



# 2023 Master Commissioner Conference

Department of Financial Services | Administrative Office of the Courts



The KBA has approved this conference  
for 4.75 CLE hours.

Attendance may be reported either  
through the Member CLE Portal at  
[www.kybar.org](http://www.kybar.org) or by submitting a  
completed form #3.

The Activity code is 248452.

# Conference Agenda

## 9:00-9:15 a.m. - Welcome

Welcome by Jenny Lafferty and James H. Frazier, III

Introduction of AOC Staff

Introduction of Advisory Committee Members

## 9:15-10:15 a.m. – Updates to AP Part IV and the Accounting Policy and Procedure Manual

Jenny Lafferty, Director of Finance & Administration

Tammy Brown, Executive Officer of Financial Services

Danielle Craig, Financial Services Coordinator

## 10:15-10:30 a.m. - Break

## 10:30-11:15a.m. - Auditing Issues

Alice Wilson - Director of Office of Audits

Donna Copeland – Audit Lead

Debbie Kissick – Manager, Auditing Services

## 11:15 a.m.-12:15 p.m. - Lunch

## 12:15-1:30 p.m. - Advisory Committee Member Topics

## 1:30-1:45 p.m. – Break

## 1:45-2:45 p.m. - Advisory Committee Member Topics, cont.

## 2:45-3:30 p.m. - Q & A with the Advisory Committee

## 2021 Edits to AP Part IV

In 2021, the Supreme Court revised the Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*, to make the Department of Financial Services the primary point of AOC contact for master commissioners, allowing the AOC Office of Audits to focus on audits only.

Supreme Court Order 2021-33 also established the Master Commissioner Advisory Committee.

## Supreme Court of Kentucky

2021-33

### ORDER

**In Re:        Amendments to the Rules of Administrative Procedures  
                 AP Part IV, Master Commissioners of the Circuit Court**

Part IV of the Rules of Administrative Procedures is hereby amended as follows:

#### **PART IV. MASTER COMMISSIONERS OF THE CIRCUIT COURT**

##### **Section 1. Authority, Application, and Scope**

(1) These rules are adopted pursuant to the authority granted the Kentucky Supreme Court:

Edits to AP Part IV and the Master Commissioner Accounting Manual

Mandatory eFiling

Hired a Financial Services Coordinator to serve as a liaison with MCs

Developed training and received approval for an annual master commissioner conference

Established a list serv for master commissioners statewide

Developing a document management database for all materials/documents related to MCs

Developing standardized forms

# When to Contact the AOC Office of Finance and Administration, Department of Financial Services

Danielle Craig, Financial Services Coordinator

Tammy Brown, Executive Officer

Jenny Lafferty, Director of Finance and Administration

- To determine whether a prospective appointee can qualify for a bond.
- Upon appointment of a new master commissioner.
- To request authorized salary and staffing levels.
- For approval of a collateral security agreement.
- Notifications regarding resignations and appointments.
- Expense approvals.
- General questions about the Accounting Manual.
- To request a waiver of any of the requirements of the Master Commissioner Accounting Policies and Procedures Manual.
  - DFS cannot authorize waivers of requirements contained in AP Part IV.

# When to Contact the AOC Office of Audits

Alice Wilson, Director of Audits  
Debbie Kissick, Manager  
Donna Copeland, MC Audit Lead

- When you have questions about an ongoing audit.
- When you have questions about a completed audit.
- For assistance with transfers upon death, retirement, termination, or removal of a master commissioner.
- To report escrow account noncompliance.
- To report fraud, waste, or abuse.

# Introductions:

## AOC Staff

Jenny Lafferty - Director of Finance & Administration  
JennyLafferty@kycourts.net

Tammy Brown – Executive Officer, Financial Services  
TammyBrown@kycourts.net

Danielle Craig – Financial Services Coordinator  
DanielleCraig@kycourts.net

Alice Wilson – Director of Office of Audits  
AliceWilson@kycourts.net

Debbie Kissick – Manager, Auditing Services  
DebraKissick@kycourts.net

Donna Copeland – Audit Lead  
DonnaCopeland@kycourts.net

# Functions of the MC Advisory Committee

- Making recommendations to the AOC Department of Financial Services on all matters relating to accounting standards for Master Commissioners, including:
  - Proposed changes to the MC Accounting Policies and Procedures Manual;
  - Proposed amendments to AP Part IV;
  - Effects of proposed legislation.
- Present trainings at the annual Master Commissioner Conference.
- Be available to mentor or answer case-related / sale-related questions of other Master Commissioners within their Supreme Court Districts.



# Introductions:

## Master Commissioner Advisory Committee

James H. Frazier, Chair  
Carole C. Schneider, Vice-Chair

### **District 1:**

Tom Blankenship  
tom@bedlaw.com

### **District 2:**

David F. Broderick  
brandismith@warrencountymastercommissioner.com

### **District 3:**

Howard O. Mann  
hmannlaw@bellsouth.net

### **District 4:**

Carole C. Schneider  
cschneider@jcomm.org

### **District 5:**

James H. Frazier  
jfrazier@mcbayerfirm.com

### **District 6:**

Valerie Shannon  
valshannonlaw@gmail.com

### **District 7:**

Stephen L. Hogg  
pikemastercommissioner@gmail.com

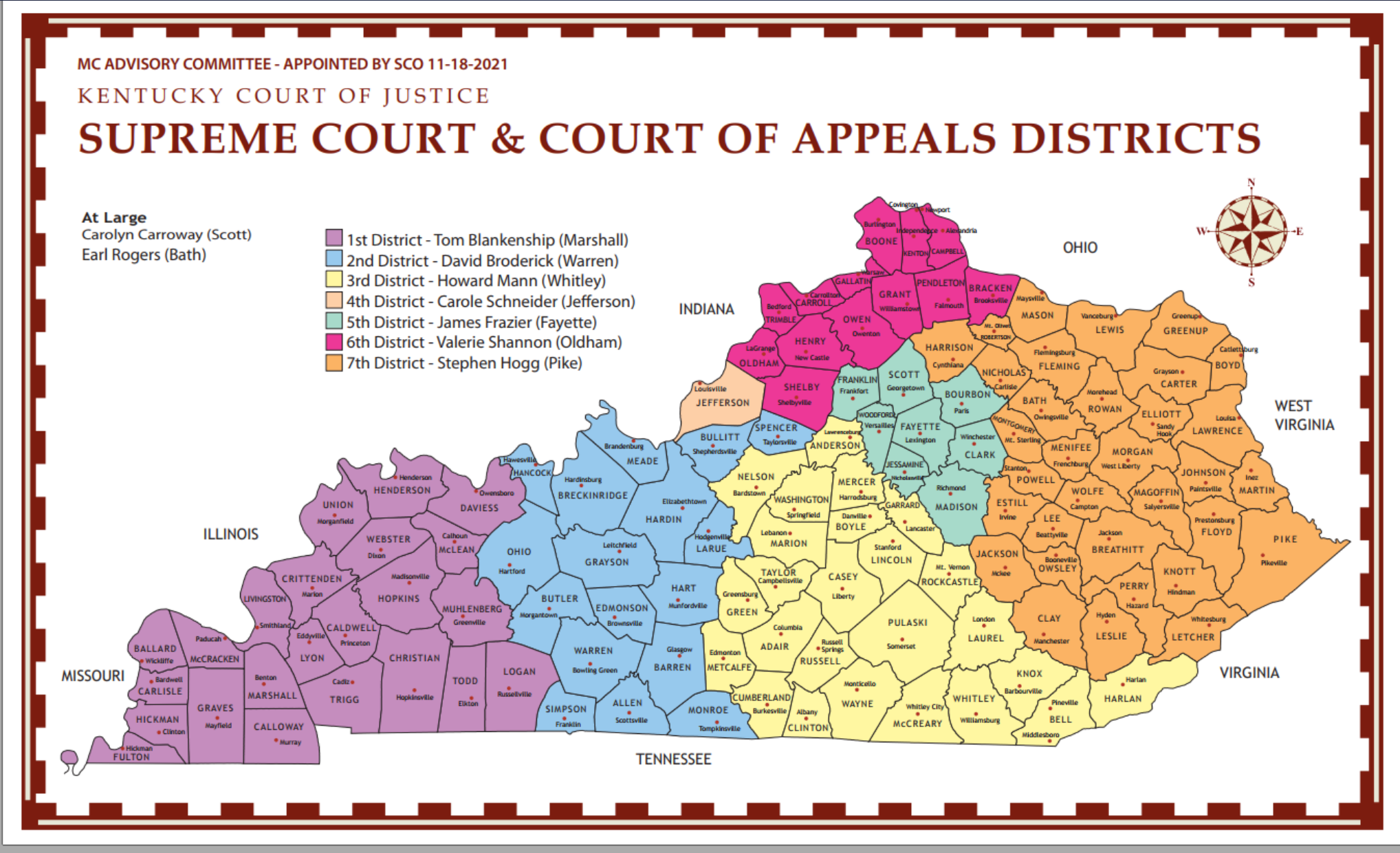
### **At Large Member**

Carolyn Carroway  
ccarroway@carrowaylaw.com

### **At Large Member**

Earl Rogers  
earl3rogers@yahoo.com

# Master Commissioner Advisory Committee Map by Supreme Court District



# When to Contact Your Master Commissioner Advisory Committee Representative

- To request training be developed on a particular topic.
- To suggest edits to the Auditing Manual.
- To suggest recommendations for AP Part IV.
- To comment on proposed legislation.
- If you have questions about how to conduct a sale or handle a special proceeding.
- You can also seek input from your peers on the Master Commissioner listserv by emailing:  
[MasterCommissioners@kcoj.onmicrosoft.com](mailto:MasterCommissioners@kcoj.onmicrosoft.com).

