

County of Berks, Office of the Controller

Berks County Services Center

633 Court Street, 12th Floor

Reading, PA 19601-4311

Phone (610) 478-6150

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Sandra M. Graffius, County Controller

Jack A. Linton, Esq., Solicitor

September 16, 2016

Mrs. Marianne R. Sutton
Prothonotary
Office of the Prothonotary
County of Berks, Pennsylvania

Re: Exit Conference Confirmation

Dear Mrs. Sutton:

This is to confirm the exit conference scheduled for September 20, 2016, at 10:30 am that will be held at your office.

We have completed our audit of the financial statements for Office of the Prothonotary for the year ended December 31, 2013 and have attached an advanced draft copy of the report for your review prior to the meeting. At this time we will be discussing findings and other necessary items.

I would like to thank you for your cooperation and for the courtesies extended by your staff to mine. If you have any questions prior to the exit conference, please contact our office.

Sincerely,

Oliver J. Arthur



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September 16, 2016

Mrs. Marianne R. Sutton
Prothonotary
Office of the Prothonotary
County of Berks, Pennsylvania

Re: Internal Auditor's Report

Dear Mrs. Sutton:

We have completed our audit of the financial statements for Office of the Prothonotary for the year ended December 31, 2013 and have attached the report for your review and response.

I ask that you respond to me no later than September 30, 2016. For each material weakness/significant deficiency, please state whether or not you agree. If you do not agree, please state why. If you agree, please state:

- ◆ The corrective action to be taken;
- ◆ The anticipated date for implementation;
- ◆ Who will perform and implement the corrective action.

Once we receive your response, we will issue a final report, including your response, to the individuals listed on the distribution list. If we do not receive your response to the report by September 30, 2016, the report will be issued without a response. This report is intended for Office of the Prothonotary's management. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

I would like to thank you for your cooperation and for the courtesies extended by your staff to mine. If you have any questions concerning the attached report, I would be glad to discuss them with you.

Yours truly,

Sandra M. Graffius

**Office of the Prothonotary
County of Berks, Pennsylvania**

Marianne R. Sutton, Prothonotary

Annual Financial Statement Audit

For The Period Ending December 31, 2013

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Report Distribution List

1. Marianne R. Sutton, Prothonotary
2. Christian Y. Leinbach, County Commissioner Chair
3. Kevin S. Barnhardt, County Commissioner
4. Mark C. Scott, County Commissioner
5. Ronald Seaman, Chief Administrative Officer
6. Susan N. Denaro, Solicitor for Prothonotary
7. Eugene A. DePasquale, Pennsylvania Auditor General
8. Reinsel, Kuntz, Leshner LLP, Certified Public Accountants
9. Audit File



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Internal Auditor's Report

Mrs. Marianne R. Sutton
Prothonotary
Office of the Prothonotary
County of Berks, Pennsylvania

Report on the Financial Statements

We have audited the accompanying financial statements of the Office of the Prothonotary, which comprise the statement of assets and liabilities – cash basis as of December 31, 2013, and the related statement of receipts, disbursements and changes in cash balance – cash basis for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with the cash basis of accounting described in Note 1; this includes determining that the cash basis of accounting is an acceptable basis for the preparation of the financial statements in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatements, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the

circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets and liabilities arising from cash transactions of the Office of the Prothonotary as of December 31, 2015, and its cash receipts, disbursements and cash balance for the year then ended in accordance with the cash basis of accounting described in Note 1.

Basis of Accounting

We draw attention to Note 1 of the financial statements, which describes the basis of accounting. The financial statements are prepared on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Other Matters

The Supplemental information section has not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, Internal Audit has also issued a separate report dated September 16, 2016 on our evaluation of the Office of the Prothonotary's internal control over financial reporting and on our tests of compliance with certain provisions of laws, regulations, policies and/or procedures. That report is an integral part of the audit performed in accordance with Government Auditing Standards and is to be read in conjunction with this report in considering the results of the audit.

