



**TESTIMONY BY
THE PENNSYLVANIA STATE ASSOCIATION OF
TOWNSHIP SUPERVISORS**

**BEFORE THE
SENATE LOCAL GOVERNMENT COMMITTEE**

ON

SENATE BILL 1099 (*PN 1642*)

PRESENTED BY

**ELAM M. HERR
ASSISTANT EXECUTIVE DIRECTOR**

**JUNE 19, 2018
HARRISBURG, PA**

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Chairman Martin and members of the Senate Local Government Committee:

Good morning. My name is Elam M. Herr and I am the assistant executive director for the Pennsylvania State Association of Township Supervisors. Thank you for the opportunity to appear before you today on behalf of the 1,454 townships in Pennsylvania represented by the Association. Our members range in size from a couple of hundred residents to over 60,000 people and cover 95 percent of Pennsylvania's land mass.

Under Pennsylvania law, independently elected tax collectors are responsible for collecting all property taxes for the municipality, school district, and county, often amounting to millions in critical revenues for these entities. If the tax collector performs their job as required, this can be an efficient means of tax collection. However, if they do not perform their job appropriately, or at all, then the taxing districts are placed in a tenuous position with significant revenues that they rely upon to function and provide essential services in question and their financial position threatened, while having little means to force the tax collector to perform their statutory responsibilities.

It is important to note that the failure of some tax collectors to perform their statutory function has a major impact on our residents. Residents may be unable to pay their taxes on time and to take advantage of discount and face value timeframes. Taxpayers may be unable to obtain receipts from tax collectors who fail to hold office hours or are impossible to contact. We have even seen examples where tax collectors have kept shoddy records and have reported taxpayers to the county tax claims bureau as delinquent when they had paid their taxes in full and on time and could provide proof that they had done so. Recently, we had a township in the southeast whose tax collector was incapacitated but refused to appoint a deputy to carry out their duties during their incapacitation, meaning tax collection was delayed because no one was in place to perform these duties.

When there is an issue with the tax collector, township officials hear about it from concerned residents who want our members to do something about these situations. Unfortunately, there is very little that our members can do except to ask the court to intervene in the most extenuating of circumstances. If a tax collector is simply sloppy or slow to process payments, there is little our members can do, provided that the tax collector is meeting their statutory obligations. However, this affects the township's cash flow and can cause financial struggles for residents who are waiting for their check to be cashed.

In other cases, we have seen long-term tax collectors retire and the incoming tax collector discovers an unexplained bank balance, sometimes quite significant. Occasionally, it is discovered that the tax collector was retaining overpayments and double payments for decades and used these to offset underpayments. In some situations, it was just years of shoddy record-keeping.

We have seen situations where the long-term tax collector did a good job, but the new tax collector did a horrendous job at record-keeping. In a recent situation in the central area of the state, a tax collector was elected who ended up being unable to obtain a bond. Without a bond, the tax collector must either resign or be removed from office. In this case, the clock was quickly counting down until it was time to mail the bills, but the tax collector continued to stall and attempt to find someone willing to bond them.

We understand that the issues with the East Lampeter Township, Lancaster County Tax Collector was one of the reasons behind the drafting of this legislation. The Lancaster County Controller detailed the problems with the East Lampeter Township Tax Collector's performance in

the audit report, which we have attached to this testimony. Unfortunately, these problems are not unique to East Lampeter and unfortunately have occurred elsewhere in Pennsylvania as mentioned above. Again, while these errors affect the cash flow of our members, they amount to unfair tax collection practices for our taxpayers, such as failing to reimburse double payments, failing to document payments, properties sent to tax claims bureau when the taxes had been paid, accepting discount payments during the base payment period, and collecting unauthorized fees from taxpayers for postage and processing.

These examples demonstrate that there is a need for alternatives to the elected tax collector. At our annual conference this past April, our membership approved the following resolution:

18-22 RESOLVED, that PSATS seek legislation to authorize municipalities to designate a collector for their property tax.

We believe that **SB 1099** (*PN 1642*) would provide reasonable options for a municipality to appoint a tax collector, either the county treasurer, an Act 32 tax officer, or a municipal employee.

We believe this is the appropriate time to have this discussion because the tax collectors were just elected at the 2017 municipal election and it is early in their four-year terms. The bill appropriately protects those currently in office and requires a municipality that wishes to pursue an alternative tax collecting arrangement to take action prior to the municipal primary that the tax collector would be on the ballot. This language resembles long-standing language in the Local Tax Collection Law requiring the taxing entities to make any change to the compensation for the office of elected tax collector by February 15 of the year in which they are up for election. Those currently in office would be protected and provided with timely notice that the municipality is planning to implement an alternative option.

In fact, if this legislation were adopted this year, a municipality would have time to weigh its options because the majority of tax collectors are not up for election until 2021. If it is happy with its current service from its collector, it would need to do nothing and continue to rely on the elected tax collector.

The General Assembly has wisely provided options for the taxing districts when the position of tax collector is vacant and a replacement cannot be found. These options include use of the county treasurer or an elected tax collector in a neighboring community. The language in SB 1099 authorizing the municipality to use the county treasurer to collect property taxes appears to be appropriately modeled after the existing process, which appears to be working.

We have had increasing numbers of requests over the last few years, but particularly as a direct result of the most recent election, asking about the allowable alternatives for when there is a vacancy. Our members will often ask why these arrangements can't be permanent under current law and why the use of township employees or a private entity aren't among the available options. Currently, the only way for a township to make a permanent change to how property taxes are collected is to go through the home rule process.

A municipality could choose to take advantage of one of the optional alternatives in the legislation. They could use the county treasurer, one of the existing options if there is a vacancy in the office of the tax collector and a replacement cannot be found; they could choose to use any private agency who is currently approved as a tax officer to collect the local earned income tax for a

Tax Collection Committee; or the municipality could appoint an employee to perform this function. Note that this is currently occurring in some townships where the tax collector chooses to deputize a township employee or employees to collect the property tax on their behalf as well as in some home rule communities.

If the municipality would choose either method, and followed the procedures in the bill, the office of tax collector would be eliminated beginning with the next municipal election when the office of tax collector would not appear on the ballot. The county and school district would be informed. If the position was currently vacant or became vacant before the municipal primary in 2021, the alternative option could be implemented earlier.

