



**COUNTY of LUZERNE**

P E N N S Y L V A N I A  
ESTABLISHED 1786

**OFFICE OF THE CONTROLLER**

***Master's Fees Account  
Review as of August 2017***

**Michelle A. Bednar**  
**Luzerne County Controller**

**Fieldwork Performed by:**

**Wendy Saxe**  
**Mark Majikes**

## Table of Contents

<b>Background</b> .....	<b>3</b>
<b>Objective and Scope</b> .....	<b>4</b>
<b>Methodology</b> .....	<b>5</b>
<b>Condition 1</b> .....	<b>6</b>
<b>Condition 2</b> .....	<b>7</b>
<b>Condition 3</b> .....	<b>7</b>
<b>Condition 4</b> .....	<b>8</b>
<b>Observations</b> .....	<b>8</b>
<b>Recommendations</b> .....	<b>9</b>
<b>Home Rule Charter § 3.08(C)(3)</b> .....	<b>10</b>
<b>Audit Response Due Date</b> .....	<b>10</b>
<b>Signature Page</b> .....	<b>11</b>
<b>Distribution Page</b> .....	<b>12</b>

## Background

The Master's Fees account is an escrow-type account, which holds a portion of the fees paid by divorcing couples. These amounts will subsequently be paid to masters and law clerks who worked on the couple's divorce. Therefore, the balance in the Master's Fees account should equal the amounts due to masters and law clerks.

There are two types of divorce in the state of Pennsylvania: fault and no-fault. In both types, a law clerk oversees the review and filing of divorce paperwork; the law clerk is paid \$25 from the Master's Fees account for this role.

A fault divorce tends to be contentious and involve a battle over marital property or other complicating factors. In this case, a divorce master may be appointed by the judge, who would choose whether or not to appoint a master based on the judge's workload. This master is an attorney who then acts as a mini-judge and recommends to the court how the case should be resolved, thus relieving some of the judge's burden. The master is paid \$125 from the Master's Fees account; the remainder of the master's charge is billed directly to the divorcing couple by the master.

A no-fault divorce is a much simpler process, since there is already established mutual consent. A master is not appointed for a no-fault divorce, but a law clerk is used to handle the paperwork.

The amounts held in the Master's Fees account belong solely to one of three entities: the master who presided over a fault divorce (as part of his payment); the law clerk who verified and filed the paperwork for a fault or no-fault divorce; or, the husband and/or wife of the divorce (in the unlikely case they double paid the amount or they paid and were not appointed a master).

In certain cases, where a party is unable to pay, a praecipe to proceed in forma pauperis will be filed by that party's counsel, stating counsel is providing free legal services. Currently, the law clerk is paid \$25, even though no revenue is collected. This will be addressed in more detail later in this report.

The IQS Solution software program is the case management system used for recording all divorce cases. However, all information reflected in IQS was not necessarily entered into that system, since previous case management systems were used that were subsequently migrated into IQS. As a result, when referencing this system, "case management system" will be used and will refer to the cumulative total of information that has been entered over many years into multiple case management systems. When the term "reports" is used, it refers to reports generated from the case management system.

It is notable to mention our research discovered that prior to approximately the year 2000, the Master's Fees account was handled differently. Due to the use of the very basic GLink accounting system and its inability to have liability codes that could carry balances from year to year, the balance in the Master's Fees account was zeroed out and absorbed into the General Fund at the end of every year. When the newly elected Prothonotary at that time discovered this, she pursued the issue, stressed the impropriety of the process, and worked to have it resolved. As a result, the General Fund paid those amounts back to the Master's Fees account; the switch to the ACS accounting system happened around that time, as well.

## **Objective and Scope**

The objective of this review was to determine to whom the balance in the Master's Fees account belongs. At the time this audit began, that balance was \$73,278.71. At the writing of this audit, the balance was \$72,942.27.