# Updates to AP Part IV and the Accounting Policy and Procedure Manual

Effective January 1, 2023

Jenny Lafferty, Director of Finance and Administration  
Tammy Brown, Executive Officer, Department of Financial Services  
Danielle Craig, Financial Services Coordinator, Department of Financial Services



# Rules Governing Master Commissioners



# Rule Making Authority

- *The Supreme Court shall have the power to prescribe... rules for the appointment of commissioners and other court personnel... Ky. Const, Sec. 116.*
- *The master commissioner shall be governed by such rules not inconsistent with the statutes of the Commonwealth as may be set by the Supreme Court. KRS 31A.010(2).*
- *The Supreme Court may make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, and other matters relating to the master commissioner or receiver. KRS 31A.010(8).*
  - The Supreme Court has adopted the Rules of Administrative Procedure (AP) Part IV, *Master Commissioners of the Circuit Court*, to establish rules for the appointment of master commissioners, salaries of master commissioners and staff, managing the offices of master commissioners, and accounting and bookkeeping practices of master commissioners.
  - The Supreme Court has made master commissioners subject to the Code of Judicial Conduct.  
*A judge, within the meaning of this Code, is anyone who is authorized to perform judicial functions, including a judicial officer ... such as a court commissioner. SCR 4.300.I.(B).*
  - The Supreme Court has delegated authority for establishing accounting and bookkeeping standards for master commissioners to the AOC. The AOC has implemented these standards in the Master Commissioner Accounting Policies and Procedures Manual.  
*The Administrative Office of the Courts, Department of Financial Services shall have the authority to establish accounting standards, prescribe bookkeeping and accounting practices and procedures, and oversee the financial accounts of master commissioners. AP Part IV, Sec.2(9).*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## **Section 1. Authority, Application, and Scope**

(1) These rules are adopted pursuant to the authority granted the Kentucky Supreme Court:

- (a) By Section 116 of the Kentucky Constitution to prescribe rules for the appointment of commissioners and other court personnel and to promulgate rules of practice and procedure for the Kentucky Court of Justice; and,
- (b) By KRS 31A.010(8) to make such rules, regulations, and accounting procedures as it may deem necessary for the appointment, conduct, and other matters relating to the master commissioner or receiver.

(2) These rules shall apply to all cases and proceedings referred to the master commissioner of the circuit court, including but not limited to judicial sales, settlement of estates, receiverships, and special proceedings.

(3) No local rules, practices, procedures, orders, or other policies of any circuit may conflict with or controvert these rules; further, to the extent that any such local rules, practices, procedures, orders, or other policies are inconsistent or otherwise conflict with these rules, these rules shall prevail.

# Local Rules

## SCR 1.040(3)(a) Duties of chief judge

- ✓ The chief judge shall prepare proposed local rules to expedite and facilitate the business of the court.
  - Local rules must be consistent with the Rules of Civil Procedure, Rules of Criminal Procedure, and Rules of the Supreme Court.
  - Local rules should include the times for conducting regular sessions of the court within the circuit or district.
- ✓ Proposed local rules should be:
  - Submitted for consideration by the judges of the circuit or district.
  - Upon tentative approval by a majority of such judges, be published and submitted to the local bar and circuit court clerk(s) for consideration and recommendations.
  - Upon final recommendation of a majority of the judges, submitted to the Chief Justice for review and final approval. Submit proposed local rules to [KatieShepherd@kycourts.net](mailto:KatieShepherd@kycourts.net).
  - The Chief Justice's office often seeks assistance from the AOC in approving local rules.
- ✓ No local rules shall be of binding effect unless in writing, approved by the Chief Justice, and filed with the Supreme Court Clerk who shall compile such rules and make them available for general distribution.



# Supreme Court Rule 4.300

## Kentucky Code of Judicial Conduct

*A judicial officer who serves repeatedly on a part-time basis under a continuing appointment...*

- (a) Is not required to comply with Rule 4.1 (Political and campaign Activities of Judges), except when serving as a judge;*
- (b) Is not required to comply with Rules 3.8(A) (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11(B) (Financial, Business, or Remunerative Activities); and*
- (c) May practice law in the court in which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, but shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.*

SCR 4.300.II.(A) and (B).

# Supreme Court Rule 4.300

## Kentucky Code of Judicial Conduct

*Canon 1: A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.*

Rule 1.1. Compliance with the Law

Rule 1.2. Promoting Confidence in the Judiciary

Rule 1.3. Avoiding Abuse of the Prestige of Judicial Office

*Canon 2: A judge shall perform the duties of judicial office impartially, competently, and diligently.*

Rule 2.1. Giving Precedence to the Duties of Judicial Office

Rule 2.2. Impartiality and Fairness

Rule 2.3. Bias, Prejudice, and Harassment

Rule 2.4. External Influences on Judicial Conduct

Rule 2.5. Competence, Diligence, and Cooperation

Rule 2.6. Ensuring the Right to Be Heard

Rule 2.7. Responsibility to Decide

Rule 2.8. Decorum, Demeanor, and Communication with Jurors

Rule 2.9. Ex Parte Communications

Rule 2.10. Judicial Statements on Pending and Impending Cases

Rule 2.11. Disqualification

Rule 2.12. Supervisory Duties

Rule 2.13. Administrative Appointments

Rule 2.14. Disability and Impairment

Rule 2.15. Responding to Judicial and Lawyer Misconduct

### **Rule 2.13. Administrative Appointments**

**(A)** In making administrative appointments, a judge:

- (1) shall exercise the power of appointment impartially\* and on the basis of merit; and
- (2) shall avoid nepotism, favoritism, and unnecessary appointments.

**(B)** A judge shall not approve compensation of appointees beyond the fair value of services rendered.

Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

# Supreme Court Rule 4.300

## Kentucky Code of Judicial Conduct

*Canon 3: A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.*

Rule 3.1. Extrajudicial Activities in General

Rule 3.2. Appearances before Governmental Bodies and Consultation with Government Officials

Rule 3.3. Testifying as a Character Witness

Rule 3.4. Appointments to Governmental Positions

Rule 3.5. Use of Nonpublic Information

Rule 3.6. Affiliation with Discriminatory Organizations

Rule 3.7. Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

*Canon 4: A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary. this canon is to be interpreted consistent with the first amendment to the United States Constitution, other constitutional requirements, statutes, other court rules, and decisional law.*

Rule 4.1. Political and Campaign Activities of Judges and Judicial Candidates in General

Rule 4.2. Political and Campaign Activities of Judicial Candidates in Public Elections

Rule 4.3. Activities of Applicants for Appointive Judicial Office

Rule 4.4. Campaign Committees

Rule 4.5. Activities of Judges Who Become Candidates for Nonjudicial Office

*Rule 4.5. Activities of Judges Who Become Candidates for Nonjudicial Office*

*(A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office.*

*(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.*

# Supreme Court Rule 4.310

## Judicial ethics committee and opinions

- Ethics opinions provided by the KBA Ethics Hotline Committee do not apply to the Code of Judicial Conduct, but rather the Rules of Professional Conduct (SCR 3.130).
- The Judicial Ethics Committee (JEC) provides opinions as to the propriety of acts of conduct or the construction or application of the Code of Judicial Conduct. SCR 4.310(2).
- Contact the JEC at 859-246-2296, JeanCollier@kycourts.net.
- Both formal and informal opinions are advisory only; however, the Judicial Conduct Commission and the Supreme Court consider reliance by a commissioner upon the JEC opinion in disciplinary actions. SCR 4.310(3).
- Judicial ethics opinions can be found at <https://kycourts.gov/Courts/Judicial-Ethics/Pages/default.aspx>.
  - JE-18: A master commissioner must resign when he becomes a candidate for the office of county attorney.
  - JE-56: A master commissioner is disqualified from handling foreclosure suits involving a bank in which he is a stockholder.
  - JE-128: A circuit judge may not appoint his or her sibling to the position of master commissioner.



# Overview of Changes



The Supreme Court adopted revisions to the Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*, effective 1/1/2023.

# Supreme Court of Kentucky

2022-59

ORDER

**IN RE:        Amendments to the Rules of Administrative Procedure AP Part IV, Master Commissioners of the Circuit Court**

This Order hereby amends the Rules of Administrative Procedure, AP Part IV, Master Commissioners of the Circuit Court as follows:

## **PART IV. MASTER COMMISSIONERS OF THE CIRCUIT COURT**

### **Section 1. Authority, Application, and Scope**

(1) These rules are adopted pursuant to the authority granted the Kentucky Supreme Court:

- (a) By Section 116 of the Kentucky Constitution to prescribe rules for the appointment of commissioners and other court personnel and to promulgate rules of practice and procedure for the Kentucky Court of Justice; and,

# Changes Made by Supreme Court Order 2022-59

- 8% increase to the limit for personal compensation for a MC.
- 8% increase to the limit for personal compensation for a Deputy MC.
- Increase the minimum and maximum fee that can be earned from each judicial sale.
- Make the fees for receiverships a flat 3%, rather than a graduated fee, and increase cap.
- Increase hearing fees to \$90 per hour and remove cap.
- Increase the fee for drafting a report and recommendation, a deed, or a title to \$90 per document.
- Allow the MC to retain up to 6 months of expenses, including the MC salary, from excess fees submitted.

# Master Commissioner Accounting Manual

## General Changes

- The 2022 amendments made to AP Part IV have been carried through and incorporated, where applicable, into the accounting manual.
- Changes have also been made throughout to incorporate the shift of responsibilities from Audit Services to the Department of Financial Services required by the amendments to AP Part IV in 2021.
- Many of the “shalls” have been replaced with “musts” throughout the manual to specify intentions.



# Authority of Administrative Office of the Courts



# Master Commissioner Accounting Manual

## Section 100.1 - Authority of Administrative Office of the Courts

1. Except for conducting audits of master commissioners' accounts, all AOC responsibilities associated with master commissioners have been moved from AOC's Office of Audits to the **Department of Financial Services**.
2. The **Department of Financial Services** is now responsible for:
  - Maintaining the Accounting Policies and Procedures Manual,
  - Establishing accounting standards,
  - Prescribing bookkeeping and accounting practices and procedures,
  - Reviewing and approving or denying all requests for approvals required by the MCAPP Manual and waivers requested to authorize deviations from the requirements of the MCAPP Manual; and
  - Overseeing the financial accounts of master commissioners.
3. The **Office of Audits** is responsible for:
  - Establishing audit standards,
  - Performing audits of master commissioner' accounts, and
  - Submitting copies of audit reports to the chief circuit judge and to the Chief Justice and Director of the AOC, if appropriate.

# Master Commissioner Accounting Manual

## Section 100.1 - Authority of Administrative Office of the Courts

Section 100.1(5): *All deviations from this manual or approvals required by this manual must be approved in advance in a written waiver by the Executive Officer, Department of Financial Services. Any such waiver must be retained by the master commissioner and the Executive Officer of Financial Services. Failure to obtain required approval may result in financial sanctions.*

- **All existing waivers** authorized by the Office of Audits prior to 1/1/23 **will expire effective 12/31/23.**
  - This request is not intended to give the AOC an opportunity to reconsider existing waivers, but rather to ensure that we are able to build a database housing all current waivers for a complete audit trail.
  - We anticipate that most existing waivers will be renewed.
- To request a waiver or approval, please email [MasterCommissionerFilings@kycourts.net](mailto:MasterCommissionerFilings@kycourts.net).
  - A Waiver form is in production. Until it is published, an email is sufficient.
  - If you are requesting renewal of an already-existing waiver, please attach a copy of the current waiver to your request.
  - Retain all waivers and approvals in your files.

