



COMMISSIONERS COURT  
COMMUNICATION

REFERENCE NUMBER CO#115804

PAGE 1 OF 5

DATE: 8/13/2013

SUBJECT: **RECEIVE AND FILE THE AUDITOR'S REPORT OF THE COUNTY CLERK'S  
REGISTRY OF COURT ACCOUNTS**

**COMMISSIONERS COURT ACTION REQUESTED:**

It is requested that the Commissioners Court receive and file the Auditor's Report of the County Clerk's Registry of the Court Accounts.

**BACKGROUND:**

In accordance with Local Government Code, Sec. 115.0035, Examination of Funds Collected by County Entity or the District Attorney, the Auditor's Office reviewed the Registry of Court Accounts (registry accounts) held by the County Clerk during October 1, 2012 through February 28, 2013. The objective of the review was to determine whether controls were adequate to account for transactions and balances of the County Clerk's registry accounts. The Auditor's Office also determined whether the County Clerk was compliant with IRS requirements related to 1099 reporting.

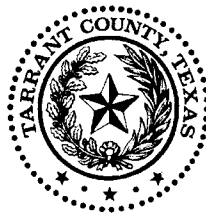
Attached to this report is a written response from the County Clerk.

**FISCAL IMPACT:**

There is no direct fiscal impact associated with this item.

SUBMITTED BY: Auditor

PREPARED BY: S. Renee Tidwell  
APPROVED BY:



**TARRANT COUNTY**  
**TARRANT COUNTY ADMINISTRATION BUILDING - ROOM 506**  
**100 E. WEATHERFORD**  
**FORT WORTH, TEXAS 76196-0103**  
**817/884-1205**  
**Fax 817/884-1104**

**S. RENEE TIDWELL, CPA**  
**COUNTY AUDITOR**  
**rtidwell@tarrantcounty.com**

**CRAIG MAXWELL**  
**FIRST ASSISTANT COUNTY AUDITOR**  
**cmaxwell@tarrantcounty.com**

July 12, 2013

The Honorable Mary Louise Garcia, County Clerk  
The Honorable District Judges  
The Honorable Commissioners Court  
Tarrant County, Texas

Re: Auditor's Report – Review of County Clerk Registry of Court Accounts

## **SUMMARY**

In accordance with Local Government Code, Sec. 115.0035 *Examination of Funds Collected by County Entity or the District Attorney*, we reviewed the Registry of Court Accounts (registry accounts) held by the County Clerk during October 1, 2012 through February 28, 2013. The objective of our review was to determine whether controls were adequate to account for transactions and balances of the County Clerk's registry accounts. We also determined whether the County Clerk was compliant with IRS requirements related to 1099 reporting. Based on our audit, we found that the two depositories held sufficient eligible collateral for the registry accounts. We also confirmed that the County Clerk complied with IRS requirements for 1099 reporting. However, we observed two conditions that require management's attention:

Observation 1    Transfer and disbursement of two registry accounts did not comply with statute.

Observation 2    The reconciliation of registry accounts should be improved.

We discussed these issues with County Clerk management on August 1, 2013. Attached to this report is a written response from the County Clerk's Office.

## **BACKGROUND**

The registry accounts are funds deposited and held for a third party per court order or statute. The funds held in the registry do not belong to the Tarrant County. Rather, the County Clerk holds the funds in a fiduciary capacity to satisfy a legal pleading or to await the outcome of a legal proceeding. The registry accounts are recorded into Odyssey, the County Clerk's case management application. The clerk is responsible for the deposits, disbursements, and the investment of the registry funds. Currently, registry accounts are held at JP Morgan Chase and Wells Fargo banks.

Local Government Code (LGC) Chapter 117, *Depositories for Certain Trust Funds and Court Registry Funds*, describes the general provisions related to registry funds. Per Section 117.121(b), the Auditor's Office reviews and countersigns all checks for disbursement from a registry account. KPMG LLP performed an independent audit of the registry funds for fiscal year ending September 30, 2012 as required by Section 117.123. The audit report was received and filed with Commissioners Court on January 15, 2013.

As of February 28, 2013, the registry accounts totaled approximately \$48.7 million.