SB 1099 places qualifications on the individual or entity who would serve as tax officer, which are the same as those for elected tax collectors. This includes required training, naming of a deputy, and appropriate bonding. This provision could be further strengthened by including a required audit provision, such as referencing that the tax officer shall be subject to the audit requirements of Section 26 of the act. In addition, it may be helpful to clarify if the settlement timeframes with the county would still apply.

The bill also appropriately contains a method for the municipality to revert to an elected tax collector at some future point.

It is important to note that this legislation would only apply to a borough, town, or township within a county of the third through eighth class. This means that municipalities in Allegheny, Bucks, Delaware, Montgomery, and Philadelphia Counties would be unable to take advantage of the legislation as drafted. This is due to the county treasurer option in this legislation.

We believe SB 1099 would provide reasonable alternative property tax collection options for certain municipalities to help ensure the efficient collection of these taxes and ensure that protections are in place for taxpayers. While some clarifications could help strengthen the bill further, we believe this would provide a needed option for those townships that have struggled to find a tax collector or have had difficulties with the performance of their tax collector. In addition to this legislation, we recommend that the safeguards and procedures in the Local Tax Collection Law be revisited to determine where they can be strengthened to prevent some of the examples provided at the beginning of our testimony. For example, more specific timeframes for providing a bond or requiring proof of being able to obtain a bond to run for office, stronger auditing requirements, and providing for the duplicate to be transferred to the successor in office when a tax collector dies in office.

PSATS supports this legislation and asks that it move forward in the near future. Thank you for the opportunity to comment on this legislation.

East Lampeter Township Tax Collector Audit Report

For the period of January 1, 2015 through January 15, 2016
covering the 2015 tax year
with findings through February 29, 2016



Brian K. Hurter, CPA
Lancaster County Controller

East Lampeter Township Tax Collector Audit
For the period of January 1, 2015 through January 15, 2016
covering the 2015 tax year
with findings through February 29, 2016

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Controller
Brian K. Hurter, CPA

May 27, 2016

Jeffrey Cutler, Tax Collector
East Lampeter Township
67 Cambridge Village
Lancaster, PA 17602

Dear Mr. Cutler:

Attached is the audit report of your tax collection records for the County of Lancaster, prepared by the Lancaster County Controller's Office. Our examination procedures were performed covering the period of January 1, 2015 through January 15, 2016, the date of settlement, for the 2015 tax year, however we included findings and/or observations up through February 29, 2016. We started auditing your 2015 records in early 2016 and reached out to you on April 22, 2016 with questions and issues we had. At this time, we have received no written or verbal response from you. We are now preparing to issue this report to the Lancaster County Board of Commissioners based on our findings. Before we issue the audited report to the Board of Commissioners, we are sending a copy to you for your review.

Please provide responses to these findings as you deem necessary. We look forward to hearing from you by June 10, 2016. If no response is received to my office by that date, we will continue to move forward with issuing the report to the Board of Commissioners.

Sincerely,

Brian K. Hurter, CPA
Lancaster County Controller

mw

cc: Dennis P. Stuckey, Board of Commissioners Chairman
Joshua G. Parsons, Board of Commissioners Vice-Chairman
Craig E. Lehman, Board of Commissioners
Amber Green, Lancaster County Treasurer
Ralph M. Hutchison, East Lampeter Township Manager





Controller
Brian K. Hurter, CPA

June 10, 2016

Dear Lancaster County Board of Commissioners:

We have examined and audited the financial records and related documentation of the East Lampeter Township Tax Collector, Jeffrey Cutler ("Mr. Cutler"), for the period of January 1, 2015 through January 15, 2016, covering the 2015 tax year, which also resulted in an examination of related documentation through February 2016. The purpose of this examination is to ensure compliance with Section 26 (b) (1) of the Local Tax Collection Law, Act of May 25, 1945, P.L. 1050, No. 394 Cl. 53 ("Local Tax Collection Law"). The Local Tax Collection Law contains guidance and procedures for the elected tax collectors. Based upon the audit we have issued a report thereon dated above.

We conducted our audit to obtain reasonable understanding about whether the tax collections are free of material misstatement and to determine the accuracy of the timeliness of the County real estate taxes collected. The financial affairs and compliance with the applicable law are the responsibility of the East Lampeter Township Tax Collector.

It is our opinion that the taxes collected by the East Lampeter Township Tax Collector were not properly collected, accounted for, or remitted to Lancaster County in a timely manner. It is also our opinion that the tax collections by the East Lampeter Township Tax Collector were not in compliance with those generally accepted policies and procedures for tax collectors. We further believe the monthly tax balances recorded on the Tax Collection Reports were not accurately stated. With regard to our opinion, there are several instances that warrant mention and they are described in the Findings section of the report.

Our examination procedures were performed covering the period of January 1, 2015 through January 15, 2016, the date of settlement for the 2015 tax year, however, we included findings and/or observations up through February 29, 2016.

This report is intended for the information and use of the East Lampeter Township Tax Collector and the Lancaster County Board of Commissioners, and is not intended and should not be used by anyone other than these specified parties without consent. However, public policy dictates that this report is a matter of public record and its distribution is not limited.

Sincerely,

Brian K. Hurter, CPA
Lancaster County Controller



**East Lampeter Township Tax Collector
Relevant Audit Notes
For the period January 1, 2015 through January 15, 2016**

Note A – DESCRIPTION OF TAX COLLECTOR

Pursuant to the Local Tax Collection Law, a “Tax Collector” or “Elected Tax Collector” by definition “*shall include every person duly elected or appointed to collect all taxes, levied by any political subdivision included in the provisions of this act, including the treasurers of cities of the third class, elected collectors of taxes in townships of the first class and county collectors of taxes in counties of the third, fourth, fifth, sixth, seventh and eighth class who have been designated to collect county and institution district taxes in cities of the third class and county treasurers in counties of the fourth, fifth, sixth, seventh and eighth class who have been designated to collect county taxes in municipalities existing or organized under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) that have eliminated the elective office of tax collector and county treasurers in counties of the third, fourth, fifth, sixth, seventh and eighth class who have been designated to collect taxes under section 4.4 of this act. The term includes a person authorized to collect taxes under section 4.2 of this act.*”

Jeffrey Cutler, (“Mr. Cutler”), was elected to the position of East Lampeter Township Tax Collector on or about November 5, 2013. Mr. Cutler was elected with a single write-in vote. On January 22, 2014, Cutler was officially sworn into the position.¹

Mr. Cutler’s responsibilities are to East Lampeter Township and the County of Lancaster, as he is the insurer of the public funds until they are properly remitted. In 2015, East Lampeter Township was the fourth largest taxing district by total assessed value in Lancaster County with an assessed total of \$1,627,131,900. East Lampeter Township is the seventh largest taxing district by taxable accounts with a total of 5,468 parcels. Lancaster County is comprised of 60 taxing districts.

