

COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE

RECEIVED AND FILED
COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2016 MAY 12 P 4: 45

IN RE:

Timothy M. Dougherty	:	
Magisterial District Judge	:	1 JD 16
District Court 23-2-02	:	
Twenty-third Judicial District	:	
Berks County	:	

**PETITION FOR INTERIM SUSPENSION
WITH OR WITHOUT PAY**

AND NOW, this 12th day of May 2016, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (hereinafter "Board"), by and through undersigned counsel, and files this Petition For Interim Suspension With or Without Pay pursuant to Rule 701 of the Court of Judicial Discipline Rules of Procedure and Rule 13(A) of the Board Rules of Procedure and avers the following:

1. The Pennsylvania Constitution at Article V, § 18(d)(2) provides this Court with the authority to impose interim suspension as follows:

Prior to a hearing, the court may issue an interim order directing suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph

shall not be considered a final order from which an appeal may be taken.

2. Since May 1998, Timothy M. Dougherty has served continuously to the present as a duly elected Magisterial District Judge for Magisterial District 23-2-02 in Berks County, Twenty-third Judicial District, encompassing the Boroughs of West Lawn, West Reading, and Wyomissing.
3. Following a statewide investigating grand jury recommendation, on May 12, 2016, the Pennsylvania Office of Attorney General charged Magisterial District Judge Dougherty with the following criminal offenses:
 - (1) Theft by Failure to Make Required Disposition of Funds Received, 18 Pa.C.S.A. §3927(a), a felony of the third degree;
 - (2) Restricted Activities – Conflict of Interest, 65 P.S. §1103, a felony;
 - (3) Theft By Unlawful Taking, 18 Pa.C.S.A. §3921(a), a felony of the third degree;
 - (4) Theft By Deception, 18 Pa.C.S.A. §3922(a)(1), a felony of the third degree;
 - (5) Theft By Deception, 18 Pa.C.S.A. §3922(a)(3), a felony of the third degree;

(6) Receiving Stolen Property, 18 Pa.C.S.A. §3925(a), a felony of the third degree;

(7) Theft By Unlawful Taking, 18 Pa.C.S.A. §3921(a), a felony of the third degree;

(8) Theft By Deception, 18 Pa.C.S.A. §3922(a)(1), a felony of the third degree;

(9) Theft By Deception, 18 Pa.C.S.A. §3922(a)(2), a felony of the third degree;

(10) Theft By Deception, 18 Pa.C.S.A. §3922(a)(3), a felony of the third degree;

(11) Receiving Stolen Property, 18 Pa.C.S.A. §3925(a), a felony of the third degree;

A true and correct copy of the Criminal Complaint with attached Thirty-Eighth Statewide Investigating Grand Jury Presentment No. 14 is attached hereto and marked "Attachment 1."

4. The charges arose from Magisterial District Judge Dougherty taking \$18,777.50 in Commonwealth funds collected as fines and costs from his magisterial district court and \$97,780 from the Wyomissing Volunteer Fire Company while he served as its treasurer.

5. The pending felony criminal charges against Magisterial District Judge Dougherty undermine both public confidence in the judiciary and its reputation.

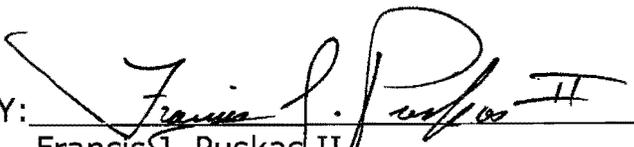
WHEREFORE, the Board, by and through undersigned counsel, respectfully requests that this Honorable Court immediately enter an interim order suspending Magisterial District Judge Timothy M. Dougherty With or Without Pay based on the felony criminal charges filed against him and to grant such other relief as may be deemed appropriate.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: May 12, 2016

BY:


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: BERKS 03-2-02



POLICE CRIMINAL COMPLAINT
COMMONWEALTH OF PENNSYLVANIA
VS.

