

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

AUDIT REPORT
OF

CITY CLERK
CITY OF HAMMOND
LAKE COUNTY, INDIANA

January 1, 2010 to December 31, 2010



FILED
09/07/2011

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
City Clerk	Robert J. Golec	01-01-08 to 12-31-11
Mayor	Thomas M. McDermott, Jr.	01-01-08 to 12-31-11
City Controller	Robert Lendi, CPA	01-01-10 to 12-31-11
President of the Common Council	Anthony Higgs	01-01-10 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF HAMMOND

We have audited the records of the City Clerk for the period from January 1, 2010 to December 31, 2010, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of the City of Hammond for the year 2010.

STATE BOARD OF ACCOUNTS

April 19, 2011

CITY CLERK
CITY OF HAMMOND
AUDIT RESULTS AND COMMENTS

RECORD OF HOURS WORKED

The City Clerk's office did not maintain appropriate payroll records reflecting the actual number of hours worked each day by each employee. The City Clerk's office did not provide a time sheet nor did the prescribed employee service record provided note the actual number of hours worked each day.

The Employee's Service Record (General Form No. 99A) must be kept by each office or department for each employee in order to properly prepare "Payroll Schedule and Voucher, General Form No. 99." It records the hours or days worked, sick leave, vacation and days lost. It may also be used to comply with the requirements of IC 5-11-9-4 regarding recording hours worked each day by an employee." (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 4)

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Indiana Code 5-11-9-2 states:

"On and after January 1, 1948, all accounts or vouchers of any political subdivision of the state for personal services of officers and employees shall be made in such form as may be prescribed by the state board of accounts."

Indiana Code 5-11-9-4 states in part:

"(a) The state board of accounts is hereby authorized to prescribe the forms of accounts and vouchers provided for by sections 1 and 2 of this chapter. (b) The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees: (1) covered by section 1 or 2 of this chapter; and . . ."

OLD OUTSTANDING CHECKS (WARRANTS)

Our review of the bank reconcilements as of December 31, 2010, included (checks, warrants) totaling \$2,254.50 outstanding in excess of two years.

In order to eliminate old outstanding checks from the records, the Court should perform the following:

1. Issue a formal stop payment order to the bank upon which each check is drawn.
2. Enter the amount of each check as a receipt in the cash book. Post the respective amounts to the trust column of the cash book and enter each amount in the name of the payee in the register of trust funds.
3. Since the checks have never cleared the bank, the amount is still on deposit. Therefore, when all such checks are charged to the records and reinstated in the trust register, the original check number will be eliminated as outstanding in the next reconcilement with the bank.

CITY CLERK
CITY OF HAMMOND
AUDIT RESULTS AND COMMENTS
(Continued)

4. If, at the time such checks are restored to the records, the original dates indicate the checks have been outstanding for five or more years, they should be paid over to the Attorney General immediately. The original date should be shown in the register of trust funds. If the checks are not five years old they should be held until the five year period has elapsed.

The entry in the cash book should be: "Old Outstanding Check No. issued Date, to (Name)," and extend the amounts to the total and trust fund columns.

Since outstanding checks of the court are not included within the meaning of Indiana Code 5-11-10.5, city and town courts are to follow the preceding steps in handling old outstanding checks.

City and town courts are required to report these items to the Attorney General annually online. For information on reporting online, contact the Attorney General's office at upholder@indianaunclaimed.com or 1-800-447-5598. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 4)

UNCLAIMED MONEY OVER FIVE YEARS OLD

The Clerk's Trust Register includes money held in excess of five years. The detail trust listing includes entries dating back to the 1980's and of the \$1,780,184 year end trust balance, approximately \$753,782 or 42 percent of the balance was determined to be held in excess of five years. The funds have not been remitted to the Attorney General's office as unclaimed funds in accordance with state statute. A similar comment appeared in the prior report.

All items that can be legally disbursed should be paid immediately to the person or persons entitled thereto. All fees and funds five or more years old, including old outstanding checks, should be scheduled on forms provided by the Attorney General and paid over to the Attorney General as required by IC 32-34-1-20(c)(6). Items should not be allowed to accumulate beyond the five year anniversary date. (Accounting and Uniform Compliance Guidelines Manual for City and Town Courts, Chapter 4)

Indiana Code 32-34-1-20(c) states in part:

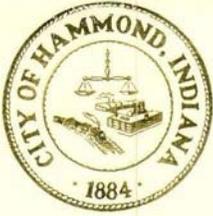
"Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times: . . .

- (6) For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under Indiana Code 32-34-3."

Indiana Code 32-34-1-26(a) states: "A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property."

CITY CLERK
CITY OF HAMMOND
EXIT CONFERENCE

The contents of this report were discussed on April 19, 2011, with Robert J. Golec, City Clerk; Kathryn L. Knapp, Office Manager; and Jennifer L. Barras, Staff Accountant. The official response has been made a part of this report and may be found on pages 7 through 13.



City of Hammond
ROBERT J. GOLEC
City Clerk

April 26, 2011

Ms. Christy Griffin
CPA, State Board of Accounts

Dear Ms. Griffin,

I have enclosed a letter from my attorney with his response regarding our State Board of Accounts exit report. I concur with his comments.

