



COMPTROLLER'S INVESTIGATIVE REPORT

Madison County Commissioner

September 12, 2022

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

September 12, 2022

Madison County Mayor
and Board of Commissioners
100 E Main St, Suite 302
Jackson, TN 38301

Madison County Officials:

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the Madison County Commissioner, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the *Pro Tem* District Attorney General of the 30th Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", with a long horizontal flourish extending to the right.

Jason E. Mumpower
Comptroller of the Treasury

JEM/MLC

INVESTIGATIVE REPORT

Madison County Commissioner

The Office of the Comptroller of the Treasury, in conjunction with the Tennessee Bureau of Investigation, investigated allegations of malfeasance related to a former Madison County commissioner charging a fee to officiate marriage ceremonies. The investigation was limited to selected records for the period from January 1, 2015, through July 31, 2021. The results of the investigation were communicated with the Office of the District Attorney General of the 30th Judicial District who was appointed as *Pro Tem* in this matter.

BACKGROUND



The County Commission is the legislative body of Madison County. The county is divided into 10 districts and its 25 commissioners are elected to four-year terms. In addition to exercising legislative authority on such matters as taxes, budgets and other policy matters, county commissioners may solemnize marriages per *Tennessee Code Annotated*, Section 36-3-301(a). Commissioners may accept gratuities for performing wedding ceremonies but may not charge a fee or demand any other form of compensation for such services. Op. Tenn. Att’y Gen. 11-18.

The Madison County Clerk’s Office is in the Madison County Courthouse in Jackson, Tennessee. The clerk is elected every four years and employs a staff of 11 to perform the daily office duties. The clerk provides various services, including the issuance of motor vehicle titles, registrations, and marriage licenses.

A former commissioner (commissioner) was first appointed to the Madison County Commission in 2009. The commissioner served on various committees including the audit, budget, insurance, and the risk management committees. The commissioner was appointed chairman of the budget committee in January 2011.

The commissioner informed investigators that he started performing marriage ceremonies on a part-time basis after being appointed commissioner in 2009, and in 2017, he began performing them on a full-time basis.

RESULTS OF INVESTIGATION

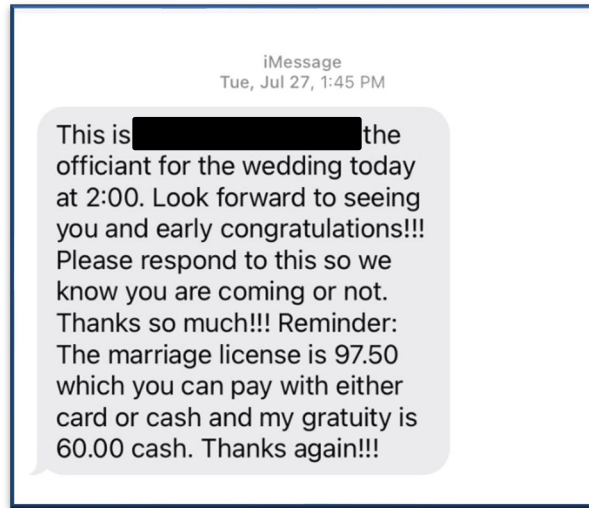
1. A FORMER MADISON COUNTY COMMISSIONER CHARGED AND COLLECTED AN ESTIMATED \$115,220 IN UNLAWFUL FEES TO OFFICIATE MARRIAGE CEREMONIES

Between January 1, 2015, and July 31, 2021, a former commissioner charged and collected an estimated \$115,220 in unlawful fees to officiate at least 1,970 marriage ceremonies. Investigators determined that, with rare exceptions, the commissioner charged couples a pre-set cash fee of \$50-\$60 for all marriage ceremonies he performed. He did not advise couples that the fee was optional, which inferred that the fee was required. It is lawful for a commissioner to accept a voluntary gratuity for officiating marriage ceremonies, as expressly provided by *Tennessee Code Annotated*, Section 36-3-301(c). However, pursuant to *Tennessee Code Annotated*, Section 8-21-101, it is not lawful for him to charge a fee or demand compensation for performing wedding ceremonies.

The Madison County Clerk confirmed to investigators that he counseled the commissioner on the legality and impropriety of charging for marriages and made all county commissioners aware of *Tennessee Code Annotated*, Section 36-3-301(c) by emailing a copy of the solemnizing marriage statute to each commissioner. Investigators interviewed the commissioner, who stated that he “asks for a \$60 cash gratuity when performing ceremonies.” However, investigators determined that the commissioner used varying language such as “my fee”, “my part”, and “I ask for” when speaking with individuals about payment prior to performing their marriage ceremony. The commissioner further advised that he had been charging \$60 for five years. Prior to that, he charged \$50 to perform ceremonies.

The commissioner provided investigators with a text message he sends to individuals prior to performing their ceremony. **(Refer to Exhibit 1.)** While the commissioner’s text message makes reference to “my gratuity,” it also sets a \$60 cash price for the service. The term “gratuity” has been defined as “something given voluntarily or beyond obligation, usually in return for or in anticipation of some service.” *Webster’s Ninth New Collegiate Dictionary*. By setting a fixed price for performing the wedding ceremony, the commissioner was clearly charging and requiring the payment of a fee rather than accepting a gratuity in an unknown or undetermined amount. Investigators also confirmed that some individuals for whom the commissioner had officiated ceremonies within the last year believed that amount paid to him was not a voluntary gratuity but understood that it was a required fee for him to officiate their marriage ceremony.