In order to accomplish this objective, the Controller's Office initially obtained the following:

- List of fault divorces; report generated from 1/1/2005 through 12/31/2016
- List of no-fault divorces; report generated from 12/31/2005 through 12/31/2016
- Various New World Reports
- ACS Reports
- Case Management System Records
- Invoices

The Luzerne County Controller's Office strives to objectively and systematically evaluate functions, procedures, and activities to ensure that each are executed in the best, most efficient way. Our reviews are tailored to the unique circumstances of each office, and we work with management to ensure accountability and direction.

The Luzerne County Controller's Office is authorized by the Home Rule Charter of Luzerne County (Charter) Section 3.08 to conduct fiscal, performance, management, contract, grant, compliance, and related audits of any County division, bureau, office, agency, board, commission, elective office, The Judiciary, Office of Court Administration, or other administrative office. This review is an internal function, authorized by the Charter. Therefore, the Controller is required to transmit this review to the Manager of Luzerne County and County Council and post it for public inspection in the Controller's Office and on the County website and/or other electronic medium for a period of at least 60 days after it is issued. The Controller will also follow up on any recommendations, to the extent practical, in order to determine if they have been considered and/or implemented.

Auditors assigned to the engagement are employed by Luzerne County under the Controller's Office and report directly to the elected Controller. The audit staff is considered organizationally independent to conduct and report on the audit.

## Methodology

The Information Technology department converted the list of fault divorces into a workable Excel spreadsheet (hereinafter referred to as "Spreadsheet"), upon our request, which we used as our starting point. Then, using the data management system, the Controller's Office researched, in great detail, each of 2,866 fault divorce records to determine the name of each master and each law clerk and whether a payment authorization was shown. Then, the original Spreadsheet was revised to include this information.

Next, from the Spreadsheet, we removed all cases with evidence that a master and a law clerk had been properly paid. Our goal was to eliminate all correct records, so that we could further investigate the remaining cases, where Master's Fees monies had not yet been paid to the proper parties. However, this step left us with 2,654 cases remaining.

We next searched in New World for every invoice associated with each master or law clerk that we had seen up until this point. In some instances, we found case numbers within the invoice details, which allowed us to confirm that the master or law clerk had been paid for that particular case. However, many invoices did not include this case number detail, so we were unable to verify those cases. This tedious process allowed us to eliminate from the list an additional 49 cases where both the master and law clerk were paid. Our Spreadsheet still showed 2,605 cases remaining.

Finally, we pulled paper invoices and payments from Accounts Payable for 8 law clerks. From our prior research, we determined there were a total of 30 law clerks in this time period, so we reviewed 26.7 % of the law clerks, which represented 37.3% of the cases. Among those researched, 9.728% of the cases were not reflected on the Spreadsheet.

After a long and arduous process, it was at this point that we submitted to the fact that we do not have the necessary staff to pull the remaining records and track down the missing cases. Keep in mind that only 37.3% of the cases had been reviewed at this point for law clerks, leaving 1,797 cases. Additionally, less than 18% of the cases initially reviewed listed the master, leaving 2,351 cases to be investigated. We anticipate at least 10% of those cases would also be missing from the Spreadsheet.

## **Condition 1—Reports Were Missing Cases**

The reports generated from the case management system were missing a large number of cases. In theory, the reports should have included all divorce cases for the time frame investigated. If the list were complete and we then removed all cases that correctly showed the paid master and paid law clerk, the resulting cases should account for the balance in the Master's Fees account. However, that was impossible to determine due to the missing cases.

### **Effect**

Repeatedly, when investigating the payments of law clerks, we found cases listed on the invoices paid by Accounts Payable that did not appear on the reports. However, when we went into the case management system, we were able to locate the case. Therefore, we concluded that the information was in the case management system, but was not pulled onto the report.

### **Cause**

The cause was determined to be human error.