Regarding service records, in the past the blank spaces for salaried employees equaled eight hours worked. Per the recommendation of State Board of Accounts, beginning with the year 2011 we will fill in the blank spaces with hours worked.

Regarding old outstanding checks (warrants), we will be closing out these items by the end of the next month.

Sincerely,

Robert J. Golec
Hammond City Clerk

rjg/kk
Enc

JOHN R. STANISH
ATTORNEY AT LAW
5231 HOHMAN AVENUE, SUITE 818
HAMMOND, INDIANA 46320
—
(219) 932-9184
FAX (219) 932-4511

April 21, 2011

Honorable Robert Golec
Hammond City Clerk
5925 Calumet Avenue
Hammond, IN 46320

Dear Mr. Golec:

This relates to the Audit Results and Comments of Ms. Christy Griffin, CPA, State Board of Accounts, dated April 12, 2011 (“Audit Results”), in connection with its audit of the Hammond City Clerk’s Office. I have reviewed the three areas of comments—Record of Hours Worked, Old Outstanding Checks (Warrants), and Unclaimed Money Over Five Years Old. I have also reviewed those Indiana statutes that I consider relevant to this response to the Audit Results, including, but not limited to, IC 32-34-3 and IC 5-11-9.

Record of Hours Worked The State Board indicates that under IC 5-11-9 it has the ability to prescribe the use of its forms in connection with record keeping of employees’ hours. I agree and you should use the forms suggested in the Audit Results.

Old Outstanding Checks (Warrants) This section deals with approximately \$2,254.50 of old checks, so that, relatively speaking, we are dealing with a tiny amount of the funds handled by the City Clerk’s Office. While the Audit Results suggest that you should stop payment on old checks, it is reasonable to consider the cost of doing so. As I understand, most of the checks constituting the \$2,254.50 are rather small and may be quite old, and probably will never be presented for payment. The bank’s charges for stop payments amount to \$25.00/check, which would be a substantial cost in relation to the approximately \$2,500.00. While I cannot disagree with the Audit Results logic, I believe that, if there is a more economical way to deal with this matter, you would be within your discretion to use that other manner of solving the problem.

Unclaimed Money Over Five Years Old The money held by the Clerk in excess of five years (estimated to be \$753,782.00) may or may not be “unclaimed” property as that term is used under Indiana law. The Audit Results refer to two statutes, IC 32-4-1-20(c) and IC 32-34-1-26(a). It further indicates that under these statutes the City Clerk should deem the money unclaimed and it should be paid over to the Attorney General.

In my examination of these funds, I find that the money relates to cases, which are not yet closed.

In fact, it is my understanding that the City Court periodically calls up numbers of these cases for review and disposition. These are open cases, therefore, I cannot see how the City Clerk can make the determination that these funds are "distributable" as that term is used in the statutes cited in the Audit Results. That statute, IC 32-34-1-29(c)(6), reads as follows:

"For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable...[t]he property or proceeds must be treated as unclaimed property under IC 32-34-3."

The issue is whether or not the money is distributable and I think the answer is that it is not because the Court may, and on occasion does, call up these cases; and the cases are not closed cases. I also want to point out another relevant statute, IC 32-34-3-2(c), which reads:

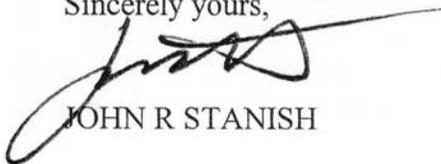
"Clerks shall deliver the money described in subsections (a) and (b) [unclaimed property] to the attorney general upon demand [of the attorney general]."

In the case of the funds referred to in the Audit Results, there has never been a demand made by the attorney general.

Therefore, it is my opinion that these funds should not be paid to the attorney general for two separate reasons. First, the funds are not distributable and therefore unclaimed property because the Court still considers these cases and they are open cases on your records. Second, the attorney general has never made a demand upon the City Clerk for payment of these funds. If you receive either an order from the Court directing that the funds be turned over as unclaimed property or an order closing the cases and five years have passed after that order, you may consider the funds as unclaimed and act under IC 32-34-3 as suggested by the Audit Results, paying the money over as unclaimed property. Alternatively, if the attorney general makes a demand for payment of the funds under IC 32-34-3-2, you should pay it over as unclaimed property. In either case, you should not pay these funds over until either the above referenced court order and the elapse of five years from the date of that order; or you receive the attorney general's demand.

If you have any other questions, please contact me.

Sincerely yours,



JOHN R STANISH



Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 5-11-9

Chapter 9. Certification of Accounts and Vouchers; Forms

IC 5-11-9-1

State employees; accounts for personal services

Sec. 1. On and after July 1, 1947, all accounts or vouchers of any office, department, division, board, body, bureau, officer, or employee of the state for personal services shall be made in such form as may be prescribed by the state board of accounts.

(Formerly: Acts 1947, c.14, s.1.)