Exhibit 1



Text message sent by the commissioner to individuals prior to officiating their marriage ceremony

Investigators reviewed official marriage records from the Madison County Clerk’s Office and determined that between calendar years 2015 and 2016, the commissioner officiated 298 marriage ceremonies, and from 2017 through July 31, 2021, the commissioner officiated 1,672 marriage ceremonies, for a total of 1,970 ceremonies. Based upon information provided by the commissioner regarding his fees charged during those dates in question, investigators concluded that he collected approximately \$115,220 in unlawful fees between January 1, 2015, and July 31, 2021.

Summary of Estimated Unlawful Fees Collected by the Commissioner:

Summary of Ceremonies Performed by the Commissioner and Estimated Unlawful Fees Collected			
Year	Ceremonies Performed	Amount Collected	Total
2015	45	\$50	\$2,250
2016	253	50	12,650
2017	369	60	22,140
2018	385	60	23,100
2019	329	60	19,740
2020	381	60	22,860
July 31, 2021	<u>208</u>	60	<u>12,480</u>
Total	1,970		\$115,220

2. THE MADISON COUNTY CLERK’S OFFICE DIRECTED AND REFERRED THE MAJORITY OF MARRIAGE CEREMONIES TO A FORMER COUNTY COMMISSIONER

To obtain a marriage license in Madison County, applicants must visit the Madison County Clerk’s Office. Once the license has been issued by the clerk’s office, applicants must have their marriage solemnized within 30 days. If an applicant does not have an officiant to perform the ceremony, the clerk’s office will provide them with a list of contact information for county commissioners and other individuals who can solemnize marriages.

Our investigation revealed that the list provided to applicants by the clerk’s office contained 10 names; however, investigators saw deputy clerks circling the commissioner’s name on the list when providing it to applicants and heard them say that he was “the one they use.” (Refer to **Exhibit 2.**) Staff at the clerk’s office would also apprise applicants of the commissioner’s fee and that the fee would need to be paid directly to him in cash. When asked about other names on the list, the deputy clerks stated they did not know anything about anyone other than the commissioner. Investigators also discovered the clerk’s office kept an appointment calendar, provided to the office by the commissioner, that they used to schedule ceremonies specifically for him to perform. The clerk’s office did not offer this service to anyone else.

Exhibit 2

COUNTY COMMISSIONER THAT PERFORM MARRIAGES		
FRANK MCMEEN	225-4774	SAME SEX MARRIAGE
JIMMY ARNOLD	H - 427-9006	
JIM ED HART	H - 988-5429	
TERRY H KUYKENDALL	C - 616-5850	
LUTHER T MERCER	H - 424-1156	O - 423-4922
GARY TIPPETT	H - 422-5309	
MITCH CARTER (MOORE STUDIO)	O - 427-1296	MINISTER
████████████████████	████████████████████	
NANNETTE ROUSON	437-6343	EVANGELIST
BILLY SPAIN	H - 225-3440	

423.6023
Jennifer
or
Crystal

60.00
cash!

List of officiants provided by the clerk’s office to applicants

Investigators interviewed multiple employees of the clerk’s office who stated that the commissioner is always at the courthouse and available. Employees also admitted to investigators that the list provided to applicants is outdated and included at least two individuals that are no longer elected officials, as well as two individuals who are deceased. Investigators interviewed the county clerk, who stated that the commissioner performed 90% of the marriage ceremonies in

Madison County. The clerk was also aware that his office staff scheduled the ceremonies for the commissioner to perform.

During investigators' interviews with the clerk's employees, investigators learned that one employee accepted money on the commissioner's behalf on at least two occasions and that the money was placed in an envelope and set aside for him to collect. During investigators' interview with the commissioner, he admitted that the clerk's office employees may have collected his marriage ceremony fee (\$60) between 10-20 times if he had to leave early before the clerk's office completed the marriage recording process.

INTERNAL CONTROL AND COMPLIANCE DEFICIENCIES

Our investigation revealed the following deficiencies in internal control and compliance, which contributed to a former Madison County commissioner's ability to improperly charge fees for marriage ceremonies. These deficiencies included:

Deficiency 1: The Madison County Clerk did not provide adequate oversight of his office regarding preferential recommendations of officiants for marriage ceremonies.

The Madison County Clerk allowed his employees to direct the majority of marriage ceremonies in Madison County to one commissioner. The county clerk was aware that his employees went so far as to schedule appointments for the commissioner as part of their daily routine. While the county clerk's office provided a list of officiants to individuals, the office was aware the list was outdated and that employees verbally recommended the commissioner to anyone receiving the list. As the perceived authoritative source on marriage ceremonies, the clerk's office should remain impartial by providing a list of current officiants to individuals and advising them to choose their own officiant while offering no opinion on the matter and should refrain from providing preferential treatment to any qualified officiant.

Deficiency 2: The Madison County Clerk failed to properly receipt, and remit fees collected to the County Trustee.

The Madison County Clerk's Office accepted fees intended for the commissioner. These transactions were not properly receipted or accounted for, and the fees collected were not paid or remitted to the county trustee by the clerk's office as required by *Tennessee Code Annotated*, Section 8-22-103. Per *Tennessee Code Annotated*, Section 8-22-103 and 8-22-104, all excess fees that are or may be directly or indirectly collected by virtue of the office shall be paid to the county trustee as part of the county revenue; and require the clerk to keep a complete account of every fee of every nature, commission, or charge collected. Investigators found that fees accepted on behalf of the commissioner were not receipted or remitted to the county trustee, instead they were placed aside and paid directly to him.

County officials indicated that they have corrected or will correct these deficiencies.