# Appointment of Master Commissioners and Deputies





# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 2. Appointment of  
Master Commissioners and  
Deputies

(See also KRS 31A.010)

- A master commissioner may be appointed for each county within a judicial circuit.
  - In a single-judge circuit, the appointment is made by the circuit judge.
  - In judicial circuits with more than one judge, the master commissioner is chosen by a majority of the circuit judges. In the event of a tie, the chief circuit judge selects from among those receiving the tie vote.
  - Family court judges are circuit judges.
  - A single individual may be appointed to serve as master commissioner in more than one county.
- The master commissioner serves at the pleasure of the judge(s).
  - In a single-judge circuit, the term of a master commissioner automatically terminates following the death, resignation, or permanent replacement of the judge who made the appointment.
  - In a judicial circuit with more than one judge, the master commissioner may be removed at any time by a majority vote of the circuit judges. In the event of a tie, the decision shall be made by the chief circuit judge.
- A master commissioner's term shall not exceed four years without reappointment.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 2. Appointment of Master Commissioners and Deputies

(See also KRS 31A.010)

- Master commissioners are not employees of the state or the KCOJ.
  - Master commissioners are compensated by fees charged to parties.
  - Master commissioners are considered employees of the state for social security purposes only. Since 2005, the AOC has paid the employer portion of social security for master commissioners, deputies, and clerical staff.
  - Master commissioners, deputies, and clerical staff are entitled to participate in Kentucky Employees Retirement System based on Executive Orders signed in 1958 and 1978 if they work 100 hours or more in the master commissioner's office. The AOC pays the employer portion for eligible master commissioners, deputies, and clerical staff.
- The master commissioner maintains his or her office at locations and during such hours as directed by the chief circuit judge.
  - Occasionally, a chief circuit judge will allow a master commissioner to occupy a vacant office in a court facility.
  - AOC Department of Court Facilities must approve this arrangement.
  - No private business may be conducted in a court facility.
  - The master commissioner must enter into an agreement with AOC to pay quarterly rent.
- The master commissioner shall perform such functions, including those of a receiver, as may be directed by an appropriate order of the court.
- Upon the express written authority of the AOC, the master commissioner may have such deputies and clerical staff as are necessary to perform the functions of his or her office.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 2. Appointment of  
Master Commissioners and  
Deputies

(See also KRS 31A.010)

## Pre-requisites for master commissioners or deputies

- Shall hold no other public office of the Court of Justice except trial commissioner for the district courts pursuant to SCR 5.010 or domestic relations commissioner as approved by the Chief Justice. CR 53.01, AP Part IV, Sec. 2(7).
- Must be qualified as a licensed attorney in good standing with the Kentucky Bar Association. CR 53.01, AP Part IV, Sec. 2(8).
- Must be capable of being bonded.
- May not serve in an incompatible office in another branch of government.
- May not serve in a position that could cause frequent conflicts:
  - Public Administrator (prohibited by KRS 395.040(3); CR 53.01)
  - Board member of bank or other financial institution that would require recusal from a significant number of cases.
  - Attorney for bank, mortgage company, city, or other entity that is likely to have a significant number of cases involving judicial sales that would require recusal from a significant number of cases

# Master Commissioner Accounting Manual

## Section 100.2 - Appointment of Master Commissioner

Section 100.2(3): *Upon appointment, the master commissioner must immediately contact the Department of Financial Services at the Administrative Office of the Courts and provide the following information:*

- a) *Name*
- b) *Address*
- c) *Telephone/fax numbers*
- d) *Email address*
- e) *Copy of the AOC-141AMC Order Appointing Master Commissioner.*

- Using AOC-141AMC, instead of a non-standard order, ensures that all required entities are copied on the order.
- We anticipate forthcoming edits to AOC-141AMC to include appointment prerequisites on the form.

3. Section 100.2(4): *Upon contact from the master commissioner pursuant to paragraph 3 above, the Department of Financial Services will provide the following:*

- a) *Bond application;*
- b) *Authorized salary and staffing levels;*
- c) *Contact information for payroll/benefit reporting;*
- d) *Administrative Procedures of the Court of Justice, Part IV, Master Commissioners of the Circuit Court; and*
- e) *Master Commissioner Accounting Policies and Procedures Manual.*



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 2: Appointment of Master Commissioners and Deputies

(9) The Administrative Office of the Courts, Department of Financial Services shall have the authority to establish accounting standards, prescribe bookkeeping and accounting practices and procedures, and oversee the financial accounts of master commissioners.

(10) The Administrative Office of the Courts, Office of Audits shall have the authority to establish audit standards, and to otherwise perform audits of master commissioners. A copy of any audit report shall be submitted by the Administrative Office of the Courts, Office of Audits to the chief circuit judge.

(a) In the event that the audit reveals a serious or recurring bookkeeping, accounting, procedural or other irregularity, a copy shall also be submitted to the Chief Justice and the Director of the Administrative Office of the Courts.

(b) After reviewing the audit report, the Chief Justice may refer the master commissioner to the judge(s) of the circuit court for removal.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 2. Appointment of  
Master Commissioners and  
Deputies

(See also KRS 31A.010)

## Judicial Sale Administrative Fee (JSAF)

- A non-refundable judicial sale administrative fee of \$200 shall be added to all cases referred to the master commissioner for judicial sale.
- The circuit court clerk shall collect the administrative fee when the referral is made, prior to processing the motion for judgment and distributing the order of sale. The fee must be collected before the case is transferred to the master commissioner.
- The circuit court clerk shall promptly remit all fee monies collected to the Administrative Office of the Courts, Department of Financial Services.
- Judicial sale administrative fee money is to be placed in a special account designated to cover the administrative costs of the master commissioner program. These costs include, but are not limited to, all necessary bonding of master commissioners and the employment of sufficient staff to conduct audits of master commissioner offices statewide.
- To whatever extent total judicial sale administrative fees collected do not fully cover these expenses, funds may be deducted from the excess fees master commissioners submit to the Administrative Office of the Courts with their mandatory annual accounting report.

# Master Commissioner Accounting Manual

## Section 100.3 - Judicial Sale Administrative Fee

Section 100.3(5): *One of the following forms must be completed and filed **in the official court record** in each case referred for judicial sale:*

- a) AOC-141S, Order Referring Case to Master Commissioner for Judicial Sale; or*
- b) AOC-141SP, Order Referring Case to Special Master Commissioner for Judicial Sale.*

Section 100.3(6): *Tracking and statistical comparison will be accomplished through the **KCOJ's electronic** case management system.*

Section 100.3(7): *All JSAFs must be tracked under the circuit court case number and maintained by the circuit court clerk.*

Section 100.3(8): *The master commissioner must obtain a copy of the applicable form, AOC-141S or AOC-141SP, and a copy of the receipt reflecting payment of the JSAF before proceeding to schedule a judicial sale.*

# Powers of the Master Commissioner





# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 3. Powers of the Master Commissioner

- An order of reference to the master commissioner or local rules of court may specify or limit the master commissioner's powers, and may direct him or her to report only upon particular issues, or to perform particular acts, or to receive and report evidence only.
- The order of reference may fix the time and place for beginning and closing the acts or issues referenced, and for the filing of the master commissioner's report.
- The master commissioner shall exercise the power to regulate all proceedings before him or her and to take all measures necessary for the efficient performance of his or her duties, subject to the specifications and limitations stated in the order of reference or local rules of court.
- The master commissioner may require the production of evidence upon matters included in the order of reference, such as the production of all books, papers, vouchers, documents, and writings.
- The master commissioner may rule upon the admissibility of evidence, unless otherwise directed by the order of reference, and has the authority to put witnesses and parties under oath and examine same.
- The master commissioner shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as may be provided in applicable Rules of Civil Procedure and/or Rules of Evidence for a court sitting without a jury.

# Judicial Sales



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 4. Judicial Sales;  
Settlements; Receiverships

- Judicial sales may be executed and accounts of estates may be settled by a master commissioner.
  - Subject to AP Part IV and in conformity with the Kentucky Revised Statutes, the terms and conditions of the judicial sale or estate settlement shall be established by the circuit court either in its order or local rule.
- **Judicial Sales**
  - The judgment and order of sale directing the master commissioner to sell property shall be served upon every party who is not in default for failure to appear.
  - The master commissioner shall serve notice of the date, time and place of the judicial sale upon every party who is not in default for failure to appear.
  - The AOC-141S (Order Referring Case to Master Commissioner for Judicial Sale) or the AOC141SP (Order Referring Case to Special Master Commissioner for Judicial Sale), must be utilized.
- **All other matters referred to the master commissioner:**
  - The AOC-141 (Order Referring Case to Master Commissioner) must be utilized.
  - An order of referral shall be entered by the circuit court referring the case to the master commissioner. Such documents shall be filed with the circuit court clerk and entered into the case management system.
- A master commissioner shall draft and execute documents necessary to complete any responsibility, including a report of any settlement, sale, or receivership.
- Civil matters pertaining to the discovery of assets of judgment debtors may be referred to a master commissioner.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 5. General Provisions of Judicial Sales

- The master commissioner shall sell the property in a reasonable time, not to exceed 90 days after the date of the order of referral.
  - Exception: Property found to be “vacant and abandoned” shall be sold in accordance with KRS 426.205 (within 70 days of the order so finding).
  - Upon motion and good cause shown, the court may extend the deadline for up to 30 days.
- Before any real property is sold under a judgment and order of sale, the appraisal value shall be determined by two disinterested persons both of whom are actively engaged in or have had at least one year of experience in the field of real estate.
  - In accordance with KRS 426.520(2) the appraisal shall be in writing, shall be signed by the persons making it, and shall be filed in the court record prior to the sale.
- All sales shall be advertised in accordance with KRS 424.130 as follows:
  - The advertisement shall be published at least once between 7-21 days before the date of the sale.
  - The advertisement may be published two or more times.
  - The advertisement shall include:
    - ✓ The time, place and terms of sale;
    - ✓ A reference to the judgment and order of sale in case number YY-CI- ####; and
    - ✓ A description of the property to be sold, which shall include only the street address (or if the property has no street address a brief description of its location) and any number(s) assigned to the property/parcel by the tax assessor for purposes of identification and record keeping such as the parcel or property identification number.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 5. General Provisions of Judicial Sales

- At the time of sale, the successful bidder shall either pay full cash or make a deposit of 10% of the purchase price with the balance on credit for 30 days.
  - If the purchase price is not paid in full, the successful bidder shall execute a bond at the time of sale with sufficient surety approved by the master commissioner prior to the sale to secure the unpaid balance of the purchase price.
  - Pursuant to KRS 426.705 the bond shall bear interest at the rate the judgment bears, from the date of sale until paid, and shall have the force and effect of a judgment.
  - In the event the successful bidder is the plaintiff, then in lieu of the deposit the plaintiff shall be allowed to bid on credit up to the judgment amount.
- The report of sale shall be filed by the master commissioner no later than 3 business days after the date of sale.
- The master commissioner shall execute and deliver the deed to the purchaser of the property no later than 5 business days after the court has confirmed the sale and approved the deed and all costs, fees, and other required amounts due and owing, if any, have been paid by the foreclosing mortgagee or lienholder or the purchase price has been paid in full by the third-party purchaser.