IC 5-11-9-2

Political subdivision employees; accounts for personal services

Sec. 2. On and after January 1, 1948, all accounts or vouchers of any political subdivision of the state for personal services of officers and employees shall be made in such form as may be prescribed by the state board of accounts.

(Formerly: Acts 1947, c.14, s.2.)

IC 5-11-9-3

Certification of vouchers and accounts

Sec. 3. Certification of said vouchers and accounts shall be made by the elected officer, head of the department, division, board, body, bureau, or political subdivision or by such authority or authorities in the office, department, division, board, body, bureau, or political subdivision as shall be designated by the elected officer, head of the department, division, board, body, bureau or political subdivision by rule or written direction filed with the officer authorized by law to audit such accounts and vouchers.

(Formerly: Acts 1947, c.14, s.3.)

IC 5-11-9-4

Forms; records

Sec. 4. (a) The state board of accounts is hereby authorized to prescribe the forms of accounts and vouchers provided for by sections 1 and 2 of this chapter.

(b) The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees:

(1) covered by section 1 or 2 of this chapter; and

(2) employed by more than one (1) public agency or in more than one (1) position by the same public agency described in section 1 or 2 of this chapter.

(Formerly: Acts 1947, c.14, s.4.) As amended by P.L.52-1983, SEC.3; P.L.44-1986, SEC.1.

- (J) employee savings;
 - (K) supplemental unemployment insurance; or
 - (L) similar;
- benefits.

(c) The term does not include transactions between business entities and:

- (1) a motor carrier (as defined in IC 8-2.1-17-10); or
- (2) a carrier (as defined in 49 U.S.C. 13102(3)).

As added by P.L.2-2002, SEC.19. Amended by P.L.64-2010, SEC.1.

IC 32-34-1-18

"State" defined

Sec. 18. As used in this chapter, "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-19

"Utility" defined

Sec. 19. As used in this chapter, "utility" means a person that owns or operates for public use any plant, equipment, property,

franchise, or license for the transmission of communications or for the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

As added by P.L.2-2002, SEC.19.

IC 32-34-1-20

Owner indication of interest in property; presumption of abandonment

Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and

(2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

(i) the cashing of a dividend check or other instrument of payment received; or

(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

(i) a statement;

(ii) a report of interest paid or credited; or

(iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts



Information Maintained by the Office of Code Revision Indiana Legislative Services Agency
IC 32-34-3

Chapter 3. Unclaimed Money in Possession of a Court Clerk

IC 32-34-3-1

"Clerk" defined

Sec. 1. As used in this chapter, "clerk" means any person performing the duties of a clerk of any court, whether designated specifically as the clerk of that court or not.

As added by P.L.2-2002, SEC.19.

IC 32-34-3-2

Collection by attorney general; disposition by treasurer of state

Sec. 2. (a) Except for money related to child support, the attorney general may collect all money that remains in the office of a clerk for at least five (5) years after being distributable without being claimed by the person entitled to the money.

(b) The attorney general may collect all money related to child support that remains in the office of a clerk for at least ten (10) years after being distributable without being claimed by the person entitled to the money.

(c) Clerks shall deliver the money described in subsections (a) and (b) to the attorney general upon demand, and the attorney general shall:

- (1) make a record of the money collected; and
- (2) turn it over to the treasurer of state.

(d) The treasurer of state shall deposit the money in the abandoned property fund established by IC 32-34-1-31.

As added by P.L.2-2002, SEC.19.

IC 32-34-3-3

Claims; procedure; payment

Sec. 3. (a) Within five (5) years after a sum of money is deposited in the abandoned property fund in accordance with section 2(d) of this chapter, a person may make a claim to the money by filing an application in the court whose clerk originally held the sum.

(b) If the proof presented by the claimant satisfies the court that the claim is valid, the court shall order payment of the money to the claimant. If presented with a certified copy of the court's order, the attorney general shall direct the treasurer to return the sum of money to the claimant.

As added by P.L.2-2002, SEC.19. Amended by P.L.23-2008, SEC.1.

IC 32-34-3-4

Unclaimed money; limitations on claiming money

Sec. 4. (a) If a sum of money remains in the abandoned property fund for at least five (5) years after the date the money is deposited in the fund under section 2(d) of this chapter without any order directing the return of the money:

- (1) title to the sum vests in and escheats to the state; and
- (2) the sum shall be deposited in the state general fund.

(b) Any claimant who does not file an application with the court within five (5) years after the sum is deposited in the unclaimed funds account is barred from asserting a claim.

due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash

surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

- (1) For traveler's checks, fifteen (15) years after issuance.
- (2) For money orders, seven (7) years after issuance.
- (3) For consumer credits, three (3) years after the credit becomes payable.
- (4) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity

contract:

(A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

(5) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.

(6) For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3.

(7) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

(8) For compensation for personal services, one (1) year after the compensation becomes payable.

(9) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

(10) For stock, dividends, profits, distributions, interest, redemption, payments on principal, or any other sum held or owed by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holders of the business association, or other interest in a business association, three (3) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

- (i) returned as undeliverable; or
- (ii) made after the holder discontinued mailings to the apparent owner.

(11) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted

distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.