Note B – DESCRIPTION OF BANK ACCOUNTS

Mr. Cutler manages two bank accounts related to tax collection. The first bank account, Tax Collector Account (“*Tax Collector Account #8603*”), is used for all tax collection deposits and subsequent withdrawals for issuances of refunds, payments to Lancaster County for county taxes, and payments to East Lampeter Township for municipal taxes. The second bank account, Administrative Account (“*Administrative Account #8612*”), is a personal account used for administrative purposes dealing with the deposit of tax fees collected and to cover the fees due to the financial arrangement and services set up with Fulton Bank. Mr. Cutler utilizes a lockbox system with Fulton Bank for the collection of county and municipal taxes.

¹ Taken from Court of Common Pleas of Lancaster County – Docket No. 15-05424

East Lampeter Township Tax Collector
Relevant Audit Notes (*Continued*)
For the period January 1, 2015 through January 15, 2016

Note B – DESCRIPTION OF BANK ACCOUNTS (*Continued*)

This system allows any East Lampeter Township taxpayer to pay at any Fulton Bank location in person or by mail through the lockbox. Due to the arrangement Mr. Cutler has maintained, Fulton Bank has established a fee schedule for lockbox usage and Mr. Cutler uses the *Administrative Account #8612* to cover the fees incurred with the lockbox. Any and all tax fees collected should be deposited in the *Administrative Account #8612*.

Note C – OBSERVATIONS AND BACKGROUND OF AUDIT

As the Controller's Office was reviewing the 2014 tax year in detail, a preliminary review of the 2015 tax year began because of the nature of the 2014 tax year concerns discovered during the audit. The same issues that occurred during the 2014 tax year were also occurring during the 2015 tax year. More so, it was determined through this review that real estate taxes were continually being reported as collected outside of the correct payment period.

On January 22, 2016, an audit report of the 2014 tax year was sent to Jeffrey Cutler and the Lancaster County Board of Commissioners. The audit was specifically for the 2014 tax year (January 1, 2014 – January 15, 2015, the date of settlement), but it included eleven findings and observations that were up to and through October 31, 2015. The audit is a matter of public record and a copy can be obtained by contacting the Lancaster County Controller's Office. The Lancaster County Controller and his staff presented the audit report to the Lancaster County Board of Commissioners on February 9, 2016 during a public work session. The eleven findings were:

1. Timely submission of Tax Collections (Section 25 of the "Local Tax Collection Law")
2. No Payment Documentation
3. Outstanding/Missing Checks
4. Ending Balance in *Tax Collector Account #8603*
5. Return Deposit Item Issue
6. Non-Tax-Related Transaction in *Tax Collector Account #8603*
7. Unspecified School District Payments in *Tax Collector #8603 & Administrative Accounts #8612*
8. Inappropriate Use of *Tax Collector Account #8603*
9. Transfer of Funds Between *Tax Collector Account #8603 & Administrative Account #8612*
10. Tax-Related Transaction in *Administrative Account #8612*
11. Unknown Deposit in *Administrative Account #8612*

East Lampeter Township Tax Collector
Relevant Audit Notes (*Continued*)
For the period January 1, 2015 through January 15, 2016

Note C – OBSERVATIONS AND BACKGROUND OF AUDIT (*Continued*)

It should be noted that based on the presentation of the 2014 tax year audit report, the Lancaster County Board of Commissioners decided to move forward with requesting the amount believed to be owed to them from the bonding company who insures Jeffrey Cutler. The amount requested from the bonding company is \$17,922, and is noted in the 2014 audit report.

During October 2015, the Controller's Office subpoenaed Mr. Cutler's financial records for the *Tax Collector Account #8603* and the *Administrative Account #8612* from Fulton Bank. As stated above, Mr. Cutler has two bank accounts with Fulton Bank; one intended to deal specifically with tax collections and the other, a personal/administrative account, to cover fees assessed and tax certifications. The subpoenaed financial records were for January 1, 2014 through October 31, 2015. In February 2016, the Controller's Office again subpoenaed Mr. Cutler's financial records from Fulton Bank for the remainder of the 2015 tax year through February 29, 2016, for the *Tax Collector Account #8603* and the *Administrative Account #8612*.

On April 22, 2016, a letter from the Controller's Office was mailed to Mr. Cutler detailing nine questions that arose from a preliminary review of Mr. Cutler's 2015 financial records. The letter requested a written response from Mr. Cutler within two weeks of issuance. As of the date of this report, Mr. Cutler has not responded to the letter. Exhibit A is a copy of the letter sent to Mr. Cutler on April 22, 2016.

**East Lampeter Township Tax Collector
Audit Findings
For the period January 1, 2015 through January 15, 2016**

This section of the report presents the findings that resulted from our in-depth examination of the financial records and bank statements. Following the findings, we provide recommendations to correct or better the described occurrences.

Finding 1 – Timely Submission of Tax Collections (Section 25 of the “Local Tax Collection Law”):

Background:

According to the noted portion of Section 25 - Collection and Payment Over of Taxes of the Local Tax Collection Law below, the following is to be completed by the East Lampeter Township Tax Collector (and all that fall under the definition of “Tax Collector” or “Elected Tax Collector” per the definition provided in **Note A**):

“The collector shall pay over on or before the tenth day of each month, or more often if required by ordinance or resolution of the taxing district, to the treasurer of the taxing district all moneys collected as taxes during the previous month or period and take receipt for the same.

The tax collector shall, at any time on demand of any taxing district, exhibit any duplicate in his possession showing the uncollected taxes as of any date.”