Magisterial District Number:
MDJ: Hon. ROBERT A. SARACENE
Address:
Telephone: ()

DEFENDANT: (NAME and ADDRESS):
TIMOTHY M DOUGHERTY
First Name Middle Name Last Name Gen.
1887 BRANDYWINE RD
WYOMISSING, PA 19610

NCIC Extradition Code Type
 1-Felony Full 4-Felony No Ext. B-Misdemeanor Limited E-Misdemeanor Pending
 2-Felony Ltd. 5-Felony Pend. C-Misdemeanor Surrounding States Distance: _____
 3-Felony Surrounding States A-Misdemeanor Full D-Misdemeanor No Extradition

DEFENDANT IDENTIFICATION INFORMATION
Docket Number CR-167-16 Date Filed 5/12/16 OTN/LiveScan Number T-7930646 Complaint/Incident Number 36-674 SID Request Lab Services? YES NO
GENDER Male Female DOB 06/05/1959 POB Add'l DOB / / Co-Defendant(s)
First Name Middle Name Last Name Gen.
RACE White Asian Black Native American Unknown
ETHNICITY Hispanic Non-Hispanic Unknown
HAIR COLOR GRY (Gray) RED (Red/Aubn.) SDY (Sandy) BLU (Blue) PLE (Purple) BRO (Brown)
 BLK (Black) ONG (Orange) WHI (White) XXX (Unk./Bald) GRN (Green) PNK (Pink)
 BLN (Blonde / Strawberry)
EYE COLOR BLK (Black) BLU (Blue) BRO (Brown) GRN (Green) GRY (Gray)
 HAZ (Hazel) MAR (Maroon) PNK (Pink) MUL (Multicolored) XXX (Unknown)
Driver License State PA License Number 18568552 Expires: 06/06/2017 WEIGHT (lbs.)
DNA YES NO DNA Location
FBI Number MNU Number FC HEIGHT in.
Defendant Fingerprinted: YES NO 6 0
Fingerprint Classification

DEFENDANT VEHICLE INFORMATION
Plate # State Hazmat Registration Sticker (MM/YY) / Comm'l Veh. Ind. School Veh. Oth. NCIC Veh. Code Reg. same as Def.
VIN Year Make Model Style Color

Office of the attorney for the Commonwealth Approved Disapproved because:

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

DAG MICHELLE LAUCELLA (Name of the attorney for the Commonwealth)
Michelle L. Laucella (Signature of the attorney for the Commonwealth)
5/19/2016 (Date)

I, JAMES ELO AND ROBERT MCHUGH #510 AND #516
(Name of the Affiant) (PSP/MPOETC -Assigned Affiant ID Number & Badge #)
of PENNSYLVANIA OFFICE OF ATTORNEY GENERAL PA0222400
(Identify Department or Agency Represented and Political Subdivision) (Police Agency ORI Number)
do hereby state: (check appropriate box)
1. I accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as
 I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have therefore designated as John Doe or Jane Doe
with violating the penal laws of the Commonwealth of Pennsylvania at [] VARIOUS LOCATIONS IN
BERKS COUNTY (Subdivision Code) (Place-Political Subdivision)
in BERKS County [06] on or about BETWEEN NOVEMBER 2008 AND OCTOBER 2015
(County Code)



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number: 36-674
Defendant Name:	First: TIMOTHY	Middle: M	Last: DOUGHERTY

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>	3927	A	of the 18 PA C.S.A.	1	F3			
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
					<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone	
PennDOT Data (if applicable):								
Accident Number:								
Statute Description (include the name of statute or ordinance): Theft by Failure to Make Required Disposition of Funds Received								
Acts of the accused associated with this Offense: The Defendant obtained property upon agreement, or subject to a known legal obligation, to make specified payments or other disposition, whether from such property or its proceeds or from his own property to be reserved in equivalent amount, and intentionally dealt with the property obtained as his own and failed to make the required payment or disposition. TO WIT: The Defendant was a Magisterial District Judge at the time of the offenses, June 2015 through October 2015, when the Defendant took possession of court costs and fines received by District Court 23-2-02 and failed to deposit said funds, as prescribed by the procedures set forth from the Administrative Office of Pennsylvania Courts.								

