



Auditor of Public Accounts
Mike Harmon

FOR IMMEDIATE RELEASE

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

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

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statement of former Breathitt County Clerk Mary Lois Stevens. 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 Breathitt 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 internal control over financial operations and reporting.

The audit contains the following comments:

The former Breathitt County Clerk did not submit a final quarterly report or final settlement: The former Breathitt County Clerk failed to comply with minimum requirements of the Uniform System of Accounts. A final quarterly financial report was not prepared and submitted to the Department for Local Government (DLG). The former county clerk prepared a first, second, and third quarter financial report, but had not prepared a final quarterly report which would have included all transactions through November 13, 2016. In addition, the former clerk did not present a final annual settlement to the fiscal court.

The former clerk did not have sufficient oversight to ensure a final quarterly financial report and annual settlement were completed. Numerous material audit adjustments and reclassifications,

totaling \$265,164 for receipts and \$249,195 for disbursements that occurred during October and November 2016, were proposed to the former clerk's financial statement. Failure to complete these tasks also resulted in inadequate oversight and accountability over financial activity, as well as increased the risk of undetected errors and fraud.

KRS 68.210 gives the state local finance officer the authority to prescribe a uniform system of accounts. DLG is the regulatory agency responsible for establishing minimum accounting requirements for local government entities. As such, DLG requires local governments to follow guidelines set forth in the *County Budget Preparation and State Local Finance Officer Policy Manual* to meet the minimum required reporting for financial statement purposes. This manual includes the standardized format to follow for quarterly reporting to DLG. The state local finance officer requires the quarterly report to be submitted no later than 30 days following the close of the quarters ending March 31, June 30, September 30, and December 31.

KRS 64.830(2) states, “[e]ach outgoing county official shall make a final settlement with the fiscal court of his county by March 15 immediately following the expiration of his term of office for all money received by him as county official and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent county official.”

The former Breathitt County Clerk should have met the minimum requirements of accountability for compliance with the Uniform System of Accounts and prepared a final quarterly financial report and annual settlement to be in compliance with KRS 64.830.

Former County Clerk's Response: While in office, I did submit a 1st, 2nd and 3rd Quarter Report for CY 2016 to the Department for Local Government as required by statute. As a result of unintentional oversight on the part of the former Bookkeeper, a 4th Quarter Report was not submitted to the Department for Local Government. Additionally, there was confusion as to exactly when my term as Clerk would end, and in fact I was not informed of my final day in office until approximately an hour before the newly elected Clerk was sworn in.

The former Breathitt County Clerk's salary was not paid in accordance with the maximum salary authorization set by the Kentucky Department for Local Government: The former Breathitt County Clerk was overpaid \$3,400 for the period January 1, 2016 through November 13, 2016. The former clerk was paid \$72,383 instead of the maximum amount of \$68,983. During calendar year 2015, the former clerk was underpaid \$2,085, and was not paid the underpayment. Therefore, the former clerk should reimburse the fiscal court a net amount of \$1,315.

The Breathitt County Fiscal Court prepared the payroll for the former clerk. There were no procedures in place to ensure the payroll for the former clerk was calculated correctly for her period in office. As a result, the former clerk was overpaid \$1,315 for January 1, 2016 through November 13, 2016.

KRS 64.5275 establishes maximum salary guidelines under the authority of the Department for Local Government (DLG). Officials are to be paid in accordance with a salary schedule prepared by DLG.

We recommend the former Breathitt County Clerk reimburse the Breathitt County Fiscal Court \$1,315 for the overpayment of the maximum salary authorization for calendar year 2016.

Former County Clerk's Response: While in office, the County Clerk's Office was under a fee-pooling arrangement with the County, via an enacted Ordinance by the County Fiscal Court. As a consequence of this arrangement, it was the direct and sole responsibility of the County Fiscal Court to administer the payroll functions for the Clerk's office. Any discrepancies that occurred with regard to payroll are the direct responsibility of the County employee who performed the payroll functions for the Office.

County Judge/Executive's Response: BCFC will send letter to former clerk supporting the findings and to work on resolution.

The former Breathitt County Clerk did not deposit election board payments into the fee account: The former Breathitt County Clerk received \$5,450 during calendar year 2016 for her service on the local election board. The election board payments were not deposited into the former clerk's fee account. The fiscal court also issued an Internal Revenue Service (IRS) Form 1099 to the former clerk for the election board payments as additional income for 2016.

The former clerk was not aware that these payments were not for her personally and were, in fact, part of her official duties as county clerk. The former clerk was in violation of regulations related to election board payments and salary maximums. The former clerk personally owes \$5,450 to the fiscal court as excess fees for calendar year 2016.

KRS 117.035 outlines the regulations applicable to local election boards and KRS 64.5275 established salary maximums for fee officials.

