

**REPORT OF THE AUDIT OF THE
WHITLEY COUNTY
CLERK**

**For The Year Ended
December 31, 2011**



**ADAM H. EDELEN
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EXECUTIVE SUMMARY

**AUDIT EXAMINATION OF THE
WHITLEY COUNTY CLERK**

**For The Year Ended
December 31, 2011**

The Auditor of Public Accounts has completed the Whitley County Clerk's audit for the year ended December 31, 2011. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$55,378 from the prior year, resulting in excess fees of \$103,420 as of December 31, 2011. Revenues increased by \$323,189 from the prior year and expenditures increased by \$267,811.

Report Comment:

2011-01 The County Clerk Participated In A Related Party Transaction Which May Also Be A Violation Of The County's Code Of Ethics

Deposits:

The County Clerk's deposits were insured and collateralized by bank securities.

CONTENTS

PAGE

INDEPENDENT AUDITOR’S REPORT	1
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS	3
NOTES TO FINANCIAL STATEMENT.....	6
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS	11
COMMENT AND RECOMMENDATION	15
APPENDIX A: DOCUMENTATION OF FISCAL COURT CLAIM	



ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Pat White Jr., Whitley County Judge/Executive
The Honorable Kay Schwartz, Whitley County Clerk
Members of the Whitley County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Whitley County, Kentucky, for the year ended December 31, 2011. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2011, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated July 10, 2012 on our consideration of the Whitley County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Pat White, Jr., Whitley County Judge/Executive
The Honorable Kay Schwartz, Whitley County Clerk
Members of the Whitley County Fiscal Court

Based on the results of our audit, we have presented the accompanying comment and recommendation, included herein, which discusses the following report comment:

2011-01 The County Clerk Participated In A Related Party Transaction Which May Also Be A Violation Of The County's Code Of Ethics

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Adam H. Edelen", with a long horizontal flourish extending to the right.

Adam H. Edelen
Auditor of Public Accounts

July 10, 2012

WHITLEY COUNTY
KAY SCHWARTZ, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2011

Revenues

State Fees For Services		\$ 15,478
Fiscal Court		85,568
Licenses and Taxes:		
Motor Vehicle-		
Licenses and Transfers	\$ 1,084,897	
Usage Tax	1,775,960	
Tangible Personal Property Tax	2,364,079	
Other-		
Fish and Game Licenses	2,970	
Marriage Licenses	16,437	
Deed Transfer Tax	46,029	
Delinquent Tax	899,072	6,189,444
Fees Collected for Services:		
Recordings-		
Deeds, Easements, and Contracts	19,074	
Real Estate Mortgages	15,368	
Chattel Mortgages and Financing Statements	101,002	
Powers of Attorney	3,318	
Affordable Housing Trust	31,512	
All Other Recordings	17,389	
Charges for Other Services-		
Candidate Filing Fees	820	
Miscellaneous	3,492	
Copywork	102,914	294,889
Other:		
Franchise Bank Deposit Taxes		91,754
Interest Earned		1,446
Total Revenues		6,678,579

The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY
 KAY SCHWARTZ, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2011
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$ 749,022	
Usage Tax	1,722,676	
Tangible Personal Property Tax	960,363	

Licenses, Taxes, and Fees-

Fish and Game Licenses	2,814	
Marriage Licenses	6,251	
Affordable Housing Trust	31,512	
Delinquent Tax	125,660	
Legal Process Tax	26,739	\$ 3,625,037

Payments to Fiscal Court:

Tangible Personal Property Tax	167,456	
Delinquent Tax	80,959	
Deed Transfer Tax	43,727	
Franchise Bank Deposit Tax	91,754	383,896

Payments to Other Districts:

Tangible Personal Property Tax	1,142,412	
Delinquent Tax	396,805	1,539,217

Payments to Sheriff

75,357

Payments to County Attorney

129,013

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Salaries	362,701	
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Employee Benefits-

Employer's Share Social Security	33,329	
Employer's Share Retirement	80,139	
Employer's Paid Health Insurance	72,879	

Contracted Services-

Advertising	338	
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Materials and Supplies-

Office Supplies	21,315	
Election Expense	77,361	

The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY
 KAY SCHWARTZ, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2011
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay: (Continued)

