



Auditor of Public Accounts
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Harmon Releases Audit of Elliott County Clerk's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statement of Elliott County Clerk Jennifer Carter. 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 Elliott County Clerk in accordance with accounting principles generally accepted in the United States of America.

The Elliott County Clerk did not maintain adequate accounting records of fee account receipts and disbursements, which resulted in a high level of audit risk. Due to the apparent lack of internal controls auditors were unable to reduce the audit risk to an acceptable level. The Elliott County Clerk did not prepare the financial statement as required by the Department for Local Government; therefore, no financial statement is presented with the audit report. Because of the significance of these matters, auditors were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion, and therefore the audit report contains a disclaimed audit opinion.

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 county clerk failed to maintain the minimum required records for handling public funds: The Elliott County Clerk failed to maintain the minimum required accounting records and comply with the Uniform System of Accounts. The county clerk failed to complete and maintain the following:

- Monthly bank reconciliations
- Receipts and disbursements ledgers
- Annual financial statement
- Quarterly reports

During the audit, auditors explained to the county clerk the process for properly compiling receipts and disbursement ledgers. The county clerk did post the daily work for the whole period under audit in a receipts and disbursements ledger format; however, this was five months after the end of the audit period and should have been completed daily. Also, once auditors reviewed the ledgers, we found they were still not complete and would require adjustments.

The county clerk took office on August 11, 2016, and did not have the knowledge, nor did she seek out necessary training, in order to prepare the minimum records necessary for handling public funds.

Due to incomplete financial records and failure to perform the required duties as county clerk, we could not verify the accuracy of all the county clerk's financial activities. Incomplete financial reports can lead to improper financial decision making, as well as increase the risk of undetected errors or fraud. Due to the lack of financial records, we were unable to express an opinion on the county clerk's financial statement.

KRS 68.210 authorizes the state local finance officer to prescribe a uniform system of accounts for counties. This uniform system is provided for in the *County Budget Preparation and State Local Finance Officer Policy Manual*, and details the minimum requirements public officials must follow when handling public funds. These requirements are: the county clerks should perform monthly bank reconciliations, have books of original entry for receipts and disbursements, complete an annual financial statement, and submit quarterly reports to the Department for Local Government. Also, KRS 64.152(2) requires a financial settlement to be presented to fiscal court by March 15 of each year.

We recommend the county clerk fulfill her duties as county clerk, obtain the necessary training, and in the future comply with the uniform system of accounts as prescribed in the *County Budget Preparation and State Local Finance Officer Policy Manual*.

County Clerk's Response: I, the clerk was suddenly and unexpectedly appointed, there was no time to plan ahead and make preparations, as in training and learning the required records for handling public funds. I was, however careful to keep up with and check daily transactions against deposits, as well as make the deposits in a timely manner.

Learn and implement, maintain the required records for handling public funds.

The county clerk did not comply with the county's fee pooling ordinance: On December 2, 2016, the county clerk issued a check in the amount of \$50,000 to the Elliott County Fiscal Court for excess fees. The amount of the check was arbitrary, and was not based on any calculations from the clerk's financial records.

During the period August 11, 2016 through December 31, 2016, the county clerk did not prepare receipts and disbursements ledgers, quarterly financial reports, or bank reconciliations.

By not preparing receipts and disbursements ledgers, which are needed to prepare financial reports and calculate excess fees accurately, the county clerk was not able to submit the monthly excess fees to the fiscal court by the tenth of each month as required by Elliott County Fiscal Court Ordinance FY-13-001.

On February 4, 2013, the Elliott County Fiscal Court passed Ordinance FY-13-001, which requires the sheriff's office and county clerk's office to participate in fee pooling. Under fee pooling, the sheriff's office and county clerk's office pay net income (excess fees) monthly to the fiscal court, and the fiscal court pays all salaries and expenses of those offices. Net income is due no later than the tenth of the month for the preceding month.

We recommend the county clerk comply with the county's fee pooling ordinance by paying excess fees based on calculations from the clerk's financial records no later than the tenth of the month for the preceding month.