Sandra M. Graffius, Controller
September 16, 2016

**Office of the Prothonotary
County of Berks, Pennsylvania
Statement of Assets and Liabilities – Cash Basis
As of December 31, 2013**

Assets

Cash in Bank	\$ 666,748
Court-Ordered Deposits (See Note 3)	45,328
Change Fund/Petty Cash	1,100
	713,176
Total Assets	\$ 713,176

Liabilities and Fund Balance

Liabilities

Funds Held in Escrow - Advanced Payments	\$ 417,292
Due to the County of Berks	205,857
Reserve for Court-Ordered Deposits	45,328
Due to Commonwealth of PA	13,770
Funds Held in Escrow - Rent	12,745
Due to the County of Berks - Praecipe & Master Fees	10,535
Due to the County of Berks - Mediation Fees	6,310
Due to County-Petty Cash/Change Fund	1,100
Due to Administrative Office of PA Courts	210
Due to Others	29
	713,176
Total Liabilities	\$ 713,176

The accompanying notes are an integral part of these financial statements.

**Office of the Prothonotary
County of Berks, Pennsylvania
Statement of Receipts, Disbursements and Changes in Cash Balance – Cash Basis
For the Year Ended December 31, 2013**

Receipts

Prothonotary Fees	\$ 1,761,913
Commonwealth of PA, Fees and Taxes	213,218
Praecipe and Master Fees	140,739
Advance Payments	107,523
Mediation Cost and Surcharge	101,005
Rent Escrow	59,920
Passport Fees	45,350
Photocopier Fees	38,743
Prothonotary Automation Fund	35,132
Other Receipts - Wage Attachment	19,988
Interest income	569
Total Receipts	<u>2,524,100</u>

Disbursements

County of Berks	1,796,439
Commonwealth of PA	213,336
Praecipe and Master	138,979
Mediation Cost and Surcharge	101,070
Advanced Payments	79,170
Rent Escrow	56,603
Prothonotary Automation Fund	35,157
Other Payments - Wage Attachment	20,620
Photocopier Maintenance and Supplier	1,098
Bank Fees	156
Total Disbursements	<u>2,442,628</u>

Cash receipts in excess of disbursements	81,472
Cash account balance as of January 1	<u>585,276</u>
Cash account balance as of December 31	<u><u>\$ 666,748</u></u>

The accompanying notes are an integral part of these financial statements.

**Office of the Prothonotary
County of Berks, Pennsylvania
Notes to Financial Statements
For the Year Ended December 31, 2013**

Note 1: Nature of the office and significant accounting policies

Background and Reporting Entity:

The Office of the Prothonotary is responsible for filing and processing all civil actions (i.e., divorce, custody, protection from abuse, civil law suits etc.), equity actions, judgments, federal and local tax liens, city liens, family court matters, license suspension appeals, appeals to higher court, uniform commercial code filings, applications for passports, and arbitration hearings. This office also files all judgments, orders, decrees of the court, and sends out notices of such entry to parties and/or counsel in each case. The Prothonotary issues writs of execution and other writs, reviews pleadings filed for compliance with Pennsylvania Rules of Civil Procedure and Berks County Rules of Court, and collects filing fees for the County and writ tax and surcharges for the Commonwealth.

The actual operating expenses of the Prothonotary are paid by the County of Berks. These costs include the salaries and wages of office employees, fringe benefits, postage, telephone, office supplies, computer/LAN use, and furniture and equipment. These costs are not included in the audited Statements of Cash Receipts, Disbursements, and Cash Balance.

Basis of accounting:

The books and records of the Office of the Prothonotary are maintained on the cash basis of accounting and, therefore, the financial statements presented herein do not purport to present the account balances and results of operations in conformity with generally accepted accounting principles. The cash basis of accounting is an other comprehensive basis of accounting.

Cash and cash equivalents:

The Office of the Prothonotary considers cash and equivalents to be cash on hand, on deposit and investments with a maturity of three months or less when purchased.

Cash accounts:

The financial statements prepared for the Office of the Prothonotary reflect primarily trust and agency account activity. The account is maintained and reconciled by the Office of the Prothonotary. These financial statements also reflect collection and transfer of fees to a special Prothonotary automation fund (Act 164), which was mandated by the Pennsylvania legislature for the purpose of office automation. The Prothonotary's share of the County record improvement fund (PS 21052.1), a special revenue-operating fund, is a separate compilation. Administrative costs and expenses incurred by the Office of the Prothonotary are reflected on the books and records of the County of Berks and not on these financial statements.

