



**THE COUNTY OF GALVESTON**  
COUNTY AUDITOR'S OFFICE  
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April 29, 2014

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

Honorable Judge and Members of the Court:

Attached for your consideration is the internal audit report of the District Clerk's Minor Trust Fund. The audit covered the period October 1, 2012 through September 30, 2013. Also attached is the response letter from Honorable John D. Kinard, dated March 26, 2014.

Sincerely,

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

Randall Rice CPA  
County Auditor

cc: Honorable John D. Kinard

Attachment: District Clerk's Trust Fund Audit Report  
Response Letter, Honorable John D. Kinard



# District Clerk's Minor Trust Accounts Audit

February 11, 2014

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)

- Minor investment account values were confirmed. No discrepancies were noted.
- Interest earned on Certificate of Deposit accounts are not verified until disbursement of funds. Interest is updated in Odyssey according to bank statements.
- Internal controls for daily operations are sufficient to ensure proper separation of duties.

## Safeguarding of Assets (page 4)

- Physical security over assets (collections) is adequate.
- District Clerk's Office deposits collections to the bank daily.
- District Clerk's Office submits properly prepared and adequately supported bank reconciliations to the Auditor's Office in a timely manner.

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

- Disbursements ordered by the Court were paid as instructed.
- No material findings regarding escheatment of funds.
- No discrepancies pertaining to any administrative fees for the audit period.
- Excess proceeds cases tested were in compliance with relevant Tax Codes.

# Introduction

The Internal Audit Division conducted an internal audit of the District Clerk's Minor Trust Accounts, as required by Local Government Code §115.0035. The internal audit covered the period October 1, 2012 through September 30, 2013. The audit was performed from December 2, 2013 through February 11, 2014.

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.

Jordan Guss, Internal Auditor I, 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.

## Financial and Transaction Data Accuracy

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

**Finding:** The District Clerk's Office does not verify interest earned on Certificate of Deposit (CD) accounts until funds are disbursed. Odyssey does not have the capability to compute interest for minor investments. The office currently records interest in Odyssey according to bank statements sent to the office each period. Under the current process, bank errors would not be caught until funds are disbursed in the future.

**Recommendation DC-14-01:** The District Clerk's Office should develop a systematic way of checking amounts of interest credited by the banks upon receipt of Minor Trust Account bank statements. This should include keeping a record of updated interest rates as CD accounts rollover. Once developed, accounts can be randomly sampled and periodically tested. *(This is a repeat finding.)*

## Separation of Duties

One of the most important internal controls is to have proper separation of duties. No one person should authorize a transaction, record a transaction, and have custody of 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.

# Safeguarding of Assets

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

## Physical Security

Physical security encompasses any method to physically secure the collections from loss. Collections not being used should be kept in a locked drawer/safe until they are needed.

The District Clerk maintains a safe used to service financial needs of the office. No one person has direct access to the safe and the safe is locked when not in use.

District Clerk staff is able to generate receipts from Odyssey to record any incoming funds. All receipt numbers are automated and no one clerk can override or assign substitute receipt numbers for money received or disbursed. Duplicate receipts can be re-printed as needed.

## Minimizing Exposure to Loss

Daily depositing is one of the best methods of minimizing exposure of collections to loss as well as providing the County with maximum benefit of collections. The District Clerk's Office has a policy to deposit collections daily.

The auditor observed this process while performing fieldwork at the District Clerk's Office.

## Management of Collections

Properly prepared and adequately supported bank reconciliations are one of the best methods of cash management available to any official.

The District Clerk's Office submits properly prepared and adequately supported bank reconciliations to the Auditor's Office in a timely manner.

# 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 Ordered Disbursements

All disbursements concerning minor trust accounts are court-order driven. Minors are not allowed access to their money without an approving order from one of the District Judges to disburse. The auditor tested to verify withdrawals for minors were made in accordance with an order from the Court.

Each disbursement for minor trust accounts had an accompanying court order authorizing withdrawal and payment to the minor.

## LGC §117.002: Escheatment of Funds

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.

## LGC §117.054: Registry Interest Administrative Fees

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 had corresponding court orders signed by the Judge authorizing both a release of the minor's account money and an administrative fee made payable to the County for rendering services. Accounting creates both checks at the same time. Administrative Supervisors sign both checks and only return the administrative fee check to the check preparer for end of day depositing. The minor's check is not returned to the check preparer and is kept locked in the safe until picked up or mailed. No errors were detected.

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

## LGC §117.055: Registry Non-Interest Administrative 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. (b) A fee collected under this section shall be deposited in the general fund of the county.”

All disbursements tested for non-interest bearing accounts had a five percent deduction (not to exceed \$50) made payable to the County for rendering services when applicable. Family and criminal cases involving bonds do not collect administrative fees at disbursement. The auditor confirmed these two types of cases did not assess and collect administrative fees. No exceptions were noted.

## Tax Code §34.03: 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(c) 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.



# JOHN D. KINARD

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## DISTRICT CLERK GALVESTON COUNTY

March 26, 2014

Ref: Letter dated March 24, 2014 dealing with Minor Accounts

The District Clerk is the custodian of these accounts. These are not Trust Accounts since the District Clerk has no fiduciary or trustee duties. Most court orders only require that we place the judgments awarded to minors in an interest bearing account. When there is sufficient documentary evidence, we will place the funds into a Certificate of Deposit in the depository bank. As of March 25, 2014 we have 360 individual CDs in 4 banks. The majority (261) are in Texas First Bank in Hitchcock.

*Odyssey's Trust Account Owners Report* provides the following information:

- Case Number
- Owner's Name
- Owner's Date of Birth where we have a date and where applicable
- Bank Name
- Date Invested
- Maturity Date
- Balance

The above information more than meets the statutory requirements to pertaining to remaining money on hand. The compound period, interest rate, principal amount, and interest earned to date are not available in any report. Information Technology would have to develop reports to supply some of this information. We do not have the staff resources to manually enter this information and we feel that this information exceeds the statutory requirements.

In a separate report, *Registry and Trust Account Journal*, Odyssey reports the amounts received and disbursed for a period. This report would provide the other statutorily required information.

We will submit these reports under oath each quarter.

Sincerely,

A handwritten signature in black ink that reads "John D. Kinard".

John D. Kinard  
District Clerk