When any report is run, one must choose filters by which to pull the data. Otherwise, it would be not be in a manageable or logical format. When these reports were run, the filters used were "Luzerne", "divorce cases", and "payment authorization". Initially, we were unaware that was how the report was run, and the clerk/cashier was unaware that the information was lacking. We were a considerable way into the audit before we were able to ascertain that there were missing cases. We determined there were three main reasons for the reports to be missing cases.

First, if a case transferred from another jurisdiction it was not pulled onto the reports. We found few instances of this happening.

Second, if the docketed payment was named "payment transmittal" instead of "payment authorization" it was not included on the reports. These naming differences will be addressed later in Condition 3.

Third, if a payment authorization was not scanned into the case management system, that case was not included on the report. In roughly 10% of the law clerk cases we examined, no payment authorization was scanned into the case management system, although the payment was made. The result was that the case did not appear on the Spreadsheet we were attempting to reconcile.

Since this lack of complete information made our initial goal impossible and we can state with great confidence that the monies belong to a master, a law clerk, or the divorcing couple, we concluded our review at this point.

## **Condition 2—Information Entered in Case Management System Is Lacking/ Law Clerks Are Not Submitting Cases Individually for Payment**

Oftentimes, the information entered into the case management system was inadequate or altered. For instance, there were many instances of a payment authorization with one page of the invoice scanned into the case management system; however, the invoice (including case details) might have been four pages in total and the page that was included doesn't show the total invoiced, the payee, and/or other relevant information. Other times, barcodes—which show details like the Filing ID, Luzerne County Civil Records, date, and time—are stamped on top of other important information, like the payment amount. Also, there are instances where the payment amount is whited out.

### **Effect**

Without a complete and legible invoice, it was not possible to determine if the payment amount was accurate. As a result, records had to be pulled from Accounts Payable.

### **Cause**

With regard to one page of the invoice being scanned into the case management system, we believe the staff felt it was the most proper way to record the pertinent information related to the case. Typically, when law clerks submit their cases for payment, they submit one invoice with multiple cases. The law clerk's invoice might include 8 cases or 46 cases or any other amount of cases. In an attempt to not cross file information from unrelated cases, the clerk/cashier will then file the minimum portion of that invoice on the case management system for each case. Likewise, amounts were altered on some pages in an effort to more accurately reflect the documents pertaining to the case under which the documents were filed.

## **Condition 3—Inconsistent Naming of Documents in Case Management System**

In our prolonged research into each divorce case, we found an inconsistent naming of documents. In one case, "Divorce Decree" would be used; in another, it would be "Divorce Order". In one case, "Payment Authorization" would show the payment details; in another, that information would be filed under "Payment Transmittal" or "Other".

### **Effect**

This inconsistency makes it more difficult for the user to obtain/locate the needed records. Additionally, since the data management system report was run using "Payment Authorization" as one of the filters, the report was missing divorce cases that had payments otherwise named that we were attempting to reconcile.

## **Cause**

The Controller's Office believes there is a two-part explanation for the document name inconsistencies. First, different judges use varying descriptions. Consequently, when documents are filed, the clerk/cashier enters the description as provided by the judge. Second, over the past 10 years, there have been 4 prothonotaries. Each prothonotary had his/her own way of running the department, which could account for some inconsistencies. Also, over that time span this area was not audited or monitored.

## **Condition 4—Master's Fees Account is Owed Money by the Courts**

When a party is unable to pay and a praecipe to proceed in forma pauperis is filed, either the master *and* the law clerk should provide free legal services or the Courts should reimburse the Master's Fees account for the payment to the law clerk. As stated earlier, in these cases currently the law clerk is paid \$25, even though no revenue is collected.

## **Effect**

If, today, all unpaid masters and law clerks were to submit invoices for their services, a shortage would result in the Master's Fees account.

## **Cause**

Because payment would be made to law clerks with no offsetting revenue, a shortage would occur.

