

# County of Berks, Office of the Controller

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**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 30, 2016

Magisterial District Judge Thomas H. Xavios  
Magisterial District Court 23-3-09  
1259 North 10<sup>th</sup> Street  
Reading, PA 19604

Re: Exit Conference Confirmation

Dear Magisterial District Judge Xavios:

This is to confirm the exit conference scheduled for October 17, 2016, at 11:30 am that will be held at your office.

We have completed our audit of the financial statements for Magisterial District Court 23-3-09 for the year ended December 31, 2015 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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Magisterial District Judge Thomas H. Xavios  
Magisterial District Court 23-3-09  
1259 North 10<sup>th</sup> Street  
Reading, PA 19604

Re: Internal Auditor's Report

Dear Magisterial District Judge Xavios:

We have completed our audit of the financial statements for Magisterial District Court 23-3-09 for the year ended December 31, 2015 and have attached the report for your review and response.

I ask that you respond to me no later than October 14, 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 October 14, 2016, the report will be issued without a response. This report is intended for Magisterial District Court 23-3-09'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

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania**

**Magisterial District Judge Thomas H. Xavios**

**Annual Financial Statement Audit**

**For the Year Ended December 31, 2015**

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## **Report Distribution List**

1. Thomas H. Xavios, Magisterial District Judge
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. Paul M. Yatron, President Judge
7. Steve Weber, District Court Administrator
8. Faith I. Phillips, Special Courts Administrator
9. Eugene A. DePasquale, Pennsylvania Auditor General
10. Andrew M. Simpson, Judicial Programs Department
11. Reinsel, Kuntz, Leshner LLP, Certified Public Accountants
12. City of Reading
13. Reading School District
14. Reading Parking Authority
15. Audit File



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## **Internal Auditor's Report**

Magisterial District Judge Thomas H. Xavios  
Magisterial District Court 23-3-09  
1259 North 10<sup>th</sup> Street  
Reading, PA 19604

### *Report on the Financial Statements*

We have audited the accompanying financial statements of Magisterial District Court 23-3-09, which comprise the statement of assets and liabilities – cash basis as of December 31, 2015, 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 Magisterial District Court 23-3-09 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*

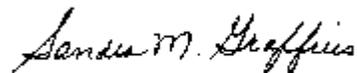
We draw attention to Note 1 of the financial statements, which describes the basis of accounting. The financial statements are prepared on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not 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 30, 2016 on our evaluation of the Magisterial District Court 23-3-09 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 30, 2016

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania  
Statement of Assets and Liabilities – Cash Basis  
As of December 31, 2015**

**Assets**

Cash - Checking Account	\$ 81,052
Cash - Petty Cash/Change Fund	<u>400</u>
<b>Total Assets</b>	<b><u><u>\$ 81,452</u></u></b>

**Liabilities**

Due to the County of Berks	\$ 39,065
Due to local authorities	25,381
Funds held in escrow	11,912
Due to Commonwealth of PA	4,694
Due to County - Petty Cash/Change Fund	<u>400</u>
<b>Total Liabilities</b>	<b><u><u>\$ 81,452</u></u></b>

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

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania  
Statement of Receipts, Disbursements and Changes in Cash Balance – Cash Basis  
For the Year Ended December 31, 2015**

<b><u>Receipts</u></b>	\$ 1,562,134
<b><u>Disbursements</u></b>	
County of Berks	627,016
Local authorities	447,137
Commonwealth	390,831
Restitution, bail and collateral	88,196
Constable fees	33,890
<b>Total Disbursements</b>	<b>1,587,070</b>
<b>Cash disbursements in excess of receipts</b>	(24,936)
Cash account balance as of January 1	105,988
<b>Cash account balance as of December 31</b>	<b>\$ 81,052</b>

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

**Magisterial District Court 23-3-09**  
**County of Berks, Pennsylvania**  
**Notes to Financial Statements**  
**For the Year Ended December 31, 2015**

**Note 1: Nature of the office and significant accounting policies**

**Nature of the office:**

Magisterial district courts have jurisdiction over the preliminary stages of all criminal cases. They have jurisdiction over all traffic and non-traffic summary cases and jurisdiction in civil cases where the amount in controversy is \$12,000 or less. They do not have jurisdiction over matters pertaining to real estate, except landlord and tenant matters. Magisterial district courts collect fines, costs, restitution, and bail from defendants. The funds are then distributed to the Commonwealth, the County of Berks, local authorities, constables, and victims of illegal activities.

Magisterial district courts are presided over by magisterial district judges. Appeals from magisterial district judge judgments are taken to the Court of Common Pleas.

Magisterial district judges are employees of the Commonwealth and the court secretaries are employees of the County of Berks.

**Reporting Entity:**

The financial statements of the Magisterial District Court include only those transactions handled directly by the Magisterial District Court. These transactions include the collection of costs, fines, bail, and restitution, as well as the subsequent disbursement of these funds to the Commonwealth of Pennsylvania, to related political subdivisions, and to the citizens served by the Magisterial District Court. As such, the Magisterial District Court acts as a conduit for the Commonwealth, local municipalities, and constituents it serves. Consequently, the Magisterial District Court's cash balance at any point in time represents undisbursed funds to one (or all) of these parties. For financial statement purposes, these undisbursed funds are included as a liability of the Magisterial District Court.