County Clerk's Response: With limited knowledge of the different areas of disbursements and report corrections, I could not know at that time what was truly excess fees.

This has since improved.

The county clerk did not remit usage tax and license fees collected to the state treasury as required: The county clerk did not pay usage tax and license fees collected to the state as required.

- The county clerk started collecting usage tax on August 15, 2016. The county clerk made her first usage tax payment to the state treasury on September 27, 2016. The remaining payments to the state treasury were late, some up to two months.
- During 2016, the county clerk made eight weekly payments to the state treasury, each payment was over a week late. The county clerk did not remit 13 weeks of usage tax and license fees to the state during 2016. On February 23, 2017, a representative from the Kentucky Transportation Cabinet Division of Motor Vehicle Licensing came to Elliott County and obtained a check for the 13 weeks that were not paid totaling \$20,498.

The county clerk took office on August 11, 2016 and did not have the knowledge, nor did she seek out necessary training, in order to prepare and submit the required reports and payments. As a result, the state was not paid timely for usage tax and license fees collected by the Elliott County Clerk and the county clerk could be responsible for penalties and late payments. This is also a noncompliance with applicable state law.

KRS 131.155(2)(c) states, "[t]he clerk shall deposit motor vehicle usage tax and sales and use tax collections in the clerk's local depository account not later than the next business day following receipt. The clerk shall cause the funds to be electronically transferred from the clerk's local depository account to the State Treasury[.]" KRS 138.464(1) states, "[t]he county clerk shall report each Monday to the department all moneys collected during the previous week, together with a

duplicate of all receipts issued by him during the same period.” KRS 138.464(3) states, “[f]ailure to forward duplicates of all receipts issued during the reporting period or failure to file the weekly report of moneys collected within seven (7) working days after the report is due shall subject the clerk to a penalty of two and one-half percent (2.5%) of the amount of moneys collected during the reporting period for each month or fraction thereof until the documents are filed.” KRS 186.230(5) states that the county clerk shall, “[r]eport and remit each Monday to the Transportation Cabinet all moneys collected during the previous week, together with a duplicate of all receipts issued by him during the same period. He shall make all checks payable to the State Treasurer. Unless the clerk forwards duplicates of all receipts issued by him during the reporting period within seven (7) days after the report and remittance are due, he shall pay a penalty of one percent (1%) per month or fraction thereof on the amount of money shown to be on the report.”

We recommend the county clerk ensure usage tax and license fees are remitted to the state treasury timely in the future.

County Clerk’s Response: Usage Tax was remitted shortly after the time period of this audit, I had asked for help with the usage tax process, via phone and written request and received no help. The same for License Fees with the exception of I did receive help from a lady in Frankfort, she came to my office and after 2 days still was unable to get my computer connected to documents direct from where the weekly reports can be printed. Just to briefly explain, this office was open for business and customers had to be processed, we were all being trained on the job for a few days with people from the motor vehicle department, I worked very long hours after the window closed to be sure that our transactions were being handled properly. I worried that I wasn’t making the required payments to each department on time. In early Jan a representative from Dept of Revenue Usage tax visited my office and at that time I explained to him that I just needed him to show me what was expected on the usage calculations, which he then did, and he collected what was owed to usage on that day. The same for license fees.

This process has improved and I now have knowledge of the process and work well with both departments in Frankfort if I encounter a problem.

The county clerk did not remit ad valorem taxes collected to the state treasury and other taxing districts required: The county clerk did not remit ad valorem taxes collected to the state treasury and other taxing districts as required.

The following table illustrates the amounts due to the state treasury and other taxing districts by the county clerk for the period August 11, 2016 through December 31, 2016.

	Total Collected	Computed Commission	Total Due	Amount Paid	Variance
State	\$ 58,801	\$ 2,352	\$ 56,449	\$	\$ 56,449
County	19,070	763	18,307	6,676	11,631
Health	3,890	156	3,734	1,363	2,371
Extension	3,891	156	3,735	790	2,945
Ambulance	9,731	388	9,343	10,006	(663)
School	54,971	2,199	52,772	11,165	41,607
Totals	\$ 150,354	\$ 6,014	\$ 144,340	\$ 30,000	\$ 114,340

The amounts due above to the state treasury and other taxing districts were subsequently paid; however, they were paid late. Based on the county clerks 2016 disbursements ledger prepared in calendar year 2017, no ad valorem tax payments were made for August or September until October 2016. Not all payments due for August and September were paid at that time. No payments were made for November. The remainder of the tax payments due for August and September, and the tax payments due for November and December were paid in calendar year 2017.

