



Auditor of Public Accounts  
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**FOR IMMEDIATE RELEASE**

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### **Harmon Releases Audit of Former Carlisle County Clerk's Fee Account**

**FRANKFORT, Ky.** – State Auditor Mike Harmon today released the audit of the January 1, 2018 – January 6, 2019 financial statement of former Carlisle County Clerk Michael Toon. 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 Carlisle County Clerk in accordance with accounting principles generally accepted in the United States of America. The former clerk's financial statement did not follow this format. However, the former 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 Carlisle County Clerk's Office lacked adequate segregation of duties:** This is a repeat finding and was included in the prior year audit report as Finding 2017-006. The former Carlisle County Clerk's Office lacked adequate segregation of duties over the accounting and financial reporting functions. The former county clerk was responsible for multiple tasks such as preparing weekly and monthly reports, preparing checks for disbursements, completing monthly bank reconciliations, and preparing the quarterly reports.

According to the former county clerk, this was the result of having a limited staff due to budget constraints. Thus he decided to take on these responsibilities.

A lack of segregation of duties or strong oversight increases the risk of undetected errors or fraud. Segregation of duties over these tasks or the implementation of compensating controls, when limited by the number of staff, is essential for providing protection against the misappropriation of assets and inaccurate financial reporting. Additionally, a proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the Carlisle County Clerk's Office separate the duties involved in writing checks, preparing weekly and monthly reports, completing monthly bank reconciliations, and preparing quarterly reports. If this is not feasible due to a lack of staff, cross-checking procedures should be implemented. Such procedures should be documented by the individual performing them.

*Former County Clerk's Response: The official did not provide a response.*

**The former Carlisle County Clerk had weak internal controls over timekeeping:** This is a repeat finding and was included in the prior year audit report as Finding 2017-002. The former Carlisle County Clerk did not require employees to maintain formal timesheets. They only kept track of days off. Payroll summaries were signed by the employee, but did not have a breakdown of hours worked each day.

The former Carlisle County Clerk implemented a process that lacked internal controls. A lack of internal controls over timekeeping increases the risk of improperly compensating employees. Additionally, failure to record the number of hours worked each day results in the former county clerk being noncompliant with KRS 337.320.

Strong internal controls over timekeeping are important to ensure that employees are being compensated for hours actually worked and that leave balances are being maintained and used in accordance with county policy. KRS 337.320 states, "[e]very employer shall keep a record of: (a) [t]he amount paid each employee, [and] (b) [t]he hours worked each day and each week by each employee[.]"

We recommend the Carlisle County Clerk's Office strengthen internal controls by requiring formal timesheets recording the hours worked by each employee, each pay period. These timesheets should be signed by the employees and approved by the county clerk. Approved timesheets should then be used to update and maintain employees' leave balances.

*Former County Clerk's Response: The official did not provide a response.*

**The former Carlisle County Clerk lacked internal controls over financial reporting:** This is a repeat finding and was included in the prior year audit report as Finding 2017-003. The former county clerk's fourth quarter financial report did not agree to his receipts or disbursements ledgers. On the former Carlisle County Clerk's fourth quarter financial report, receipts were overstated by \$8,155. Also, during the course of the audit, the auditor recommended numerous adjustments to both receipts and disbursements in order to reconcile the ledgers to the proof of cash and other reports.

Due to the former county clerk failing to implement strong internal controls over financial reporting, his receipts and disbursements ledgers were inaccurate, with discrepancies noted between the ledgers

and quarterly reports. Inaccurate financial reporting allows opportunity for the former county clerk to misrepresent his financial status to the fiscal court and other administrative bodies.

Strong internal controls are essential to providing protection from asset misappropriation, and preventing inaccurate financial reporting. We recommend the Carlisle County Clerk's Office implement strong internal controls over the accounting process to ensure that accurate receipts and disbursements ledgers are maintained, and quarterly reports are in agreement with those ledgers.

*Former County Clerk's Response: The official did not provide a response.*

**The former Carlisle County Clerk had \$3,497 of disallowed disbursements for 2018:** The former Carlisle County Clerk had eight disallowed disbursements during 2018 totaling \$3,497. Each disbursement was interest or penalties due to the state for late payments of usage tax. Since interest payments are considered unnecessary and are not beneficial to the public, they are not allowable disbursements.

The former county clerk was unaware that interest payments made to the state were not allowable disbursements. The former county clerk's office paid \$3,497 to the state that could have been used for the betterment of the office or turned over as excess fees.

In accordance with Funk vs. 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 the former Carlisle County Clerk repay \$3,497 from his personal funds to the 2018 fee account and turn those funds over to the fiscal court as excess fees.

*Former County Clerk's Response: The official did not provide a response.*

**The former Carlisle County Clerk failed to pay the taxing districts for all delinquent taxes received from 2016:** This is a repeat finding and was included in the prior year audit report as Finding 2017-004. In 2016, the former county clerk collected \$3,976 in delinquent tax bills that did not appear on his delinquent tax distribution reports for the months of June, August, and October. These were all bills that were turned over to the county attorney to collect. The county attorney collected them and paid them over to the former clerk, but the former clerk failed to include them on his delinquent tax distributions reports. The former clerk also failed to issue a check to the extension district in the amount of \$71 for February delinquent taxes. This was brought to the former clerk's attention on May 11, 2018, but as of report date these amounts have not been paid to the districts.