**Office of the Prothonotary
County of Berks, Pennsylvania
Notes to Financial Statements
For the Year Ended December 31, 2013**

Note 2: Cash and Equivalent

The following cash accounts are in the name of the County of Berks, Office of the Prothonotary, and are reflected in the County of Berks financial statements:

<u>Bank</u>	<u>Account Type</u>	<u>Bank Balance</u>	<u>Carrying Value</u>
National Penn	General Checking	\$ 675,064	\$ 666,153
National Penn	EFT liens	595	595
Cash	cash on hand	<u>1,100</u>	<u>1,100</u>
		<u>\$ 676,759</u>	<u>\$ 667,848</u>

The general checking holds funds received by the Office of the Prothonotary in a trust and agency capacity and use of these funds, by the Office of the Prothonotary, is restricted.

The general checking account is an interest-bearing account. For the year ended December 31, 2013, this account earned \$567 of interest income. The EFT Liens account is used exclusively to process IRS tax lien activity. Amounts on deposit in excess of FDIC limits are collateralized by the financial institution with securities held by that entity.

Note: Additional interest of \$1.11 was earned in 2013 on the National Penn EFT liens account.

Note 3: Court-ordered deposits

Court-ordered deposits represent cash on deposit with local financial institutions that are maintained by the Office of the Prothonotary as directed by the civil court. These bank accounts are monies the court has ordered litigants in civil cases to place on deposit pending the outcome of a court case. The Office of the Prothonotary acts as an agent for the court by maintaining and reconciling these bank accounts until ordered by the court to make disbursements to the designated litigants of a court case. All interest earned or bank fees incurred are adjusted to the balance of these bank accounts and are not paid to or from the County of Berks. A corresponding liability for these funds is shown on the face of the financial statements and titled "Reserve for court-ordered deposits." As of year-end the Office of the Prothonotary was in control of eleven separate bank accounts for court-ordered deposits.

**Office of the Prothonotary
County of Berks, Pennsylvania
Notes to Financial Statements
For the Year Ended December 31, 2013**

Note 3: Legal Matters

Our audit disclosed no pending litigation involving the Office of the Prothonotary or Mrs. Marianne Sutton, Prothonotary that would affect the financial statements for the year ended December 31, 2013.

SUPPLEMENTAL INFORMATION

**Office of the Prothonotary
County of Berks, Pennsylvania
Schedule of County of Berks
Revenues and Direct Expenditures
For the Year Ended December 31, 2013
(Unaudited)**

<u>Revenues</u>	<u><u>\$ 2,005,858</u></u>
<u>Direct Expenditures</u>	
Salaries and Wages	\$ 1,153,120
Fringe Benefits	344,202
Rent Expense	71,746
Postage	32,258
Books & Subscriptions	12,593
Office Supplies	12,501
Temporary Personnel	7,494
Telephone/Internet	3,316
Conference/Training	2,179
Maintenance Contracts	1,985
Advertising	1,737
Association Dues	835
Travel	649
Other General Expenditures	141
	<hr/>
Total Direct Expenditures	<u><u>\$ 1,644,756</u></u>



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Internal Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters

Mrs. Marianne R. Sutton
Prothonotary
Office of the Prothonotary
County of Berks, Pennsylvania

In planning and performing our audit of the financial statements of the Office of the Prothonotary as of and for the year ended December 31, 2013, in accordance with auditing standards generally accepted in the United States of America, we considered the Office of the Prothonotary's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Office of the Prothonotary's internal control. Accordingly, we do not express an opinion on the effectiveness of the Office of the Prothonotary's internal control.

A *deficiency* in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

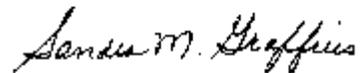
Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. We did identify certain deficiencies in internal control, described in the Schedule of Findings and Recommendations, which we consider to be significant deficiencies.

The Office of the Prothonotary's responses to the findings identified in our audit is described in the accompanying Schedule of Findings and Recommendations. The Office of the Prothonotary's response was not subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on the responses.

As part of obtaining reasonable assurance about whether the Office of the Prothonotary's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect in the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

We noted certain matters that we reported to management of the Office of the Prothonotary in a separate letter dated September 16, 2016, regarding lack of management control over deposits, escheats, and reimbursements.

This report is intended for the information and use of the County of Berks Board of Commissioners and the Office of the Prothonotary's management. This report is, however, a matter of public record and its distribution is not limited.

A handwritten signature in black ink that reads "Sandra M. Graffius". The signature is written in a cursive style with a large initial 'S'.