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>	1103	A	of the 65 P.S.	1	F			
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
					<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone	
PennDOT Data (if applicable):								
Accident Number:								
Statute Description (include the name of statute or ordinance): Conflict of Interest								
Acts of the accused associated with this Offense: The Defendant, in his capacity as a public official, engaged in conduct for the private pecuniary benefit of himself, a member of his immediate family or a business with which he or a member of his immediate family is associated. TO WIT: The Defendant, in his capacity as a Magisterial District Judge, took possession of and retained funds from District Court 23-2-02 for his own pecuniary gain. These funds were to be distributed to the Commonwealth of Pennsylvania, the local municipalities covered by District Court 23-2-02, the County of Berks and other governmental agencies.								

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>	3921	A	of the 18 PA C.S.A.	1	F3			
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
					<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone	
PennDOT Data (if applicable):								
Accident Number:								
Statute Description (include the name of statute or ordinance): Theft by Unlawful Taking or Disposition								
Acts of the accused associated with this Offense: The Defendant, by his own conduct, unlawfully obtained, or exercised unlawful control over, moveable property of another with the intent to deprive another thereof. TO WIT: The Defendant, by his own conduct, unlawfully obtained, or exercised unlawful control over, fines and court costs from District Court 23-2-02, with the intention to deprive the Commonwealth of Pennsylvania, the local municipalities covered by District Court 23-2-02, the County of Berks and other governmental agencies with which these funds were to be disbursed to.								



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number 36-674
Defendant Name	First: TIMOTHY	Middle: M	Last: DOUGHERTY

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.
 (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/> Lead?	Offense# 3922	Section A1	Subsection of the	PA Statute (Title) 18 PA C.S.A	Counts 1	Grade F3	NCIC Offense Code	UCR/NIBRS Code
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PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): Theft by Deception

Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally obtained or withheld property of another by deception through creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. TO WIT: The Defendant, between May 2015 and October 2015, intentionally obtained approximately \$18,777.50 of fines and court costs from District Court 23-2-02 and created a false impression to his employees at District Court 23-2-02 who believed that the Defendant was making the daily deposit of court costs and fines.

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/> Lead?	Offense# 3922	Section A3	Subsection of the	PA Statute (Title) 18 PA C.S.A	Counts 1	Grade F3	NCIC Offense Code	UCR/NIBRS Code
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PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): Theft by Deception

Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally obtained or withheld property of another by deception through failing to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship. TO WIT: The Defendant, between May 2015 and October 2015, intentionally obtained approximately \$18,777.50 of fines and court costs from District Court 23-2-02, withheld this money from being deposited, and failed to correct the false impressions of his employees at District Court 23-2-02 who believed that the funds were being deposited on a daily basis by the Defendant.

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/> Lead?	Offense# 3925	Section	Subsection of the	PA Statute (Title) 18 PA C.S.A	Counts 1	Grade F3	NCIC Offense Code	UCR/NIBRS Code
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PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance): Receiving Stolen Property

Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally received, retained, or disposed of movable property of another knowing that it had been stolen, or believing that it had probably been stolen. TO WIT: The Defendant, by his own conduct, intentionally retained approximately \$18,777.50 of fines and court costs from District Court 23-2-02, which he took himself and was not entitled to.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number 36-674
Defendant Name	First: TIMOTHY	Middle: M	Last: DOUGHERTY

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a *brief* summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

Inchoate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/>	3921	A	of the	18 PA C.S.A	1	F3		
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Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable):
 Accident Number:
 Safety Zone
 Work Zone

Statute Description (include the name of statute or ordinance): Theft by Unlawful Taking

Acts of the accused associated with this Offense: The Defendant, by his own conduct, unlawfully obtained, or exercised unlawful control over, moveable property of another with the intent to deprive another thereof. TO WIT: The Defendant, by his own conduct, unlawfully obtained, or exercised unlawful control over, approximately \$97,780.00 of funds donated to the Wyomissing Fire Company #1, with the intention to deprive the organization and its members of said funds.

Inchoate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/>	3922	A1	of the	18 PA C.S.A	1	F3		
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Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable):
 Accident Number:
 Safety Zone
 Work Zone

Statute Description (include the name of statute or ordinance): Theft by Deception

Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally obtained or withheld property of another by deception through creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. TO WIT: The Defendant, between November 2008 and September 2015, intentionally obtained and withheld approximately \$97,780.00 of funds donated to the Wyomissing Fire Company #1 and created false impressions by not reporting to the members of the Wyomissing Fire Company #1 the amount of the donations, the location of where the donations were deposited and the cash withdrawals of these funds made by the Defendant.