Description:

1a. It was documented multiple times throughout the 2015 tax year that moneys collected during a previous month were not properly transferred over to the Lancaster County Treasurer’s Office (“Treasurer’s Office”) by the tenth day in the immediate following month. A review of the bank statements and other documentation provided from Fulton Bank, such as check copies, along with the activity in M.R. ETC², shows multiple instances where the moneys were collected and reported processed by the bank, but the bill payments were not entered in M.R. ETC by Mr. Cutler until much later. Mr. Cutler did not turn these moneys over to the Treasurer’s Office until he had entered them into M.R. ETC. These instances exhibit that Mr. Cutler did not comply with Section 25 of the Local Tax Collection Law throughout the 2015 tax year. See Exhibit B for a copy of the total moneys not properly paid over in the correct tax collection period.

² M.R. ETC stands for Municipal Real Estate Tax Collection and was the real estate tax collection software used by the Lancaster County Treasurer’s Office. This software was used by the Treasurer’s Office from the 2011 tax year through the 2015 tax year and was created specifically for Lancaster County. It was relied on by all tax collectors during this period.

East Lampeter Township Tax Collector
Audit Findings (*Continued*)
For the period January 1, 2015 through January 15, 2016

Finding 1 – Timely Submission of Tax Collections (Section 25 of the “Local Tax Collection Law”) (*Continued*):

Description (*Continued*):

1b. Per a review of the bank balances throughout 2015, each month had a significant bank balance that was carried forward. This, along with a review of the collection activity in M.R. ETC, shows a sharp contrast to prior years when the Lancaster County Treasurer (“Treasurer”) collected property taxes. We noted, per a review of activity from previous tax years, that when the Treasurer was the tax collector and the discount period ended on April 30th, there was minimal discount payment activity in the following month. While there is typically some “roll over” for the months following the end of discount and base periods because of timing and post mark issues, since Mr. Cutler began collecting taxes, this activity was significantly higher.

Finding 2 – No Payment Documentation:

Description:

Throughout the 2015 tax year, there were approximately 165 bill payments that were recorded in M.R. ETC at discount or base after the discount and base periods ended. We, with the files provided by Mr. Cutler and Fulton Bank, were able to search for the check copies, tax bill copies, and any relevant documentation submitted with payment by the taxpayer to verify if these parcels were actually paid in the wrong period or if these parcels were paid and just not entered into M.R. ETC in a timely manner. After our thorough review, we were unable to find payment documentation for the municipal portion of one tax bill. The bill payment for that parcel was entered in full into the M.R. ETC software on December 26, 2015, yet recorded at discount in the amount of \$780.06. While reviewing the Fulton Bank files, we could only locate payment for the County portion of the tax bill, which was processed by the bank on April 6, 2015 in the amount of \$546.11. The remaining 164 bill payments were able to be identified with their check copies, bank process dates, and copies of their tax bill. Although the bill payments were actually received at Fulton Bank during their designated discount or base period, they were not turned over to the County nor reported in M.R. ETC in a timely fashion. These payments were submitted anywhere from two to eight months late.

**East Lampeter Township Tax Collector
Audit Findings (*Continued*)
For the period January 1, 2015 through January 15, 2016**

Finding 3 – Outstanding/Missing Checks:

Description:

Upon our review of the bank statements, there were approximately five checks during 2015 from the *Tax Collector Account #8603* that were not shown as cleared as of February 29, 2016. While some of these checks are as recent as December 2015, other checks date back to February 2015. The following check numbers appear as outstanding/not having cleared the bank: 1079, 1100, 1112, 1119, and 1145. With approximately 87 checks issued from January 2015 until February 2016, five outstanding/not cleared checks is 5.7% of all checks issued. When there are multiple outstanding checks, it leaves an uncertain picture of the financial position of the *Tax Collector Account #8603* and exactly how much in disbursements remain unpaid during the audit review period.

Finding 4 – Ending Balance in Tax Collector Account #8603:

Description:

Per review of the *Tax Collector Account #8603* bank statements, for the period of 12/31/2015 through 01/31/2016, there was an ending balance of \$111,665.24. This balance is up from \$52,452.49 at the 2014 tax year-end settlement. Accordingly, the *Tax Collector Account #8603* should have “zeroed” out or at the least have a very minimal balance after the 2015 tax year-end settlement. Settlement is a final reconciliation of payments for the tax year and is completed by the 15th of January of the following year. If there is any balance after settlement, a reconciliation should be completed for these moneys. At that point, all moneys due Lancaster County, East Lampeter Township, or East Lampeter Township taxpayers should have been turned over to the appropriate parties. Per a detailed review of the *Tax Collector Account #8603* lockbox files, it became clear why there is such a high ending balance as of January 31, 2016. Findings 6, 7, and 9 of this report detail why the bank balance is inaccurately much greater than it should be as of January 31, 2016.

**East Lampeter Township Tax Collector
Audit Findings (Continued)
For the period January 1, 2015 through January 15, 2016**

Finding 5 – Transfer of Funds Between *Tax Collector Account #8603* & *Administrative Account #8612*:

Description:

Upon a review of all the bank statements, checks and deposits for the two bank accounts (*Tax Collector Account #8603* and *Administrative Account #8612*), it was determined that there was a transfer of funds initiated by Mr. Cutler on four separate occasions from the *Tax Collector Account #8603* to the *Administrative Account #8612*: Check #1142 dated November 4, 2015 for \$1,500; Check #1146 dated December 9, 2015 for \$1,210; Check #1147 dated December 31, 2015 for \$3,000; and Check #1155, dated February 17, 2016 for \$2,200; with memos that state: Cert Fee Transfer; P.O. Box Fees & Stamps; Fee Transfer; and Fee Transfer, respectively. The four transfers from the *Tax Collector Account #8603* to the *Administrative Account #8612* were not submitted with any documentation or back-up as to how the amounts were arrived at or what they represented. Under no circumstances, should a tax collector deposit tax funds into a personal/administrative account or comingle funds from the two.

Finding 6 – Double Tax Payments:

Description:

Throughout 2015, there was 35 noted occurrences when a taxpayer, mortgage company, settlement company, or another individual paid property taxes to Mr. Cutler, and someone else also sent payment for property taxes for the same property. These payments were all submitted in the *Tax Collector Account #8603*. Mr. Cutler refunded only 4 of the 35 occurrences, with 31 remaining properties that have not been refunded as of the February 29, 2016 bank statement, from either the *Tax Collector Account #8603* or the *Administrative Account #8612*. Mr. Cutler should reconcile his tax collection accounts, and “keep a correct account of all moneys collected by him as taxes...”, as according to 72 P.S. §5511.25, which is a requirement of the Local Tax Collection Law. In doing so, Mr. Cutler would have noticed the double payments that came through the Lockbox system and properly refunded those individuals. These 31 remaining properties total \$23,339.95 in double payments, including the largest payment of \$2,293.72.

