

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

AUDIT REPORT
OF
CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY, INDIANA
January 1, 2010 to February 28, 2011



FILED
06/28/2011

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Clerk	Beverly S. Elliott	01-01-09 to 12-31-12
President of the County Council	Charles F. Ashcraft	01-01-10 to 12-31-11
President of the Board of County Commissioners	Phillip D. Curtis George R. Bachman	01-01-10 to 12-31-10 01-01-11 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
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TO: THE OFFICIALS OF LAGRANGE COUNTY

We have audited the records of the Clerk of the Circuit Court for the period from January 1, 2010 to February 28, 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 Audit Results and Comments. The financial transactions of this office are reflected in the Annual Financial Report of LaGrange County for the year December 31, 2010.

STATE BOARD OF ACCOUNTS

May 5, 2011

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
AUDIT RESULTS AND COMMENTS

BANK ACCOUNT RECONCILIATIONS

Depository reconciliations of the fund balances to the bank account balances were incorrect. Numerous errors were noted and brought to the attention of the Clerk during the audit as follows:

1. Outstanding checklist contained three checks that had cleared the bank.
2. Deposits in Transit were recorded in the amount to balance the bank with the fund balances. They were not deposits in transit.
3. Saving Accounts shown as Investments did not reflect the bank balances at end of the month.
4. Nonsufficient funds checks were recorded on the reconciliations as deductions from the bank balance instead of deposits to the bank balance.

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 Clerks of the Circuit Courts of Indiana, Chapter 13)

OPTICAL IMAGES OF WARRANTS

The financial institution did not return the actual canceled checks with the monthly bank statements, but instead returned only an optical image of the front side of the checks.

Indiana Code 5-15-6-3(a) concerning optical imaging of checks, states in part:

". . . 'original records' includes the optical image of a check or deposit document when:

- (1) the check or deposit document is recorded, copied, or reproduced by an optical imaging process . . . ; and
- (2) the drawer of the check receives an optical image of the check after the check is processed for payment . . ."

Further, Indiana Code 26-2-8-111(a) and (e) state:

"(a) If a law requires that certain records be retained, that requirement is met by retaining an electronic record of the information in the record that:

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

- (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
- (2) remains accessible for later reference."

"(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a)."

MONTHLY REPORT - CLERK OF THE CIRCUIT COURT FORM NO. 46-CR

The monthly report, Form No. 46-CR, was not filed on a timely basis. Monthly reports for March 2010 through December 2010 were not filed until February 2011.

Indiana Code 33-32-3-6 concerning Monthly Reports, Form 46CR, states in part: ". . . these reports shall be prepared, verified, and filed with the County Auditor, County Commissioners and State Board of Accounts before the twenty-fifth day of each month."

LATE DEPOSIT OF RECEIPTS

In January 2011, there were regular account receipts for two days that were deposited late as follows:

<u>Date of Receipts</u>	<u>Amount</u>	<u>Date of Deposits</u>
January 5, 2011	\$ 922	January 17, 2011
January 10, 2011	7,219	January 20, 2011

The regular account receipts for the days in between the above receipt and deposit dates were deposited on a timely basis, while the cash for the receipts noted as deposited late were then deposited at a later date.

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 or depositories selected by . . . local boards of finance. . . "

RECEIPTS NOT DEPOSITED

On December 9, 2010, several of the receipts were not deposited into the regular bank account in the amount of \$500. The total amount of receipts for Drawer One was \$1,248.48 but the actual deposit was \$748.48.

Beverly S. Elliott, Clerk of the Circuit Court, was requested to reimburse \$500 to the Clerk's Trust Fund. (See Summary, page 11)

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
AUDIT RESULTS AND COMMENTS
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Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts of Indiana, Chapter 13)

DORMANT ACCOUNT ACTIVITY

The Clerk of the Circuit Court has three bank accounts that account for the financial activities of the Court. The Support Account reflects the activity of Support only. The Dormant Account was set up to reflect monies on hand when the prior Clerk left office. The only activity that should occur in the Dormant Account is the addition of interest earned. The third account, the Regular Account, reflects the activities of all other Court transactions.

During January 2011, the deposits of daily receipts were short as follows:

Regular Account:

<u>Date</u>	<u>Amount</u>
January 14, 2011	\$ 930
January 19, 2011	2,190
January 25, 2011	<u>850</u>
Total	<u>\$ 3,970</u>

Support Account:

<u>Date</u>	<u>Amount</u>
January 28, 2011	<u>\$ 880</u>

In each instance the makeup of the amount of receipts not deposited was at least the cash collected for that day.

On January 31, 2011, there were telephone transfers from the Dormant Account deposited into the Regular Account and Support Account to cover the amount of receipts not deposited plus an additional \$6. On February 1, 2011, the above telephone transfers were recorded in the Dormant Account as deposits into the Regular and Support Accounts for these amounts. Beverly S. Elliott is the only person authorized to withdraw funds from the Dormant Account. Beverly S. Elliott when asked if she was the one who made the transfers, refused to answer on the advice of her attorney.

On February 17, 2011, a deposit was made into the Dormant Account in the amount of \$4,866.43 which exceeded the telephone transfers by \$10.43. The deposit was all cash. This deposit was made three days after Beverly S. Elliott was interviewed by the Indiana State Police who informed her that a State Board of Accounts audit was to begin in the near future.

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

Since the telephone transfers from the Dormant Account and subsequent repayment of those transfers were not related to the financial activities of the Clerk, Beverly S. Elliott, Clerk, was informed that the \$3,970 and \$880 would be shown as charges in the Summary, page 11, and \$4,866.43 as repayments.

