



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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**Harmon Releases Audit of Former Edmonson Clerk's Fee Account**

**FRANKFORT, Ky.** – State Auditor Mike Harmon today released the audit of the 2014 financial statement of former Edmonson County Clerk Larry Carroll. 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 revenues, expenditures and excess fees of the former Edmonson 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, but was 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.

Because the former clerk did not accept audit adjustments to correct material misstatements and did not provide the required management representation letter, our audit report presents a qualified opinion. Except for the effects of the issues noted above, the clerk's 2014 financial statement is fairly presented in conformity with the regulatory basis of accounting.

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's office 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 monthly bank accounts.

This condition is a result of a limited budget, which restricted the number of employees the former county clerk could hire or delegate duties.

The lack of segregation of duties increased the risk of misappropriation of assets, errors, or inaccurate financial reporting in the former county clerk's office.

Adequate segregation of duties would have prevented 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 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 segregation of duties is not feasible due to a limited number of staff, the former county clerk could have provided sufficient oversight or implemented other compensating controls.

*Former County Clerk's response: No response.*

**Timesheets and other payroll supporting documentation were not provided.** Timesheets, supporting documentation regarding employee leave balances, and IRS 1099 forms were not provided during the course of the audit. The former bookkeeper stated timesheets and 1099 forms were maintained and leave balances for employees were tracked; however, she was unaware of their location. The auditor also informed the former county clerk of the missing documentation, but it was not provided. Due to a change in officials in 2015, the former county clerk's records could have been misplaced. Federal and state laws require employees to keep an accurate record of time worked in order to calculate employee pay and benefits. Therefore, the former county clerk is not in compliance with applicable federal and state laws.

KRS 337.320(1)(b) states, in part, "Every employer shall keep a record of ...[t]he hours worked each day and each week by each employee..." In addition, the Edmonson County Administrative Code states in section 340.10, "All hourly employees paid by county funds are required to use time clocks." Also section 340.3 states, "Each Supervisor shall keep records of vacation time allowance, vacation time taken, and the balance of vacation time allowance for each employee under his supervision." According to the Internal Revenue Service Quick Reference Guide for Public Employers, "Any person or business that performs services for compensation and does not meet the control test for employees....is an independent contractor. Generally, any payment of \$600 or more during a calendar year to an independent contractor should be reported to the payer on Form 1099-MISC, Miscellaneous Income, by January 31 of the following year."

The former county clerk should have required timesheets for all employees for each pay period indicating the actual hours worked and any sick or vacation leave taken. The timesheet should have been signed by the employee indicating agreement with the hours worked, and reviewed and signed by their immediate supervisor or the former county clerk. In addition, the former county clerk should have issued IRS 1099 forms to independent contractors. All documentation should have been provided to auditors.

*Former County Clerk's response: No response.*

**The former county clerk had \$374 in disallowed disbursements for calendar year 2014.** The former county clerk expended \$374 for coffee during 2014. Purchasing items that are personal in nature reduced the amount of operating funds for the former county clerk's office and reduced the amount of excess fees paid to the fiscal court.

The former county clerk did not monitor disbursements 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' disbursements 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 was considered personal in nature, we have disallowed these disbursements and recommend the former county clerk deposit personal funds of \$374 to reimburse the 2014 fee account for disallowed disbursements. We will refer this matter to the county attorney for collection.

*Former County Clerk's response: No response.*

**The former county clerk had questioned costs of \$381 for legal fees during calendar year 2014.** The former county clerk expended \$381 for legal fees during 2014. The legal fees were expended from 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 are 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. However, the former county clerk 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 \$381 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: No response.*

**The former county clerk's office changed public records in order to renew motor vehicle registrations that had delinquent taxes.** During calendar year 2014, the former county clerk's office changed social security numbers in the AVIS system from the former county clerk's office. The auditor tested thirty transactions and noted the following:

- In 14 of the 30 transactions, one digit of the taxpayer's social security number was changed during a transaction processed from the former county clerk's office in the AVIS system. In all of these instances the taxpayer owed delinquent ad valorem taxes, which should have been paid prior to renewing the registration.
- In eight of the 30 transactions, one digit of the taxpayer's social security number was changed during a transaction processed from the former county clerk's office in the AVIS system. In all of these instances ad valorem taxes were due for the current year.
- In three of the 30 transactions, the social security number for the taxpayer was correct but was changed to the taxpayer's spouse's social security number. Two of these instances had ad valorem taxes that were due for the current year.
- In one of the 30 transactions, one digit of the taxpayer's social security number was changed during a transaction processed from the former county clerk's office in the AVIS system. In this instance no ad valorem tax was due.
- In four of the 30 transactions, invalid social security numbers were entered in the AVIS system. The invalid social security number for all instances was listed as 999-99-999

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. Therefore, the taxpayer avoided paying motor vehicle taxes, and taxing districts did not receive tax distributions they were entitled to.

The former county clerk's office 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, in part, "...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 motor 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 he 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: No response.*

**The former county clerk had \$541 in disallowed disbursements for calendar year 2013.** During 2013, the former county clerk had disbursements 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. The former county clerk did not monitor disbursements 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’ disbursements 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 was considered personal in nature, the disbursements have been disallowed and we recommend the former county clerk deposit personal funds of \$541 to reimburse the 2013 fee account for disallowed disbursements. We will refer this matter to the county attorney for collection.

*Former County Clerk’s response: No response*

**The former county clerk owes excess fees of \$4,668 to fiscal court and additional tangible personal property taxes to a taxing district for calendar year 2010.** Based upon the prior audit reports, the former county clerk owed \$4,668 in excess fees for calendar year 2010. 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 disbursements 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 disbursement 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. Therefore, the fiscal court and the City of Brownsville did not receive monies they were entitled to.

KRS 64.820 states, “(1) The fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit. (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor....to be due the county within ninety (90) days from the date of receiving the Auditor’s or certified public accountant’s report.”

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 disbursements 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. We will refer this matter to the county attorney for collection.

*Former County Clerk's response: No response.*

**The former county clerk had a deficit of \$6,026 for calendar year 2011.** Based upon the prior audit reports, 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 a disallowed penalty and personal items.

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

KRS 64.820 states, "(1) The fiscal court shall collect any amount due the county from county officials as determined by the audit of the official conducted pursuant to KRS 43.070 and 64.810 if the amount can be collected without suit. (2) In the event the fiscal court cannot collect the amount due the county from the county official without suit, the fiscal court shall then direct the county attorney to institute suit for the collection of the amount reported by the Auditor...to be due the county within ninety (90) days from the date of receiving the Auditor's or certified public accountant's report."

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 disbursements 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. We will refer this matter to the county attorney for collection.

*Former County Clerk's response: No response.*

**The former county clerk owes excess fees of \$1,051 to the fiscal court for calendar year 2012.** Based upon the prior audit reports, 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 disbursements in calendar year 2012. As of the audit date, this amount had not been reimbursed to the 2012 fee account as recommended by the auditors. Failing to monitor allowable operating

disbursements resulted in expending funds on disallowed disbursements. Good internal controls dictate that the former county clerk should have monitored his operating disbursements to ensure that he did not expend funds on disallowed disbursements. In Funk vs. Milliken, 317 S.W.2d 499 (Ky. 1958), Kentucky's highest court reaffirmed the rule that county fee officials' disbursements of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. We recommend the former county clerk reimburse the 2012 fee account \$1,051 with personal funds for disallowed disbursements as recommended by the 2012 audit report and then remit this amount to fiscal court as excess fees.

*Former County Clerk's response: No response.*

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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