Upon discovering the vast amount of 2015 double payments, we began to review our 2014 files again for the same occurrences. Per our review of the 2014 files, there were 22 double payments, with no refunds issued by Mr. Cutler from either bank account, and we speculate there maybe more. These 22 properties total \$29,812.14 in double payments, including the largest payment of \$12,128.59.

East Lampeter Township Tax Collector
Audit Findings (*Continued*)
For the period January 1, 2015 through January 15, 2016

Finding 6 – Double Tax Payments (*Continued*):

Description (*Continued*):

The total double payments for 2014 and 2015 amount to approximately \$53,152.09. These moneys are due back to the East Lampeter Township taxpayers for the double payment remitted to Mr. Cutler.

Finding 7 – Properties Erroneously Sent to Tax Claim Bureau:

Description:

7a. On approximately January 13, 2016, Mr. Cutler had settlement of the 2015 tax year with the Lancaster County Treasurer’s Office. At that time, he reported 168 properties to be remitted to the Lancaster County Tax Claim Bureau, (“Tax Claim Bureau”), for failure to pay real estate taxes by December 31, 2015. In March 2016, aggravated taxpayers began to call the Tax Claim Bureau, informing the staff that they or their mortgage company had paid their property taxes during the year. Upon a review of the lockbox records and a listing of the taxpayers who called the Tax Claim Bureau, the Controller’s Office compiled a list of 36 properties that were erroneously sent to the Tax Claim Bureau by Mr. Cutler. These 36 properties had paid their real estate taxes at some point during 2015 through the *Tax Collector Account #8603* and the total paid by these taxpayers amounted to \$36,738.02. Again, Mr. Cutler should reconcile his tax collection accounts, and “keep a correct account of all moneys collected by him as taxes...” as according to 72 P.S. §5511.25, which is a requirement of the Local Tax Collection Law. In doing so, Mr. Cutler would not have erroneously sent these 36 properties to the Tax Claim Bureau.

7b. Upon discovering the 36 properties erroneously sent to the Tax Claim Bureau in 2015, we further reviewed 2014 properties still in the Tax Claim Bureau, to verify these properties should properly be there. We reviewed these properties against the Fulton Bank lockbox records and discovered a property that paid their 2014 taxes, but was erroneously remitted. This property will be sold in the 2016 Upset Sale if not addressed. Mr. Cutler should reconcile his tax collection accounts, and “keep a correct account of all moneys collected by him as taxes...” as according to 72 P.S. §5511.25, which is a requirement of the Local Tax Collection Law. In doing so, Mr. Cutler would not have erroneously sent this property to the Tax Claim Bureau.

East Lampeter Township Tax Collector
Audit Findings (*Continued*)
For the period January 1, 2015 through January 15, 2016

Finding 8 – Discount Tax Payment Accepted in Base Payment Period:

Description:

On June 12, 2015, there was a check via a deposit ticket in the amount of \$1,063.96 deposited into the *Tax Collector Account #8603*. The check was dated June 11, 2015, with a memo of “taxes”, and was entered into the M.R. ETC software on June 12, 2015. According to the 2015 tax bill the following are totals of discount, base, and penalty amounts, respectively: \$1,063.96, \$1,085.67, and \$1,194.24. On the tax bill, it states the payment period ending dates of discount, base and penalty are: before 5/1/15, by 6/30/15, and after 6/30/15, respectively. The taxpayer paid the discount amount after the discount period had ended. We did not locate any additional payment submitted by this taxpayer in the lockbox records provided by Fulton Bank. Tax payments should only be accepted if they agree with the period in which that the bill is being paid. When tax payments are sent for the incorrect amount, the payments should be refunded in full to the taxpayer.

Finding 9 – Payment Sent and Not Entered in Tax Collection Software:

Description:

9a. On April 21, 2015, Fulton Bank processed tax payments in the *Tax Collector Account #8603* sent by Wells Fargo, a mortgage company. The mortgage company remits payment and a listing of the properties to apply the payment for. On the first page of the listing, there are two payments that did not have a bill number associated with them. Upon discovering the missing bill numbers on the listing, we searched the 2015 tax bills by the account number to locate who these payments belonged to. The review determined that the account numbers on the Wells Fargo listing did not match any tax bills. It was also observed that Mr. Cutler did not refund Wells Fargo for the payment of these two bills.

9b. We also discovered an additional issue of payments being sent and not entered into the tax collection software when we were reviewing the 2014 double payments. Brookfield Development Corporation sent payment for 20 parcels on April 7, 2014 and it was processed by Fulton Bank on April 10, 2014 in the *Tax Collector Account #8603*. Three of the twenty payments did not have a bill number associated with the payment, but they did have a parcel number. We searched our 2014 tax bills by the parcel number and discovered that these accounts were not issued a bill number. In turn, this means that the properties could not and were not entered into M.R. ETC because in order to enter a payment in M.R. ETC, a bill number needs to be associated with payment. The total for these three properties is \$365.45. In addition to this error regarding the Brookfield Development Corporation payment, the corporation also sent their payments for the 20 properties at base amount during the discount period.

**East Lampeter Township Tax Collector
Audit Findings (Continued)
For the period January 1, 2015 through January 15, 2016**

Finding 9 – Payment Sent and Not Entered in Tax Collection Software (Continued):

Description (Continued):

9b. Mr. Cutler input the payment in M.R. ETC at discount instead of base and did not refund the extra monies to Brookfield Development Corporation for their overpayment from either the *Tax Collector Account #8603* or the *Administrative Account #8612*. This additional overpayment for the properties totals \$156.85, which brings the total for these two issues to \$522.30. For both findings 9a and 9b, tax payments should only be accepted if they agree to the period that the bill is being paid. When tax payments are sent in the incorrect amount, the payments should be refunded immediately and in full to the individual or entity remitting payment.

