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Missouri State Auditor

Judiciary

Supreme Court of Missouri

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<http://auditor.mo.gov>



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CITIZENS SUMMARY

Findings in the audit of the Supreme Court of Missouri

Unreimbursed Payroll

The Supreme Court does not treat the Missouri Bar (Bar), the Board of Certified Court Reporter Examiners (BCCR), and the Missouri Board of Law Examiners (MBLE) consistently and does not require all of these entities to reimburse the Court for administrative expenses incurred by Supreme Court employees performing duties that benefit the boards. The Bar and the BCCR do not reimburse the state for duties performed by Supreme Court employees to benefit their respective organizations. The Bar provides an annual stipend to the Clerk of the Supreme Court, but the stipend is paid directly to the Clerk instead of being sent to the Supreme Court and handled through the normal state payroll process. The MBLE does not reimburse the Supreme Court for administrative expenses associated with work performed by the Clerk of the Supreme Court, but does reimburse the state for such expenses associated with all other Supreme Court employees performing duties that benefit the MBLE.

En Banc Meeting Minutes

En Banc meetings are meetings of all Supreme Court judges, which are held to make administrative decisions. The court does not document motions and votes in the minutes, sign or formally approve prior meeting minutes or document meeting times or attendees for the public portion of the meetings.

In the areas audited, the overall performance of this entity was **Good**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

All reports are available on our Web site: auditor.mo.gov

Supreme Court of Missouri

Table of Contents

State Auditor's Report	2
------------------------	---

Management Advisory Report - State Auditor's Findings	1. Unreimbursed Payroll.....4 2. En Banc Meeting Minutes.....5
---	---

Organization and Statistical Information	7
---	---

Appendixes

A	Combined Statement of Receipts, Disbursements, and Changes in Cash Balance, 2 Years Ended June 30, 2014.....	9
B	Comparative Statement of Receipts, 2 Years Ended June 30, 2014.....	10
C	Comparative Statement of Appropriations and Expenditures, 2 Years Ended June 30, 2014.....	11
D	Comparative Statement of Expenditures (From Appropriations) 5 Years Ended June 30, 2014.....	12
E	Combined Statement of Revenues, Expenses, and Changes in Net Assets for The Missouri Bar Association 2 Years Ended December 31, 2013	13
F	Combined Statement of Income, Expenses, and Net Asset Balances for The Missouri Board of Law Examiners and the Board of Certified Court Reporter Examiners 2 Years Ended September 30, 2014.....	14



Nicole R. Galloway, CPA

Missouri State Auditor

Members of the Supreme Court of Missouri
and
Honorable Patricia Breckenridge, Chief Justice
Jefferson City, Missouri

We have audited certain operations of the Supreme Court of Missouri, in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2014, and 2013. The objectives of our audit were to:

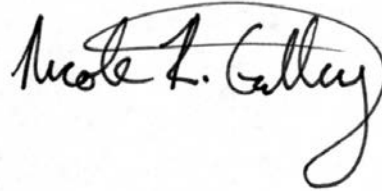
1. Evaluate the court's internal controls over significant financial functions.
2. Evaluate the court's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing minutes of meetings, written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the Supreme Court, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the court's management and was not subjected to the procedures applied in our audit of the court.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our findings arising from our audit of the Supreme Court of Missouri.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is written in a cursive style with a large, looping "y" at the end.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

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Supreme Court of Missouri

Management Advisory Report

State Auditor's Findings

1. Unreimbursed Payroll

The Missouri Bar (Bar) and the Board of Certified Court Reporter Examiners (BCCR) do not reimburse the state for duties performed by Supreme Court employees. Supreme Court employees also perform duties that benefit the Missouri Board of Law Examiners (MBLE). The MBLE reimburses the state for payroll and fringe benefit expenses of Supreme Court employees performing duties that benefit the MBLE, except for the Clerk of the Supreme Court.

The Missouri Bar

The Supreme Court Attorney Enrollment Office receives, records, deposits, and then disburses attorney enrollment fees to the Bar. During the years ended June 30, 2014, and 2013, three state employees were paid salary and fringe benefits totaling \$193,883 and \$188,324, respectively, from the state General Revenue Fund (GRF). The duties of these employees were primarily to provide benefits to the Bar. In addition, another employee works a portion of her time in the Attorney Enrollment Office and the remainder of her time on other Supreme Court duties. The Missouri Bar had net assets of \$3,490,091 at December 31, 2013.