## **Observations**

1. A few attorneys are not filing clients' information properly.
2. Law clerks are waiting long periods of time to submit their invoices for payment. One law clerk submits his invoice once per year. This not only crosses accounting years, but it also makes it easier to submit for payment a case that was previously paid and have the second payment erroneously approved. We noted one overpayment to a law clerk of \$25. That law clerk was notified of the error and has already returned the overpayment to the County.
3. The instances where payments were made but no payment authorizations were entered into the case management system are the result of a workflow issue. The clerk/cashier was processing the payment and seeing that the law clerk or master was paid in a timely fashion. However, the importance of the final step—scanning the payment authorization into the case management system—was not realized. While that last step is not technically required, we assert that it is procedurally necessary to ensure no double payments are made.



4. The Courts have expressed interest in using the balance in the Master's Fees account to fund another position within the Courts. However, those monies do not belong to the Courts, the County, or the taxpayers; they belong to unpaid masters, unpaid law clerks, or overpaying divorcing couples. Additionally, to use those monies would be a one-time solution and, therefore, not be sustainable to continually fund another purpose.

## **Recommendations**

1. The Controller's Office recommends notices be put in the Legal Register reminding attorneys of the industry's best practices with regard to documenting client's information.
2. The Controller's Office recommends notices be put in the Legal Register reminding former masters and law clerks to check their records and, if they have outstanding amounts owed to them, submit invoices for payment.
3. The Controller's Office recommends notices be put in the Legal Register requesting that masters and law clerks submit an individual invoice for each case. This is needed in order to properly file documents in the corresponding case files. Accounts Payable can pay numerous invoices together on one check, so as not to increase their burden, but the submission of separate invoices would keep each individual case cleaner and more accurate and would use less computer memory for storage. It is notable to mention that Court Administration, upon becoming aware of this situation, immediately implemented procedures to rectify this matter and individual invoices are already being received for payment.
4. The Controller's Office recommends that any masters' or law clerks' payments that have been made, but have not yet had the payment authorization entered into the case management system, be entered as soon as possible. Otherwise, the risk of overpayments increases.
5. The Controller's Office recommends that the Courts either have their law clerks accept no payment for in praecipe to proceed in forma pauperis cases or that the Courts reimburse the Master's Fees account for law clerks who are paid in those cases. We recommend this new practice be instituted immediately.
6. The Controller's Office recommends that Accounts Payable start scanning all invoices and supporting details into New World.

Please Note:

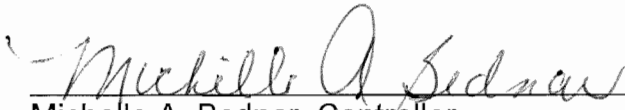
**Luzerne County Home Rule Charter: Section 3.08 (C) 3**

***The audited entity shall respond in writing, specifying agreement with the audit findings and/or recommendations or the reasons for disagreement with the findings and/or recommendations, along with any plans and timetable for implementing remedies. The response shall be provided to the Controller within 14 days after the audited entity's receipt of the draft audit. The Controller shall include the audited entity's response in his/her final audit report.***

**Please respond to this audit as prescribed, by 5:00 pm, October 17, 2017.**

**Signature Page  
Master's Fees Account  
Review as of August 2017**

**Controller's Office:**

  
Michelle A. Bednar, Controller 10/17/17  
Date

  
Wendy Saxe, Senior Auditor 10-17-17  
Date

  
Mark Majikes, Internal Auditor 10/17/2017  
Date

**County Manager's Office:**

  
C. David Pedri, County Manager 10/17/17  
Date

**Prothonotary's Office:**

  
Joan Hoggarth, Division Head—Judicial Services & Records 10/17/17  
Date

  
James Haddock, Manager 10-17-17  
Date

**Court Administration:**

  
Michael Shucosky, Court Administrator 10-17-17  
Date

The Audit of  
Master's Fees Account  
Review as of August 2017

This report was initially distributed to the following:

Mr. David Pedri	Manager, Luzerne County
Ms. Linda McClosky Houck	Chair, Luzerne County Council
Ms. Joan Hoggarth	Division Head, Judicial Srv & Records
Mr. James Haddock	Manager, Prothonotary's Office
Mr. Michael Shucosky	Court Administrator

This report is a matter of public record and is available online at <http://www.luzernecounty.org>, found under Audit Reports on the Luzerne County Controller's section of the website. A hardcopy is also available at the Luzerne County Controller's Office. Media questions about the report may be directed to the Luzerne County Controller's Office at 20 North Pennsylvania Blvd., Suite 213, Wilkes Barre, PA 18701 or via email to [Controllers.Office@luzernecounty.org](mailto:Controllers.Office@luzernecounty.org).