Inchoate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/>	3922	A2	of the	18 PA C.S.A	1	F3		
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Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable):
 Accident Number:
 Safety Zone
 Work Zone

Statute Description (include the name of statute or ordinance): Theft by Deception

Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally obtained or withheld property of another by deception by preventing another from acquiring information which would affect his judgment of a transaction. TO WIT: The Defendant, between November 2008 and September 2015, intentionally obtained and withheld approximately \$97,780.00 of funds donated to the Wyomissing Fire Company #1 by depositing said donations into a bank account that only the Defendant had access to; by setting the Defendant's home address as the location of where bank statements and correspondence was to be mailed to instead of the address of the Wyomissing Fire Company #1; and by not providing any balance information or cash withdrawal information to members of the Wyomissing Fire Company #1 at their member meetings.



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number 36-674
Defendant Name	First: TIMOTHY	Middle: M	Last: DOUGHERTY

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.
 (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA.Code §§ 213.1 - 213.7.)

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>	3922	A3	of the 18 PA C.S.A	1	F3			
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input checked="" type="checkbox"/> PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance): Theft by Deception								
Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally obtained or withheld property of another by deception through failing to correct a false impression which the deceiver previously created or reinforced, or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship. TO WIT: The Defendant, between November 2008 and September 2015, intentionally obtained approximately \$97,780.00 of funds donated to the Wyomissing Fire Company #1; withheld this money from the members of the Wyomissing Fire Company #1; and failed to correct the false impressions that the Wyomissing Fire Company #1 received a limited number of donations and had little money available.								

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>	3925		of the 18 PA C.S.A	1	F3			
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input checked="" type="checkbox"/> PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance): Receiving Stolen Property								
Acts of the accused associated with this Offense: The Defendant, by his own conduct, intentionally received, retained, or disposed of movable property of another knowing that it has been stolen, or believing that it has probably been stolen. TO WIT: The Defendant, by his own conduct, intentionally retained approximately \$97,780.00 of funds donated to the Wyomissing Fire Company #1, which he took himself and was not entitled to.								

<input checked="" type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903					
<input type="checkbox"/>			of the					
Lead?	Offense#	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
<input checked="" type="checkbox"/> PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone			
Statute Description (include the name of statute or ordinance):								
Acts of the accused associated with this Offense:								



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number 36-674
Defendant Name	First: TIMOTHY	Middle: M	Last: DOUGHERTY

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 Pa.C.S. § 4904) relating to unsworn falsification to authorities.
- This complaint consists of the preceding page(s) numbered ___ through ___.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.
 (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

MAY 12 2016
 (Date)

[Signature]
 (Signature of Affiant) #516

AND NOW, on this date MAY 12, 2016 I certify that the complaint has been properly completed and verified.
 An affidavit of probable cause must be completed before a warrant can be issued.

 (Magisterial District Court Number)

[Signature]
 (Issuing Authority)





POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed: / /	OTN/LiveScan Number	Complaint/Incident Number 36-674
Defendant Name:	First: TIMOTHY	Middle: M	Last: DOUGHERTY

AFFIDAVIT of PROBABLE CAUSE

Your Affiants, Supervisory Special Agent James Elo and Special Agent Robert McHugh, Office of Attorney General (hereinafter OAG), Bureau of Criminal Investigation being duly sworn, depose and say:

Your Affiants have been involved in an investigation into offenses in violation of the criminal laws of the Commonwealth. The OAG's investigation has utilized the Statewide Investigating Grand Jury and as a result, the Thirty-Eighth Statewide Investigating Grand Jury issued Presentment No. 14 on May 5, 2016, this Presentment was accepted by order of the Honorable Thomas G. Gavin, Supervising Judge. The Presentment, attached to this Affidavit and incorporated herein by reference, recommends charges be filed by the Attorney General or her designee against the defendant as follows:

- Count 1 - Theft by Failure to Make Required Disposition of Funds Received; 3927(a)/ 18.Pa.C.S.A.
- Count 2 - Conflict of Interest; 1103/ 65.Pa.C.S.A.
- Count 3 - Theft by Unlawful Taking or Disposition; 3921(a)/ 18.Pa.C.S.A.
- Count 4 - Theft by Deception; 3922(a)(1)/ 18.Pa.C.S.A.
- Count 5 - Theft by Deception; 3922(a)(3)/ 18.Pa.C.S.A.
- Count 6 - Receiving Stolen Property; 3925/ 18.Pa.C.S.A.
- Count 7 - Theft by Unlawful Taking; 3921(a)/ 18.Pa.C.S.A.
- Count 8 - Theft by Deception; 3922(a)(1)/ 18.Pa.C.S.A.
- Count 9 - Theft by Deception; 3922(a)(2)/ 18.Pa.C.S.A.
- Count 10 - Theft by Deception; 3922(a)(3)/ 18.Pa.C.S.A.
- Count 11 - Receiving Stolen Property; 3925/ 18.Pa.C.S.A.

Your Affiants have reviewed the Presentment and find that the factual findings described therein correspond to the OAG Investigative findings. Your Affiants have reviewed the evidence presented to the Grand Jury and find that it comports with the result of the OAG Investigative efforts and findings. Your Affiants state, based upon the facts hereafter, that there is probable cause to believe that the defendant, Timothy M. Dougherty, committed the acts detailed above and respectfully request that an arrest warrant be issued.

I, SSA JAMES ELO #510, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

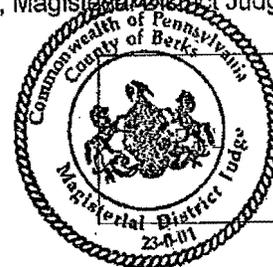
James Elo
#510
(Signature of Affiant)

Robert McHugh
#516

Sworn to me and subscribed before me this 12 day of MAY 2016

Date *A. Sauer*, Magisterial District Judge

My commission expires first Monday of January,



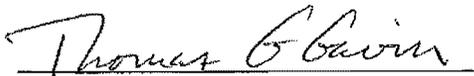
IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA
: NO. 57 M.D. MISC. DKT. 2015
THE THIRTY-EIGHTH STATEWIDE :
: MONTGOMERY COUNTY COMMON PLEAS
INVESTIGATING GRAND JURY :
: M.D. 1152 -2015
:
: NOTICE NO. 31

ORDER ACCEPTING PRESENTMENT NO. 14

1. The Court finds Presentment No. 14 of the Thirty-Eighth Statewide Investigating Grand Jury is within the authority of said Grand Jury and is in accordance with the provisions of the Investigating Grand Jury Act, 42 Pa.C.S. § 4541, et seq. Accordingly, this Presentment is accepted by the Court.
2. The County for conducting the trial of all charges pursuant to this Presentment shall be Berks County.
3. The Attorney General of the Commonwealth of the Pennsylvania, or her designee, is hereby authorized to prosecute as recommended in this Presentment by instituting appropriate criminal proceedings in the aforesaid County.

SO ORDERED this 6th day of May, 2016.


THOMAS G. GAVIN
Supervising Judge
The Thirty-Eighth Statewide
Investigating Grand Jury

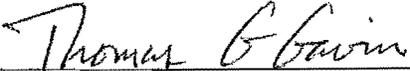
**IN THE COURT OF COMMON PLEAS
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IN RE: : **SUPREME COURT OF PENNSYLVANIA**
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INVESTIGATING GRAND JURY :
: **M.D. 1152 -2015**
:
: **NOTICE NO. 31**

ORDER SEALING PRESENTMENT NO. 14

The Court has accepted Presentment No. 14. This Presentment shall be sealed and no person shall disclose a return of the Presentment except when necessary for issuance and execution of process, or as otherwise directed or permitted by order of the Supervising Judge.

SO ORDERED this 6th day of May, 2016.