According to the former county clerk, he is waiting until the conclusion of the 2018 audit before settling prior and current years' amounts owed. Since those bills were not included on the reports, the portions of those bills that should be distributed to the districts did not get paid, and the districts were denied funds. Additionally, the former county clerk was not in compliance with KRS 134.126.

KRS 134.126(3), which outlines the duties of the county clerk in regards to certificates of delinquency states, "[t]he county clerk shall report by the tenth day of each month to the department,

the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly.” Furthermore, strong internal controls over the delinquent tax reporting process are essential to ensuring that all delinquent taxes are accounted and reported properly.

We recommend the Carlisle County Clerk’s Office strengthen internal controls over the delinquent tax reporting process and that the former county clerk pay the taxing districts and other entities additional delinquent taxes due from the bills erroneously omitted from the June, August, and October 2016 delinquent tax reports.

*Former County Clerk’s Response: The official did not provide a response.*

**The former Carlisle County Clerk failed to pay the taxing districts for all delinquent taxes received from 2017:** This is a repeat finding and was included in the prior year audit report as Finding 2017-005. The former county clerk collected \$2,308 of delinquent tax bills that did not appear on his delinquent tax distribution reports, and did not get distributed to the districts. The former county clerk also failed to issue a check to the state in the amount of \$699 for July delinquent taxes, and failed to issue a check to the board of education in the amount of \$1,316 for June delinquent taxes.

According to the former county clerk, he is waiting until the conclusion of the 2018 audit before settling prior and current years’ amounts owed. Since those bills were not included on the reports, the portions of those bills that should be distributed to the districts did not get paid, and the districts did not receive the funds they were entitled to. Additionally, the former county clerk was not in compliance with KRS 134.126, and there may still be certificates of delinquency on these delinquent tax bills that have already been paid.

KRS 134.126(3), which outlines the duties of the county clerk in regards to certificates of delinquency states, “[t]he county clerk shall report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly.” Furthermore, strong internal controls over the delinquent tax reporting process are essential to ensuring that all delinquent taxes are accounted and reported properly.

We recommend the Carlisle County Clerk’s Office strengthen internal controls over the delinquent tax reporting process, that the former clerk pay the state and board of education the amount owed from June and July 2017, and pay the taxing districts and other entities additional delinquent taxes due from the bills erroneously omitted from 2017 delinquent tax reports. We also recommend the former county clerk check the status of the unreported tax bills, and verify they no longer remain delinquent in the county clerk’s office.

*Former County Clerk’s Response: The official did not provide a response.*

**The former Carlisle County Clerk as not in compliance with KRS 64.535:** This is a repeat finding and was included in the prior year audit report as Finding 2017-007. The former Carlisle County Clerk paid himself a month in advance throughout the year. Due to this, the former county clerk received both his March and April paychecks in March of 2018.

KRS 64.535 states, “[t]he county judge/executive, clerk, jailer who operates a full service jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in KRS 64.5275.” Additionally strong internal controls over the official’s payroll is needed to ensure that the salary matches the salary schedule, and is paid appropriately. The former clerk was unaware that he could not pay himself in advance. Therefore, the former county clerk was not in compliance with KRS 64.535.

We recommend the Carlisle County Clerk’s Office comply with KRS 64.535.

*Former County Clerk’s Response: The official did not provide a response.*

**The former Carlisle County Clerk did not submit the 2018 annual settlement timely:** As of the end of audit fieldwork, the former Carlisle County Clerk has not submitted his annual settlement and has not turned over excess fees to the fiscal court, as required by KRS 64.830. In addition to owing the fiscal court \$32,759 in excess fees, the county clerk owes \$440 in delinquent taxes to various taxing districts. According to the former county clerk, he turned in his fourth quarter financial statement as his annual settlement, and chose to wait until the audit was completed before making final settlement with the fiscal court.

KRS 64.830(2) states, “Each 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 Carlisle County Clerk is not in compliance with KRS 64.830, and is impeding the fiscal court and other county districts from receiving money they are owed as a result of the settlement.

We recommend the former Carlisle County Clerk make final settlement with the Carlisle County Fiscal Court as required by KRS 64.830 and turn over excess fees owed.

*Former County Clerk’s Response: The official did not provide a response.*

**The former Carlisle County Clerk failed to settle prior year accounts:** The former Carlisle County Clerk failed to settle prior year fee accounts. As of the end of audit fieldwork, the 2016 fee account still had \$3,646 in liabilities to be distributed, and 2017 had \$8,774 in liabilities to be distributed. According to the former county clerk, he chose to wait until the 2018 audit was completed so that he could distribute everything at once.

Due to the liabilities not being paid timely, the former clerk is not in compliance with KRS 64.152 and county districts have been deprived of money that could be used for the betterment of those districts. 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, including income from investments, which exceeds the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants.”

We recommend the former Carlisle County Clerk settle the 2016 fee account and 2017 fee account as required by KRS 64.152.

*Former County Clerk’s Response: The official did not provide a 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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