



Auditor of Public Accounts
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Harmon Releases Audit of Martin County Sheriff's Fee Account

FRANKFORT, Ky. – State Auditor Mike Harmon today released the audit of the 2016 financial statement of Martin County Sheriff John Kirk. State law requires the auditor to annually audit the accounts of each county sheriff. In compliance with this law, the auditor issues two sheriff's reports each year: one reporting on the audit of the sheriff's tax account, and the other reporting on the audit of the fee account used to operate the office.

Auditing standards require the auditor's letter to communicate whether the financial statement presents fairly the receipts, disbursements and excess fees of the Martin County Sheriff in accordance with accounting principles generally accepted in the United States of America. The sheriff's financial statement did not follow this format. However, the sheriff'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 sheriff 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 Martin County Sheriff did not require the depository institution to pledge or provide sufficient collateral to protect deposits and did not enter into a written agreement to protect deposits: This is a repeat finding and was reported in the prior year audit report as Finding 2015-001. On March 9, 2016, \$1,694,133 of the sheriff's deposits of public funds in depository institutions were uninsured and unsecured. The Martin County Sheriff failed to enter into a written agreement with the depository institution to ensure collateralization of deposits until May 31, 2016.

The sheriff did not have a written agreement with the depository institution to pledge or provide collateral in an amount sufficient to secure deposits of public funds at all times. As a result, the sheriff exposed his official account to a potential loss of \$1,694,133.

According to KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with Federal Deposit Insurance Corporation insurance, equals or exceeds the amount of public funds on deposit at all times.

We recommend the sheriff require the depository institution to pledge or provide collateral in an amount sufficient to secure deposits of public funds at all times.

Sheriff's Response: The Sheriff has already resolved this issue as the agreement was signed May 31, 2016.

The sheriff's office lacked adequate segregation of duties: This is a repeat finding and was reported in the prior year audit report as Finding 2015-002. While reviewing the sheriff's internal control procedures, we identified a lack of adequate segregation of duties over receipts and disbursements. These control deficiencies are present because one employee's duties include the preparing and reviewing of receipts and disbursements ledger, monthly reconciliations, and quarterly reports.

According to the sheriff, due to the entity's diversity of official operations, small size, and budget restrictions, the sheriff has limited options for establishing an adequate segregation of duties. The lack of oversight could result in undetected misappropriation of assets and inaccurate financial reporting to external agencies such as the Department for Local Government.

A proper 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, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

We recommend the sheriff design and implement internal control procedures to ensure adequate segregation of duties.

Sheriff's Response: Due to budgetary restrictions for staffing, we have limited options for segregating duties any further. We have separated responsibilities and oversight wherever possible and will work toward further separation as funding permits. We will continue to develop compensating controls to offset potential risks.

The Martin County Sheriff collected franchise penalties, which resulted in the overpayment of excess fees to the fiscal court for calendar year 2016: On April 11, 2016, the Martin County Sheriff's fee account received add-on fees of \$32,009 from the 2015 tax account. These add-on fees should not have been collected and are due back to the 2015 tax account. The error was initiated when the Martin County Clerk's Office incorrectly prepared a franchise bill. The bill was a 2013 amended franchise bill but was created as a 2014 franchise bill. The sheriff's office billed the amount of the original assessment instead of the amended assessment and collected payment

on June 3, 2015. The sheriff's office caught the mistake, then billed the taxpayer for the corrected 2013 amended franchise bill. The clerk's office then received the 2014 certification (certified May 12, 2015) for the same taxpayer. The sheriff's office applied the June 3, 2015 payment for the incorrect bill to the new bill. The sheriff's office applied penalties of 21 percent to the bill even though the new bill was paid within 30 days of the certification date. This resulted in the Martin County Sheriff's Office incorrectly charging add-on fees to a franchise taxpayer. Instead of refunding the taxpayer with add-on fees from the tax account, the sheriff collected the full amount of the refund (the tax due, penalties, interest, and add-on fees) from the taxing districts in order to refund the taxpayer, causing the taxing districts to not receive all of the 2015 taxes that were owed. The sheriff paid the add-on fees to the fee account and subsequently turned the money over to the fiscal court as excess fees. This left the taxing districts \$32,009 short for the 2015 tax period.

The sheriff did not have proper internal controls in place to verify the accuracy of franchise tax bills before mailing the bills to taxpayers. The sheriff's staff did not know the taxpayer should not have been charged penalties, interest, and add-on fees when the error occurred. As a result, the sheriff overpaid excess fees in the amount of \$32,009 to the fiscal court.

The errors occurred due to lack of internal controls and oversight by the sheriff of the tax collection process. Internal controls and proper segregation of duties protect employees and the sheriff in the normal course of performing their daily responsibilities. Proper internal controls would prevent and detect errors before they occur. We recommend the sheriff request the fiscal court reimburse his office for the overpayment of excess fees. Upon receipt the sheriff should refund the taxing districts.

Sheriff's Response: This is a continuation of a prior year item that occurred shortly after taking office. We did not have access to the prior sheriff's records and relied on the Clerk's Office for the billing information that caused the original error. Our staff now has procedures in place to review accuracy of all franchise bills prior to sending them out. According to the Sheriff's tax manual, a 10% penalty is allowed after 30 days for franchise bills. We had also consulted with an APA auditor to ensure this was appropriate. This penalty was turned over to the fiscal court with all other fees. We have already asked for this to be refunded back, but will follow up with the new fiscal court.

Auditor's Reply: While the sheriff's tax manual does allow penalties and interest on bills paid late, the errors occurred because a bill was created, mailed, and collected in error.

The sheriff's responsibilities include collecting property taxes, providing law enforcement and performing services for the county fiscal court and courts of justice. The sheriff's office is funded through statutory commissions and fees collected in conjunction with these duties.

The audit report can be found on the [auditor's website](#).

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