# Master Commissioner Accounting Manual

## Section 100.4 - General Provisions of Judicial Sale

**No appraisals are required for city tax sales pursuant to KRS Chapter 91 and partition sales. Section 100.4(2).**

Section 100.4(5): *No right of redemption applies in partition sales. For all other sales, excluding city tax sales pursuant to KRS Chapter 91, if the real property did not sell for at least two-thirds (2/3) of its appraised value, the defendant and his or her representatives have a right of redemption for six months from the day of sale. In that case, the purchaser receives an immediate writ of possession and a deed containing a lien in favor of the defendant, reflecting the defendant's right to redeem during the statutory period per KRS 426.530.*

Section 100.4(6): *When a city files for enforcement of a city tax lien under KRS 91.511, and the real property sells for less than 100% of its most recent assessed value as determined by the PVA, the defendant may redeem it within 60 days from the day of the sale by paying the purchaser the original purchase money and interest at eighteen percent (18%) per annum. The master commissioner must hold the deed at least until the right of redemption expires.*

# Master Commissioner Accounting Manual

## Section 100.4 - General Provisions of Judicial Sale

Section 100.4(9): *A log of all cases referred for sale must be maintained. At a minimum, this log must contain:*

- a) Case number and style*
- b) Date AOC-141S or AOC-141SP entered*
- c) Date appraisal filed in court record*
- d) Date of required advertisement*
- e) Scheduled sale date*
- f) Date Report of Sale filed*
- g) Date full winning bid or sale costs/fees received by the commissioner*
- h) Date deed delivered to purchaser.*

Section 100.4(10): *The master commissioner should calculate and assess applicable interest (per the judgment) on any unpaid balance of purchase price and collect the same from the purchaser. All sale bond interest is to be included in the total funds to be distributed by the master commissioner.*

# Special Proceedings of the Master Commissioner



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 6. Special Proceedings of the Master Commissioner

### (1) References.

References to master commissioners for special proceedings shall be warranted only in special cases and in cases where such reference is mandated by statute or rule of court. Cases may be regarded as special due to complexity of issues, damages which are difficult to calculate, a multiplicity of claims the priority of which must be established, matters of accounting involving complex or numerous transactions, or similar exceptional circumstances.

### (2) Meetings.

When an order of reference is made, the circuit court clerk shall forthwith furnish the master commissioner and all parties not in default with a copy of the order of reference. Upon receipt, the master commissioner shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall provide notice. It is the duty of the commissioner to proceed with reasonable diligence. Either party, on notice to the parties and master commissioner, may apply to the court for an order requiring the commissioner to speed the proceedings and to make his or her report. If a party fails to appear at the time and place appointed, the master commissioner may proceed *ex parte* or adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 6. Special Proceedings of the Master Commissioner

### (3) Witnesses.

In special proceedings, the parties may procure the attendance of witnesses before the master commissioner by the issuance and service of subpoenas as provided in CR 45. If, without good cause shown, a witness fails to appear or give evidence, he or she may be held in contempt and be subject to the provisions of CR 37 and CR 45.

### (4) Statement of Accounts.

When matters of accounting are in issue before the master commissioner, he or she may prescribe the form in which the accounts shall be submitted. Upon objection of a party to any accounting, the master commissioner may require a different form of statement to be furnished, or take testimony, or receive written interrogatories.



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 7. Master Commissioner's Report in Special Proceedings

- (1) Contents and filing of reporting in special proceedings or other mandated referrals.

The master commissioner shall prepare a report to the court upon the matters submitted by the order of reference or local rules of court and shall file the report and sufficient copies for all parties with the circuit court clerk. The clerk shall forthwith serve the report and notice of the filing upon all parties. A transcript of reported proceedings may be ordered by any party at that party's expense. If special proceedings or other mandated referrals are recorded on video, the untranscribed video recording shall constitute the official record.

- (2) Action on report in special proceedings.

In special proceedings, within 10 days after being served with the notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in CR 6.04. The court after hearing may adopt the report, modify it, reject it in whole or in part, receive further evidence, or recommit it with instructions.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 7. Master Commissioner's Report in Special Proceedings

(3) Stipulation as to findings in special proceedings.

The effect of a master commissioner's report is the same whether or not the parties have consented to the order of reference, but, when the parties stipulate that a master commissioner's report shall be final, only questions of law arising upon the report shall thereafter be considered.

(4) Draft report of special proceedings.

Before filing the report, a master commissioner may submit a draft thereof to counsel for all parties for the purpose of receiving their comments.

(5) Report as security in special proceedings.

The master commissioner shall not retain the report as security for compensation. If the party ordered to pay the compensation does not pay it after notice and within the time prescribed by the court, the master commissioner is entitled to a writ of execution.

# Compensation of Master Commissioners, Deputies, and Clerical Staff



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 8. Compensation of  
Master Commissioners,  
Deputies, and Clerical Staff

Judicial Sales

(1) Master commissioners shall be compensated by fee charged upon the parties or paid out of any fund of an action in the circuit court. Deputies, clerical staff and office expenses, as authorized in AP Part IV, Section 10, shall be paid from the excess fees of the office. Salaries of clerical staff shall be set in accordance with the pay schedule established by the judicial personnel system.

(2) The fee for each judicial sale shall be calculated as follows:

(a) 3% of the final bid. The fee shall be no less than **\$500** and shall not exceed **\$8,500**.

(b) If the sale involves more than one property, parcel, or judgment, a fee of **\$650** per additional property, parcel, or judgment (e.g., the second, third, and subsequent) shall be assessed in addition to the fee calculated under subsection (2)(a) of this section.

(c) If the sale is withdrawn, a fee of not more than 50% of what the sale fee would have been as calculated under subsections (2)(a) and (b) of this section based upon the appraisal value of the property, or **\$500**, whichever is greater, shall be assessed.

(d) If the sale is not confirmed through no fault of the master commissioner, a fee of no more than the sale fee as calculated under subsections (2)(a) and (b) of this section shall be assessed.

# Master Commissioner Accounting Manual

## Section 100.5 - Compensation of Master Commissioner, Deputies, and Staff

Section 100.5(3): *If the sale is completed and confirmed:*

- a) *The fee for each judicial sale must be calculated at 3% of the final bid, **or if the sale involves multiple indivisible lots sold at the same time under the same judgment, 3% of the aggregate of the final bids.** The fee based upon this calculation shall be no less than \$500 and shall not exceed \$8,500.*
- b) *If the sale involves more than one property, parcel, or judgment, a fee of **\$650** per **additional** property, parcel, or judgment shall be assessed in addition to the fee calculated above.*



# Master Commissioner Accounting Manual

## Section 100.5 - Compensation of Master Commissioner, Deputies, and Staff

Section 100.5(4): *If the sale is withdrawn, a master commissioner fee of not more than 50% of the sale fee based upon the appraisal value of the property as calculated under 3.a) and b), or \$500, whichever is greater, shall be assessed.*

- a) The fee for each withdrawn judicial sale shall be 50% of the fee calculated at 3% of the appraised value. **The fee based upon this calculation shall be no less than \$500 and shall not exceed \$4,250.***
- b) If the sale involves more than one property, parcel, or judgment, then \$325 per additional property, parcel, or judgment shall be assessed, in addition to the fee calculated above.*
- c) If the sale is withdrawn before an appraisal has been completed, a sale fee of \$500 shall be assessed; or, upon good cause shown by proper motion, the circuit court may approve some other amount of fee (not to exceed \$4,250).*

Section 100.5(5): *If the sale is not confirmed through no fault of the master commissioner, a fee of no more than the sale fee as calculated in 3.a) and b) above shall be assessed.*

Section 100.5(6): *The master commissioner fee is to be listed separately on the order of distribution and/or other individual case report confirming sale and cost.*

**If a sale is withdrawn and the property is later rescheduled for sale, the JSAF must be charged and the master commissioner may not (re)schedule the sale unless a new JSAF is filed.**

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 8. Compensation of  
Master Commissioners,  
Deputies, and Clerical Staff

Expenses of the Master  
Commissioner

(3) In addition to the fee authorized in subsection (2), above, the master commissioner may also recover necessary direct expenses attributable to the case referred for judicial sale including the cost of postage, copies, faxes, long distance telephone, advertising, appraisers, licensed auctioneer pursuant to KRS 426.522, and the cost of the care of the property in his or her possession, and shall recover the administrative fee prescribed in Section 2(11). The circuit court may require a deposit sufficient in amount to pay the direct costs of sale.

# Master Commissioner Accounting Manual

## Section 100.6 - Expenses of Master Commissioner

Section 100.6(1): *The master commissioner may recover necessary direct **expenses** attributable to the case referred for judicial sale. These charges may be combined and charged to the case as office expenses and are as follows:*

- a) the actual cost of postage;*
- b) copies at the rate of \$0.25 per page; and*
- c) the actual or documented average long distance charge per minute; and*
- d) faxes at the rate of \$2 for the first page and \$1 per page for every page thereafter.*

Section 100.6(2): *The master commissioner may also recover the following **costs** from the proceeds of the sale:*

- a) The actual cost of advertising;*
- b) The appraiser's fee as set by the court;*
- c) A licensed auctioneer's fee pursuant to KRS 426.522;*
- d) The actual costs associated with the care of the property in the master commissioner's possession;*
- e) The \$200 judicial sales administrative fee, if not paid prior to sale; and*
- f) The master commissioner fees.*

# Master Commissioner Accounting Manual

## Section 100.6 - Expenses of Master Commissioner

Section 100.6(3): *The expenses, costs, and fees must be listed separately on any order of distribution and/or other individual case report. A separate check from the escrow account must be written for each expenditure, with the following exceptions:*

- a) One check for the total expenses may be written from the escrow account to reimburse the master commissioner.*
- b) One check for the sales fee, Report and Recommendation (RAR) fee(s), and Deed or Title (DOT) fee(s) may be written from the escrow account and deposited to the fee account.*

Section 100.6(4): *Reimbursements for direct expenses and costs attributable to a judicial sale are to be tracked, with documentation supporting the reimbursements to be retained by the master commissioner in his or her file.*

Section 100.6(5): *The circuit court may require a deposit, prior to the sale, sufficient in amount to pay the costs of the sale.*

Section 100.6(6): *The circuit court may require a deposit, prior to the sale, sufficient in amount to pay the costs of the sale.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 8. Compensation of  
Master Commissioners,  
Deputies, and Clerical Staff

Reports and Recommendations;  
Drafting Deeds and Titles

(4) A fee of **\$90** shall be charged for each report and recommendation(s) prepared on tendered foreclosure judgments in uncontested cases for enforcement of a mortgage or other lien. Additionally, a fee of **\$90** shall be charged for drafting any necessary deed or title and executing same.



