B48714

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

PERRY TOWNSHIP

MARION COUNTY, INDIANA

January 1, 2012 to December 31, 2016

FILED
09/15/2017

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SCHEDULE OF OFFICIALS

Office	Official	Term
Trustee	Daniel T. Moriarty	01-01-12 to 12-31-14
	Nancy S. Day	01-01-15 to 12-31-18
Judge	The Honorable Robert Spear	01-01-12 to 12-31-18
Chairman of the Township Board	Randall Decker	01-01-12 to 12-31-13
	Michael Kalscheur	01-01-14 to 12-31-15
	Cynthia Merl	01-01-16 to 12-31-16
	Randall Decker	01-01-17 to 12-31-17

STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF PERRY TOWNSHIP, MARION COUNTY, INDIANA

This report is supplemental to our examination report of Perry Township (Township), for the period from January 1, 2012 to December 31, 2016. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Township. It should be read in conjunction with our Financial Statements Examination Report of the Township, which provides our opinion on the Township's financial statements. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Examination Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

July 28, 2017

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TRUSTEE
PERRY TOWNSHIP, MARION COUNTY

TRUSTEE
PERRY TOWNSHIP, MARION COUNTY
EXAMINATION RESULT AND COMMENT

DEPOSITORY RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances were conducted; however, the reconciliation did not balance. As of December 31, 2012, the bank account reconciliation identified a difference in the amount of $399.88.

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."

ROBERT B. LUTZ
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(317) 241-4240

August 4, 2017

State Board of Accounts
302 W. Washington St., Room E418
Indianapolis, Indiana 46204-2765

RE: **OFFICIAL RESPONSE**
Examination period 01-01-2012 to 12-31-2016
Perry Township of Marion County, Indiana

Dear Gentlepersons:

As the attorney for Perry Township of Marion County please consider this letter as the Official Response of the Perry Township Trustee to the above Examination Results and Comments for the referenced examination period. It is my understanding Judge Robert S. Spear of the Perry Township of Marion County, Small Claims Court will be preparing his own response to the report so I will not speak for Judge Spear in my comments.

I would like to have included in the Examination Report the following information:

1. The examination covers the period from January 1, 2012 to, and including, December 31, 2016. Trustee Nancy S. Day did not take office until January 1, 2016. Consequently, the results for any action that occurred, or failed to occur, prior to that time would have been outside the current Trustee's control.

2. Part of the Independent Accountant's Report regarding Bank Account Reconciliations of the Trustee's fund balance states: *"Depository reconciliations of the fund balances to bank account balances were conducted; however, the reconciliation did not balance. As of December 31, 2012, the bank account reconciliation identified a difference in the amount of $399.68."*

Again, this period is prior to the current Trustee taking office and this $399.68 difference cleared in the 2013 period. As of 2016 the difference was only 12 cents which could easily be due to rounding or bank error.

3. The Independent Accountant's Report states:

> *"The Township did not provide sufficient examination documentation to substantiate the balances for the Small Claims Court Fee and Small Claims Trust Funds. The Township did not present bank reconciliations for forty-eight of the sixty months examined. Consequently, we were not able to determine whether the reported amounts were fairly presented for the court funds."*
>
> *In our opinion, except for the effects on the financial statements, if any, resulting from the inability to obtain sufficient evidence for the matter discussed in the preceding paragraph relative to court funds, for the period January 1, 2012 to December 31, 2016, the financials referred to above the preceding paragraph present the financial position and results of the operations of the Township based on the prescribed basis of accounting described in Note 1 to the financial statements, in all material respects."*

I want to clarify that the reference to the *"The Township..."* in the Independent Accountant's Report refers to the accounts of the Small Claims Court and not the Trustee's accounts. It was discussed at the exit meeting that the examiner believed the balances to be accurate it is just that he had no way to verify the balances.

The Township Trustee is the chief fiscal officer for the township (IC 36-6-4-3). The State Board of Accounts has taken the position that the Township Court's financial transactions should be included in the records that are maintained by the Trustee for the entire Township. (See *SBOA Township Bulletin, Vol. 311, Page 7, December 2015*). The reality of the situation is that these accounting issues were significantly clouded by the Indiana Supreme Court's decision in *In Re the Mandate of Funds for Center Township of Marion County Small Claims Court Order for Mandate and Mandate of Funds,* 989 N.E.2d 123, (Ind. 2013) when the Court decided that it is the Court's judge, who is responsible for court's budgets and internal operation.

