

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

EXAMINATION REPORT
OF

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

January 1, 2010 to December 31, 2011



FILED
02/14/2013

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OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Judge	Hon. Robert Spear	01-01-07 to 12-31-14
Chairman of the Township Board	Pat Russell Randall Decker	01-01-10 to 12-31-11 01-01-12 to 12-31-12



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INDEPENDENT ACCOUNTANT'S REPORT

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

We have examined the records of the Marion County Small Claims Court, Perry Township Division for the period from January 1, 2010 to December 31, 2011, 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 Perry Township, Marion County for the years 2010 and 2011.

STATE BOARD OF ACCOUNTS

October 18, 2012

MARION COUNTY SMALL CLAIMS COURT
PERRY TOWNSHIP DIVISION
EXAMINATION RESULTS AND COMMENTS

BANK ACCOUNT RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances have included an "Unposted Interest and/or Adjustments" amount for many years. The amount has been identified as follows:

<u>Date</u>	<u>Adjustment Amount</u>
As of:	
December 31, 2005	\$ 17,208
December 31, 2007	17,799
December 31, 2008	21,003
December 31, 2009	23,603
December 31, 2010	28,647
January 31, 2011	29,214
December 31, 2011	23,784

Upon conversion to the Odyssey system this amount is now included as a Converted Liability in the Court's Record and was presented as (\$23,784) Balance at December 31, 2011. This has been explained in the past to be an accumulation of bank fees that have not been reimbursed by the Township, nonsufficient fund checks, and outstanding checks that are not presented on the outstanding check list. This amount represents cash necessary to balance.

Additionally, a July 2009 deposit was determined to be short by the bank in the amount of a check for \$312.80 that was not included in the deposit. This is currently a miscellaneous item on the Odyssey bank reconciliations.

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."

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)

DECEASED PERSON - PAYMENT OF FUNDS DUE

Mr. Roy Houchins was the Perry Township Constable from January 1, 2010 until his death on March 6, 2010. Checks in the amount of \$16,959.80 were issued in his name instead of to the executor, administrator, or personal representative after his death. These checks are included on the July 31, 2012 outstanding check list and were observed by the State Board of Accounts to be in the possession of the Small Claims Court Judge, Robert Spears.

The State Board of Accounts is often asked the correct method of making payment of money due an official, employee, or other person who has died. If an executor, administrator or personal representative has been designated by the court, payment should be made to such executor, administrator or personal representative. Payment may be made to a person claiming to be entitled to payment or delivery of property of the decedent without awaiting the appointment of a personal representative or the probate of a will when an affidavit is presented stating (a) no petition for the appointment of a personal representative is pending or has

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

been granted, and (b) forty-five (45) days have elapsed since the death of the decedent, and (c) the value of the gross probate estate less liens and encumbrances thereon does not exceed fifty thousand dollars (\$50,000), and (d) the claimant is entitled to payment or delivery of the property. IC 29-1-8-1 (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 12)

DEPOSITS NOT MADE TIMELY

Of the 56 deposits tested for Perry Township Small Claims Court, 34 were deposited later than the next business day.

Indiana Code 5-13-6-1(c) states in part:

". . . all local officers . . . who collect public funds of their respective political subdivisions shall deposit funds not later than the business day following the receipt of funds on business days of the depository in the depository or depositories selected by the . . . local boards of finance. . . ."

CONDITION OF RECORDS - POSTING ERRORS

The following deficiencies relating to the recordkeeping were noted.

Service of Process Fees had a negative balance of \$455 on May 31, 2010, that was not properly carried forward to June 2010. In June 2010, a correction of an error made in March 2010, in the amount of \$117, was incorrectly posted as a negative entry when it should have been a positive entry. The net result was a negative balance of \$221 at June 30, 2010, that was not carried forward to July 2010. Also in June 2010, Check #4061 to the Township Trustee's Office for Township Docket Fees was correctly posted to the records as \$13,247 but the check was actually written for \$16,014 resulting in an overpayment of \$2,767. These errors totaling \$2,988 were not observed as having been corrected during the examination period.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

OLD OUTSTANDING CHECKS

Our review of the bank reconcilements as of December 31, 2011, revealed 863 checks totaling \$106,471 that were dated from 1990 to 2008.

