

INVESTIGATIVE REPORT

ADAIR COUNTY CLERK'S OFFICE

December 1, 2010 through October 13, 2011



*Independently serving the citizens of
Oklahoma by promoting the
accountability and fiscal integrity of
governmental funds.*



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

ADAIR COUNTY CLERK'S OFFICE

INVESTIGATIVE REPORT

DECEMBER 1, 2010 THROUGH OCTOBER 13, 2011

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Oklahoma State Auditor & Inspector

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March 15, 2012

Brian J. Kuester, District Attorney
District #27
307 East Cherokee
Wagoner, OK 74467

Transmitted herewith is our Investigative Report of the Adair County Clerk's Office.

Pursuant to your request and in accordance with the requirements of **74 O.S. 2001, § 212(H)**, we performed an investigation with respect to the Adair County Clerk's Office for the period December 1, 2010 through October 13, 2011.

The objectives of our investigation primarily included, but were not limited to, the areas noted in your request. Our findings and recommendations related to those objectives are presented in the accompanying report.

Because investigative procedures do not constitute an audit conducted in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Adair County Clerk's Office or of Adair County for the period December 1, 2010 to October 13, 2011.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our investigation.

This report is addressed to and intended solely for the information and use of the District Attorney, District #27, and should not be used for any other purpose. Consequently, this document is *not* a public document, but is part of the investigation and/or litigation files of the District Attorney. Until its release by the District Attorney's office, it may be kept confidential pursuant to the **Oklahoma Open Records Act**, in accordance with **51 O.S. 2011, § 24A.12**.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones".

GARY A. JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

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EXECUTIVE SUMMARY

We performed a special audit/investigation, pursuant to the District Attorney's request, and in accordance with the requirements of **74 O.S. 2001, § 212(H)**. This report addresses issues concerning a former employee of the Adair County Clerk for the period December 1, 2010 through October 13, 2011.

We found a scheme in which receipts for cash collections were voided to conceal cash that was likely misappropriated. After comparing the composition of cash and checks receipted to cash and checks deposited, we found \$1,166.75 was receipted, but not deposited, during the period reviewed. In each case, the receipt for "cash" was subsequently voided on the system for no apparent reason, other than to conceal a cash shortage in the daily deposit.

There was one full-time and one part-time employee collecting the fees for land records. There was a lack of computer and password security in the office. The part-time employee worked on a limited basis and was not working on the majority of the days that there was a shortage.

When interviewed, the former full-time employee denied any wrongdoing.

Introduction

In the State of Oklahoma, the County Clerk is the principal record keeper of the county. All legal instruments, including plat maps, deeds, mortgages, oil and gas leases, liens, and military discharge papers that are filed with the county by private citizens and public officials are preserved by the County Clerk.

Other duties of the County Clerk include the following activities:

- Serving as secretary for the Board of County Commissioners and other county boards such as the County Excise Board;
- Recording all appropriations and expenditures for each county office or department;
- Preparing warrants [or checks] for paying county bills and payroll;
- Purchasing or leasing and maintaining all county supplies and equipment;
- Acting as the registrar of deeds.¹

The County Clerk charges various fees for the filing of property records such as mortgages, deeds, liens, etc.

During the period of this investigation, Carrie Philpot, County Clerk, had three full-time employees and one part-time employee. There are three separate areas which housed the four employees and the County Clerk, the land records area, the County Clerk's office and the bookkeeping area.

The land records area is the section that services the public and collects fees for filing deeds, mortgages, assignments, etc. The land records area housed one full-time employee, Tracy O'Neil, and one part-time employee Alethea Vajar. Part-time employee Alethea Vajar worked in the land records area on a limited basis.

Provided below is a timeline of events leading up to the District Attorney's request for an investigation:

- On or about September 12, 2011, part-time employee Alethea Vajar, was aware that cash had been collected during the day, but while attempting to provide change for a customer paying a fee, she discovered there was no cash in the cash drawer. After pulling one of the receipts for cash, she noticed it had been voided.
- During the months of September and October 2011, Vajar observed a number of receipts that were voided.

¹ Handbook for County Clerks of Oklahoma, published by OSU Cooperative Extension Service.