THOMAS G. GAVIN
Supervising Judge
The Thirty-Eight Statewide Investigating
Grand Jury

**IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, PENNSYLVANIA**

IN RE: : SUPREME COURT OF PENNSYLVANIA
: NO. 57 M.D. MISC. DKT. 2015
THE THIRTY-EIGHTH STATEWIDE :
: MONTGOMERY COUNTY COMMON PLEAS
INVESTIGATING GRAND JURY :
: M.D. 1152 -2015
:
: NOTICE NO. 31

TO THE HONORABLE THOMAS G. GAVIN, SUPERVISING JUDGE:

PRESENTMENT NO. 14

We, the Thirty-Eighth Statewide Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that various violations of the criminal laws have occurred. So finding with not fewer than twelve concurring, we do hereby make this Presentment to the Court.



Foreperson—The Thirty-Eighth Statewide
Investigating Grand Jury

DATED: 5 May, 2016

INTRODUCTION

We, the members of the Thirty-Eighth Statewide Investigating Grand Jury, having received evidence pertaining to violations of the Crimes Code occurring in Berks County pursuant to Notice of Submission of Investigation Number 31, do hereby make the following findings of fact and recommendation of charges:

FINDINGS OF FACT

The Grand Jury has heard evidence concerning an investigation being conducted by the Pennsylvania Office of Attorney General (OAG) into the theft of funds from Berks County Magisterial District Court 23-2-02 and the Wyomissing Volunteer Fire Company.

The Grand Jury heard that Timothy M. Dougherty currently holds the elected position of Magisterial District Judge of District Court 23-2-02 located at 401 Walnut Street, Wyomissing, Berks County, Pennsylvania. Dougherty has held the position of Magisterial District Judge of Berks County District Court 23-2-02 for the past seventeen years. District Court 23-2-02 handles civil and criminal cases that occur in the Borough of Wyomissing and West Reading, Berks County. The Grand Jury heard evidence that Berks County District Court 23-2-02 receives payments of court costs and fines in the forms of cash, credit card, money order, and or check. Each day, payments are received by District Court 23-2-02 because parties to criminal or civil cases pay their court costs and fines at the Court. The payments that are collected at the district court for court costs and fines belong to the Commonwealth of Pennsylvania, the local municipalities covered by District Court 23-2-02, the County of Berks and other governmental agencies.

The Grand Jury heard that the Administrative Office of Pennsylvania Courts, hereinafter referred to as "AOPC," has procedures for the payment and handling of funds received by

Pennsylvania's Magisterial District Courts in the AOPC Magisterial District Judge Automated Office Clerical Procedure Manual. The AOPC Procedure Manual indicates that when a Magisterial District Court receives payments, the Court must document those payments by entering the amount of the payment and how the payment was made, i.e. by check, cash, money order or credit card, into a computer program that sends the information to the AOPC. At the end of each day, the AOPC computer program creates a document referred to as a "Daily Deposit Listing," which documents all of the Court's monetary transactions and totals the amount of funds received by the court on a daily basis. The Grand Jury read the following rule contained in the AOPC Magisterial District Judge Automated Office Clerical Procedure Manual which sets forth the procedures for depositing money that comes into the District Court:

"All money, including partial payments received by the magisterial district court, (e.g. cash, checks, and money orders), must be deposited in the bank at the end of every business day. A bank night depository may be used by night courts as well as any court that cannot get to the bank during regular banking hours. Money should not be taken home, left in the office overnight, or left unattended en route to the bank. Safety and security should be considered in the handling and transportation of the monies."

According to these AOPC procedures, at the end of each business day, the Court must count the total the amount of money taken in by the Court and deposit all of that day's money into the Court's bank account at the end of every business day. District Court 23-2-02 has their bank account at M&T Bank, located at 800 Penn Avenue, West Reading, Berks County, Pennsylvania.

The Grand Jury heard that Berks County Magisterial District Court 23-2-02 received money in the form of cash, check, money order, and credit card on a daily basis and the total

amounts of funds received by the Court were reported to the AOPC and as such, on a daily basis, a "Daily Deposit Listing" was created. The Grand Jury heard testimony that the amount of money that the Court reported receiving to the AOPC exceeded the amount of money that was actually deposited into the Court's bank account.