Board of Certified Court Reporter Examiners

The Supreme Court has assigned one employee that works full-time and another employee who spends approximately 30 minutes per day processing applications, renewal forms, and fees for the court reporter exam and certification. During the years ended June 30, 2014, and 2013, these employees were paid salary and fringe benefits totaling \$69,844 and \$68,376, respectively, from the GRF to perform these duties. These expenses were paid by the Supreme Court; however, the duties were primarily of benefit to the BCCR. The BCCR had a bank balance of \$665,454 at September 30, 2014.

Clerk of the Supreme Court

In addition to the previously mentioned employees, the Clerk of the Supreme Court performs duties that benefit the Bar, the BCCR and the MBLE, and these boards do not reimburse the Supreme Court for the costs associated with these duties. The Supreme Court Rules for these boards indicate various annual and enrollment fees shall be collected, receipted and deposited by the Clerk. The rules also provide for other responsibilities of the Clerk, such as serving as ex-officio treasurer of the Bar. Many of these duties are performed by state employees, with the Clerk's supervision. According to the Clerk, these duties are performed during his regular work hours at the Supreme Court; however, the time he devotes to these duties is not tracked separately.

The Bar provides an annual stipend directly to the Clerk for duties performed. This stipend, not to exceed \$12,000 annually, is based on 2 percent of enrollment fees collected, as authorized by Supreme Court Rule 6.10. This stipend is not turned over to the Supreme Court. To promote transparency, this stipend should be turned over to the Supreme Court and, if desired by the Court, paid to the Clerk as part of his compensation



Supreme Court of Missouri
Management Advisory Report - State Auditor's Finding

through the normal state payroll process. During the years ended June 30, 2014, and 2013, the Supreme Court paid the Clerk salary and fringe benefits totaling \$154,834 and \$151,700, respectively.

Conclusion

Other boards issuing professional licenses, operating under the Department of Insurance, Financial Institutions, and Professional Registration, reimburse the state for related expenses from license fees. In addition, Supreme Court Rules 6.10(c) and 7.13 state the expenses of the collection of annual Bar enrollment fees shall be paid by the Bar. As noted above, the Bar already pays some of these administrative costs through the stipend to the Clerk. Further, Supreme Court Rule 14.08 states all expenses incurred by the BCCR shall be paid from the Certified Court Reporter Fund.

While there is no similar language in the Supreme Court Rule establishing the MBLE, the MBLE reimburses the Supreme Court for such expenses, except costs related to the Clerk's work. The MBLE should also reimburse the Supreme Court for the costs associated with the Clerk's activities benefiting the MBLE.

Recommendation

The Supreme Court treat the Bar, the BCCR, and the MBLE consistently and require all boards to reimburse the Court for administrative expenses incurred on behalf of these entities. Further, the Supreme Court should ensure the Bar stipend to the Clerk is remitted to the Court and handled through the normal state payroll process.

Auditee's Response

As the audit noted, the Court had adopted a plan consistent with the Auditor's recommendation for certain employees assigned to the Board of Law Examiners. The Court also has reviewed the position assigned to the Board of Certified Court Reporter Examiners with a similar plan being developed. In light of the Auditor's report, all additional positions, regardless of whether mentioned in the audit, will be examined with an expectation that the Auditor's recommendation will be adopted where appropriate.

**2. En Banc Meeting
Minutes**

During the 2 years ended June 30, 2014, the Supreme Court en Banc maintained meeting minutes but did not (1) document motions and votes in the minutes, (2) sign minutes or formally approve the minutes of prior meetings, and (3) document meeting times or attendees, when conducting or recording the public portion of meetings. In the public portion of the Court en Banc meetings, discussions are held to make administrative decisions, and are not court hearings or related to Supreme Court cases.

Minutes are the only record of the discussions held and decisions made by the Court en Banc and should be complete, accurate, and properly approved. In addition, the Sunshine Law, Chapter 610, RSMo, requires minutes to



Supreme Court of Missouri
Management Advisory Report - State Auditor's Finding

include this information and the Supreme Court should consider adopting similar rules.

Recommendation

The Supreme Court ensure minutes of en Banc meetings are complete, accurate and approved by the appropriate parties.

Auditee's Response

The Court appreciates the Auditor's helpful suggestions and will give them careful consideration in formulating a revised method of recording minutes.