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts in Indiana, Chapter 13)

CREDIT CARD RECEIPTS NOT DEPOSITED

In September 2008, the Clerk began accepting credit cards for the payment of fines and fees. When credit cards were accepted for payment the transactions were posted to the Clerk's Ledger that day and then the credit card company would deposit the money into the Clerk's bank account one or two business days later. On September 5, 2008, the Clerk's Daily Cash Drawer Summary shows \$6,396.30 of fines and fees were paid by credit cards. There was no subsequent deposit made by the credit card company for these transactions. The Clerk stopped accepting credit card payments in December of 2008. The subsequent deposits from the credit card company in January and February of 2009 for the December transactions were \$4.70 short. In July 2009, the Clerk was instructed to pursue collecting the credit card receipts not deposited. As of February 28, 2011, no monies have been deposited for these credit card receipts.

Beverly S. Elliott, Clerk, was requested to reimburse \$6,401 to the Clerk's Trust Fund. (See Summary, page 11)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts of Indiana, Chapter 13)

OVERPAYMENT OF TRUST

In December 2009, the Clerk received an order to pay out a trust that had been on hand since January 2006. The original trust amount of \$182,400 was placed in a savings account at the bank and had been earning interest. The last interest posted to the records was for the interest earned in February 2008. On January 30, 2006, the Clerk paid from the trust \$1,600 for appraisals, however, this was paid from the Clerk's regular checking account and not from the savings account where the trust was deposited. When the Clerk closed out the savings account in December 2009 she transferred the balance of \$184,959.69 to the regular checking account. This balance consisted of the \$182,400 original deposit, \$1,600 for appraisals paid out of the regular checking, and \$959.69 of interest earned, \$574.72 that had not been posted to the Clerk's financial ledger. When the Clerk posted the interest to the ledger she posted \$2,174.72, which consisted of the \$574.72 interest not yet posted and the \$1,600 that had been paid out of the wrong account. The Clerk disbursed the trust to the court ordered recipient in the amount of \$184,959.69, when the trust only had \$183,359.69 left to be disbursed. This resulted in an overpayment of \$1,600. If the Clerk had been posting interest to the records monthly and properly reconciling the bank accounts to the records this would not have occurred.

CLERK OF THE CIRCUIT COURT
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AUDIT RESULTS AND COMMENTS
(Continued)

Beverly S. Elliott, Clerk, was requested to reimburse \$1,600 to the Clerk's Trust Fund. (See Summary, page 11)

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 Clerks of the Circuit Courts in Indiana, Chapter 13)

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any officer or employee may be the personal obligation of the responsible officer or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts in Indiana, Chapter 13)

CASH NECESSARY TO BALANCE, BANK RECONCILIATIONS

A comparison of the fund balances to the bank account balances indicated a cash necessary to balance at February 28, 2011, of \$1,308.56. This cash necessary to balance consists of \$421 from daily-identified shorts and of an unidentified short of \$887.56.

Beverly S. Elliott, Clerk, was requested to reimburse \$1,308.56 to the Clerk's Trust Fund. (See Summary, page 11)

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 Clerks of the Circuit Courts of Indiana, Chapter 13)

ADDITIONAL AUDIT COSTS

The State of Indiana incurred additional audit fees in the investigation of the missing funds. The State of Indiana is requesting reimbursement of audit fees incurred in the amount of \$8,593.75.

Beverly S. Elliott, Clerk, was requested to reimburse \$8,593.75 to the Clerk's Trust Fund. (See Summary, page 11)

Audit costs incurred because of theft or shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Clerks of the Circuit Courts of Indiana, Chapter 13)

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
AUDIT RESULTS AND COMMENTS
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OFFICIAL BONDS

Beverly S. Elliott, Clerk, is covered under a Public Official Bond.

Surety:	Auto Owners Insurance Company
Amount:	\$60,000
Bound Unto:	State of Indiana
Term:	January 1, 2010 until January 1, 2011 January 1, 2011 until January 1, 2012
Official Bond Number:	047602-66292318 66292318

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on May 5, 2011, with Beverly S. Elliott, Clerk.

CLERK OF THE CIRCUIT COURT
LAGRANGE COUNTY
SUMMARY

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Beverly S. Elliott, Clerk:			
Receipts Not Deposited, pages 5 and 6	\$ 500.00	\$ -	\$ 500.00
Dormant Account Activity, pages 6 and 7	4,850.00	4,866.43	(16.43)
Credit Card Receipts Not Deposited, page 7	6,401.00	-	6,401.00
Overpayment of Trust, pages 7 and 8	1,600.00	-	1,600.00
Cash Necessary to Balance, Bank Reconciliations, page 8	1,308.56	-	1,308.56
Additional Audit Costs, page 8	<u>8,593.75</u>	-	<u>8,593.75</u>
Totals	<u>\$ 23,253.31</u>	<u>\$ 4,866.43</u>	<u>\$ 18,386.88</u>

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AFFIDAVIT

STATE OF INDIANA)
)
Allen COUNTY)

We, Daniel A. Sorg and Susan K. Metzger, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of the Clerk of the Circuit Court, LaGrange County, Indiana, for the period from January 1, 2010 to February 28, 2011, is true and correct to the best of our knowledge and belief.

Daniel A. Sorg

Susan K. Metzger
Field Examiners

Subscribed and sworn to before me this 15th day of June, 2011.

Rebecca K. Butler
Notary Public

My Commission Expires: 5/4/13

County of Residence: Allen

