

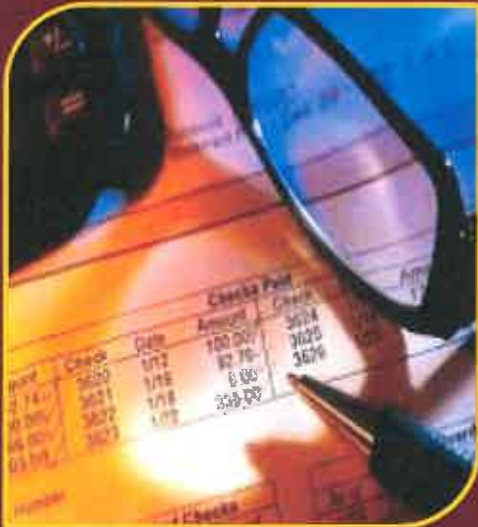
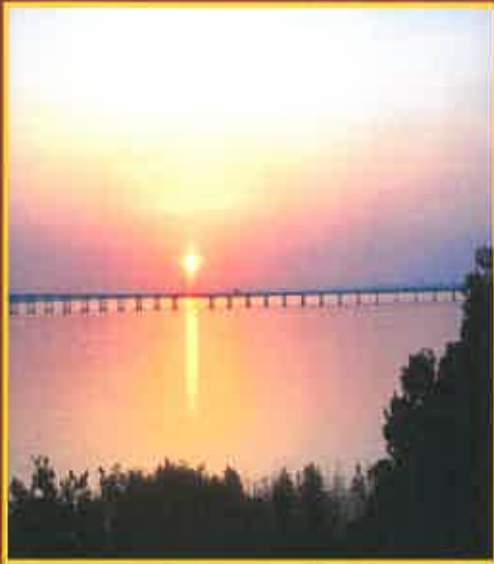


# DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
PINELLAS COUNTY, FLORIDA

## INVESTIGATIVE FOLLOW-UP REPORT OF CONDUCT UNBECOMING A CLERK OF THE CIRCUIT COURT AND COMPTROLLER EMPLOYEE



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**Hector Collazo Jr.**  
Inspector General/Chief Audit Executive

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JUNE 4, 2015  
REPORT NO. 2015-11



**Ken Burke, CPA**  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
PINELLAS COUNTY, FLORIDA

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Recorder of Deeds  
Clerk and Accountant of the Board of County Commissioners  
Custodian of County Funds  
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June 4, 2015

The Honorable Ken Burke  
Clerk of the Circuit Court and Comptroller

We have conducted an Investigative Follow-Up of the Conduct Unbecoming a Clerk of the Circuit Court and Comptroller Employee. The objectives of our follow-up were to determine the implementation status of our previous recommendation.

Of the single recommendation contained in the investigative report, we determined that it has been implemented. The status of this recommendation is presented in this investigative follow-up.

We appreciate the cooperation shown by the staff of the Clerk's Office and State Attorney's Office during the course of this follow-up.

Respectfully Submitted,

Hector Collazo Jr  
Inspector General/Chief Audit Executive



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# INTRODUCTION

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## ***Scope and Methodology***

We conducted an investigative follow-up of the Conduct Unbecoming a Clerk of the Circuit Court and Comptroller Employee. A Fiscal Records Specialist in the Criminal Court Customer Services Department, Pinellas County Justice Center, was alleged to have violated County Polices and potentially State and Federal Laws. The purpose of our follow-up is to determine the status of previous recommendations.

The purpose of the original investigation was to:

- 1) Determine if the Respondent submitted fraudulent direct deposit account number information to the Internal Revenue Service (“IRS”) for tax refunds belonging to an employee of the Clerk of the Circuit Court and Comptroller’s (“Clerk”) Civil Court Records Department (the “Victim”).
- 2) Determine if the respondent submitted fraudulent Federal Income Tax Forms 1040 to the Victim.

To determine the current status of our previous recommendation, we searched the Criminal Court records and interviewed the State Attorney’s Office investigator to determine the actual actions taken to implement our recommendation. We performed limited testing to verify the Criminal Court’s actions.

Our investigative follow-up was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation and, accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances. Our follow-up testing was performed during April 2015. The original investigative period was from February 20, 2014 through March 17, 2014. However, transactions and processes reviewed were not limited by the investigative period.

## ***Overall Conclusion***

Of the single recommendation in our report, we determined that it was implemented. We commend the State Attorney’s Office for implementation of our recommendation.

## ***Background***

On February 20, 2014, the Division of Inspector General's Public Integrity Unit ("PIU") received allegations of Fraud, Waste, and Abuse. Accordingly, we investigated the following allegations:

1. As the tax return preparer of the IRS Form 1040 for the Victim, the Respondent attempted to divert \$750 of the 2013 tax refund due the Victim, to the Respondent's financial institution account. The Respondent and the Victim's financial institution, the Pinellas Federal Credit Union ("PFCU") contacted the Victim and rejected the \$750 diversion attempt. PFCU confirmed that the \$750 diverted by the Respondent was identified by the U.S. Treasury as a part of the Victim's 2013 tax refund. The direct deposit account numbers for the Respondent and the Victim were submitted electronically to the IRS by the Respondent along with the Victim's Form 1040.
2. As the tax return preparer of the IRS Form 1040 for the Victim, the Respondent diverted \$580 of the 2012 tax refund due the Victim through the falsification of direct deposit bank account information submitted electronically by the Respondent to the IRS with the Victim's Form 1040.
3. Copies of the Forms 1040 for tax years 2012 and 2013 given to the Victim by the Respondent differed from the Forms 1040 filed electronically with the IRS by the Respondent.

