

**MONROE COUNTY  
CLERK OF THE CIRCUIT COURT  
PROCESS REVIEW OF  
COURT REGISTRY FUNCTION**



**SHARON R. BOCK**  
Clerk & Comptroller  
Palm Beach County

**Division of Inspector General  
Audit Services Unit  
May 31, 2013**



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Clerk & Comptroller  
Palm Beach County

May 31, 2013

The Honorable Amy Heavilin  
Clerk of the Circuit Court – Monroe County, Florida

Re: Clerk's Office Court Registry Process Review

At your request, we conducted a process review of the controls over the Monroe County Clerk of the Circuit Court registry function.

Our objectives were to obtain an understanding of the court registry processes, evaluate the related control environment, and verify compliance with pertinent laws and regulations as well as established policies and procedures.

Our review was neither designed nor intended to be a detailed study of every process, procedure, transaction or system in each area. Accordingly, the observations and recommendations included in this report are not all-inclusive.

The process review identified various control weaknesses and opportunities to strengthen the court registry processes. Specifically, registry deposits are placed in an interest-bearing account and the interest earned is not allocated to the depositors as prescribed by Florida Statutes. Opportunities exist to enhance segregation of duties related to handling court registry receipts and disbursements as well as implement policies and procedures. Incremental fee revenues could be achieved, estimated at \$57,256 in 2012, by placing foreclosure sales proceeds in the court registry.

We appreciated the cooperation of management and staff during the course of this review.

Respectfully submitted,

Roger Trca CIG, CPA, CIA, MBA  
Inspector General & Audit Director  
Clerk & Comptroller Office  
Palm Beach County

cc: The Honorable Sharon R. Bock, Esq. – Clerk & Comptroller, Palm Beach County

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# Executive Summary

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At the request of the Monroe County Clerk of the Circuit Court Amy Heavilin, the Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a process review of the controls over court registry in the Monroe County Clerk's offices located in Key West, Marathon and Plantation Key. The Clerk of the Circuit Court was elected in November 2012 and took office in January 2013.

The objectives of this review were to obtain an understanding of the court registry processes, evaluate the related control environment, and verify compliance with pertinent laws and regulations as well as established policies and procedures.

The Monroe County Clerk's court registry balance totaled \$732,671.26 as of February 28, 2013. This report contains observations and recommendations for improving the internal control environment within the court registry processes.

The review disclosed that registry deposits are placed in an interest-bearing account and the interest earned, while only averaging approximately \$180 per month, is not allocated to the depositors as prescribed by Florida Statutes. Opportunities exist to enhance segregation of duties related to handling court registry receipts and disbursements. Additional opportunities exist to develop and implement policies and procedures related to the court registry receipt, recordkeeping and disbursement processes. Incremental fee revenues could be achieved by placing foreclosure sales proceeds in the court registry. Based on 2012 foreclosure sales totaling \$3.8 million, fees totaling \$57,256 may have been generated in 2012.

We also identified various control weaknesses and improvement opportunities related to receiving and depositing cash and checks, which were outside the scope of this review. The observations were provided to management for actions deemed appropriate but are not included in this report.

The report contains four observations and four recommendations. Management responses were not received for inclusion in this report. The Clerk's office is encouraged to implement the recommendations to improve its operations.

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# Introduction

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## Overall Conclusion

The newly-elected Monroe County Clerk of the Circuit Court has initiated efforts to improve office efficiencies and effectiveness wherever possible.

Control weaknesses and improvement opportunities were noted within the court registry process. Implementing the recommended actions steps will strengthen the control environment, improve efficiencies, help ensure statutory compliance, and generate incremental fee revenues. Placing foreclosure sales proceeds in the court registry could have achieved additional revenues estimated at \$57,256 based on 2012 transactions.

## Objectives, Scope and Methodology

The Palm Beach County Clerk & Comptroller's Division of Inspector General conducted a process review of the controls over court registry in the Monroe County Clerk of the Circuit Court located in Key West, Marathon and Plantation Key.

The objectives of this review were to obtain an understanding of the court registry processes, evaluate the related control environment, and verify compliance with pertinent laws and regulations as well as established policies and procedures.

In order to meet these objectives, we conducted management and staff-level interviews to review and document the key court registry processes. Court registry procedures were not available for review. We compared the existing processes with Florida Statutes where applicable. We evaluated the internal control environment and facilities supporting the areas. We performed other procedures that were deemed necessary under the circumstances.

# Background

The Monroe County Clerk of the Circuit Court office is responsible for performing various functions for the 74,000 residents.

The Clerk's office maintains a court registry, which is the repository for court-ordered deposits of funds. The court registry balance totaled \$732,671.26 as of the February 28, 2013, comprised of 299 accounts deposited on behalf of 167 named individual and corporate plaintiffs. The deposits are meant for ultimate disposition to the rightful owners after the underlying case has been adjudicated and the proper disposition decided by the court. The Clerk is responsible for receiving, depositing, recording, securing and disposing of deposits presented in Monroe County civil courts. Intake processing of potential deposits and initial preparation of disbursement requests takes place at court sites in Key West as well as the two satellite offices in Marathon and Plantation Key. Overall administration of the Clerk's registry function is performed at the Key West location.

When a deposit is required by the court in connection with an active case, a court order is prepared and the deposit is identified as a deposit in the court registry. In the case of motions for garnishment, potential attorney fees of \$100 are deposited in the registry. When the motion is for garnishment of an existing account, the motion serves as the authorization to accept and process the deposit. When the motion is for garnishment of wages, the motion must be supported by the judge's signature ordering the garnishment.

