calendar year 2012. The primary reason for the additional excess fees owed was disallowed expenditures in calendar year 2012. As of the audit date, this amount has not been reimbursed to the 2012 fee account as recommended by the auditors. Failing to monitor allowable operating expenditures resulted in expending funds on disallowed expenditures. Good internal controls dictate that the former County Clerk should have monitored his operating expenditures to ensure that he did not expend funds on disallowed expenditures. We recommend the former County Clerk reimburse the 2012 fee account \$1,051 with personal funds for disallowed expenditures as recommended by the 2012 audit report and then remit this amount to Fiscal Court as excess fees.

Former County Clerk's response: None.

The former County clerk lacked adequate segregation of duties. The former County Clerk's office had a lack of segregation of duties over cash, receipts, disbursements, receivables, and the reconciliation process. The bookkeeper collected receipts, prepared deposits and daily checkout sheets, printed and signed checks, and prepared quarterly reports. She also posted to the ledgers and reconciled the bank statements.

Adequate segregation of duties would prevent the same person from having a significant role in the receiving process, recording, and reporting of receipts and disbursements. To adequately protect employees in the normal course of performing their duties, and/or prevent inaccurate financial reporting or misappropriation of assets, the former County Clerk could have separated the duties involving receipts, disbursement of cash, preparation of the quarterly reports, and bank reconciliation process. If, due to a limited number staff, that is not feasible, strong oversight over those areas should have occurred and involved an employee not performing any of those functions. We noted some compensating controls in place; however, the individual providing oversight did not always initial source documents as evidence of review therefore these controls were not deemed sufficient to compensate for the lack of segregation of duties. Additionally, the former County Clerk could have provided sufficient oversight.

Former County Clerk's response: None.

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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