The Division of Inspector General's investigation of these allegations concluded that all three allegations are **Substantiated**.

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# STATUS OF RECOMMENDATION

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This section reports our investigative follow-up on actions taken by management on the Recommendation for Improvement in our original investigative report of Conduct Unbecoming a Clerk of the Circuit Court and Comptroller Employee. The recommendation contained herein is that of the investigative report, followed by the current status of the recommendation.

## **1. A Clerk Of The Circuit Court And Comptroller Fiscal Records Specialist, Criminal Customer Service Employee, Violated County Policies And Potentially State And Federal Laws.**

An investigation conducted by the Division of Inspector General's Public Integrity Unit ("PIU") based on allegations of Fraud, Waste, and Abuse confirmed that the Respondent, a Fiscal Records Specialist, Criminal Customer Service Department, is "...*guilty of conduct unbecoming an employee of the County...*"

We obtained direct evidence that supports the allegations that the Respondent submitted fraudulent direct deposit account number information to the IRS for tax refunds on behalf of an employee of the Clerk's Civil Court Records Department (the "Victim"), and submitted fraudulent Federal Income Tax Forms 1040 to the Victim by:

- Reviewing the Victim's Federal Income Tax Records for tax years 2012 and 2013.
- Reviewing PFCU's policies, procedures, forms, and records, which included account extracts for U.S. Treasury Department direct deposit information for the Respondent and the Victim for tax years 2013, 2012, and 2011.
- Interviewing appropriate witnesses, the Victim and the Respondent.

The refund direct deposits for tax years 2013 and 2012 were split into two accounts, both identified with the Victim's name. However, the account number for the \$750 deposit for 2013 and the \$580 deposit for 2012 were for an account in the name of the Respondent.

The Respondent admitted falsifying the direct deposit information submitted electronically to the IRS for the \$750 and \$580 amounts and falsifying the Forms 1040 for tax years 2013 and 2012 delivered to the Victim. The Forms 1040 show tax refunds to the Victim of \$3,337 and \$3,204, respectively, whereas the Victim was due tax refunds of \$4,087 and \$3,784, respectively, for those tax years.



**Status of Recommendations  
Investigative Follow-Up of Conduct Unbecoming A  
Clerk Of The Circuit Court And Comptroller Employee**

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<b>Tax Year</b>	<b>Amount on Form 1040 Submitted to IRS</b>	<b>Amount on Form 1040 Submitted to Victim</b>	<b>Respondent Diversion Amount</b>
<b>2013</b>	<b>\$4,087</b>	<b>\$3,337</b>	<b>\$750</b>
<b>2012</b>	<b>\$3,784</b>	<b>\$3,204</b>	<b>\$580</b>

Based on our review of the documents submitted to the IRS and the interviews we conducted, there is probable cause that the Respondent may have committed a felony with respect to the \$580 tax refund diversion. Since the PFCU rejected the \$750 diversion, the IRS will issue a paper check to the Victim, thereby negating the probable felonious diversion of this amount. Therefore, we requested the State Attorney's Office to review the facts of this case for potential prosecution. The Respondent's action is a violation of:

*"Personnel Rules / Policies / Procedures / Guidelines, Rule 24 Discipline, Section B- Rule XXIV – Page 10 (29)" "That the employee has been guilty of conduct unbecoming an employee of the County whether on or off duty."*

On February 20, 2014, the Respondent signed a Voluntary Interview form, which was notarized, and voluntarily participated in an interview with PIU investigators. During this interview, the Respondent admitted to submitting fraudulent direct deposit account number information to the IRS and submitting fraudulent Forms 1040 to the Victim. The Respondent completed and signed a Voluntary Statement, which was notarized, admitting to the falsification of the Forms 1040 and diversion of the \$750 and \$580 amounts. The same day, the Respondent resigned employment with the Clerk.

The Respondent's actions constitute a violation of the Human Resource Department's Employee Personnel Rules and Clerk's Office-Wide Policies and Procedures. The PIU's supporting documentation has been provided to the IRS for review and potential investigation.

**We Recommended:**

Management consider disciplinary action as appropriate per the Clerk's Office-Wide Policies and Procedures. However, as noted, the Respondent has resigned employment with the Clerk of the Circuit Court and Comptroller.

The Division of Inspector General's Public Integrity Unit forwards this case to the State Attorney's Office for review and potential prosecution.

**Status:**

**Implemented.** The Respondent resigned from the Clerk's Office February 20, 2014. The current status of the Criminal Court Case Number 14-15138-CF shows that the defendant was:

1. Arrested on August 24, 2014.
2. Charged with Grand Theft.
3. Ordered to pay restitution of \$580 to the Victim.
4. Placed on Pre-Trial Intervention ("PTI") since January 26, 2015. If the defendant does not get into any criminal trouble for a year from this date, the Grand Theft charge will be dropped by the Criminal Court.

We verified that the Victim received the \$750 payment from the Internal Revenue Service and the \$580 restitution payment from the Respondent/Defendant.





# DIVISION OF INSPECTOR GENERAL

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& COMPTROLLER  
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