# Master Commissioner Accounting Manual

## Section 100.7 - Additional Fees for Preparing Reports and Drafting Documents

Section 100.7(3): *The master commissioner shall charge the **\$90** RAR fee on tendered judgments. No fee shall be charged for drafts of reports but shall be charged only for final reports.*

Section 100.7(4): *The master commissioner shall charge the **\$90** DOT fee for drafting any deed or title and executing same.*

Section 100.7(5): *The above referenced **\$90** fees are in addition to the sale fee and must be deposited into the escrow account and distributed to the fee account upon proper order from the court.*

Section 100.7(6): *The above referenced fees are to be listed separately on the order of distribution and/or individual case report.*

Section 100.7(7): *The DOT and RAR fees must be included in the master commissioner's total fee income for annual reporting purposes.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 17. Receivers; Persons  
Not to be Appointed Receivers

Section 8.(5) Compensation of  
Master Commissioners,  
Deputies, and Clerical Staff

## AP Part IV, Section 17:

(1) Receivers, except as provided in subsection (2) of this section, may be appointed under the same terms and conditions as a master commissioner except the receiver need not be an attorney.

(2) Except for personal representatives, guardians, curators, and committees for persons of unsound mind, neither a party to an action, nor his or her attorney, nor any person interested therein, shall be appointed as a receiver unless by agreement of the parties.

## AP Part IV, Section 8:

(5) For receiving and paying out money under court order, except as otherwise provided in subsection (2), and for settling the accounts of estates the fee shall be **3%**. For settlement of accounts of insolvent estates this computation shall exclude any amounts exempt from creditors. In no case shall the fee exceed **\$8,500**.

# Master Commissioner Accounting Manual

## Section 100.8 - Additional Fees for Receiving and Paying Out Money Under Court Order

Section 100.8(4): *The master commissioner may recover the costs and expenses as set out in Section 100.6.*

Section 100.8(5): *The costs and expenses are to be listed separately on the order of distribution and/or individual case report. All costs and reimbursements must be supported by adequate documentation.*

Section 100.8(6): *The fee for receiving and paying out money under court order and for settling the accounts of estates shall be 3% up to a maximum of \$8,500.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 18. Hearing Fees

For any hearing, the master commissioner shall receive a fee of **\$90** per hour, assessed at a rate of **\$22.50** for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing.

# Master Commissioner Accounting Manual

## Section 100.16 - Other Authorized Fees for Hearings

Section 100.16(2): *Hearing fees must be deposited in the master commissioner escrow account and then distributed to the fee account. This allows the hearing fees to be tracked with other fees generated by the master commissioner.*

Section 100.16(3): *Hearing fees must be paid to the commissioner and shall be due on the fifth working day following the conclusion of the hearing.*

Section 100.16(4): *Hearing fees should be distinguished from **all other fees** by referencing the circuit court case number for each deposit and by annotation on the deposit slip indicating that it is a hearing fee.*

### **NOTES:**

- **Caps no longer exist for hearing fees.**
- **Hearing fees are *not* paid through the office of the circuit court clerk, but instead are paid directly to the master commissioner.**



# Limits on Annual Compensation of Master Commissioners, Deputies, and Clerical Staff



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 9. Limit on Compensation of Master Commissioners, Deputies, and Clerical Staff

(1) The office of master commissioner shall be limited in total personal compensation derived from fees to not more than **\$57,240** per annum, unless otherwise approved by written order of the Chief Justice.

(2) Each deputy master commissioner shall be limited in his or her total personal compensation derived from fees to not more than **\$42,768** per annum.

These limitations on compensation shall be disbursed on a prorated basis over a 12-month period, with the master commissioner / deputy master commissioner receiving no more than 1/12 of his or her annual compensation per month. Further, said limitation on compensation shall be prorated on a monthly basis where the master commissioner / deputy master commissioner serves less than the entire year.

Where a master commissioner also acts as a domestic relations commissioner, the fees generated by the office of master commissioner shall not be co-mingled with the fees generated by the office of domestic relations commissioner.

Salaries of clerical staff shall be set in accordance with the pay schedule established by the judicial personnel system. Any increase in personal compensation for clerical staff shall be in accordance with the allowed Court of Justice annual increment.

# Master Commissioner Accounting Manual

## Section 100.9 - Limits on Annual Compensation of Master Commissioner

Section 100.9(4): *The master commissioner must maintain two separate interest-bearing checking accounts, for master commissioner funds only. The checking accounts must be reconciled monthly. The reconciliation must be performed within 30 days of the date of the bank statement. The checking accounts are as follows:*

- a) an escrow account for all funds received, to be distributed per court order; and*
- b) a fee account where all fees generated by the office of master commissioner are deposited.*

Section 100.9(5): *Compensation of the master commissioner must be disbursed on a prorated basis over a 12-month period, with the master commissioner receiving no more than 1/12 of annual compensation per month. (For example, compensation of \$57,240 per annum entitles the master commissioner to a salary of \$4,770 per month.)*

Section 100.9(6): *The master commissioner must disburse the prorated allowable compensation monthly in an amount not to exceed the accumulated allowable salary proportionate to the time served. The disbursement must be made at the end of each month of service.*

Section 100.9(7): *Master commissioners meeting the minimum requirement of working an average of 100 hours per month on master commissioner work **only**, and having sufficient proof of such work, may participate in the Kentucky Employees Retirement System (KERS) so long as they meet all other requirements established by the Kentucky Public Pension Authority (KPPA).*

Section 100.9(8): *All compensation is to be reported monthly **to the Finance and Administration Cabinet, Department of Local Government Services, Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.***

# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

Section 100.10(1): *Upon the express written authority of the Administrative Office of the Courts on behalf of the Chief Justice, the master commissioner may have deputies and staff as are necessary to perform the functions of the master commissioner's office.*

Section 100.10(7): *...compensation of \$42,768 per annum entitles the deputy master commissioner to a salary of \$3,564 per month.*

Section 100.10(8): *The master commissioner's office is to pay the deputy the prorated allowable compensation monthly in an amount not to exceed the accumulated allowable salary proportionate to the time served. The disbursement must be made at the end of each month of service.*

Section 100.10(9): *The deputy master commissioner's compensation is to be paid from the fee account of the office of the master commissioner.*

Section 100.10(10): *Salaries and/or hourly wages for all staff are to be approved in writing by the **Executive Officer, Department of Financial Services**, as follows:*

- a) Approval is required for the master commissioner to compensate any existing and/or new staff out of fees generated by the office.*
- b) Approval for the number of employees and the hourly wage or monthly salary is required.*

# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

Section 100.10(11): *All full-time and part-time employees must keep track of their time using time sheets in a format designated by the master commissioner. These time sheets must be reviewed by the master commissioner at the end of each pay period. The time sheet must be signed and dated by the employee, then reviewed, signed, and dated by the master commissioner. Time sheets must be retained for a period of three years from the end of the calendar year.*

Section 100.10(12): *All staff are employees of the master commissioner in his or her role as master commissioner. They must be paid out of a payroll specifically for the office of the master commissioner. In their role as employees of the master commissioner, employees may **not** be paid out of the payroll of the master commissioner's private practice. The master commissioner may **not** lease employees from his or her private practice.*

# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

### Section 100.10(13): Full Time Staff

- Full-time is defined as a minimum of 37.5 hours per week performing only master commissioner work.
- Any staff who works more than 100 hours per month on master commissioner work is eligible for retirement benefits through the Kentucky Employees Retirement System. The master commissioner must report creditable compensation of such staff and submit payment for employee contributions on a monthly basis as directed by **the Kentucky Public Pensions Authority**.
  - If the master commissioner fails to file all required contributions and reports on or before the tenth day of the month following the period being reported, interest on the delinquent contributions of at least \$1,000 per month may be charged by the Kentucky Public Pensions Authority to the master commissioner pursuant to KRS 61.675.
  - Late reporting penalties are **not** allowable expenses.
  - Late reporting penalties may be paid by the AOC. The annual limit on the master commissioner's personal compensation shall be reduced by the amount of any late reporting penalties paid by the AOC.
- Authorized office expenses
  - Full-time staff is eligible for health insurance. Health insurance premiums must be approved in writing by the **Executive Officer, Department of Financial Services**, prior to the policy initiation or renewal.
  - Unemployment Insurance is an authorized expense. The master commissioner must establish an appropriate account with the Unemployment I Tax Enforcement Branch. Contact information may be obtained from the **Department of Financial Services** at AOC.
- Paid by AOC
  - a) The employer contribution for Social Security is paid by the AOC for full time staff. Medicare match is an allowable benefit for full-time employees. Employee deductions are to be reported and remitted monthly to the Finance and Administration Cabinet **Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB)** on the Commonwealth of Kentucky form SS-16 or SS-16A.
  - b) Workers Compensation is paid by AOC.
- Flexible benefits and 401(k) matching are **not** allowable expenses.



# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

### Section 100.10(14): Part Time Staff

- Staff working less than 37.5 hours per week are part-time staff.
- Part-time staff who work less than 100 hours per month are **not** eligible for retirement benefits through the Kentucky Employees Retirement System.
- Part-time staff is **not** eligible for health insurance.
- Authorized office expenses
  - Unemployment Insurance is an authorized expense. The master commissioner must establish an appropriate account with the Unemployment I Tax Enforcement Branch. Contact information may be obtained from the **Department of Financial Services** at AOC.
- Paid by AOC
  - The employer contribution for Social Security is paid by the AOC for full time staff. Medicare match is an allowable benefit for full-time employees. Employee deductions are to be reported and remitted monthly to the Finance and Administration Cabinet **Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB)** on the Commonwealth of Kentucky form SS-16 or SS-16A.
  - Workers Compensation is paid by AOC.
- Flexible benefits and 401(k) matching are not allowable expenses.

# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

Section 100.10(15): *Changes in salary amounts and other budgetary allowances for the master commissioner, deputy master commissioner, and staff are at the discretion of the **Executive Officer, Department of Financial Services**, with approval of the Chief Justice.*

*The Administrative Office of the Courts, **Department of Financial Services**, will notify master commissioners of salary changes before the effective date of January 1 of each year.*

Section 100.10(16): *Expenses other than payroll and benefits.*

- a) Full-time offices authorized by the Chief Justice may deduct ordinary business expenses allowed by the IRS and directly related to the master commissioner responsibilities. When purchasing supplies and/or services, the master commissioner and staff must be prudent buyers. Purchases may not be made from related entities or persons. In no case shall the good or service be purchased at a rate higher than fair market value.*
- b) Purchase of any item with a cost in excess of **\$500** must have prior written approval of the **Executive Officer, Department of Financial Services**. A copy of such approval must be attached to the paid invoice.*
- c) Costs must **not** be allocated between the office of the master commissioner and the private practice of the master commissioner without the prior approval of the **Executive Officer, Department of Financial Services**.*
- d) A fidelity bond **equal to the penal sum of the master commissioner's bond as determined by the AOC** shall be maintained for all staff with check signing authority.*
- e) Check printing charges for the master commissioner escrow and fee account(s) may be paid from the fee account only when excess fees are available.*
- f) A master commissioner subscription to CourtNet may be obtained directly from AOC at [courtnetbilling@kycourts.net](mailto:courtnetbilling@kycourts.net) for master commissioners for a fee. The CourtNet access through this subscription shall not be used for any personal or private business, but only for records searches related to master commissioner activity. This cost is authorized to be paid from available excess fees.*

# Master Commissioner Accounting Manual

## Section 100.10 - Limits on Annual Compensation of Deputy Master Commissioner

Section 100.10(16)(g): *A master commissioner who has been sued in his or her capacity as master commissioner must report the litigation to the AOC Office of General Counsel upon service of the summons and complaint or otherwise upon becoming aware of the litigation. The AOC General Counsel may arrange for representation to be paid by the AOC. When the AOC does not pay for representation, attorney fees are an allowable expense subject to the following:*

- i) The retention of counsel has been approved by the Executive Officer of Financial Services and the AOC General Counsel;*
- ii) The contract between the attorney and the master commissioner has been approved in advance by the AOC Department of Financial Services; and*
- iii) The hourly rate does not exceed the Commonwealth's standard reimbursement rates for legal services as published by the Kentucky Legislature's Government Contract Review Committee unless otherwise approved by the Executive Officer of Financial Services and the AOC General Counsel.*

Section 100.10(17): *All compensation is to be reported monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 9. Limit on  
Compensation of Master  
Commissioners, Deputies, and  
Clerical Staff

Excess Fees

(3) Fees in excess of the personal compensation of the master commissioner, less authorized salaries and expenses, shall be remitted as provided in Section 10(4) of these Rules; however, up to anticipated **six months expenses, including the master commissioner salary**, may be retained. Computation of anticipated **six months** expenses shall be supported by adequate records and documentary evidence which shall also be submitted with the annual accounting report tendered to the Administrative Office of the Courts, Department of Financial Services.

# Master Commissioner Accounting Manual

## Section 100.11 - Excess Fees

Section 100.11(3): *The excess fees must be remitted to the Administrative Office of the Courts, **Department of Financial Services**, with the annual report on or before March 1st of the following year, or immediately upon termination of office.*

# Accounting of Master Commissioners





# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 10. Accounting of Master Commissioners

(1) **Individual Case Report.** Each master commissioner shall account to the circuit judge under whose direction he or she is acting for all amounts received and distributed, for all proceeds of sales disbursed, for all fees collected, and for all expenses deducted. These accounts shall be in the manner directed by the circuit judge who shall approve the accounts by his or her signature. The master commissioner shall file the approved accounts with the circuit court clerk who shall record the approved accounts in the case management system and file in the applicable case. Each master commissioner shall maintain a current account kept in the office of the circuit court clerk or in the office of the master commissioner if the chief circuit judge so directs, of each case in which a fee has been received.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 10. Accounting of Master Commissioners

(2) **Annual Accounting Report.** Each master commissioner shall provide to the Administrative Office of the Courts, Department of Financial Services, on or before March 1st of each year, a complete accounting of the prior calendar year for all fees collected and for all expenses deducted. The accounting shall be reported on a form prescribed by the Administrative Office of the Courts. The report shall contain, at a minimum, the following information:

- (a) Name (printed);
- (b) Address;
- (c) County and Circuit;
- (d) Total income received (fees, commissions and other income including interest);
- (e) Fees retained from previous year for three months estimated expense;
- (f) Expenses as provided in Subsection (3) herein below;
- (g) Master commissioner salary cap;
- (h) Notarized signature of master commissioner;
- (i) Signature of approving circuit judge.

# Master Commissioner Accounting Manual

## Section 100.12 – Accounting of Master Commissioners

Section 100.12(5): ...*Supporting documentation demonstrating approval of the **Executive Officer of the Department of Financial Services**, when required for expenses, must be attached to the Business Expenses for Master Commissioners schedule (Schedule A or B) attached to the annual report.*

Section 100.12(6): *The accounting must be completed utilizing the Annual Report of Master Commissioner form provided by Administrative Office of the Courts.*

Section 100.12(7): *The master commissioner is responsible for all IRS 1099 reporting requirements as directed by the **SSCRB**.*

Section 100.12(8): *All compensation is to be reported monthly to the Finance and Administration Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB) on the Commonwealth of Kentucky form SS-16 or 16-A, as directed by the SSCRB.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 10. Accounting of Master Commissioners

### (3) Expenses.

(a) Adequate records and documentary evidence shall be maintained to support each element of an expense. See IRS Publication 463 and 535 Sections 62, 162, and 274 of the Internal Revenue Code for additional information.

(b) Only salaries, bonding expenses, and other expenses authorized for employees in accordance with Section 2(10) which are directly related to the office of master commissioner, check printing charges, and the cost incurred for the purchase of accounting/bookkeeping software mandated by the Administrative Office of the Courts auditing standards may be deducted from any fees in excess of the personal compensation of the master commissioner. Salaries are to be itemized per employee.

(c) Notwithstanding any provision to the contrary herein, a master commissioner authorized by the Chief Justice to operate a full-time master commissioner's office and who does not engage in any private business enterprise in the master commissioner's office may deduct business expenses directly related and necessary to the operation of the master commissioner's office as established by the Administrative Office of the Courts auditing standards.

# Master Commissioner Accounting Manual

## Section 100.12 – Accounting of Master Commissioners

Section 100.12(10): ...Salaries must **not** exceed the amount authorized by the ***Executive Officer, Department of Financial Services***.

Section 100.12(12): Each master commissioner must maintain a ledger control balance by case for all escrow funds received for executing the duties of master commissioner. Failure to maintain a detailed escrow ledger card balance per case (inflows and outflows) results in a lack of “book balance.”

Section 100.12(13): Ledger control cards must be balanced with the escrow account bank reconciliation to identify all funds held and case number associated with said funds. This will enable the master commissioner as well as the Administrative Office of the Courts to track all funds handled and disbursed by the office of master commissioner by case.

Section 100.12(14): Each ledger card should accurately and completely reflect the amounts reported in the order of distribution and/or individual case report filed by the master commissioner.

Section 100.12(15): Implementation of a ledger system must be as follows:

- a) By manual ledger cards, or
- b) By an electronic accounting system where each case is identified separately.

# Master Commissioner Accounting Manual

## Section 100.12 – Accounting of Master Commissioners

Section 100.12(16): *The master commissioner should retain a copy of each check received as payment of judicial sale proceeds, stamped with the date of receipt. Sale proceeds should be deposited to the escrow account daily as received.*

Section 100.12(17): *All master commissioner fees disbursed from the escrow account must be deposited in a separate interest bearing “fee” checking account. The master commissioner must deposit all master commissioner fees generated in the execution of duties as master commissioner into this fee account not less than weekly, although daily deposits are recommended.*

Section 100.12(18): ***Administrative Office of the Courts, Department of Financial Services***, provides the Annual Report of Master Commissioner form to each master commissioner. This form must be filed on or before March 1st of each year. Any questions regarding the completion of the annual report should be directed to the ***Department of Financial Services***.

Section 100.12(19): *Excess fees from the fee account, pursuant to Section 9(3) of AP Part IV, must be remitted by check along with the Annual Report of Master Commissioner. In addition, the master commissioner should remit all interest earned during the year on a separate check drawn on each account. Checks are to be made payable to the “Kentucky State Treasurer.”*



# Master Commissioner Accounting Manual

## Section 100.12 – Accounting of Master Commissioners

Section 100.12(20): *As stated in Section 100.9(5) of this manual, the master commissioner must maintain an escrow account for all judicial sale funds received and disbursed and a separate fee account where all fees generated by the office of the master commissioner are deposited.*

- a) Any disbursement of commissioner funds which is not in compliance with court orders, does not relate to authorized expenses, or otherwise represents activities unrelated to commissioner duties and functions, must be reported immediately to Audit Services **and Financial Services** at the Administrative Office of the Courts.*
- b) Any deposit of personal or non-commissioner funds to either account must be reported immediately to Audit Services **and Financial Services** at the Administrative Office of the Courts.*

*Any deposit of commissioner funds to personal or non-commissioner accounts must be reported immediately to Audit Services **and Financial Services** at the Administrative Office of the Courts.*

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 10. Accounting of  
Master Commissioners

Excess Fees

(4) Excess fees referred to in Section 9 shall be remitted with the annual accounting report to the Administrative Office of the Courts, Department of Financial Services, in accordance with Section 2(10).

# Escrow Accounts



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 11. Escrow Accounts of Master Commissioners

Master commissioners shall maintain one or more separate interest bearing escrow accounts for all proceeds received and disbursed and shall maintain an itemized accounting of same.

Proceeds relating to the office of the master commissioner shall not be co-mingled with any other accounts or funds held by the master commissioner in his or her personal or other professional capacity.

Interest earned on the account shall be remitted to the Administrative Office of the Courts, Department of Financial Services with the annual accounting report in accordance with Section 2(10).

The account shall be subject to periodic audits, but no less than annual audits, by the Administrative Office of the Courts, Office of Audits.

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

Section 100.13(2): *Where a master commissioner operates as master commissioner for multiple counties or acts as both a master commissioner and as a domestic relations commissioner, all fees must be deposited into a single operating account.*

*a) Deposits must be clearly identified by county or type (MC or DRC) and must be tracked through separate income/revenue accounts in the accounting software or manual ledgers.*

*b) Only master commissioner fees earned in the applicable county may be used to pay compensation and office expenses in that county. Only DRC fees can be used to pay authorized DRC compensation.*

*c) Excess fees must be calculated for each county and type (MC/DRC) separately and properly reported on the applicable Annual Report.*

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

Section 100.13(6): *All master commissioner bank accounts are to be set up under the Commonwealth of Kentucky Federal ID (61-0600439) and must have “Commonwealth of Kentucky” as the first line in the account name. All interest earned must be remitted with each year’s annual report. Copies of the December bank statements showing the year to date (YTD) interest earned on each account must be attached to the Annual Report. A separate check from each account is to be made payable to the “Kentucky State Treasurer.”*

Section 100.13(7): *An AOC-approved collateral security agreement is required from the bank. The collateral security agreement must require the bank to pledge securities for all amounts over the FDIC insured amount and to provide regular statements of pledged securities from the Trustee to the master commissioner. A pre-approved collateral security agreement is attached to this manual as Appendix A. If any collateral security agreement other than the pre-approved copy supplied by AOC is proposed, the master commissioner must submit a copy to the Department of Financial Services, for approval prior to the execution of the agreement. If the proposed collateral security agreement is not approved by AOC, the master commissioner must negotiate an AOC-approved agreement with the bank.*

An AOC approved Collateral Security Agreement template has been added to the manual.

