

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

EXAMINATION REPORT
OF

MARION COUNTY SMALL CLAIMS COURT,
CENTER TOWNSHIP DIVISION
MARION COUNTY, INDIANA

January 1, 2009 to December 31, 2010



FILED

03/15/2012

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COURT OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Judge	Hon. Michelle Smith Scott	01-01-07 to 12-31-14
Chairman of the Township Board	Linda Journey Phyllis Carr Linda Journey	01-01-09 to 12-31-09 01-01-10 to 12-31-10 01-01-11 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE MARION COUNTY SMALL
CLAIMS COURT, CENTER TOWNSHIP DIVISION

We have examined the records of the Marion County Small Claims Court, Center Township Division for the period January 1, 2009 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 Examination Results and Comments. The financial transactions of this office are reflected in the Annual Report of Center Township, Marion County, for the year 2009 and 2010.

STATE BOARD OF ACCOUNTS

December 15, 2011

MARION COUNTY SMALL CLAIMS COURT, CENTER TOWNSHIP DIVISION
MARION COUNTY
EXAMINATION RESULTS AND COMMENTS

CONDITION OF RECORDS - FINANCIAL REPORT OPINION MODIFICATION

Financial records presented for examination were incomplete and not reflective of the activity of the Township Small Claims Court. The records presented did not provide sufficient information to examine or establish beginning balances, receipts, disbursements, ending balances, or the accuracy or correctness of the transactions.

The Court Cash Book of Receipts and Disbursements (Township Form 25M) was not maintained during the examination period. The Court started using the state approved Odyssey system in September 2008, however, the financial module was not maintained, therefore, the cashbook reports were not accurate and did not reflect all financial activity of the Court. Not having a cash book or equivalent output from the software system means that management could not expediently review the overall activity of the Court, and increases the likelihood that errors or fraud may not be detected timely. The Court cash book or an approved form should be maintained.

Additionally, the Township Small Claims Court did not maintain accurate bank reconciliations during the examination period. Bank reconciliations presented for examination were incomplete and did not coincide with month-end ledger balances. Subsequent to December 31, 2010, significant work has been done to balance the small claims court records. As of December 15, 2011, the Township Small Claims Court is reconciled; however, many adjustments will need to be made to the financial records.

Due to the condition of records described above, the State Board of Accounts was unable to provide an unqualified opinion on the accuracy of the financial statements.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

Accounting records and other public records must be maintained in a manner that will support accurate financial statements. Anything other than an unqualified opinion on the Independent Auditors' Report on the financial statements may have adverse financial consequences with the possibility of an increase in interest rate cost to the taxpayers of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

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 Townships, Chapter 13)

UNTIMELY REMITTANCE OF SMALL CLAIMS COURT FEES

Certain fees collected at the Center Township Small Claims Court are to be paid twice a year to the State of Indiana, Marion County, and to Center Township, respectively. During the examination period, we observed that the Court has only disbursed one check to the State of Indiana since 2006. Also, no fees were remitted to Marion County during the examination period. The Court remitted some fees to Center Township during the examination period; however a large balance was still due to the Township. As of December 31, 2010, the Court owes the following fees to the respective governmental units:

MARION COUNTY SMALL CLAIMS COURT, CENTER TOWNSHIP DIVISION
MARION COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

State of Indiana	\$1,016,520
Marion County	105,042
Center Township	<u>809,876</u>
 Total	 <u><u>\$1,931,438</u></u>

Indiana Code 33-34-8-3 states:

"(a) Payment for all costs made as a result of proceedings in a small claims court shall be to Center Township of Marion County Small Claims Court. The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the homeowner protection unit account established by IC 4-6-12-9 and the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) sixty percent (60%) of all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited monthly in the township general fund of the township in which the court is located. The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

(c) The court semiannually shall pay to the township trustee of the township in which the court is located the remaining forty percent (40%) of the court administration fees described under subsection (b)(1)(C) to fund the operations of the small claims court in the trustee's township."

MARION COUNTY SMALL CLAIMS COURT, CENTER TOWNSHIP DIVISION
MARION COUNTY
EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code 33-34-8-4 states:

"Fees, costs, and any other amounts collected by the courts shall be accounted for quarterly to the clerk of the circuit court on:

- (1) March 31;
- (2) June 30;
- (3) September 30; and
- (4) December 31;

of each year."

INTERNAL CONTROLS - SMALL CLAIMS COURT JUDGMENT CHECKS

The controls over the procedures related to the distribution of the Township Small Claims Court (Court) checks were insufficient. The Court did not have procedures established to notify individuals who were entitled to payment. The Court did not mail judgment checks to the individuals they were due. Each day, the checks were issued, filed alphabetically, and held at the Court office for pick up by the payee.

It was up to the individual to inquire about the check and pick the check up. Individuals were directed to contact the Court four to six weeks after the judgment was issued and inquire as to whether a check was available at the office for them to pick up. At the end of each month, the Court staff would send postcards to individuals who had a large number of checks in the office. Due to the lack of controls over the check distribution process, a large number of checks remained on the outstanding check list. The small claims court outstanding check list at December 31, 2010, totaled \$294,466.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

MARION COUNTY SMALL CLAIMS COURT, CENTER TOWNSHIP DIVISION
MARION COUNTY
EXIT CONFERENCE

The contents of this report were discussed on December 7, 2011, with William E. Douglas, former Trustee, and Robert B. Turner, Attorney.