The county clerk took office on August 11, 2016, and did not have the knowledge, nor did she seek out necessary training, in order to prepare and submit the required reports and payments.

By not paying the ad valorem taxes timely, the state treasury, county, school, and other taxing districts did not receive the tax revenues they were entitled to on a timely basis. These tax districts rely on the timely receipt of tax revenues. Since the county clerk did not ensure the duties of her office were performed, the taxing districts' budgets and cash flows were negatively affected.

KRS 134.815 states, “[t]he county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, urban-county government, school, and special taxing districts all ad valorem taxes on motor vehicles collected by him for the preceding month, less the collection fee of the county clerk, which shall be deducted before payment to the depository. . . Any county clerk who fails to pay over any taxes collected by him on motor vehicles as required by subsection (1) of this section shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the legal rate per annum of such taxes.”

We recommend the county clerk have someone review the monthly ad valorem tax reports for accuracy and then compare them to the checks written prior to distribution to the taxing districts and ensure the payments are made timely.

County Clerk's Response: Much like the other departments that payments were due, we had no training on Ad Valorem, I called the motax department and received no help initially, finally Department of Revenue Field Rep, helped me with the required downloads for reporting and paying.

This process has been corrected and works smoothly now.

The county clerk did not report and pay delinquent taxes to districts timely: The county clerk’s monthly tax reports and payments were often late, depriving the taxing districts of timely receipt of their tax collections.

The following table illustrates when delinquent tax payments were made:

Month	Total Taxes Due Districts	Date Payments Due Districts	Check Dates	Dates Checks Cleared Banks
August 2016	\$ 5,748	9/10/2016	10/14/16	10/19/16 - 10/3/17
September 2016	\$ 2,483	10/10/2016	10/17/16	10/19/16 - 10/11/17
October 2016	\$ 1,004	11/10/16	7/28/17	8/29/17 - 1/26/18
October 2016 - County & County Attorney Only	\$ 253	11/10/16	7/19/17	8/22/17 - 11/13/17
October 2016 - Sheriff Only	\$ 73	11/10/16	7/25/17	9/06/17
November 2016	\$ 1,888	12/10/16	7/28/17	8/29/17 - 1/26/18
November 2016 - County & County Attorney Only	\$ 498	12/10/16	7/19/17	8/22/17 - 11/13/17
November 2016 - Sheriff Only	\$ 73	12/10/16	7/25/17	9/06/17
December 2016	\$ 380	1/10/16	7/28/17	8/29/17 - 1/26/18
December 2016 - County & County Attorney Only	\$ 264	1/10/16	7/19/17	8/22/17 - 11/13/17
December 2016 - Sheriff Only	\$ 161	1/10/16	7/25/17	9/06/17

The county clerk did not ensure her office complied with the requirement to report and pay taxes collected to districts by the tenth of each month. According to the county clerk’s records, the delivery date is often later than the day the reports were prepared, making the receipt of payments by the districts further delayed.

Taxing districts rely on tax collections to fund a significant portion of their budgeted services. When taxing districts do not receive these payments timely, cash flow problems can occur for these taxing districts.

KRS 134.126(3) 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.”

We recommend the county clerk ensure monthly tax reports are prepared and paid by the tenth of each month in accordance with KRS 134.126(3).

County Clerk’s Response: As with other departments during this time period I lacked the knowledge of processing the tax payments correctly.

This process has been corrected.

The county clerk’s office lacks adequate segregation of duties and internal controls over fee receipts and disbursements: The county clerk’s office lacks key components of an adequate internal control system. Those key components include the following:

- During the period from August 11, 2016 through December 31, 2016, the county clerk did not maintain receipts and disbursements ledgers. During calendar year 2017, the county clerk recorded the transactions for the above period to ledgers; however, the county clerk did not prepare a quarterly or annual financial report.