Sandra M. Graffius, Controller
September 16, 2016

**Office of the Prothonotary
County of Berks, Pennsylvania
Schedule of Audit Findings and Recommendations**

Significant Deficiency and Management's Response

1. Untimely Remittance of Photocopy and Interest Receipts to the County of Berks Treasurer

Condition:

Interest earnings from funds held on deposit for the year 2013 were \$568.27 including \$1.11 in the tax lien account. The Office of the Prothonotary had no remittances to the Office of the Treasurer for photocopy monies in 2013. Balance of undistributed monies remaining in the Prothonotary general account at December 31, 2013 total \$75,392.60. The Office of the Prothonotary normally makes partial disbursements of these collected fees to the Office of the Treasurer in late December of the current year. **Note:** 2013 interest of \$567.16 was remitted on January 7, 2014.

Section 1602 of the Third Class County Code requires all fees collected and earned to be remitted to the Office of the Treasurer by the first Monday of the month following collection.

Recommendation:

The practice of other Row Offices is to remit the fees and interest on or before the tenth of the month following the month of collection. This allows sufficient time for the office to reconcile their bank accounts and identify interest earnings on the account. In the past the Office of the Prothonotary has routinely maintained a deposit account based upon revenue from the photocopier, which is then in turn used to pay fees and expenses arising from modernization projects in the office that might not be covered under their standard budget and automation fund. The untimely delay of remitting the interest earnings and photocopy fees is not in compliance with the County policy or practice. Monies collected should be remitted more frequently to the County of Berks Treasurer.

Management's Response:

The Prothonotary Office has maintained what we thought was a long standing precedent of holding some portion of photocopy monies in order to purchase new copiers and related equipment when needed as in the past requests such as this were denied by the County as not being budgeted and being too costly. We have been and continue to remit a portion of copy monies to the County each year. However, after the exit interview of September 20, 2016 and upon further examination of the final audit report we will re-evaluate our processes and strive to begin remitting photocopy monies and interest to the County in as timely a manner as possible.

Auditor's Conclusion:

The Prothonotary Office should have knowledge of the laws and regulations that pertain to the office and stay up to date with current laws and regulations. We appreciate the offices re-evaluation of their processes and attempt to correct the issue. However, it is imperative that the office follow the requirements of Section 1602 of the Third Class County Code requires all fees collected and earned to be remitted to the Office of the Treasurer by the first Monday of the month following collection. During our next audit, we will determine if the office complied with our recommendations.

**Office of the Prothonotary
County of Berks, Pennsylvania
Schedule of Audit Findings and Recommendations**

2. Inability to Summarize Rent Escrow and Advance Payment Data

Condition:

The Office of the Prothonotary records advanced payments and rents held in escrow on a case-by-case basis in manual ledger books called cost books. The hard copy source document is then filed in the individual docket file.

This system of recording the rent escrow and advance payment activity has been in place for many years, long before the current elected official took office. This system does not have the flexibility for the Office of the Prothonotary to produce a detailed summary of individual account balances that can be easily reconciled to the spreadsheet balances. The detail of account activity has to be compiled and summarized manually.

The manual processing of information to the cost books has led to relatively small differences with the trial balance and detail spreadsheets in past audit years. The variance identified for 2012 was (\$1,425.53), which reflected the cost book balances as lower than the trial balance. The previous five (5) year balance was (\$6,522.98), which reflected the cost book balances as higher than the trial balance. These variances were well below materiality levels for this audit.

Recommendation:

The Office of the Prothonotary will continue to escheat monies in the older volumes pre-volume 52 and analyze volume 52 and 53 (the current volume used to document monies received and disbursed) and adjust the differences during the year as they find them.

Management's Response:

The Prothonotary Office admits that due to processes established by prior Prothonotaries and their bookkeeping personnel the cost books are not in the proper balance that they should be. It appears that the office has also not escheated monies from stale checks which has led to the inequity in the cost books. This finding and possible solutions to rectifying it were discussed in length during the Exit Interview. One viable solution was scanning the cost books and then exporting the data into a spreadsheet for analysis and comparison. It was agreed by the group to investigate this solution.

Auditor's Conclusion:

Effective internal controls require the office maintain accountability over all undisbursed funds. These controls include an accurate list of all funds held in escrow. This finding has been brought to the attention of the office in prior audits and inconsistencies in the balance continue to grow.

We appreciate the office's attempt to correct this issue. However, it is the responsibility of the office to create and maintain an accurate list of all undisbursed funds to ensure they are properly accounted for. During our next audit, we will determine if the office complied with our recommendations.