- On October 12, 2011, while preparing the deposit, Vajar noted there was no cash, but recalled receiving cash from the Cherokee Nation. Vajar obtained the receipt and noticed it was voided.
- On October 13 or 14 of 2011, Vajar reported the voided receipts to First Deputy Jean Fishinghawk. Fishinghawk began looking into the matter and discovered the computer software program had the capability of providing a list of edited and deleted receipts. Fishinghawk obtained one of the receipts from the list and noted the receipt was issued for "cash," then voided. She then informed County Clerk Carrie Philpot of the potential problem.
- OSAI auditors from the County Audit Division who were in the county at the time and working on the annual audit, reviewed the filing fee records and notified the Special Investigative Unit.
- On December 5, 2011, our office received a request from the District Attorney to conduct an investigation.

Objective I: Determine if cash from property record filing fees was misappropriated.

Background

The employees responsible for collecting fees for filing land records entered the information into the computer and two (2) receipts were printed, one for the payer and one for the files. The mode of payment would be indicated by "cash" or "check" on the receipt. The cash and checks were maintained in an unlocked drawer under the counter.



A deposit ticket was automatically generated from the receipt information that had been input into the computer system through the day. At the close of the day, a deposit ticket was printed which listed each check received and the total amount of cash received. Cash and checks in the drawer were counted and reconciled to the deposit ticket. The deposit ticket was then signed and taken to the county treasurer for deposit.

Records Used

Receipts – computerized receipts for funds received for recording land records.

Deposit Tickets – the computer system automatically generated the deposit tickets from the receipt information.

Deleted and Edited Receipts – a computer generated report that tracked receipts that had been edited, showing information such as the receipt number, date of edit, and the employee's initials. This report was used to determine the specific receipt that was edited.

Receipt Balance Report – a computer generated report that provided a breakdown of the cash and checks by receipt number for a given day. This report was used to verify the receipt that was edited was voided.

Employee Timesheets – time sheets were used to identify the land record employees that were working on a day in which cash was missing.

Findings

The filing fee records we reviewed indicated a simple cash “skimming” scheme done by “voiding” receipts. When cash was likely misappropriated, there had to be a means to balance the cash and checks “received” with the cash and checks “deposited.”

In this scheme, after the receipt for cash was printed, it was then voided in the system. By voiding the receipt, the computer system would not count the misappropriated cash as part of the deposit, thereby creating the *appearance* that the cash collected and cash deposited actually “balanced,” when in reality, there was cash missing.

We have provided an example of the scheme which is shown in the attachments. Attachment 1 indicates receipts #1123 for \$13.00 and #1124 for \$3.00 were both issued for “cash” received. Attachment #2 shows the deposit ticket showing only the \$3.00 in cash from #1124 was deposited. The first image on Attachment 3 indicates #1123 was one of the receipts that had been “edited.” The “TW” was the login initials for Tracy O’Neil, although as we describe later, the login initials were unreliable. The second image indicates \$3.00 in cash was received from receipt #1124, but #1123 was “void.”

For each day during the period of December 1, 2010 through October 13, 2011, we compared the composition of cash and checks receipted to the composition of checks and cash deposited. During this time period, we noted 51 days in which cash receipts exceeded cash deposits. For those 51 days, we matched 68 receipts that were issued then voided, to likely shortages of cash.

The following table reflects the shortage amounts for each day.

Date	Amount	Date	Amount	Date	Amount	Date	Amount
10/12/11	\$17.00	8/15/11	\$15.00	5/24/11	\$10.00	3/28/11	\$20.00
10/11/11	\$21.00	8/12/11	\$17.00	5/17/11	\$29.00	3/11/11	\$75.00
10/7/11	\$5.00	8/11/11	\$3.00	5/11/11	\$15.00	3/9/11	\$26.00
10/3/11	\$30.00	8/8/11	\$28.00	5/9/11	\$26.00	3/8/11	\$26.00
9/29/11	\$26.00	8/3/11	\$26.00	5/3/11	\$55.00	3/7/11	\$13.00
9/23/11	\$21.75	7/27/11	\$7.00	5/2/11	\$16.00	3/3/11	\$13.00
9/21/11	\$28.00	7/21/11	\$3.00	4/29/11	\$17.00	2/23/11	\$39.50
9/15/11	\$13.00	7/7/11	\$15.00	4/26/11	\$26.00	2/18/11	\$22.00
9/12/11	\$13.00	6/28/11	\$34.00	4/25/11	\$1.50	2/8/11	\$24.00
9/9/11	\$29.00	6/24/11	\$34.00	4/20/11	\$31.00	1/28/11	\$10.00
9/8/11	\$13.00	6/21/11	\$2.00	4/7/11	\$13.00	12/8/10	\$13.00
8/31/11	\$13.00	6/16/11	\$13.00	4/5/11	\$66.00	12/1/10	\$17.00
8/26/11	\$13.00	6/8/11	\$25.00	4/1/11	\$100.00		
						Total	\$1,168.75

On June 30, 2011, there was an unknown \$2.00 more cash deposited than receipted for a net cash shortage of \$1,166.75.