- All master commissioners are required to have a CSA.
- If the bank does not accept the AOC CSA, please submit the bank’s CSA to [MasterCommissionersFiling@kycourts.net](mailto:MasterCommissionersFiling@kycourts.net) for AOC approval before signing.
- Requests for CSA waivers will no longer be approved.



# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

### COLLATERAL SECURITY AGREEMENT

THIS COLLATERAL SECURITY AGREEMENT, hereinafter called "Agreement", is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, by and between \_\_\_\_\_, hereinafter called "Depositor", and \_\_\_\_\_, a financial institution organized under the laws of the United States or Commonwealth of Kentucky and authorized by law to conduct banking business in the Commonwealth of Kentucky, hereinafter called "Bank."

#### I. RECITALS

A. The Depositor is a validly existing governmental officer or entity in Kentucky, and has designated the Bank as a depository for its funds. All funds on deposit with the Bank to the credit of the Depositor are required to be insured by the Federal Deposit Insurance Corporation or be secured by collateral of the like and kind described in KRS 41.240 (hereinafter called "Public Funds Law").

B. To perfect the security interest of the Depositor in the collateral to be pledged by the Bank hereunder, \_\_\_\_\_ (hereinafter called "Trustee"), an independent third party, will hold the collateral in a custody account for the benefit of the Depositor. The Bank shall not utilize the Trustee if such Trustee and Bank are owned by a single bank holding company.

C. The parties hereto desire to provide for the collateralization of the Depositor's funds as required by the Public Funds Law and on the terms and conditions set forth herein. This Collateral Security Agreement was approved by, and duly recorded in the minutes of, the Board of Directors or Loan Committee of the Bank on \_\_\_\_\_, 2\_\_\_\_.

D. The Bank shall maintain this Agreement among its official records continuously until such time this Agreement is terminated and all deposits of the Depositor have been properly paid out.

#### II. AGREEMENT

IN CONSIDERATION of the foregoing and mutual covenants and promises set forth below, the parties hereto agree as follows:

A. During the term of this Agreement, the Depositor will designate the officer or officers who singly or jointly shall be authorized to represent and act on behalf of the Depositor in any and all matters of every kind arising under this Agreement. The Bank's deposit agreement is incorporated herein for all purposes; however, to the extent that any provision in such deposit agreement conflicts with the provisions hereof, the provisions of this Agreement will control.

B. The Bank hereby pledges to the Depositor and grants to the Depositor a security interest in certain assets owned by the Bank and held by the Trustee for the benefit of the Depositor (hereinafter called "Collateral") to secure the deposits held by the Bank for the Depositor as follows:

1. The total market value of the Collateral securing such deposits will be in an amount having an aggregate current face value or current quoted market value at least equal to

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

the amount of such deposits as of the last business day of each quarter in which funds are so deposited, reduced to the extent that such deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

2. At no time shall Depositor's funds collectively exceed the Bank's sum of capital, reserves, undivided profits, and surplus, or 10% of the total deposits of the Bank, whichever is less.

C. The Bank has heretofore or will immediately hereafter deliver to the Trustee Collateral of the kind and character permitted by the Public Funds Law. The Collateral shall be of sufficient amount or market value to provide adequate collateral for funds of the Depositor deposited with the Bank, as provided by Article II.B.1 herein. The Collateral, or substitute Collateral as hereinafter provided for, shall be kept and retained by the Trustee in trust so long as the depository relationship between the Depositor and the Bank shall exist hereunder, and thereafter until all deposits made by the Depositor with the Bank shall have been properly paid out by the Bank to the Depositor or on its order.

D. The Bank shall cause the Trustee to accept the Collateral and hold the same in trust for the purpose herein stated.

E. The Bank shall cause the Trustee to promptly forward to the Depositor copies of safekeeping or trust receipts covering all Collateral, or substitute Collateral as provided for herein, held by the Trustee for the benefit of the Depositor within three (3) business days of the Collateral pledge. The Bank shall also cause the Trustee to remit statements of accounts of the Collateral to the Depositor at least on a quarterly basis.

F. Should the Bank fail at any time to pay and satisfy upon presentment, any check, electronic funds transfer, draft, or voucher lawfully drawn upon public funds deposited with the Bank whenever due, or in case the Bank becomes insolvent, or fails to maintain adequate Collateral as required by this Agreement, or in any manner breaches its contract with the Depositor, the Depositor may give written notice of such failure, insolvency or breach and the Bank shall cure such failure, insolvency, or breach within three (3) business days from receipt of such notice. In the event the Bank shall fail to cure such failure, insolvency, or breach within three (3) business days of its receipt of such written notice from the Depositor, it shall be the duty of the Trustee, upon demand of the Depositor with the proper supporting evidence thereof, to surrender the Collateral to the Depositor.

1. The Depositor may sell all or any part of the Collateral and out of the proceeds thereof pay the Depositor all damages, losses, and expenses of any and every kind incurred by it on account of such failure, insolvency, or breach, or sale. The Depositor shall account to the Bank for the remainder, if any, of such proceeds or Collateral remaining unsold.
2. Any sale of the Collateral or any part thereof made by the Depositor may be either at public or private sale; provided, however, that notice of time and place where such sale shall be given three (3) days prior to the sale to the Depositor and the Bank. Such sale

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

shall be to the highest bidder thereof for cash. The Depositor and Bank shall have the right to bid at such sale.

G. If the Bank shall desire to sell or otherwise dispose of any one or more of the securities constituting part of the Collateral deposited with the Trustee, it may substitute for any one or more of such securities other securities of the same market value and of the character authorized herein after written notice of such substitution is provided to the Depositor. The Depositor shall have the right to reject substitute Collateral by the Bank. Such right of substitution shall remain in full force and may be exercised by the Bank as often as it is desired; provided that the aggregate market value of all Collateral pledged hereunder shall be at least equal to the amount of Collateral required hereunder.

H. If at any time the aggregate market value of the Collateral so deposited with the Trustee is less than the amount required hereunder, the Bank shall within one (1) business day deposit with the Trustee such additional amount as may be necessary to cause the market value of such Collateral to equal the total amount of required Collateral hereunder.

I. The Bank shall be entitled to income on securities held by the Trustee, and the Trustee may dispose of such income as directed by the Bank without the approval of the Depositor, provided a breach of contract does not exist.

J. If at any time the Collateral in the hands of the Trustee shall have a market value in excess of the amount required hereunder, the Depositor shall authorize the Trustee to withdraw a specified amount of Collateral equal to the amount in excess of that required. The Trustee may deliver this amount of collateral, and no more, to the Bank taking its receipt therefore, and the Trustee shall have no further liability for Collateral so redelivered to the Bank.

K. Each party shall have the right to terminate this Agreement by advance written notice to the other of its election to do so, and this Agreement shall be void from and after the expiration of sixty (60) days after the receipt of such notice provided all provisions of this Agreement have been fulfilled.

L. When the relationship of the Depositor and the Bank has ceased to exist and the Bank shall have properly paid out all deposits of the Depositor, the Depositor shall give to the Trustee written notice to that effect; whereupon the Trustee shall redeliver to the Bank all Collateral then in its possession belonging to the Bank taking receipt therefore.

M. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky and venue for any disputes related to this Agreement shall be in Kentucky.)

N. Any modifications to this Agreement, or change in Trustee, shall be agreed to in writing signed by the Depositor and the Bank.

O. This Agreement is continuing and binding upon the bank and its successor and assigns and shall inure to the benefit of the Depositor.

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

P. As used in this Agreement, the term "business day" shall mean a day in which the Federal Reserve Bank shall be open for the transaction of business.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, by the undersigned  
duly authorized officers of the parties hereto.

DEPOSITOR:

By: \_\_\_\_\_  
(Signature of Public Official)

Title: \_\_\_\_\_

BANK:

By: \_\_\_\_\_  
(Signature of Bank Official)

Title: \_\_\_\_\_



# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

Section 100.13(8): *The master commissioner is the only person authorized to sign checks unless prior approval is received in writing from the **Executive Officer, Department of Financial Services**.*

Section 100.13(9): *All documentation to support the payee and check amount must be provided with the check at the time the check is signed. The supporting documentation must be stamped or annotated as paid when the check is signed. The stamped or annotated supporting documentation must include the date, check number, and amount paid.*

Section 100.13(10): *Checking accounts must be reconciled on a monthly basis. The reconciliation must be performed within 30 days of the date of the bank statement. If the account agreement with the bank calls for a period of less than 30 days, then the reconciliation must be performed in accordance with the agreement with the bank. The reconciliation must be performed by either the Master Commissioner or an individual **without** check signing authority. The monthly bank statements must be mailed to and opened by the individual performing the reconciliation. The master commissioner must review and approve each month's reconciliations and denote such approval by signing and dating each month's reconciliation. These procedures also apply to the fee checking account.*

.

# Master Commissioner Accounting Manual

## Section 100.13 - Escrow Accounts

Section 100.13(11): *Stale dated checks and checks outstanding over six months must be voided and added back to applicable case balances. If the master commissioner is unable to reissue payment as ordered by the court, the funds must be held until they are eligible to be escheated as unclaimed property.*

Section 100.13(12): *The master commissioner must disburse all judicial sale proceeds per court orders. If the master commissioner is unable to locate a payee, if stale dated checks are voided and cannot be reissued, or if proceeds in excess of the judgments, costs, and fees are unclaimed, those funds must be considered unclaimed pursuant to the applicable statute. Funds are not eligible for escheatment if the judicial sale has not been confirmed or objections or appeals remain unresolved.*

Section 100.13(13): *Blank checks may **not** be signed in advance. Unused check stock must be maintained in a locked container when not in use. Only those with check signing authority shall have access to the check stock. Facsimile signatures are **not** allowed.*



# Transfer of Office



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 12. Transfer of Office;  
Use of Proof and Performance  
of Duties of Predecessor

(1) Upon the death, termination or removal of a master commissioner, all books, papers, account information, case files and other documents related to the office of master commissioner shall be immediately transferred to the circuit judge for whom the master commissioner served and immediate notice shall be given to the Administrative Office of the Courts, Department of Financial Services. In a single-judge circuit, if termination is due to the death, resignation, or permanent replacement of the circuit judge who appointed the master commissioner, said documents shall be transferred pursuant to the order of the chief regional circuit judge.