Indiana Code 5-11-10.5-2 states in part: "All warrants or checks drawn upon public funds of a political subdivision that are outstanding and unpaid for a period of two (2) or more years as of the last day of December of each year are void."

Indiana Code 5-11-10.5-3 states in part:

"Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the: (1) board of finance of the political subdivision; or (2) the fiscal

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

body of a city or town. The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision. If the treasurer serves also as the disbursing officer of the political subdivision, only two (2) copies of each list need be prepared or caused to be prepared by the treasurer."

Indiana Code 5-11-10.5-5 states:

"(a) Upon the preparation and transmission of the copies of the list of the outstanding warrants or checks, the treasurer of the political subdivision shall enter the amounts so listed as a receipt into the fund or funds from which they were originally drawn and shall also remove the warrants or checks from the record of outstanding warrants or checks.

(b) If the disbursing officer does not serve also as treasurer of the political subdivision, the disbursing officer shall also enter the amounts so listed as a receipt into the fund or funds from which the warrants or checks were originally drawn. If the fund from which the warrant or check was originally drawn is not in existence, or cannot be ascertained, the amount of the outstanding warrant or check shall be receipted into the general fund of the political subdivision."

TRUST ITEMS HELD OVER FIVE YEARS

Trust items from 1992 to 2005 totaling \$86,118 were not remitted to the Attorney General's office as of January 31, 2011. 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. Items should not be allowed to accumulate beyond the five year anniversary date.

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 IC 32-34-3."

INTERNAL CONTROLS OVER DEPOSITS

Our examination of the Perry Township Small Claims Court revealed that a cash change fund had not been established by the Court until late 2011 and change was being made from daily cash receipts. A similar comment appeared in prior Report B38201.

Indiana Code 5-13-6-1(c) states in part: "Public funds deposited . . . shall be deposited in the same form in which they were received."

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

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

PRESCRIBED FORM (TRUST REGISTER)

The Register of Trust (General Form 102) was not in use. The cashbook trust balance was not supported by a subsidiary listing. A similar comment appeared in several prior reports, most recently Report B38201.

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)

FEDERAL AND STATE AGENCIES - COMPLIANCE REQUIREMENTS

The Perry Township Small Claims Court did not comply with directives of the Internal Revenue Service and Indiana Department of Revenue by failing to issue the proper 1099 forms to two Constables.

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 13)

MARION COUNTY SMALL CLAIMS COURT
PERRY TOWNSHIP DIVISION
EXIT CONFERENCE

The contents of this report were discussed on October 18, 2012, with Hon. Robert Spear, Judge; Donna Berns, Office Administrator; and Ashley Holcomb, Deputy Clerk. The Official Response has been made a part of this report and may be found on pages 9 through 11.

PERRY TOWNSHIP OF MARION COUNTY
SMALL CLAIMS COURT
4925 SHELBY STREET, SUITE 100
INDIANAPOLIS, INDIANA 46227
Robert S. Spear, Judge

October 23, 2012

State Board of Accounts
302 West Washington Street, Room E418
Indianapolis, Indiana 46204-2765
Attention: S. M. Cannon

Re: OFFICIAL RESPONSE
Audit Period 2010-2011

Dear Mr. Cannon:

This letter is the official response of the Perry Township of Marion County Small Claims Court to the discussion draft of the audit results tendered by Mr. Alan Weber on October 18, 2012. Each response is to a specific topic addressed by the proposed report.