Records show receipts #855 and #1073 were voided in the system, but the hardcopies of the receipts were missing, so we could not determine the amount. According to our interviews, the normal procedure for "voids" was to attach the voided receipt to the original receipt, with an explanation or reason for the void. These two voided and missing receipts could reflect additional unknown amounts of cash that could have been misappropriated.

During the December 1, 2010 through October 13, 2011 time period, Tracy O'Neil and Alethea Vajar were the only employees working in the land records area. The computer system automatically assigned the employee's initials to receipts and/or any edits to receipts through the employee's login password.

As the system administrator, County Clerk Carrie Philpot knew the employees' passwords. Also, both O'Neil and Vajar knew one another's password.

In addition to the lack of password security between the two employees, there was also a lack of logon/logout controls. Once each employee logged on to their respective computers, they never logged out. Therefore, their initials would appear on any documents produced from that computer for the entire day, although their computers could have been used by other office employees.

Because of the lack of controls over the passwords and login/logout procedures, we could not rely on the employees' initials appearing on documents to identify which of the two employees issued and/or edited the receipts.

We noted evidence of this lack of controls when Vajar's login initials appeared on documents on days when she was not working, according to her timesheets.

Vajar did not work 43 of the 51 days that cash appeared to be misappropriated. On July 21, 2011, \$3.00 was receipted for copies by Vajar, then voided and not deposited on a day that O'Neal was absent.

We interviewed both Vajar and O'Neal regarding the possible misappropriation. In regards to the \$3.00 shortage, Vajar recalled someone paying for copies, but there was not any cash in the drawer to

make change. Since the fee for copies was just a few dollars, she voided the receipt and provided the copies at no charge.

O'Neal also indicated there were cases in which there was no cash to make change and admitted to voiding some receipts. O'Neal recalled one case in which a person was paying with a \$20 bill, but there was no cash to make change, so she voided the receipt for cash, and the person wrote a check.

There are cases in which mistakes are made, and there are valid reasons to void a receipt. In these cases, such as the one mentioned by O'Neal, we would expect the subsequent receipt to reflect the corrected information.

We had initially identified 70 receipts that were voided; however, after reviewing subsequent receipts issued for that day, we determined some of the receipts appeared to be valid voids. For example, receipt #1671 was issued for cash and then voided. Receipt #1672 was then issued to the same individual for the same amount with a change in the method of payment to a "check," rather than "cash."

For the 68 receipts related to the likely misappropriated cash, the subsequent receipts issued for that day appeared unrelated to the voided receipts. Typically, when a receipt is voided, we would expect to find hardcopies for both the original receipt copy and the voided copy attached to one another. We were only able to find the hardcopies for seven of the 68 "void" receipts. We found no documentation indicating any reasons for voiding the receipts.

In addition to reviewing the subsequent receipt(s) issued, we judgmentally selected five voided receipts and found that there was a land record filed that showed the fee charged. In each case, the voided receipt amount was consistent with the fee shown on the land record. Since there was an actual land record filed, it appeared highly probable that a fee was charged *and* collected.

DISCLAIMER

In this report, there may be references to state statutes, Attorney General's opinions and other legal authorities that appear to be potentially relevant to the issues reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose or intent by the issuance of this report to determine the guilt, innocence, culpability or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

Attachment 1

Office of the County Clerk
 Adair County
 STILWELL, OK

Receipt Number 2011-00001123
 Received On: June 16, 2011

Received Of ANNIE BAIRD \$13.00
(For fees or items as shown in margin heretof)

<u>Receipt Detail</u>		<u>Payments</u>		
<u>Fees</u>	<u>Owed</u>	<u>Pay Type</u>	<u>Check #</u>	<u>Amount Paid</u>
PRESERVATION	\$5.00	Cash		\$13.00
RECORDED	\$8.00			
Total:	\$13.00			