## **OBSERVATIONS AND RECOMMENDATIONS**

### ***Observation 1 Transfer and disbursement of two registry accounts did not comply with statute.***

#### **Background**

LGC 117.053 states, "...a clerk may not draw a check on special account funds held by a depository except to pay a person entitled to the funds. The payment must be made under an order of the court of proper jurisdiction in which the funds were deposited except that an appeal bond shall be paid without a written order of the court on receipt of mandate or dismissal and funds deposited under Section 887, Texas Probate Code, may be paid without a written order of the court." Furthermore, the statute requires that an order of the court is required to transfer registry funds into a separate account, including transfers from a non-interest bearing account to an interest bearing account.

#### **Observation**

During our review, we observed that County Clerk staff transferred and disbursed two registry accounts without a court order as required by LGC 117.053. One registry account, in the amount of \$5,201.74, was transferred to an interest bearing account on December 20, 2012. A second registry account, in the amount of \$856.87, was disbursed on January 30, 2013.

#### **Recommendation**

To comply with LGC 117.053, the County Clerk should ensure that an order of the court is obtained prior to transfer and disbursement of all registry accounts.

### ***Observation 2 The reconciliation of the registry accounts should be improved.***

#### **Background**

The County Clerk's Office is responsible for preparing and submitting the monthly financial information, including the bank reconciliation, to the Auditor's Office that is used to record financial information into the County's general ledger.

**Observation**

We observed that County Clerk staff did not research differences between the registry account balance recorded in Odyssey and the balance shown on the Certificate of Deposit Report provided by the bank. Furthermore, staff records the differences shown by the bank into Odyssey records to force a match to the bank statement. As a result, a bank error that occurred in February 2013 in the amount of \$99.59 was not detected by County Clerk staff. The bank had erroneously assessed an early withdrawal penalty. However, the County Clerk's Depository Contract for Registry Funds states that the clerk has the right, pursuant to court order, to withdraw funds without penalty except as required by law.

Upon communication of this issue to County Clerk staff, they contacted the bank. The bank reversed this error, and the County Clerk staff made the appropriate adjusting journal entry to Odyssey on May 30, 2013.

**Recommendation**

As part of the monthly bank reconciliation process, County Clerk staff should ensure that all differences between the bank balance and Odyssey are properly researched and reconciled. Furthermore, staff should ensure that any bank fees assessed comply with the County Clerk's Depository Contract for Registry Funds.

**CLOSING REMARKS**

We appreciate the cooperation of the County Clerk staff during our review. If you have any questions concerning this report, please do not hesitate to call.

Sincerely,



S. Renee Tidwell, CPA  
County Auditor

*Attachment:*  
Management's Response

*Distribution:*  
Jeff Nicholson, Chief Deputy  
James Knowles, Accounting Manager  
Robin Nino, Trust Account Administrator

*Team:*  
Kim Trussell, Audit Manager  
Imad Mouchayleh, Senior Internal Auditor Supervisor  
Mathew Jones, Internal Auditor



Mary Louise Garcia  
County Clerk

TARRANT COUNTY COURTHOUSE

100 W. WEATHERFORD  
Fort Worth Texas 76196-0401

Date: August 6, 2013

From: Mary Louise Garcia, Tarrant County Clerk

Handwritten signature of Mary Louise Garcia in black ink.

To: Renee Tidwell, County Auditor

Reference: Trust Account Audit Response

I would like to thank the Auditor's Office for their approach and professionalism in this audit. We take our responsibility for the trust accounts very seriously, and appreciate the Auditor's Office partnership to ensure we safeguard the public's money to the highest degree possible.

***Observation 1 - Transfer and disbursement of two registry accounts did not comply with statute.***

In one of the noted circumstances, we fully agree with the observation. I would like to note in the other circumstance we had a court order to disperse to the payee, but a bank error convoluted the process. This resulted in the disbursement of funds to the bank absent a new or amended court order authorizing such. We agree with the recommendation and have reiterated to the person responsible for trust accounts that no money is to be dispersed absent a court order.

***Observation 2 - The reconciliation of the registry accounts should be improved.***

We believe the \$99.59 payout would have ultimately been discovered when the trust account was closed. However, we agree with both the observation and recommendation.