## **Review Team:**

Michael Bodle, Senior Internal Auditor

Alan Bray, Deputy Inspector General & Audit Manager

# Observations & Recommendations

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The process review was neither designed nor intended to be a detailed study of the entire process. Accordingly, the results of our review and recommendations presented in this report may not be all-inclusive of areas where improvement may be needed.

## 1. Interest earned on court registry deposits was not handled in accordance with Florida Statutes.

Florida Statutes (FS 28.33) state that investment of registry funds is optional, and allows the Clerk's office to retain as a fee a maximum of 10% of the interest earned. The remainder of the interest shall be allocated to each depositor.

Our review disclosed that the Clerk's court registry account balance as of February 28, 2013 totaled \$732,671.26, comprised of 299 accounts on behalf of 167 named individuals or corporations, as detailed on the February 2013 month-end court registry fund accounting report. We noted that one account contains \$634,895.48, or 87% of the total.

The Clerk's court registry bank account is interest-bearing. However, the entire amount of the interest earned is withdrawn from the registry each month on the same day it is posted by the bank. The interest is transferred to the Clerk's general depository account at the bank. While the interest earned is a relatively small amount (approximately \$181 average over the last six months), the statutes mandate that interest be allocated to the registry accounts with the exception of the maximum 10% fee which can be retained by the Clerk.

Our review of court registry information contained on other Florida Clerk websites indicated that most Clerk offices do not invest the registry deposits, resulting in no interest earned that must be allocated to depositors.

### **Recommendation:**

- A. Decide whether to continue to invest court registry balances in an interest-bearing account. Placing the funds in a non-interest bearing account will simplify the process. If the interest-bearing account continues to be utilized, the interest should be allocated to depositors (minus the Clerk fee) in accord with Florida Statute.

## 2. Segregation of controls should be strengthened.

Opportunities exist to enhance segregation of duties related to handling court registry receipts and disbursements.

Our review disclosed that one person, the Director of Administrative Services, is authorized and responsible for:

- preparing wire transfers from the general depository into the court registry,
- maintaining the court registry fund accounting report,
- preparing requests for disbursement checks,
- taking disbursement checks to be signed, and
- picking up the signed checks, placing checks in window envelopes, and delivering envelopes to the mail room.

Compensating controls were noted that help reduce the risks associated with the lack of segregation of duties, summarized as follows.

- The Director of Administrative Services does not handle or process actual monies received for registry deposits (checks and cash).
- The Finance director reviews and sends wire transfers to move the funds from the general depository into the court registry.
- The Civil Courts supervisor verifies that individual registry disbursement requests are supported by court order and disbursement cover sheets are properly completed. The supervisor signs off and forwards the packages for check generation.
- The Civil Courts supervisor verifies each printed check to supporting documentation, prior to signature stamp, and signs off on the approval sheet.

### **Recommendation:**

- A. Revise the process to further segregate responsibilities. For example, someone other than the Director of Administrative Services should handle registry disbursement checks after being signed.

### **3. Court registry policies and procedures should be developed and implemented.**

Opportunities exist to develop and implement policies and procedures related to the court registry receipt, recordkeeping and disbursement processes to ensure compliance with Florida Statutes and adherence to professional standards and best practices.

Court registry processing is generally one small element of the employee's various responsibilities. Minimal time is required to handle these duties. In some situations, the employee was relatively new to their positions. Within the satellite offices (Marathon and Plantation Key), some clerk employees indicated that informal notes were available that provided some guidance when questions arose. Formal written procedures would help ensure accurate and consistent processing when employees are not available due to sickness or vacation or when new employees are hired into the positions. This is particularly helpful in the satellite offices (Marathon and Plantation Key), which are supported by few employees.

The only mention of court registry on the Clerk's website is on the attorney hints page. It does not mention personal checks although personal checks are accepted for registry deposits.

#### **Recommendation:**

- A. Establish formal written policies and procedures for processing court registry funds, which include a description of the process steps, assignment of responsibilities, and ongoing update.

### **4. Revenue opportunities exist by depositing foreclosure sales proceeds into court registry.**

The Clerk's office does not process foreclosure sales proceeds through the court registry. Incremental registry fee revenues could be earned by depositing these sales proceeds.

Our review of nine Florida Clerk office websites found that all nine require successful bidder's foreclosure sales proceeds to be deposited into the court registry and registry

fees to be collected. Five of the nine websites included references to (or copies of) administrative orders of the appropriate circuit that specify use of the court registry for these deposits and disbursements. The remaining four websites include collection of registry fees in their detailed sales instructions. We also noted that the Florida Court Clerks and Comptrollers (FCCC) cover this question in its "Best Practice" for Mortgage Foreclosure Sales. This best practice refers to placement of the foreclosure sales proceeds into the registry account, including registry fees as an added cost in their suggested foreclosure sale announcement and their suggested format for the foreclosure Certificate of Disbursements.

Fees in relation to foreclosure sales are referred to in FS 45.035 and registry fees are specifically defined in FS 28.24 based on the amounts deposited: 3% for the first \$500 and 1.5% for any remaining amount. For example, foreclosure proceeds of \$1,000 would be subject to \$22.50 in court registry fees, and every additional \$1,000 would be subject to an additional \$15 fee.

Monroe Clerk records disclosed that 22 foreclosure sales were processed in calendar year 2012, with gross proceeds totaling \$3,806,081. Based on the prescribed registry fees above, incremental fees totaling \$57,256 may have been generated in 2012.

Our review of Monroe County's Clerk and circuit websites did not disclose any such administrative order for this circuit or any fees charged.

**Recommendation:**

- A. Consider processing foreclosure sales proceeds through the court registry and collecting the appropriate fees.