Other Charges-			
Conventions and Travel	\$	5,595	
Dues		1,260	
Postage		10,525	
Insurance Bonds		6,505	
Training Expense		2,300	
Branch Office Rent		12,000	
Miscellaneous		2,938	
Capital Outlay-			
Office Equipment		4,393	
Vehicle		33,505	\$ 727,083
		<hr/>	<hr/>
Total Expenditures			\$ 6,479,603
Net Revenues			198,976
Less: Statutory Maximum			<hr/> 88,277
Excess Fees			110,699
Less: Expense Allowance		3,600	
Training Incentive Benefit		3,679	<hr/> 7,279
		<hr/>	<hr/>
Excess Fees Due County for 2011			103,420
Payment to Fiscal Court - February 23, 2012			<hr/> 100,000
Balance Due Fiscal Court at Completion of Audit			<hr/> <hr/> \$ 3,420

The accompanying notes are an integral part of this financial statement.

WHITLEY COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2011

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2011 services
- Reimbursements for 2011 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2011

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

WHITLEY COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2011
 (Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.93 percent for the first six months and 18.96 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

CERS also provides post retirement health care coverage as follows:

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

WHITLEY COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2011
 (Continued)

Note 3. Deposits

The Whitley County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Whitley County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2011, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Leases

The Whitley County Clerk's office was committed to the following lease agreements as of December 31, 2011:

Item Purchased	Monthly Payment	Term Of Agreement	Ending Date	Principal Balance December 31, 2011
Copier	188	60 Months	12/31/2015	9,046
Copier	188	60 Months	12/31/2015	9,046
Copier	188	60 Months	12/31/2015	9,046

Note 5. Delinquent Tax Account

The County Clerk maintains a delinquent tax bank account to accept partial payments on delinquent tax bills. When a bill is paid in full, it is transferred out of the delinquent tax account and deposited into the fee account. They are not considered as excess fees. As of December 31, 2010, the Clerk had a balance of \$9,494 in the Delinquent Tax Account. During 2011, the Clerk deposited \$90,854 of partial payment on delinquent tax bills in the account and disbursed \$33,136. As of December 31, 2011 the balance was \$67,212.

Note 6. Related Party Transaction

During calendar year 2011, the county paid a total of \$2,775 to Blakes Fork Trading Post Company for help in moving election equipment. The County Clerk's husband was employed with Blakes Fork Trading Post Company.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Pat White Jr., Whitley County Judge/Executive
The Honorable Kay Schwartz, Whitley County Clerk
Members of the Whitley County Fiscal Court

**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Whitley County Clerk for the year ended December 31, 2011, and have issued our report thereon dated July 10, 2012. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the Whitley County Clerk's office is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Clerk's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Whitley County Clerk's financial statement for the year ended December 31, 2011, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comment and recommendation as item 2011-01.

The Whitley County Clerk's response to the finding identified in our audit is included in the accompanying comment and recommendation. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Whitley County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Adam H. Edelen
Auditor of Public Accounts

July 10, 2012

COMMENT AND RECOMMENDATION

WHITLEY COUNTY
KAY SCHWARTZ, COUNTY CLERK
COMMENT AND RECOMMENDATION

For The Year Ended December 31, 2011

STATE LAWS AND REGULATIONS

2011-01 The County Clerk Participated In A Related Party Transaction Which May Also Be A Violation Of The County's Code Of Ethics

During calendar year 2011, the county paid a total of \$2,775 to Blakes Fork Trading Post Company for help in moving election equipment. The County Clerk's husband was associated with Blakes Fork Trading Post Company. This may also be a violation of the county's ethics code. Per the Whitley County Code of Ethics, part II. Standards of Conduct A:" No county government officer or members of his immediate family shall have an interest in a business organization or engage in any business, transaction, or activity, which is in substantial conflict with the proper discharge of his duties in the public interest; B. No county government officer shall act in his official capacity in an matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment." We recommend the County Clerk consult with the County Attorney and the Cumberland Valley Regional Board of Ethics to determine if this is a violation of the county's Code of Ethics. We also recommend the County Clerk refrain from participating in related party transactions in the future.

County Clerk's Response: It is my opinion that I have NOT violated the Whitley Co Code of ethics. This transaction was a Fiscal Court Claim. It has always been the procedure of our county that the clerk pay the election expense and the court will re-imburse because the court does not pay their claims until after their monthly meetings. Furthermore, I will refrain from this practice. It will be the policy and procedure of the Whitley County Clerk's office that no claims be paid to any related party no matter what the claim may be. (see attached claim). See appendix A.

DOCUMENTATION OF FISCAL COURT CLAIM

Appendix A