Supreme Court of Missouri

Organization and Statistical Information

Establishment of the Supreme Court

The Supreme Court was created by the Missouri Constitution of 1820. Seven judges serve the court for 12-year terms. Judges may be retained at subsequent elections but must retire at the age of 70. The seven judges select the chief justice to preside over the court. The chief justice also handles many of the administrative details for the court.

In addition to its decision-making powers, the court supervises the lower courts in the state and is assisted in this task by the Office of the State Courts Administrator. The Supreme Court also licenses lawyers practicing in Missouri and disciplines those found guilty of violating the legal code of professional ethics.

The Clerk of the Supreme Court supervises the internal administrative functions of the court and reports directly to the chief justice. The clerk is the treasurer of the State Board of Law Examiners and ex officio treasurer of the Missouri Bar, and provides administrative and staff assistance to the Judicial Conference of Missouri as well as serving as secretary to the executive council and the conference.

Judges and Court Personnel

Judges	Term Expires
Honorable Mary R. Russell, Chief Justice (1)	December 31, 2018
Honorable Patricia Breckenridge (1)	December 31, 2020
Honorable Zel M. Fischer	December 31, 2022
Honorable Laura Denvir Stith	December 31, 2026
Honorable George W. Draper III	December 31, 2024
Honorable Paul C. Wilson	December 31, 2026
Honorable Richard B. Teitelman	December 31, 2016

(1) Mary R. Russell served as Chief Justice until June 30, 2015. Patricia Breckenridge became Chief Justice on July 1, 2015.

Bill Thompson has served as the Clerk of the Supreme Court since October 2012. In addition to the judges and Clerk, the court employed 50 full-time employees and 10 part-time employees as of June 30, 2014.

Selected Boards of the Supreme Court

The Supreme Court is responsible for approximately 40 different boards, commissions, or other groups. We performed limited procedures on the following 4 boards during our audit. These procedures included reviewing board minutes when available, reviewing activities of Supreme Court employees performing duties for the boards, and reviewing payments or reimbursements made by the boards for those duties.

Board of Trustees of the Missouri Bar The Board of Trustees was established by Supreme Court Rule 7.10 to act for and in the name of The Missouri Bar or Chief Disciplinary Counsel with respect to all matters incident to the ownership, management and control of the headquarters



Supreme Court of Missouri Organization and Statistical Information

building of The Missouri Bar or the headquarters building of the Chief Disciplinary Counsel located in Jefferson City. The Board of Trustees has 7 members as specified in Rule 7.10 who serve terms of 3 years.

Board of Governors of the Missouri Bar The Board of Governors was established by Supreme Court Rule 7.03 to be the representative body of The Missouri Bar. The Board discusses and makes policy on subjects such as Bar finances, attorney member fees, and the allocation of those fees. The Board may also set requirements for fees imposed on attorneys visiting from out of state to practice in Missouri. The Board of Governors is composed of 43 members as specified in Rule 7.03 who serve terms of 2 years.

Board of Law Examiners The MBLE was established by Supreme Court Rule 8 to determine eligibility for admission to the Bar, to provide for and conduct the Bar examinations, to determine the character and fitness of applicants for admission to the Bar, and to promulgate, amend and revise regulations relevant to the above duties. The MBLE is composed of 6 members appointed by the Court who serve terms of 9 years.

Board of Certified Court Reporter Examiners The BCCR was established by Supreme Court Rule 14 to determine the content of examinations to be given to applicants for certification as "Certified Court Reporters," to determine the applicant's ability to make a verbatim record of court proceedings by a recognized system designated by the board, to issue certificates to those found qualified as certified court reporters, to administer a continuing education program for certified court reporters, and to promulgate, amend and revise regulations relevant to the above duties. The BCCR is composed of 9 members appointed by the Court who serve terms of 3 years.

Financial Activity

A summary of the Supreme Court's operating financial activity and collections is presented in the following appendixes. In addition, we present in the following appendixes the operating financial activity for the Missouri Bar, the Board of Law Examiners, and the Board of Certified Court Reporter Examiners, as reported in each board's financial statements. We did not audit the information presented for these boards.