The former Breathitt County Clerk should personally reimburse \$5,450 to the fiscal court as additional excess fees due for calendar year 2016, which is the total amount of payments received by the former clerk as an election board officer. The former clerk should also consult with the fiscal court to determine if a corrected IRS Form 1099 should be issued and submitted to the IRS for the election board payments.

Former County Clerk's Response: Pursuant to statute, I was required to serve on the County Board of Elections, as it is a duty of the County Clerk. Since assuming office, it was my understanding that payment rendered for the services of fee officials on the Local Board of Elections was due to the official personally, and not their respective Fee Accounts. Of particular importance, in my opinion, is the fact that these payments, which were issued by the Breathitt County Fiscal Court, were made payable to me personally, and not the office Fee Account.

During the course of my term as Clerk, the County Clerk's Office had a fee-pooling arrangement in place, via an Ordinance, with the County Fiscal Court. It was my understanding that the Fiscal Court would provide guidance with regard to the fiscal operations of my office. There was never an instance in which I was advised by a representative of the Fiscal Court, or no one else for that matter, that it was my responsibility to turn these payments over to the Office Fee Account. In fact, the Fiscal Court held a special-called meeting in which they voted to lower the reimbursement

rate that each member of the Local Board of Elections received for each meeting held. It was their concern, and opinion, that these expenditures were too high and needed to be lowered. That, in and of itself, is counterintuitive to the notion that it would be a Fee Official's responsibility to reimburse the Fee Account these payments, due to the fact that if these payments were deposited into my Fee Account, they would be turned over to the Fiscal Court at month end as excess fees, per the Fee Pooling Agreement that was in place. Another reason for my belief that these payments were mine personally is the fact that the County Treasurer issued me a 1099-MISC at the end of CY 2016 for these Election Board payments. If these payments were not mine personally, and in fact were due to the Fee Account, how could I, on a personal level, be issued a 1099-MISC and be forced to claim this as income, and consequently pay taxes on it?

County Judge/Executive's Response: BCFC will send letter to former clerk supporting the findings and to work on resolution.

Auditor's Reply: Serving on the county board of elections is part of the county clerk's official duties. The former county clerk should have complied with KRS 117.035 which outlines the regulations applicable to local election boards and KRS 64.5275 which established salary maximums for fee officials. The payment for serving on the county board of elections is part of the county clerk's official duties, and therefore, should be included in the maximum salary amount. As part of the Breathitt County Fiscal Court's corrective action plan, the treasurer should issue corrected 1099 tax forms for the amount the county clerk is required to repay.

The former Breathitt County Clerk's office lacked adequate segregation of duties over receipts, disbursements, and reconciliations: This is a repeat finding and was included in the prior year audit report as Finding 2015-001. The former clerk's office lacked adequate segregation of duties over receipts, disbursements, and reconciliations. The employee who collected cash receipts also prepared the daily checkout sheets, prepared the deposit slips, delivered the deposit to the bank, prepared disbursement checks, and performed bank reconciliations.

According to the former county clerk, the former county clerk's office had a limited budget which restricted the number of employees and prevented a proper segregation of duties. Numerous audit adjustments and reclassifications were recommended to make the former clerk's financial information complete and accurate. The lack of segregation of duties allowed undetected errors, resulting in inaccurate financial reporting to external agencies, and also increases the risk of misappropriation of assets.

Segregation of duties over receipts, disbursements, and the reconciliation process, or implementation of compensating controls when needed, is essential for providing protection to employees in the normal course of performing their duties and can also prevent inaccurate financial reporting and misappropriation of assets.

Adequate segregation of duties prevents the same person from having a significant role in the receiving and disbursing of funds, recording, and reporting of those receipts and disbursements.

The former Breathitt County Clerk should have strengthened internal controls by segregating these duties over receipts, disbursements, and the reconciliation process. If segregation of duties were

not possible, strong oversight should have been implemented. The employee that provided this oversight could have documented his or her review by initialing all source documentation and ensuring it was accurate.

Former County Clerk's Response: As a direct consequence of the erosion of the County's tax base and subsequent revenue that was generated from it, the Clerk's Office was faced with significant financial constraints with regard to the budget for support personnel that performed the financial functions of the Clerk's Office. However, despite this, there was one employee whose responsibility was to maintain the daily receipts and expenditures ledgers, while it was another employee's responsibility to reconcile these ledgers. Additionally, while in office, the County Clerk's Office shared a fee-pooling arrangement with the Fiscal Court, via an enacted Ordinance by the Fiscal Court. As a result, it was my understanding that an additional level of review would occur at the County level, either by the County Finance Officer or the County Treasurer.

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](#).

###

The Auditor of Public Accounts ensures that public resources are protected, accurately valued, properly accounted for, and effectively employed to raise the quality of life of Kentuckians.

Call 1-800-KY-ALERT or visit our website to report suspected waste and abuse.