(2) The master commissioner or receiver may use any proof reduced to writing and signed by his or her predecessor, and may execute any order or judgment which it was the duty of the predecessor to have executed, and which remains unexecuted.

# Master Commissioner Accounting Manual

## Section 100.14 - Transfer of Office

Section 100.14(2): *Upon death, termination, or removal of a master commissioner, the circuit judge should immediately notify the **Administrative Office of the Courts, Department of Financial Services**.*

Section 100.14(3): *Transfer of all funds, records, and documents **must be accomplished within 60 days of termination or removal** and must be made pursuant to the order of the appointing circuit judge or the chief regional circuit judge, if termination is due to the death, resignation, or permanent replacement of the circuit judge who appointed the master commissioner.*

Section 100.14(4): *All financial records must be made immediately available to the Division of Audit Services to facilitate a close-out audit of the former master commissioner.*

Section 100.14(5): *Upon termination or removal of a master commissioner, a Final Report of Master Commissioner must be completed by the former master commissioner **within 30 days**, and submitted to the **Department of Financial Services** along with any applicable excess fees and/or interest. The Final Report of Master Commissioner form may be obtained from the **Department of Financial Services**.*

Section 100.14(6): *Upon death of a master commissioner, a Final Report of Master Commissioner must be completed by the newly appointed master commissioner with the assistance of a judicial auditor following the close-out audit. This report must be submitted to the **Department of Financial Services** along with any applicable excess fees and/or interest.*

# Disqualification



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 13. Disqualification of  
Master Commissioner; Special  
Commissioners

(1) For the purposes of this section the following words or phrases shall have the meaning indicated:

(a) "Fiduciary" includes such relationships as executor, administrator, conservator, trustee, and guardian;

(b) "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

i. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

ii. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 13. Disqualification of Master Commissioner; Special Commissioners

(2) When performing judicial functions, any master commissioner shall disqualify him/herself in any case:

(a) Where he or she has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the case, or has expressed an opinion concerning the merits of same;

(b) Where in private practice or government service he or she served as a lawyer or rendered a legal opinion in the matter in controversy, or a lawyer with whom he or she previously practiced law served during such association as a lawyer concerning the matter in controversy, or the master commissioner or such lawyer has been a material witness concerning the matter in controversy;

(c) Where he or she knows, individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;

(d) Where the master commissioner or his or her spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

i. Is a party to the proceeding, or an officer, director, or trustee of a party;

ii. Is acting as a lawyer in the proceeding and the disqualification is not waived by stipulation of counsel in the proceeding filed therein;

iii. Is known by the master commissioner to have an interest that could be substantially affected by the outcome of the proceeding;

iv. Is to the knowledge of the master commissioner likely to be a material witness in the proceeding.

(e) Where he or she has knowledge of any other circumstances in which his or her impartiality might reasonably be questioned.



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 13. Disqualification of  
Master Commissioner; Special  
Commissioners

(3) Any master commissioner disqualified under the provisions of this section or unable to discharge the duties of his or her office for any other reason shall be replaced by a special commissioner who shall be appointed by the judge of the court before whom the action is pending.

(a) The judge shall enter an order appointing the special master commissioner and shall provide a copy of the order to the Administrative Office of the Courts, Department of Financial Services.

(b) The special commissioner shall meet the same qualifications as a master commissioner and shall take an oath, execute a bond in an amount to be set by the chief circuit judge based upon the estimated sum to be derived from the proceedings, and be subject to the same rules as the regular master commissioner.

# Bonds and Oaths



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

## Section 14. Bond; Special Bond of Master Commissioners

(1) The Administrative Office of the Courts shall execute a blanket bond on behalf of master commissioners.

(2) The master commissioner shall execute a special bond when circumstances warrant as required by the court and no action shall be maintained on the blanket bond for matters covered by a special bond. A special bond shall be recorded in the office of the circuit court clerk and a copy shall be submitted to the Administrative Office of the Courts, Department of Financial Services, with the annual accounting report.

(3) The master commissioner shall procure a surety bond on any employee who has access to the funds received and disbursed by the master commissioner. The surety bond shall be recorded in the office of the circuit court clerk and a copy shall be submitted to the Administrative Office of the Courts, Department of Financial Services, with the annual accounting report.

Rules of  
Administrative  
Procedure Part  
IV, *Master  
Commissioners  
of the Circuit  
Court*

Section 16. Oath

The master commissioner shall take an oath that he or she will faithfully and honestly discharge the duties of his or her office. The oath shall be administered by the circuit judge and a copy shall be filed in the office of the circuit court clerk.

# Compensation of Special Master Commissioners



# Rules of Administrative Procedure Part IV, *Master Commissioners of the Circuit Court*

Section 15. Compensation of  
Special Master Commissioners

Fees earned by a master commissioner for service as a Special Master Commissioner in another county(ies) shall be treated as follows:

- (1) The first \$5,000 earned annually from service as a Special Master Commissioner shall not count toward the master commissioner's salary cap, and should not be reported on the Annual Report of Master Commissioner.
- (2) Any fees in excess of \$5,000 earned annually from service as a Special Master Commissioner shall count toward the master commissioner's salary cap, and shall be reported on the Annual Report of Master Commissioner.



# Master Commissioner Accounting Manual

## Section 100.15 - Limits on Annual Compensation of Special Master Commissioner

Section 100.15(4): *Special master commissioners are **not** entitled to benefits.*

Section 100.15(5)(a): *The first \$5,000 earned annually from service as a special master commissioner ... should not be reported ... to the Finance and Administration Cabinet, **Department of Local Government Services, Social Security Coverage and Reporting Branch (SSCRB)**.*

Section 100.15(5)(b): *Any fees in excess of \$5,000 earned annually from service as a special master commissioner ... must be deposited to the master commissioner's fee account.*

Section 100.15(6): *The special master commissioner is responsible for IRS Form 1099 reporting requirements as directed by the Finance and Administration **Cabinet Department of Local Government Services Social Security Coverage and Reporting Branch (SSCRB)**.*

Section 100.15(7): *In the event of extenuating circumstances where the appointed master commissioner cannot perform his or her duties for an extended period of time, the appointed special (acting) master commissioner should be considered a deputy master commissioner for compensation purposes, with allowable annual salary of **\$42,768** prorated at **\$3,564** per month for each month served as acting master commissioner.*

Section 100.15(8): *The **Department of Financial Services** must be notified when a special or acting master commissioner is appointed.*

**Break**

# Auditing

# **Master Commissioner Advisory Committee Presentations**

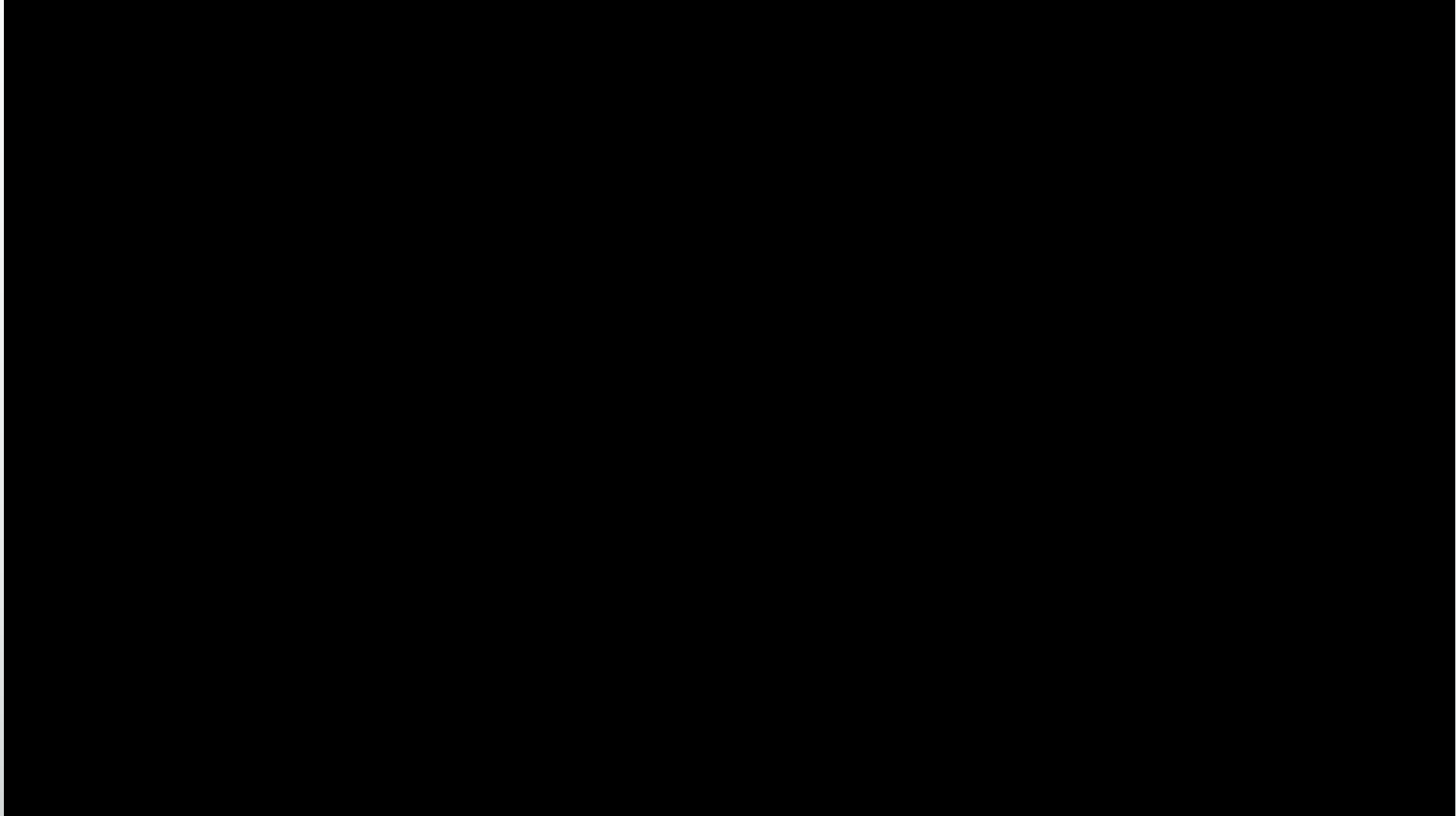
James H. Frazier, Chairman (Fayette)  
Duties, Responsibilities & Processes of Master Commissioners  
& Receiverships

Carole C. Schneider, Vice-Chairman (Jefferson)  
Tax Certificate Foreclosures, Abandoned Excess Funds & Escheats



# Tom Blankenship (Marshall)

## Kentucky Code of Judicial Conduct



# Stephen Hogg (Pike)

## No Bidder Tax Sales & Threats Regarding Sale

# Howard Mann (Whitley)

Valerie Shannon (Oldham)