9c. On December 11, 2015, there was \$135.57 deposited into the *Tax Collector Account #8603* via a deposit ticket from the “Millcross Group”. There was no bill or account number located on the check image. Based on just the deposit ticket information, we could not determine what this payment was for, and we did not see it being directly applied to a tax bill in M.R. ETC. When tax payments are sent in the incorrect amount, the payments should be refunded immediately and in full to the individual or entity remitting payment.

Finding 10 – Assigned Unauthorized Collection of Fees for Postage and Processing:

Description:

It was noted from a review of the 2015 Fulton Bank lockbox records, that at least five times taxpayers sent tax payments for the incorrect amount, and Mr. Cutler sent the taxpayers a letter requesting they send the additional amount due to him, plus an additional amount for postage and processing. The postage and processing amounts varied for each separate occurrence. There is currently no portion of the Local Tax Collection Law or Pennsylvania’s Tax Collector’s Manual which references and allows an elected tax collector to collect funds for postage and processing. Under no circumstances should a tax collector collect fees that are not authorized to be collected.

Finding 11 – Inappropriate Use of Tax Collector Account #8603:

Description:

During an e-mail exchange with Mr. Cutler in 2016, he provided the Lancaster County Controller with a link to a YouTube video. This video is in regards to Mr. Cutler’s personal lawsuit. At the end of the video, Mr. Cutler solicits donations to the PO Box tied to his Fulton Bank lockbox. Per Fulton Bank, any moneys coming into the PO Box and addressed to Mr. Cutler will be deposited into the *Tax Collector Account #8603*. Under no circumstances should a tax collector charged with the collection of taxes, convert or appropriate moneys collected, or any part thereof, to his own use, nor comingle tax collections with personal funds.

East Lampeter Township Tax Collector
Audit Recommendations
For the period January 1, 2015 through January 15, 2016

In the preceding section of this report, we listed eleven findings from our in-depth examination. This section of the report presents the recommendations we have provided to correct or better the described occurrences listed in the Audit Findings.

1. Understand your responsibilities as an Elected Tax Collector.
2. Understand the Local Tax Collection Law and have procedures in place to follow the Local Tax Collection Law. Use Pennsylvania's Tax Collector's Manual for guidance.
3. Prepare monthly bank reconciliations to ensure the amounts collected are correctly turned over to the County and the Municipality by the tenth day of the following month, per Section 25 of the Local Tax Collection Law.
4. Submit timely tax collection moneys to the County and Municipality so that the balance in the *Tax Collector Account #8603* at the end of the month is kept minimal. Keep good financial records for all reconciling items.
5. Review all payments for accuracy when they are received in the lockbox system and properly refund taxpayers when a second or double payment is sent.
6. Keep the *Tax Collector Account #8603* segregated from all other accounts. Use the *Tax Collector Account #8603* for only tax related transactions and have documentation if it is necessary to make transfers between the two accounts.
7. Keep good financial records and documentation on all outstanding checks. If needed, follow up on the status of the outstanding checks.
8. Enter tax collections into tax collector software on a timely basis so that records are kept accurate.
9. Do not accept payments into the lockbox system (*Tax Collector Account #8603*) or allow Fulton Bank to collect tax payments in the amounts that do not agree to the tax bill issued in the period that the bill is being paid. Timely refund any amounts received that are not in agreement to the tax bill.
10. Do not allow payments for tax certifications or other fees to go into the lockbox (*Tax Collector Account #8603*).

East Lampeter Township Tax Collector
Audit Summary of Facts
For the period January 1, 2015 through January 15, 2016

Based on the aforementioned findings and recommendations, it is clear that Jeffrey Cutler, East Lampeter Township Tax Collector, has consistently failed to follow good business and fiscal practices. As the East Lampeter Township Tax Collector, Mr. Cutler is solely responsible for the collection of approximately \$5.3 million in county taxes for the fourth largest taxing district by size (Assessed value: \$1,627,131,900) and seventh largest taxing district by taxable accounts (Taxable accounts: 5,468). Out of 60 taxing districts in Lancaster County, Mr. Cutler was one of 29 elected tax collectors during 2015 (all other taxing districts are collected by the Lancaster County Treasurer). When auditing the records of the other elected tax collectors, the issues that arose with Mr. Cutler's financials were not experienced by any other elected tax collector.

Throughout 2015, numerous instances of problematic business practices have continued. The most significant issues that occurred are as follows:

- No reconciliation of the *Tax Collector Account #8603* on a monthly basis.
- Consistently high bank balance after monthly settlement and at year-end settlement when the bank balance should be minimal. The bank balance of the *Tax Collector Account #8603* was \$111,665.24 after settlement on January 13, 2016.
- Regularly reported moneys in tax collection software outside of the period in which they were collected.
- When reporting moneys outside of the period in which they were actually collected, these moneys were not turned over to the "taxing district" in a timely fashion. These moneys are to be submitted within ten days of month end, per Section 25 of the Local Tax Collection Law.
- Shows a lack of paper trail and payment documentation for tax payments received, transfers between accounts, and outstanding/non-cleared checks.
- No refund for 31 taxpayers who remitted double payments during 2015.
- Incorrectly sent 36 taxpayers' properties to the Tax Claim Bureau when they had paid their real estate taxes timely during the tax year.
- Regularly comingled funds between personal/administrative bank account (*Administrative Account #8612*) and *Tax Collector Account #8603*.

East Lampeter Township Tax Collector
Audit Summary of Facts (Continued)
For the period January 1, 2015 through January 15, 2016

Based on this report issued, a lack of response from Mr. Cutler, and the thorough review of 2015 (and 2014) tax collection records, the Lancaster County Controller's Office believes that Mr. Cutler should remit payment of approximately \$89,890.11 to East Lampeter Township taxpayers and businesses who sent in double or excess payments, and to the Tax Claim Bureau for the properties that he wrongly remitted. This figure includes \$29,812.14 in double payments during 2014, \$23,339.95 in double payments during 2015, and \$36,738.02 to the Lancaster County Tax Claim Bureau for properties wrongly remitted for the 2015 tax year. While we believe these totals make up a significant portion of the \$111,665.24 bank balance as of January 31, 2016, we speculate there are still additional taxpayers affected by Mr. Cutler's disregard for proper accounting procedures.