Appendix A

Supreme Court of Missouri
 Combined Statement of Receipts, Disbursements, and Changes in Cash Balance

	Year Ended June 30,					
	2014			2013		
	Supreme Court Publications Revolving Fund	Clerk's Fee Fund*	Total (Memorandum Only)	Supreme Court Publications Revolving Fund	Clerk's Fee Fund*	Total (Memorandum Only)
RECEIPTS						
Refunds/rebates	\$ 33,994	0	33,994	40,984	0	40,984
Sales and use tax	259	0	259	443	0	443
Product sales	53,085	0	53,085	82,305	0	82,305
Clerk fee deposits	0	57,043	57,043	0	56,024	56,024
Total Receipts	87,338	57,043	144,381	123,732	56,024	179,756
DISBURSEMENTS**						
Expense and equipment	55,639	0	55,639	57,081	0	57,081
Building maintenance and repair	2,147	0	2,147	3,851	0	3,851
Clerk fee disbursements	0	57,848	57,848	0	56,434	56,434
Transfers out	90,883	0	90,883	0	0	0
Total Disbursements	148,669	57,848	206,517	60,932	56,434	117,366
RECEIPTS OVER (UNDER) DISBURSEMENTS	(61,331)	(805)	(62,136)	62,800	(410)	62,390
CASH BALANCE, JULY 1	140,883	5,583	146,466	78,083	5,993	84,076
CASH BALANCE, JUNE 30	\$ 79,552	4,778	84,330	140,883	5,583	146,466

* Fund is maintained outside the state treasury

** Disbursements on this statement will not agree to expenditures on Appendix C primarily due to appropriated transfers out for personal service benefits costs

Appendix B

Supreme Court of Missouri
Comparative Statement of Receipts

	Year Ended June 30,	
	<u>2014</u>	<u>2013</u>
GENERAL REVENUE FUND		
Court fees	\$ 36,660	44,884
Vendor refunds - local/other	119	1,169
Rebates	675	790
Total General Revenue	<u>37,454</u>	<u>46,843</u>
JUDICIARY-FEDERAL FUND		
Cost reimbursement - local/other	<u>180,092</u>	185,689
Total Judiciary - Federal	<u>180,092</u>	<u>185,689</u>
BASIC CIVIL LEGAL SERVICES FUND		
Court fees	17,264	8,828
U.S. Department of Health and Human Services	<u>542,376</u>	599,903
Total Basic Civil Legal Services	<u>\$ 559,640</u>	<u>608,731</u>

Appendix C

Supreme Court of Missouri
Comparative Statement of Appropriations and Expenditures

	Year Ended June 30,					
	2014			2013		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
GENERAL REVENUE FUND						
Judicial proceedings and review personal service	\$ 2,707,386	2,684,075	23,311	2,632,665	2,609,368	23,297
Judicial proceedings and review expense and equipment	1,035,409	1,031,405	4,004	1,091,409	1,091,299	110
Supreme Court judicial salaries	1,039,763	1,039,760	3	1,039,763	979,651	60,112
Total General Revenue Fund	4,782,558	4,755,240	27,318	4,763,837	4,680,318	83,519
JUDICIARY-FEDERAL FUND						
Judicial proceedings and review personal service	493,231	120,853	372,378	490,973	131,480	359,493
Total Judiciary - Federal Fund	493,231	120,853	372,378	490,973	131,480	359,493
SUPREME COURT PUBLICATIONS REVOLVING FUND						
Judicial proceedings and review expense and equipment	150,000	57,786	92,214	150,000	60,932	89,068
Total Supreme Court Publications Revolving Fund	150,000	57,786	92,214	150,000	60,932	89,068
BASIC CIVIL LEGAL SERVICES FUND						
Basic civil legal services personal service	52,932	52,843	89	52,653	52,338	315
Basic civil legal services expense and equipment	10,266	0	10,266	10,266	4,562	5,704
Basic civil legal services	5,000,000	4,305,500	694,500	5,000,000	3,587,349	1,412,651
Total Basic Civil Legal Services Fund	5,063,198	4,358,343	704,855	5,062,919	3,644,249	1,418,670
Total All Funds	\$ 10,488,987	9,292,222	1,196,765	10,467,729	8,516,979	1,950,750

