

# GALVESTON COUNTY



## Office of County Auditor

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July 5, 2016

Honorable Mark A. Henry, County Judge, and  
Members of the Commissioners Court

Honorable Mark A. Henry and Members of the Court:

Attached for your consideration is the internal audit report of the District Clerk's Registry and Trust Audit that covered the period January 1, 2015 through December 31, 2015. Also attached is the response letter from Honorable John Kinard, dated June 1, 2016.

Sincerely,

A handwritten signature in blue ink that reads "Rice CPA".

Randall Rice CPA  
County Auditor

Attachment: District Clerk Registry & Trust Audit Report  
Response Letter, Honorable John Kinard



# District Clerk's Registry and Trust Audit

April 25, 2016

Galveston  
County  
Internal Audit  
Division

Randall Rice CPA  
CITP CISA CIO CBM DABFA CGMA  
County Auditor

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# Executive Summary

## Reliability and Integrity of Information (page 3)

- Internal controls for daily operations are sufficient to ensure proper separation of duties.
- Certificate of Deposit (CD) investment account balances were confirmed. No discrepancies were noted.
- The office should research the “Overage” account to determine how the balance of \$73,633.14 should be distributed. The Auditor’s Office will assist in this special project.

## Safeguarding of Assets (page 4)

- Physical security over assets (collections) is adequate.
- The District Clerk’s Office should review the outstanding adjustments for the non-interest civil account to determine the cause of the discrepancies. Corrective action should be taken to resolve the issues.
- The office should research the unused fee account to determine how the balance of \$68,212.16 should be distributed. The Auditor’s Office will assist in this special project.
- The office should research the \$3,782.41 from the prior district clerk’s child support account to determine how the balance should be distributed. The Auditor’s Office will assist in this special project.

## Compliance with Statutes, Policies and Procedures (page 5-6)

- Court orders were followed regarding invested and un-invested funds in the registry.
- Disbursements ordered by the courts were paid as instructed.
- No material discrepancies pertaining to administrative fees were noted.
- Excess proceeds cases tested were in compliance with TC §34.03 Distribution of Excess Proceeds.
- No material discrepancies were noted when escheating funds in accordance with LGC §117.002 Transfer of Unclaimed Funds to Comptroller.

# Introduction

The Internal Audit Division conducted an internal audit of the District Clerk's Registry and Trust Accounts, in accordance with Local Government Code §115. The internal audit covered the period January 1, 2015 through December 31, 2015. The audit was performed from March 17, 2016 through April 25, 2016.

The primary objectives of the internal audit are to provide reasonable assurance concerning:

- Reliability and integrity of the information
- Safeguarding of assets
- Compliance with laws, regulations, contracts, policies, plans and procedures

The scope of the internal audit encompassed the financial records and administrative procedures related to the District Clerk. The internal audit included, but was not limited to, the books, accounts, reports, dockets and records of the District Clerk.

The internal audit included examining transactions on a test basis, and required exercising judgment in the selection of such tests. As the internal audit was not a detailed examination of all transactions, there is a risk that errors or fraud were not detected during the internal audit. The official therefore retains the responsibility for the accuracy and completeness of the financial information.

Because of certain statutory duties required of the County Auditor, we are not independent with regard to the Galveston County District Clerk, as defined by the AICPA professional standards. However, our internal audit was performed with objectivity and due professional care.

Lauren Ramsey, Compliance and Procedures Analyst, performed the audit.

# Reliability and Integrity of Information

Reliable information is accurate, timely, complete and useful. In order to achieve this, controls over record keeping and reporting must be adequate and effective.

## Separation of Duties

One of the most important internal controls is to have proper separation of duties. No one person should be able to authorize, record and void transactions and have custody of the assets.

The office has procedures in place to separate custody of assets from recording and authorization functions. Check writing procedures ensure check preparers do not retain custody of checks after being signed by management. A non-check writing employee distributes signed checks to recipients instead of employees who prepared checks.

Check writing and approval authority within Odyssey is governed by access rights controlled by the District Clerk. Checks are printed by a laser printer and signed by administrative supervisors.

The office has effective separation of duties.

## Certificate of Deposits (CDs)

The District Clerk is responsible for maintaining and managing the trust accounts in accordance with orders from District Courts. The court management system the office uses is Odyssey.

Odyssey does not have the capability to calculate accrued interest for the investment accounts. The office's policy is to record interest in Odyssey according to bank statements sent to the office each period. Interest earned between when a check from an investment account is issued and when it is no longer outstanding is placed into a case labeled "Overage".

**Finding:** As of December 31, 2015, the balance in Odyssey for the "Overage" case is \$73,633.14.

**Recommendation DC-16-01:** The office should research the "Overage" account to determine how the balance of \$73,633.14 should be distributed. The Auditor's Office will assist in this special project.

# Safeguarding of Assets

Safeguarding of assets has three basic components: 1.) physical security of assets, 2.) minimal exposure to loss and 3.) proper management of the assets.

## Physical Security

Physical security encompasses all methods used to physically secure the assets from loss. Assets not being used should be kept in a locked drawer or safe until they are needed.

Controls are in place to ensure staff uses lockable cabinet drawers and a safe to secure the financial assets in the office.

## Management of Assets

Properly prepared and adequately supported bank reconciliations are one of the best methods of cash management available to any official. The reconciliation process identifies any discrepancies in the registry and trust accounts and assists in preventing the misuse of funds. As part of the internal audit testing, the auditor performed proper four-column bank reconciliations for each bank account.