Carrie Philpott
County Clerk

	Less Refund	\$0.00
	Total Received	\$13.00

TW
Deputy

Office of the County Clerk
 Adair County
 STILWELL, OK

Receipt Number 2011-00001124
 Received On: June 16, 2011

Received Of DARCY HICKS \$3.00
(For fees or items as shown in margin heretof)

<u>Receipt Detail</u>		<u>Payments</u>		
<u>Fees</u>	<u>Owed</u>	<u>Pay Type</u>	<u>Check #</u>	<u>Amount Paid</u>
COPIES	\$3.00	Cash		\$3.00
Total:	\$3.00			

Carrie Philpott
County Clerk

	Less Refund	\$0.00
	Total Received	\$3.00

TW
Deputy

Attachment 2

Official Depository Ticket

S.A. & L. 195 (2000)
 STATE OF OKLAHOMA
 County of Adair

Deposit Ticket Number: 000108

To The County Treasurer:
 The within list of checks and cash is to cover receipts of my office for Thursday, June 16, 2011.

By:  _____
 Deputy

 Official Title

List of All Checks By Whom Drawn	Bank Drawn On/Location	Check Info	Receipt Date	Receipt Number	Amounts
ADAIR COUNTY TREASURER	Bank Of Commerce	2939	06/15/2011	2011-05001116	\$13.00
RECON TRUST	Bank Of America	400722703	06/16/2011	2011-05001117	\$13.00
AMERICAN NATIONAL BANK	American National Bank	142582	06/16/2011	2011-05001118	\$16.00
LOVE BEAL AND NOXON	Bank First	548330	06/16/2011	2011-05001119	\$13.00
ARVEST BANK	Arvest Bank	30430	06/16/2011	2011-05001120	\$13.00
GRAND RIVER ABSTRACT	Arvest Bank	6463	06/16/2011	2011-05001121	\$120.25
E S A	Bank Of Commerce	40737	06/16/2011	2011-05001122	\$500.00
ADAIR CO HEALTH CENTER	Bank Of Commerce	7760	06/16/2011	2011-05001125	\$30.00
ARVEST MTG CO	Arvest Bank	30430	06/16/2011	2011-05001126	\$2.00
Check Total					\$727.25
Cash					\$3.00
Less Refunds					\$0.00
Total Deposited with Treasurer (excluding Electronic Payments)					\$730.25
Electronic Payments					\$0.00
Total Deposit including Electronic Payments					\$730.25

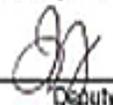
Received the above deposit aggregating \$730.25, this Thursday, June 16, 2011 and credited account of Carrie Philpott, County Clerk.

Account Number 1

Register Number 8150

JANICE BREWER, TREASURER

 County Treasurer



 Deputy

NOTE: List all Checks, Drafts, Money Orders or Cashier's Checks in separate groups. Last Mod/Ed: 6/16/2011