Appendix D

Supreme Court of Missouri
Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2014	2013	2012	2011	2010
Salaries and wages	\$ 3,897,531	3,772,837	3,620,861	3,782,790	3,893,411
Travel, in-state	37,857	53,827	46,901	40,454	90,046
Travel, out-of-state	21,097	11,419	6,632	5,427	9,579
Fuel and utilities	0	0	0	0	365
Supplies	559,567	528,988	515,614	559,183	564,853
Professional development	20,506	23,442	19,387	66,897	180,075
Communication services and supplies	178,204	189,507	180,643	160,472	171,247
Services:					
Professional	77,968	86,112	105,512	84,860	59,034
Housekeeping and janitorial	7,536	5,242	3,055	7,028	6,706
Maintenance and repair	41,078	36,632	28,299	32,894	37,648
Equipment:					
Computer	32,595	10,878	149,726	32,863	81,432
Motorized	9,512	23,105	30,819	28,948	17,942
Office	36,982	43,536	50,669	24,347	16,681
Other	9,988	50,426	17,231	2,829	21,514
Property and improvements	0	38,588	16,787	1,933	6,312
Building lease payments	39,825	38,264	39,382	35,500	52,566
Equipment rental and leases	3,546	5,072	5,252	2,534	3,745
Miscellaneous expenses	12,931	11,755	14,325	12,288	12,265
Refunds	600	0	0	0	0
Program distributions	4,304,899	3,587,349	3,628,943	3,713,766	5,500,319
Total Expenditures	\$ <u>9,292,222</u>	<u>8,516,979</u>	<u>8,480,038</u>	<u>8,595,013</u>	<u>10,725,740</u>

Appendix E

Supreme Court of Missouri

Missouri Bar ¹

Combined Statement of Revenues, Expenses, and Changes in Net Assets

	<u>Year Ended December 31,</u>	
	<u>2013</u>	<u>2012</u>
Unrestricted Net Assets		
Unrestricted Revenues		
Total unrestricted revenues	\$ 9,396,354	9,468,445
Net Assets Released from Restrictions		
Satisfaction of grant and award restrictions	<u>105,168</u>	<u>160,316</u>
Total Unrestricted Revenues and Other Support	<u>9,501,522</u>	<u>9,628,761</u>
 Expenses		
Total Expenses	<u>9,491,337</u>	<u>10,277,026</u>
Change in Unrestricted Net Assets	<u>10,185</u>	<u>(648,265)</u>
 Temporarily Restricted Net Assets		
Grant revenues	28,326	232,802
Net assets released from restrictions	<u>(105,168)</u>	<u>(160,316)</u>
Change in Temporarily Restricted Net Assets	<u>(76,842)</u>	<u>72,486</u>
Change in Net Assets	(66,657)	(575,779)
Net Assets, Beginning of Year	<u>3,556,748</u>	<u>4,132,527</u>
Net Assets, End of Year	<u>\$ 3,490,091</u>	<u>3,556,748</u>

¹ The Missouri Bar funds are held in bank accounts outside the state treasury. Information provided is from external audits of the Bar. Audited information for 2014 was not available.

Appendix F

Supreme Court of Missouri

Board of Law Examiners and Board of Certified Court Reporter Examiners¹

Combined Statement of Income, Expenses, and Net Asset Balances

	Board of Law Examiners		Board of Certified Court Reporter Examiners	
	Year Ended September 30,		Year Ended September 30,	
	2014	2013	2014	2013
Income				
Fee income	\$ 1,340,274	1,398,598	62,275	68,315
Interest income	14,617	11,239	10,914	4,638
Total Income	<u>1,354,891</u>	<u>1,409,837</u>	<u>73,189</u>	<u>72,953</u>
Expenses				
Examination expense	224,642	232,939	15,743	17,525
Hearing expense	16,129	10,488	0	0
Conferences, meetings and travel	10,984	8,125	308	144
Investigation expense	9,794	14,450	0	0
Professional services	73,016	82,423	0	0
Office expense	12,916	18,267	9,046	14,581
Office equipment repair and maintenance	1,095	4,728	0	0
Vehicle expense	371	226	0	0
General office expenses	26,655	22,720	0	0
Physical plant expenses	47,811	23,222	0	0
Other expenses	8,501	4,512	787	810
Payroll expense	707,160	674,160	0	0
Insurance	8,270	7,869	0	0
Board and officers	96,103	91,633	0	0
Refunds	13,565	23,871	0	0
Ceremony and licensing	1,217	1,330	0	0
Total Expenses	<u>1,258,229</u>	<u>1,220,963</u>	<u>25,884</u>	<u>33,060</u>
Net Income	\$ <u>96,662</u>	<u>188,874</u>	<u>47,305</u>	<u>39,893</u>
Net Asset Balance, September 30, ²	\$ <u>714,822</u>	<u>593,731</u>	<u>665,454</u>	<u>614,072</u>

¹The funds for these boards are held in bank accounts outside the state treasury. Income and expenses reflect bank account activity as reported in the boards' financial statements. Net Asset Balances are reported from the boards' balance sheets.

²The change in Net Asset Balance from one year to the next does not match the net income reported by the boards. The boards were unable to explain the difference.