COUNTY of LUZERNE  
P E N N S Y L V A N I A  
ESTABLISHED 1786

---

Master's Account Audit Responses

In addition to responding to the recommendations please take note to the following:

Methodology – Not all Fault Divorces have a Master appointed, which explains the statement that less than 18% of the reviewed cases listed a Master. Also, every file can be transmitted to the Judge for a law clerk review more than one time, each time results in an additional \$25.00 payment due.

Recommendations

1. This recommendation is outside the realm of the Prothonotary Office.
2. Masters are Court appointed and Law Clerks work for the Judiciary, any address that may be made concerning this recommendation would be provided by Court Administration.
3. Same as #2
4. The Prothonotary Office agrees with this recommendation and has already implemented it. Payment authorizations will be a priority and entered into the case management system as soon as completed.
5. Same as #2
6. This recommendations falls under the direction of the Budget & Finance Division

## RESPONSE TO MASTER'S ACCOUNT AUDIT

The Master's Fees Account Audit has been reviewed the Court of Common Pleas and Court Administration. The following is the response to the Audit and Recommendations.

By way of back ground, the funds in the subject escrow account accumulated over many years. There are two sources of payment into the fund. The first is a \$125.00 fee paid by the moving party when a Divorce Master is appointed to be utilized as compensation for the Master's services. The second is a \$25.00 fee paid by the moving party when a request is made for the entry of a final Divorce Decree. This fee is used for compensation for a judicial law clerk who conducts a legal compliance review of the divorce documentation and makes recommendations to the Court. No county funds are involved at any time in this account.

Funds can accumulate in many ways in the account. The Master's fee is paid only upon the conclusion of the case. If the case does not conclude with the issuance of a Divorce Decree, no fee is paid. It is not uncommon for parties to reconcile, abandon the action, die, or settle the action without the involvement of the appointed Master. This scenario also occurs with the review fee, as well, as if the final decree is not entered, the fee is not paid.

The account has been administered by the Prothonotary, now Office of Judicial Records, since its inception.

The practice of appointed attorneys as Master's in Divorce has been ended by the Courts. In place of individual appointments, the Court has created the position of a full time Divorce Master to oversee divorce proceedings and make recommendations to the Court. The position is a fulltime, salaried position. There will still be an administrative fee paid, but, it will go to offset the salary of the Master through the general fund as revenue.

The following is the response to the "Conditions " in the audit report that are applicable to the Courts and or Court Administration:

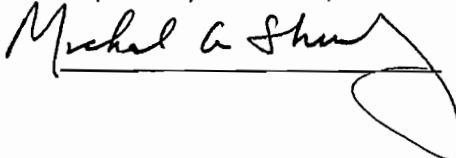
Condition 2. A policy is immediately being implemented to insure the prompt, standardized, accurate filing of individual invoices upon the filing of the final Divorce Decree.

Condition 4. In accordance with the Rules of Civil Procedure, the existing IFP eligibility and procedures will be followed.

There is insufficient information available concerning the sources of the funds and services performed to be able to determine who is entitled to payment or a refund. Therefore it is not possible at this time to suggest a course of action.

Collectively, the recommendations are designed to improve the recording of information, docketing, and submission of invoices. The actions described above concerning the permanent Divorce Master. IFP Procedures, and invoice submission will alleviate the concerns raised.

Date: 9/25/17

Respectfully submitted,  
  
\_\_\_\_\_