The review and analysis conducted by the Controller's Office shows that Mr. Cutler continually fails to understand his duties and responsibilities as an elected tax collector for the taxpayers of East Lampeter Township. Per our review, approximately 100 taxpayers have and continue to be affected by Mr. Cutler's problematic business practices. In our April 22, 2016 letter to Mr. Cutler, we addressed a number of these points of concern. After our attempt to bring these issues to Mr. Cutler's attention to assist him in correcting them, Mr. Cutler has not responded to refute any of our claims via mail, e-mail, or telephone. We take that as an understanding that as of the time of this report, there is no evidence that the issues will be addressed and corrected by Mr. Cutler (See Exhibit A and Note C in audit report).

Based on the multiple findings in the audit report, as well as the unsatisfactory fiscal procedures mentioned above, we have determined an amount that we believe is owed to Lancaster County for failure to pay over Real Estate tax moneys in a timely basis for the 2015 tax year. This amount is collected at the legal rate of interest at 6% and was determined from a review of the amounts Mr. Cutler reported in the tax collection software outside of the period that they were due and collected. For the amounts reported collected at discount outside of the discount period, we believe Lancaster County is also owed the 2% discount that was given. For the amounts reported collected at discount and base during the penalty period, we believe Lancaster County is due the additional 10% penalty that was not collected. We calculated this amount to be \$19,187.74 for 2015. Please see the separate attachment for the amount of moneys due Lancaster County for 2015 in Exhibit B.

Lancaster County provides taxpayers with a 2% discount until April 30 and allows base collections until June 30 of each year so that Lancaster County can use the tax dollars to best serve the residents of Lancaster County as a whole. Again throughout 2015, Mr. Cutler did not provide prompt tax payments to Lancaster County.

East Lampeter Township Tax Collector
Audit Summary of Facts (*Continued*)
For the period January 1, 2015 through January 15, 2016

With more and more East Lampeter Township taxpayers and businesses affected each year by Mr. Cutler's inadequate fiscal procedures, and moneys continually not being properly remitted to the appropriate entities, we believe this continues to show a clear lack of ultimate concern and care for the collection of taxes as a whole, and for the concern and care of the tax moneys of the taxpayers of East Lampeter Township.

**East Lampeter Township Tax Collector
Audit Responses – June 13, 2016
For the period January 1, 2015 through January 15, 2016**

This section of the report presents responses from the Lancaster County Controller's Office.

Controller's Office Summary:

We issued a draft of this audit report to Jeffrey Cutler on May 27, 2016 and requested a response to any findings by June 10, 2016. As of June 13, 2016, we have not received a response from Mr. Cutler to offer explanation or refute any of the aforementioned findings.

In regards to Finding 7b, the property was in the Tax Claim Bureau as of the draft date of this report, May 27, 2016. The Controller's Office discovered that on June 6, 2016, this property was removed from the Tax Claim Bureau due to receipt of payment. The taxpayer, however, had already paid their 2014 taxes and the initial payment is still in Mr. Cutler's *Tax Collection Account #8603*. This finding has essentially become a double payment because the taxpayer has paid their 2014 taxes twice.

The Lancaster County Controller re-affirms the remaining findings detailed in this report. These statements from the Controller's Office are as of June 13, 2016.

In our draft audit report, we relayed to Mr. Cutler that we will move forward with issuance of our audit report if a response was not received. It is profoundly unacceptable that approximately 100 East Lampeter Township taxpayers have been affected by Mr. Cutler's lack of financial processes, failure to implement audit recommendations, and failure to address the issues noted. The lack of response to our inquiries by Mr. Cutler continues to prove his apathy as an elected tax collector for East Lampeter Township, whose duties include being the custodian of millions of Lancaster County and East Lampeter Township tax dollars.



Controller
Brian K. Hurter, CPA

April 22, 2016

Jeffrey Cutler, Tax Collector – 2015
East Lampeter Township
67 Cambridge Village
Lancaster, PA 17602

Dear Mr. Cutler:

Based on our preliminary review of your 2015 Tax Collection Lockbox Records that were provided by Fulton Bank, the M.R. ETC files, and the tax bills issued, we have the following questions regarding your financials:

1. Tax Bill 310-3150 was paid through a deposit ticket, processed by Fulton Bank on June 12, 2015. The check was dated June 11, 2015. The taxpayer's check was for the discount amount even though the date of the check and the bank process date were well into the base period. Was there any additional payment received for this tax bill? Why did you accept a discount payment during the base period?

2. Wells Fargo sent tax payments that were processed by the bank on April 21, 2015. Along with the checks, Wells Fargo provided a listing of the properties they were paying. On the first page of the listing, there are two payments, but they did not have a bill number. We reviewed the 2015 tax bills that you provided us last year and we could not locate the bills that these payments belonged to. Were these payments input into M.R. ETC for tax bills? If so, which tax bills? If not, why wasn't this amount returned to Wells Fargo?

3. Wells Fargo and Corelogic sent tax payments for bills that were processed by the bank on April 21, 2015 and April 24, 2015, respectively. For 12 of these bills, the property owner also sent a payment. So apparently you received a double payment for these bills. We did not see a refund to the property owners, Wells Fargo, or Corelogic in the checks you issued from the Tax Collector Account (#8603). Was a refund issued to them? If not, why?

4. On April 6, 2015, your Fulton Bank lockbox processed a payment in the amount of \$546.11 for 81 Linda Ave, which is tax bill 310-1615. The payment only covered the County portion due. We did not find the Municipal payment portion in the Fulton Bank lockbox records, yet on December 26, 2015, you processed the full payment in M.R. ETC. Did you receive the municipal portion of this payment? If so, can you provide us with a copy of the check? If not, why was the payment processed in full on December 26, 2015? If the municipal payment was not received, the property should have been sent to the Tax Claim Bureau.



5. There are approximately 35 properties sent to the Tax Claim Bureau as of April 20, 2016 that were sent in error. Currently you only sent payment in full for 15 properties. Why did you send these 35 properties incorrectly to the Tax Claim Bureau when their payments were identifiable in the Fulton Bank records? When do you intend to remit payment for the remaining 20 properties?

6. Per the bank statements, there were five check numbers in your Tax Collector Account (8603) that are not shown as cleared. Please provide us copies of your bank reconciliations listing these specific checks and the status of them. If bank reconciliations are not available, please advise the status of the following checks and your plan of action if any are still outstanding or voided: 1079, 1100, 1112, 1119, and 1145.