- The county clerk did not have an adequate segregation of duties in place. The county clerk maintained control of daily deposits, posted to receipts and disbursements ledgers (not on a timely basis), wrote checks, prepared monthly and annual reports, and reconciled bank accounts. Other employees who worked in the office handled transactions with customers only.

The county clerk did not structure her office in a way that segregates duties and responsibilities. No one reviewed the work of the county clerk and there are no compensating controls in place. In addition, the clerk failed to post to her ledgers on a timely basis.

Without adequately segregated duties, posting timely to ledger and internal controls in place, there is no way to document that the fee account financial information is accurate. By not segregating duties, there is an increased risk of misappropriation of assets either by undetected error or fraud.

Internal controls and proper segregation of duties protects employees and the county clerk in the normal course of performing their daily responsibilities. Good internal controls dictate the same employee should not receive payments, prepare deposits, and post to the receipts ledger; the same employee should not prepare monthly reports, sign checks, and post to the disbursements ledger; and the same employee should not deposit funds, sign checks, post to ledgers, and prepare bank reconciliations and monthly reports.

We recommend the county clerk's office adequately segregate duties and implement internal controls to ensure transactions are recorded timely. Employees receiving payments and preparing deposits should not be posting to the receipts ledger and preparing bank reconciliations. Employees preparing and signing checks should not be posting to the disbursements ledger and preparing bank reconciliations. If segregation of duties is not possible due to limited staff, the county clerk could take on the responsibility of reviewing the daily deposits, receipts and disbursements ledgers, monthly reports, and bank reconciliations prepared by another employee. These reviews must be documented in a way that indicates what was reviewed, by whom, and when, because signing off on inaccurate information does not provide internal control. The county clerk could also choose to prepare the bank reconciliations and other reports herself. Further, the county clerk could require dual signatures on all checks, with one signature being the county clerk's.

County Clerk's Response: With limited employees, this presents a challenge. In the time period of this audit, I and only 2 other part time employees were the full staff.

I have learned from another small staff county clerk that this can be accomplished through delegating different duties and checking/reviewing co-workers work. We have since added one full time employee that will help alleviate this problem.

The county clerk did not reconcile usage tax bank accounts: The former county clerk left office on August 10, 2016. On August 11, 2016, her usage tax bank account had a remaining balance of \$5,793.20. This balance remained in the bank account until September 27, 2016, when the current county clerk made an error and remitted usage tax payments to the state treasury from the former

county clerk's bank account instead of her new usage tax bank account. Also, the county clerk did not reconcile her usage tax bank account as of December 31, 2016. She used the surplus as of December 31, 2016, for 2017 daily remittances to the state treasury.

The Elliott County Clerk did not have procedures in place to ensure the usage tax bank accounts were properly reconciled. This caused the former county clerk's bank account to have a negative balance of \$3,363.98.

The county clerk makes daily deposits to the usage tax bank account, which is then transmitted to the Department of Revenue. This bank account should reconcile to zero at any given time. The county clerk should have internal controls in place to adequately reconcile the usage tax bank account at least monthly.

To correct the errors made in the usage tax bank accounts, the county clerk had to make the following corrections after year end:

- Pay \$5,793 to the former county clerk's usage tax bank account.
- Pay \$9,460 to the county clerk's 2016 fee account for deposits made to the usage tax account that were not paid to the state for 2016. These deposits created a surplus which was used for 2017 daily payments to the state.
- Pay \$9,258 to the county clerk's usage tax bank account from the 2017 fee account.

We recommend the county clerk implement procedures to adequately reconcile her usage tax account at least monthly. This reconciliation should be reviewed for accuracy by someone other than the preparer.

County Clerk's Response: From the start there were crucial problems with the usage account that I set up at the FNB for the usage deposits and ACH payments, the first deposit I made was put into the previous clerks account in error by the bank, and in turn deposits that I made for our usage transactions were applied to the previous clerks outstanding debt. This took some time to work out, with help from others.

Usage Bank Account Reconciliation training implemented.

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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