The actual operating expenses of the Magisterial District Court are paid by the County of Berks, except for the Magisterial District Judge's salary which is paid by the Commonwealth. These costs include the salaries and wages of district court employees, fringe benefits, office rent, postage, telephone, office supplies, computer/LAN use, and furniture and equipment. These costs are not included in the audited Statement of Cash Receipts, Disbursements and Changes in Cash Balances.

**Basis of accounting:**

The books and records of Magisterial District Court 23-3-09 are maintained on the cash basis of accounting. Consequently, receipts are recognized when received rather than when assessed or otherwise due and disbursements are recognized when paid rather than when the obligation is incurred. Accordingly, the accompanying statements do not present the assets, liabilities, receipts, disbursements, and cash balances in accordance with generally accepted accounting principles.

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania  
Notes to Financial Statements - Continued  
December 31, 2015**

**Note 2: Cash and equivalents**

The following cash account is in the name of Magisterial District Court 23-3-09, County of Berks, and are not reflected in the County of Berks financial statements:

Bank	Account Type	Bank Balance	Carrying Value
VIST	Checking	\$ 80,561	\$ 81,052

Magisterial District Court 23-3-09 is a component unit of Pennsylvania's Unified Judicial System. The cash account for Magisterial District Court 23-3-09 is assigned its own tax identification number.

The account holds funds received by Magisterial District Court 23-3-09 primarily in a trust and agency capacity and use of these funds by Magisterial District Court 23-3-09 is restricted.

Amounts on deposit do not exceed \$250,000 and therefore are fully covered by FDIC insurance.

**Note 3: Legal Matters**

Our audit disclosed no pending litigation involving the Magisterial District Court or Magisterial (Thomas H. Xavios) that would affect the financial statements for the year ended December 31, 2015.

**SUPPLEMENTAL INFORMATION**

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania  
Schedule of County of Berks  
Revenues and Direct Expenditures  
For the Year Ended December 31, 2015  
(Unaudited)**

<b><u>Revenues</u></b>	<b><u>\$ 612,812</u></b>
<b><u>Direct Expenditures</u></b>	
Constable Costs	\$ 386,073
Salaries & Wages	296,395
Fringe Benefits	68,270
Postage	63,499
Security Guard Service	35,285
Rent Expense	35,075
Contracted Services	15,440
Professional Fees/Interpreter	11,848
Office Supplies	9,853
Equipment	4,623
Utilities	3,315
Telephone/Internet	3,172
Software/Hardware Maintenance	3,153
Books & Subscriptions	1,891
Other General Expenditures	851
Conference/Training	<u>26</u>
<b>Total Direct Expenditures</b>	<b><u><u>\$ 938,769</u></u></b>



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

Magisterial District Judge Thomas H. Xavios  
Magisterial District Court 23-3-09  
1259 North 10<sup>th</sup> Street  
Reading, PA 19604

In planning and performing our audit of the financial statements of Magisterial District Court 23-3-09 as of and for the year ended December 31, 2015, in accordance with auditing standards generally accepted in the United States of America, we considered Magisterial District Court 23-3-09'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 Magisterial District Court 23-3-09's internal control. Accordingly, we do not express an opinion on the effectiveness of the Magisterial District Court 23-3-09'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.

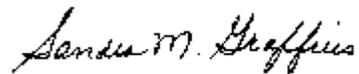
Our consideration of internal control was for the limited purpose described in the first paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist 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 that we consider to be significant deficiencies.

The Magisterial District Court 23-3-09's responses to the finding identified in our audit is described in the accompanying Schedule of Findings and Recommendations. The Magisterial District Court 23-3-09'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 Magisterial District Court 23-3-09'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 Magisterial District Court 23-3-09 in a separate letter dated September 30, 2016, computer receipts missing from case files, missing case files and backlog of warrants and pre-warrant notices to print.

This report is intended for the information and use of the County of Berks Board of Commissioners and Magisterial District Court 23-3-09's management. This report is, however, a matter of public record and its distribution is not limited.



Sandra M. Graffius, Controller  
September 30, 2016

**Magisterial District Court 23-3-09  
County of Berks, Pennsylvania  
Schedule of Audit Findings and Recommendations**

**Material Weakness/Significant Deficiency and Management's Response**

**1. Backlog of unserved warrants subject to recall**

**Condition:** During our review of the timeliness of recalling warrants, we noted that Magisterial District Court 23-3-09 was not current in performing this duty. At the time of the audit, there were 7,825 outstanding warrants with an issue date aged beyond 60 days. As a result, the court is not in compliance with the Magisterial District Judge System manual and the Court of Common Pleas of Berks County, Pennsylvania, Administrative Order Concerning Warrant Procedures dated March 14, 2007.

**Recommendation:** We recommend that the Magisterial District Court 23-3-09 staff review warrant control reports and notify servers to return warrants where the ordinary means of service has failed after 60 days. Returned warrants can either be recorded in the Magisterial District Judge System (MDJS) as unserved, if the defendant is unable to be located; or they can be recalled for reissue, if the server has not exhausted all means of finding the defendant.

**Management's Response:** As of this date [October 25, 2016], all warrants issued prior to March 2016 have been marked as "unserved" and we will continue to catch up and then stay current with this procedure.