7. On December 11, 2015, you deposited a check via a deposit ticket in the amount of \$135.57 from "Millcross Group". We saw no account or bill number located on the check copy. Please explain the nature of this deposit and what tax bill it was applied to, if any.

8. On June 24, 2015, you sent a letter to Samuel and Verna Lapp with a subject of "Re: WRONG PAYMENT AMOUNT FOR THE DATE". These taxpayers sent a check for the discount amount of \$2,923.15 during the base period. Instead of refunding the amount back and requesting the taxpayers to send in the base amount, you sent a letter requesting the taxpayers to "send an additional \$62.00 to cover the difference in payment and postage & processing". The base amount of tax due was \$2,982.80, which is only a difference of \$59.65. Could you please provide the section of the Local Tax Collection Law or another specific portion of law that references where an elected tax collector is allowed to collect funds for "postage and processing"?

9. On four separate occasions, there was a check written from the Tax Collector Account (8603) to yourself. Please provide us documentation as to how these amounts were determined, and an explanation as to what these funds represented. Below are the instances in question:

A. **Check #1142**, dated November 4, 2015, for \$1,500 to Jeffrey Cutler; memo states: Cert Fee Transfer

B. **Check #1146**, dated December 9, 2015, for \$1,210 to Jeffrey Cutler; memo states: P.O. Box Fees & Stamps

C. **Check #1147**, dated December 31, 2015, for \$3,000 to Jeffrey Cutler; memo states: Fee Transfer

D. **Check #1155**, dated February 17, 2016, for \$2,200 to Jeffrey Cutler; memo states: Fee Transfer

Please address each of the above questions separately by providing a written explanation. We appreciate your cooperation and look forward to hearing from you by May 6, 2016. You may direct any questions or concerns to Megan Walsh, a member of my staff at 717-390-7710 or MWalsh@co.lancaster.pa.us.

Sincerely,



Brian K. Hurter, CPA
Lancaster County Controller
mw

cc: Amber Green, Lancaster County Treasurer
Ralph M. Hutchison, Township Manager
Dennis P. Stuckey, Board of Commissioners Chairman
Joshua G. Parsons, Board of Commissioners Vice-Chairman
Craig E. Lehman, Board of Commissioners

Exhibit B

EAST LAMPETER DUPLICATE TAX COLLECTIONS - 2015

Month	Prev Balance	Exons	Collected @ Disc	Disc	Collected @ Base	Collected @ Pnlty	Penalty	Total Tax Rcvd	Ending Balance	If Collected @ Base
FEBRUARY	\$ 5,571,473.53		\$ 80,910.63	\$ 1,618.19				\$ 79,292.44	\$ 5,490,562.90	\$ 80,910.63
MARCH	5,490,562.90		593,998.05	11,879.87				582,118.18	4,896,564.85	593,998.05
APRIL	4,896,564.85	1,429.76	3,080,385.57	61,607.51				3,018,778.06	1,814,749.52	3,080,385.57
MAY	1,814,749.52		1,018,835.34	20,376.44	58,734.02			1,057,192.92	737,180.16	1,077,569.36
JUNE	737,180.16		760.07	15.20 1	187,108.21			187,853.08	549,311.88	187,868.28
JULY	549,311.88		369.77	7.40 2	195,644.60	11,273.72	1,127.37	208,408.06	342,023.79	207,288.09
AUGUST	342,023.79					7,434.53	743.48	8,178.01	334,589.26	7,434.53
SEPTEMBER	334,589.26					11,288.66	1,128.86	12,417.52	323,300.60	11,288.66
OCTOBER	323,300.60		7,508.10	150.16 3		5,299.96	530.00	13,187.90	310,492.54	12,808.06
NOVEMBER	310,492.54		2,605.90	52.12 4	21,698.14 7	19,519.87	1,951.99	45,723.78	266,668.63	43,823.91
DECEMBER	266,668.63		51,636.01	1,032.72 5	48,701.39 8	27,665.17	2,766.54	129,736.39	138,666.06	128,002.57
End of Year	138,666.06		6,144.07	122.88 6		9,161.96	916.22	16,099.37	123,360.03	15,306.03
TOTAL		\$ 1,429.76	\$ 4,843,153.51	\$ 96,862.49	\$ 511,886.36	\$ 91,643.87	\$ 9,164.46	\$ 5,358,985.71	\$ 123,360.03	\$ 5,446,683.74
			86.93%		9.19%	1.64%		96.19%		97.76%

Notes:

Amounts in RED were paid outside of terms

Discount Period - paid by April 30th

Base Period - paid by June 30th

Penalty Period - paid after June 30th

Difference	Calculation	Explanation of calculation.
1 -	19.00	Amount collected at discount outside the discount period (\$15.20). Should have been at base plus interest on the amount collected for 1 month (\$760.07*6%/12*1).
2 -	11.10	Amount collected at discount outside the discount period (\$7.40). Should have been at base plus interest on the amount collected for 2 months (\$369.77*6%/12*2).
3 -	1,088.67	Amount collected at discount outside the discount period (\$150.16). Should have been at penalty (\$7,508.10*10%) plus interest on the amount collected for 5 months (\$7,508.10*6%/12*5).
4 -	390.89	Amount collected at discount outside the discount period (\$52.12). Should have been at penalty (\$2,605.90*10%) plus interest on the amount collected for 6 months (\$2,605.90*6%/12*6).
5 -	8,003.58	Amount collected at discount outside the discount period (\$1,032.72). Should have been at penalty (\$51,636.01*10%) plus interest on the amount collected for 7 months (\$51,636.01*6%/12*7).
6 -	983.05	Amount collected at discount outside the discount period (\$122.88). Should have been at penalty (\$6,144.07*10%) base plus interest on the amount collected for 8 months (\$6,144.07*6%/12*8).
7 -	2,603.78	Amount collected at base outside the base period. Should have been at penalty (\$21,698.14*10%) base plus interest on the amount collected for 4 months (\$21,698.14*6%/12*4).
8 -	6,087.67	Amount collected at base outside the base period. Should have been at penalty (\$48,701.39*10%) base plus interest on the amount collected for 5 months (\$48,701.39*6%/12*5).
Total	<u>19,187.74</u>	