The contents of this report were discussed on December 8, 2011, with Eugene W. Akers, Trustee; Deborah L. Vaden, Center Township Chief Executive Officer; and Eric Bailey, Center Township Budget Director.

The contents of this report were discussed on December 12, 2011, with Hon. Michelle Smith Scott, Judge, and Debra L. Duncan, Clerk I. The Official Response has been made a part of this report and may be found on pages 8 through 10.

The contents of this report were discussed via telephone on December 15, 2011, with Carl L. Drummer, former Trustee and Fred Biesecker, Attorney.

Judge:
Michelle Smith Scott

**Center Township of
Marion County Small Claims Court**

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200 East Washington St.
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December 21, 2011

Jenny Wagner
Field Examiner
State Board of Accounts
302 West Washington Street, Room E418
Indianapolis, IN 46204

Re: OFFICIAL RESPONSE

Dear Ms. Wagner:

Thank you for meeting with me to conduct the Exit Conference on December 12, 2011. The Center Township Small Claims Court, including myself and the staff are committed to making the necessary changes to greatly improve the results of the most recent audit. Several changes are underway, as well as other improvements which should eliminate the areas of concern revealed in the audit. Please include this letter as the Official Response to the Examination Results and Comments concerning the Center Township Small Claims Court.

I. Condition of the Records – Financial Report

The audit revealed several areas of concern over the past management of the financial books and records for the Center Township Small Claims Court. I have enlisted the assistance of the Indiana Supreme Court's Judicial Technology Automation Committee (JTAC) Product Managers to determine the best way to reconcile and maintain accurate financial records beginning August 2008, when the Odyssey Case Management system was implemented at the Court. The JTAC staff will recommend how the Court should proceed through Odyssey to maintain accurate financial records and provide training.

To insure that the Court is in compliance with the financial reporting requirements for future examination periods, I will assign the duties of maintaining the Court's Cash Book of Receipts and Disbursements and bank reconciliations to a designated court clerk. The Court will also follow the recommendations of JTAC to insure that the Odyssey records, ledgers and bank balances agree and to insure that the accounting records are maintained in a manner that will support accurate financial statements. The improvements set forth aim to prevent any cost to taxpayers possibly caused by past noncompliance.

II. Untimely Remittance of Small Claims Court Fees

The audit revealed that certain fees collected at the Center Township Small Claims Court had not been paid to the state, county or township during the audit period. The outstanding fees that were deposited by the Small Claims Court to its bank account during the audit period, but were not paid, will be identified and paid. The Court will begin the process to identify and construct these fees through the Odyssey Case Management system in order to distribute the outstanding payments. With the assistance of the Indiana Supreme Court's Judicial Technology Automation Committee (JTAC) Product Managers, the Court will reconcile its financial records and determine the correct fees owed for each month, quarter, etc. The Court will do so in order to accurately report and make payments beginning from the Court's Odyssey implementation date, which was August 2008.

To insure that the Court is in compliance with the financial reporting requirements for future examination periods, I will assign a clerk to insure that all payments are collected and disbursed in a timely and accurate manner, consistent with the requirements of Indiana Code 33-34-8-3 for Quarterly, Semiannual and Annual Reports. The Court will also follow the recommendations of JTAC to insure that the Odyssey records, ledgers and bank balances agree in order to submit accurate financial reports and distribute accurate fees. The improvements set forth aim to prevent any cost to taxpayers possibly caused by past noncompliance.

III. Internal Controls - Small Claims Court Judgment Checks

The audit revealed that the controls over the procedures to distribute judgment checks received into the Center Township Small Claims Court were not sufficient. I reviewed this procedure with the court staff and the Indiana Supreme Court's Judicial Technology Automation Committee (JTAC) Product Managers to identify a method for better internal control of judgment checks. Judgment creditors who are owed funds are accustomed to picking up checks at the Small Claims Court, especially large filers and frequent filers. The Court also mails checks to judgment creditors who are out of

county or who provide envelopes and request to have them mailed. However, there was a large sum on the outstanding check list during the audit due to funds not being collected by the judgment creditors.

To insure that the Court is in compliance with the financial requirements for future examination periods, the Court will improve its internal controls and implement a new procedure beginning January 2012. Litigants will be notified that checks will be mailed to judgment creditors on a monthly basis or they may continue to pick them up timely at the Court upon request. Checks that have not been picked up by the end of the month will be mailed to the judgment creditor. All outstanding checks that remain will be mailed to the last known address of the judgment creditor. All checks that are returned to sender and/or older than five (5) years will be sent to the Indiana Attorney General's Unclaimed Property Division in accordance with the law. The Court will also include the distribution of the checks on the outstanding check list ledger and on the Chronological Case Summary (CCS) in the Odyssey Case Management system. The improvements set forth aim to prevent any cost to taxpayers possibly caused by past noncompliance.

In closing, I believe the above changes will greatly improve the financial operations of the Center Township Small Claims Court and allow a greater level of transparency. Thank you for your consideration in these matters. Please include this letter in the bound report for the Center Township Small Claims Court for the audit period. I will gladly accept any questions or comments from the public concerning this report directly at the Center Township Small Claims Court, 200 E. Washington Street, Suite G5, Indianapolis, IN, 46204 or via fax at (317) 327-7844.

Sincerely,

A handwritten signature in black ink, appearing to read 'MS Smith Scott', with a stylized flourish at the end.

Judge Michelle Smith Scott
Center Township Small Claims Court

CC: Donna Edgar, Product Manager, Indiana Supreme Court, State Court Administration, Judicial Technology Automation Committee (JTAC)