INTERNAL CONTROLS OVER DEPOSITS

The first issue concerns whether a cash change fund has been established by the Court. In 2011 the Court's existing petty cash fund of \$10.00 was increased to \$50.00 with funds from the Trustee's Office. This corrected the perceived problem.

For the second issue, the Court staff demonstrated to the auditor that the physical deposit slips matched the Bank deposit record on these seven items. Furthermore, the Odyssey computer record of these deposits also matched the other two amounts. JTAC and the Court staff are unaware where the listed Odyssey amounts came from. The Odyssey system, installed effective February 1, 2011, has virtually eliminated clerical errors engendered by the massive volume of financial transactions in the Court.

DEPOSITS NOT MADE TIMELY

The problem of belated deposits has been corrected by the use of the Odyssey computer software. Problems with balancing the day's deposits no longer exists as clerical errors immediately come to light in progress.

CONDITION OF RECORDS-POSTING ERRORS

Again, posting errors no longer occur with the abolition of the "cash book" and the replacement of the 1990 computer system with Odyssey. The Township Trustee did not receive \$2,767 in error in June 2010. With the fee increase in July 1, 2009 of \$1.00 in salary adjustments in the filing fees, the office administrator erroneously sent the entire amount of increase to the State of Indiana rather than \$0.75 to the State and \$0.25 to the Township. When the cumulative

error was discovered, the State was sent \$2,767 less and the Township \$2,767 more to correct the error.

BANK ACCOUNT RECONCILIATIONS

Please note the response to this item in the previous audit report. The cash book and the bank statements were reconciled each month by an outside accounting firm as an internal control. The inability to correct errors in the prior computer system exacerbated this problem. Over the years, the cash book and the daily deposit slips matched, so the problem was systemic. Prior state Audits revealed no missing funds. This problem was also corrected by the installation of the Odyssey system of software effective February 1, 2011.

The \$312.80 check was lost by PNC Bank. The ongoing lost check problem was corrected by the Bank, but it refused to correct this error.

DECEASED PERSON-PAYMENT OF FUNDS DUE

The outstanding checks were made payable to deceased Constable Roy Houchins as no estate was ever opened by his heirs. Furthermore, a "small estates affidavit" was never tendered to the Court by anyone. As explained to the auditor, Mr. Houchins' financial condition indicated more outstanding creditor claims than assets. No lawful claimant has come forward. It is likely these amounts will eventually escheat to the State.

OLD OUTSTANDING CHECKS

A Small Claims Court Judge in Marion County is also the clerk and controls the court bank account, sending funds to the township, the county, the State, the Constable, and various successful litigants. For the period 1990 (adoption of the old computer system) and 2002 (end of Judge Barnard's term) no person currently on staff served the Court. This problem is endemic in each Township Court in Marion County. It is the current staff's belief that these checks were never voided but were replaced anyway. During conversion, JTAC declined to allow the Court to remove these items as outstanding checks, even though no such amounts are owed. These amounts are not outstanding checks for the Court. Only paper checks currently in the Court's possession are actual outstanding checks.

TRUST ITEMS HELD OVER FIVE YEARS

See response to "OLD OUTSTANDING CHECKS". Paper checks currently in the Court's possession represent unclaimed property to be turned over to the Attorney General's Office. The Court has been in contact with that agency.

PRESCRIBED FORMS (TRUST REGISTER)

The Register of Trust form was used only posting bond for appeals to Superior Court. Bond is no longer required for an appeal. Thus, General Form No. 102 is no longer used. All accounting entries are supported by detail if appropriate inquiry is made. The Court was informed by the auditor that the Odyssey system superceded the use of this paper form.

FEDERAL AND STATE AGENCIES-COMPLIANCE REQUIREMENTS

The appropriate tax forms will be used.

I trust this addresses each issue raised by the current audit. The Court staff and I wish to note and commend the courtesy, professional attitude, and the helpful suggestions made by Auditor Alan Weber.

Very truly yours,



Robert S. Spear

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