Attachment 3

Receipt Number	Receipt Date	Received Of	Deposit Number	Printed 2	Last Edited By	Last Edit Date
2011 - 00000450	3/11/2011	CHARLES CARLILE ✓	000041	Y	TW	3/11/2011
2011 - 00000556	3/28/2011	DIANE GARCIA ✓	000052	Y	TW	3/28/2011
2011 - 00000565	3/28/2011	EDITH SOAP ✓	000052	Y	TW	3/28/2011
2011 - 00000584	3/31/2011	CHEROKEE NATION ✓	000056	Y	TW	4/1/2011
2011 - 00000586	3/31/2011	CHEROKEE NATION ✓	000056	Y	TW	4/1/2011
2011 - 00000587	3/31/2011	DEAN BURTON ✓	000056	Y	TW	4/1/2011
2011 - 00000587	3/31/2011	DEAN BURTON ✓	000056	N	TW	4/1/2011
2011 - 00000588	4/1/2011	JAN MUSKRAT ✓	000056	Y	TW	4/1/2011
2011 - 00000590	4/1/2011	BOBBY PHILLIPS ✓	000056	Y	TW	4/1/2011
2011 - 00000624	4/5/2011	BLM ✓	000058	Y	TW	4/5/2011
2011 - 00000624	4/5/2011	BLM ✓	000058	N	TW	4/5/2011
2011 - 00000637	4/7/2011	JUSTIN HAMPTON ✓	000060	Y	TW	4/7/2011
2011 - 00000696	4/14/2011	BEDFORD NEALE ✓	000065	Y	AV	4/14/2011
2011 - 00000732	4/19/2011	CHEROKEE NATION ✓	000068	Y	TW	4/19/2011
2011 - 00000733	4/19/2011	MRS. FOSTER ✓	000068	Y	TW	4/19/2011
2011 - 00000735	4/20/2011	OLTS ✓	000069	Y	TW	4/20/2011
2011 - 00000735	4/20/2011	OLTS ✓	000069	N	TW	4/20/2011
2011 - 00000754	4/25/2011	UPG ✓	000071	Y	TW	4/25/2011
2011 - 00000762	4/26/2011	CARL WELCH ✓	000072	Y	TW	4/26/2011
2011 - 00000769	4/26/2011	JOHN WILSON ✓	000072	Y	TW	4/26/2011
2011 - 00000793	4/29/2011	JACQUELINE STAIGER ✓	000076	Y	TW	5/2/2011
2011 - 00000801	5/2/2011	JERAMY BRICKEY ✓	000076	Y	TW	5/2/2011
2011 - 00000825	5/3/2011	BEART ✓	000077	Y	TW	5/3/2011
2011 - 00000827	5/3/2011	JIMMY BRADFORD ✓	000077	Y	TW	5/3/2011
2011 - 00000827	5/3/2011	JIMMY BRADFORD ✓	000077	N	TW	5/3/2011
2011 - 00000850	5/6/2011	RODNEY SMITH ✓	000080	Y	AV	5/6/2011
2011 - 00000855	5/6/2011	GOSS ✓	000080	Y	AV	5/6/2011
2011 - 00000855	5/6/2011	GOSS ✓	000080	Y	AV	5/6/2011
2011 - 00000868	5/9/2011	STACY VANDERHEIDEN ✓	000081	Y	AV	5/9/2011
2011 - 00000883	5/11/2011	BILL SKIPPER ✓	000083	Y	TW	5/11/2011
2011 - 00000926	5/17/2011	OLTS ✓	000087	Y	TW	5/17/2011
2011 - 00000926	5/17/2011	OLTS ✓	000087	Y	TW	5/17/2011
2011 - 00000963	5/20/2011	CHARLES AND NACEY ELLIS ✓	000090	Y	TW	5/20/2011
2011 - 00000969	5/23/2011	BENEFICAL ✓	000091	Y	TW	5/23/2011
2011 - 00000985	5/24/2011	TED EVERSOLL ✓	000093	Y	TW	5/25/2011
2011 - 00001073	6/7/2011	RANDY LOVELL ✓	000101	Y	TW	6/7/2011
2011 - 00001078	6/8/2011	DENA MELTON ✓	000102	Y	TW	6/8/2011
2011 - 00001123	6/16/2011	ANHIR BAIRO ✓	000106	Y	TW	6/16/2011

Receipt	Date	Received To	Cash	Check	EFT	Paid	Refund	Total
00001117	6/16/2011	RECON TRUST		\$13.00		\$13.00		\$13.00
00001118	6/16/2011	AMERICAN NATIONAL BANK		\$15.00		\$15.00		\$15.00
00001119	6/16/2011	LOVE BEAL AND NIXON		\$13.00		\$13.00		\$13.00
00001120	6/16/2011	ARVEST BANK		\$13.00		\$13.00		\$13.00
00001121	6/16/2011	GRAND RIVER ABSTRACT		\$120.25		\$120.25		\$120.25
00001122	6/16/2011	E S A		\$508.00		\$508.00		\$508.00
00001123	6/16/2011	VOID	\$0.00			\$0.00		\$0.00
00001124	6/16/2011	DARCY HICKS	\$3.00			\$3.00		\$3.00
00001125	6/16/2011	ADAIR CO HEALTH CENTER		\$30.00		\$30.00		\$30.00
00001126	6/16/2011	ARVEST MTG CO		\$2.00		\$2.00		\$2.00
10 Receipts			\$3.00	\$714.25		\$717.25	\$0.00	\$717.25



OFFICE OF THE STATE AUDITOR AND INSPECTOR

2300 N. LINCOLN BOULEVARD, ROOM 100

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