**Finding:** The District Clerk's Office has outstanding adjustments that need to be addressed regarding the non-interest civil account.

**Recommendation DC-16-02:** The District Clerk's Office should review the outstanding adjustments to determine the cause of the discrepancies. Corrective action should be taken to resolve the issues.

**Finding:** The District Clerk's Office has a fee bank account that is no longer being used with a balance of \$68,212.16 as of April 25, 2016. The fees were collected by the prior district clerk.

**Recommendation DC-16-03:** The office should research the unused fee account to determine how the balance of \$68,212.16 should be distributed. The Auditor's Office will assist in this special project.

**Finding:** The child support bank account has \$3,782.41 from interest accrued on the prior district clerk's account.

**Recommendation DC-16-04:** The office should research this issue further to determine how the balance of \$3,782.41 in the child support account should be distributed. The Auditor's Office will assist in this special project.

# **Compliance with Statutes, Policies and Procedures**

As part of the audit, the auditor evaluated the adequacy and effectiveness of internal controls in responding to risks within the District Clerk's operations and governance regarding compliance with laws, regulations and contracts.

## **Compliance with Court Orders**

All funds placed into the district court registry (invested and un-invested) are court order driven. The auditor tested a sample of invested and un-invested funds to verify the deposits into the registry were made in accordance with the court orders. No exceptions were noted.

## **LGC §117.054 County Expenses Paid From Interest**

Local Government Code §117.054 states: "(a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b). (b) The interest earned on a special account or a separate account shall be paid in the following amounts: (1) 10% of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and (2) 90% of the interest shall be credited to the special or separate account." Attorney General Letter Opinion No. 98-106 further reiterates the state's position that 10% of interest accrued belongs to the county upon withdrawal.

All disbursements tested for interest-bearing accounts had corresponding court orders signed by the judge authorizing both a release of the account owner's money and an administrative fee made payable to the county for rendering services.

## **LGC §117.055 County Expenses Paid From Fees**

Local Government Code §117.055 states: "(a) To compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section."

All disbursements tested for non-interest bearing accounts had corresponding court orders signed by the judge authorizing a release of funds and had a five percent deduction (not to exceed \$50) made payable to the county for rendering services when applicable. No material exceptions were noted.

# **Compliance with Statutes, Policies and Procedures (continued)**

## **Tax Code §34.03 Distribution of Excess Proceeds**

Tax Code §34.03 states: "(a) The clerk of the court shall: (1) if the amount of excess proceeds is more than \$25, before the 31st day after the date the excess proceeds are received by the clerk, send by certified mail, return receipt requested, a written notice to the former owner of the property, at the former owner's last known address according to the records of the court or any other source reasonably available to the court, that: (A) states the amount of the excess proceeds; (B) informs the former owner of that owner's rights to claim the excess proceeds under Section 34.04; and (C) includes a copy or the complete text of this section and Section 34.04; and (2) regardless of the amount, keep the excess proceeds paid into court as provided by Section 34.02(d) for a period of two years after the date of the sale unless otherwise ordered by the court. (b) If no claimant establishes entitlement to the proceeds within the period provided by Subsection (a), the clerk shall distribute the excess proceeds to each taxing unit participating in the sale in an amount equal to the proportion its taxes, penalties, and interests bear to the total amount of taxes, penalties, and interest due all participants in the sale. (c) The clerk shall note on the execution docket in each case the amount of the excess proceeds, the date they were received, and the date they were transmitted to the taxing units participating in the sale. Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media."

All excess proceeds cases tested were in compliance with Tax Code §34.03. No exceptions were noted.

## **LGC §117.002 Transfer of Unclaimed Funds to Comptroller**

Local Government Code §117.002 states: "Any funds deposited under this chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the comptroller without further action by any court. The dormancy period for funds deposited under this chapter begins on the later of: (1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited; (2) the 18th birthday of the minor for whom the funds were deposited; or (3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds."

No material exceptions were found in reviewing escheated funds.



# **JOHN D. KINARD**

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## **DISTRICT CLERK GALVESTON COUNTY**

June 1, 2016

### **Answers to County Audit Report**

DC-16-01: The office should submit the overage balance of \$73,633.14 in the interest bearing account to the County Treasurer as miscellaneous revenue and continue to submit the balance of the "Overage" case on an annual basis.

Answer: The office is currently exploring the options regarding this money with the Administrative District Court Judge and possibly all of the District Court Judges to determine the disposition of this money.

DC-16-02: The District Clerk's Office should review the outstanding adjustment to determine the cause of the discrepancies. Corrective action should be taken to resolve the issues.

Answer: The adjustments have been resolved.

DC-16-03: The office should submit the balance of \$68,212.16 to the County Treasurer as miscellaneous revenue to close out the fee account.

Answer: The District Clerk agrees on these finding and this will be done, all the money will be turned over to the County Treasurer.

DC-16-04: The office should research this issue further to determine how the balance of \$3,782.41 in the child support account should be distributed.

Answer: The Child Support account is an account that has almost no margin for error. Immediately after receipting a cash payment, we issue a check to the State Disbursement Unit (SDU). If the cash is erroneously deposited into the wrong account our check would be returned for insufficient funds. The \$3,782.41 is from a prior District Clerk who kept this account as an interest bearing account as is pointed out in the report.

In order to mitigate the risk of issuing a hot check, we keep this money as a hedge. This is the same response that we gave when questioned by the Auditor's Office four or five years ago.

A handwritten signature in black ink, appearing to read "John D. Kinard", written over a horizontal line.

John D. Kinard

Galveston County District Clerk