In response to this Supreme Court decision SB 523 was passed out of the General Assembly on May 4, 2015. The bill was then signed into law by Gov. Pence on May 5, 2015. It is now Public Law 170-2015. At least as far as who controls decisions about court staff, who they work for and who is responsible for court budgets the new law codifies the Indiana Supreme Court's holding in the *Center Township* case.

As a result, the Township Court's judge has care and control of the Small Claims Court Fee and the Small Claims Court Trust Funds. This system, in light of IC 36-6-4-3 and P.L. 170-2015 puts a Marion County Township Trustee in the position of being responsible for the funds of

the township court without having any authority over the Small Claims Court Fee account or the Small Claims Court Trust funds or their accounting by the court. A further complication is that the Odyssey accounting system which the township courts are mandated to use does not interface with the accounting systems the townships are mandated to use so it is difficult to impossible for any trustee to adequality maintain a fiscal check and balance of the systems and funds controlled by the small claims courts.

None of this is intended to be a criticism of the operation of the Perry Township Small Claims Court. It is more a result of the paradigm put in place by the enactment of PL 170-2015 without regard to the other statutory responsibilities of the Marion County Township Trustees.

Very truly yours,

Robert B. Lutz
Attorney for Perry Township of Marion County

TRUSTEE
PERRY TOWNSHIP, MARION COUNTY
EXIT CONFERENCE

The contents of this report were discussed on July 28, 2017, with Nancy S. Day, Trustee; Randall Decker, Chairman of the Township Board; and Robert Spear, Judge.

SMALL CLAIMS COURT
PERRY TOWNSHIP, MARION COUNTY

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

SUPPORTING DOCUMENTATION

The records presented for the Small Claims Court Fees and Small Claims Court Trust did not include sufficient supporting documentation to substantiate the records presented in the Annual Financial Report. Therefore, the Indiana State Board of Accounts was unable to provide an unqualified opinion on the Independent Accountant's Report for the Court's financial statements.

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for examination to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

DEPOSITORY RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances were not presented for examination for 48 of the 60 months during the examination period.

A similar comment also appeared in the prior Report B41812.

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."

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

> "Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.
>
> An integral part of the control activity component is segregation of duties. . . .
>
> There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

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

August 2, 2017

State Board of Accounts
302 West Washington Street, Room E418
Indianapolis, Indiana 46204-2765
Attention: Mr. Ryan Preston, Ms. Lisa David,
Mr. Eugene West

Re: OFFICIAL RESPONSE
Audit Period 2012-2016

Dear Mr. Preston, Ms. David, Mr. West:

This letter is the official response of the Perry Township of Marion County Small Claims Court to the discussion draft of the Report tendered by Mr. Eugene West on July 28, 2017. This response is addressed to the paragraphs of the Report dealing with documentation of the Court's monthly bank reconciliation during the period 2012-2016.

During 2013, the former Financial Deputy Clerk of the Small Claims Court ceased to fill out and print the Board of Accounts form for monthly bank reconciliations used for the Court's former "cash book" system. This form is not part of the Odyssey computer program's financial reporting system. However, the Odyssey's daily till report, the deposit slip created for the day's receipts, and the bank receipt obtained by a second employee's bank deposit continued to match each day. The monthly Odyssey financial report continued to be available to the office staff to match outgoing checks, both cashed and pending. It is from these records that Mr. West computed the 2012-2016 year end numbers for the Court's Fee and Trust Accounts submitted July 28, 2016 to Gateway.

It is apparent that resumed use of this form will assist the Court's financial staff in finding and correcting the inevitable clerical errors from both external (bank) and internal sources created by 10,000 incoming and 5,000 outgoing checks each year totaling $1.5 million in small increments. Its resumed use, with the help of the Indiana Supreme Court's administrative staff (Odyssey), will assist both Court staff and future auditors in verifying financial transactions.

I trust this addresses the issue raided by the current report. The Court staff and I wish to note and commend the courtesy, professional attitude, and helpful suggestions made by Auditor Eugene West.

Very truly yours,
Robert S. Spear
Robert S. Spear
Judge

SMALL CLAIMS COURT
PERRY TOWNSHIP, MARION COUNTY
EXIT CONFERENCE

The contents of this report were discussed on July 28, 2017, with Nancy S. Day, Trustee; Randall Decker, Chairman of the Township Board; and Robert Spear, Judge.