The Grand Jury heard from the Pennsylvania Auditor General's Office regarding an audit of District Court 23-2-02 for the time period of January 2011 through March 2015. The Auditor General's Office reviewed AOPC records of the Court's daily deposits and the Court's M&T bank records. The audit revealed that, although the Court is required to make daily deposits of the payments the Court receives on a daily basis, District Court 23-2-02 was not making its deposits on a daily basis. Not only were the deposits not being made on a daily basis, but District Court 23-2-02's M&T Bank account was short thousands of dollars in funds that were collected by the court, but that were not deposited in the court's bank account. The audit also revealed that when deposits were made into the Court's bank account, the deposits were late, sporadic, and, at times, out of sequence.

The Grand Jury reviewed the chart depicted below which details a comparison between the Court's bank statements and the AOPC "Daily Deposit Listings" for the months of June, 2015 and July, 2015. By comparing the AOPC deposit listings and the Court's bank records, it is apparent that there is a discrepancy between the amount of money received by the Court and the amount of money actually deposited into the Court's bank account. The first column of the chart shows the date in which payments were received at the court and logged into the AOPC. The second column of the chart displays the amount of money received at the court and logged into the AOPC. The third column shows the date that these funds were deposited in the Court's bank account at M&T Bank. The last column shows the number of days between the date the funds

were received by the court and the date the funds were deposited in the bank.

DATE FUNDS WERE PAID TO COURT	AMOUNT OF FUNDS PAID TO COURT	DATE THE FUNDS WERE DEPOSITED IN M&T BANK	# OF DAYS B/W DATE FUNDS WERE PAID TO COURT AND DATE FUNDS WERE DEPOSITED IN M&T BANK
June 1, 2015	\$1,528.00	July 10, 2015	39
June 4, 2015	\$377.50	July 13, 2015	39
June 5, 2015	\$681.00	July 13, 2015	38
June 30, 2015	\$2,465.25	July 1, 2015	1
July 1, 2015	\$1,725.75	July 2, 2015	1
July 2, 2015	\$911.75	July 3, 2015	1

Based on the above chart, a deposit was made at the bank on July 3, 2015 and those deposited funds were received by the court on July 2, 2015. At the time of the July 3, 2015 deposit, funds that were received by the court on June 1, 2015 through June 5, 2015 had not yet been deposited. Since the funds from June 1, 2015 through June 5, 2015 were received by the Court and logged into AOPC, these funds should have been available to deposit. In fact, the auditor found that when \$2,465.25 was deposited on June 30, 2015, the court had approximately \$24,765.25 in funds that were collected by the Court in June of 2015 that had not yet been deposited into the Court's bank account.

According to the Auditor General's audit, the Court's daily deposits from September 2014 through December 2014, were between two and fifteen days late. The audit revealed that deposits after December 2014 were made increasingly later than prior deposits and appeared to be made randomly. Further, the audit showed that from January 2015 through March 2015, the Court's deposits were being made even later than prior months, and as of May 15, 2015, there

was approximately \$8,400.00 that the AOPC records showed were paid to the Court, but were unaccounted for as they were not deposited in the Court's bank account.

In October of 2015, the Auditor General's Office reviewed the Court's M&T bank records and AOPC deposit listings for the months of July, 2015 through September, 2015. For the month of September, 2015 there should have been twenty one deposits made into the Court's bank account for each of the work days that the Court received funds. At the time of the Auditor General's review in October of 2015, the Court made only five deposits of funds collected by the Court during the month of September, 2015. At the time of the Auditor General's review in October of 2015, the Court had not deposited a total of \$18,777.50 of funds that were taken in by the court in the month of September, 2015. The following are a list of funds that were taken in by the court according to the court's AOPC deposit listing, but that were not deposited into the court's bank account during the month of September 2015:

DATE FUNDS PAID TO COURT	AMOUNT OF FUNDS PAID TO COURT
9/2/15	\$1269.00
9/4/15	\$568.00
9/8/15	\$943.45
9/9/15	\$337.00
9/10/15	\$985.00
9/11/15	\$1,489.00
9/15/15	\$667.50
9/18/15	\$1116.50
9/21/15	\$1371.00
9/22/15	\$771.00

9/23/15	\$102.00
9/24/15	\$498.50
9/25/15	\$1714.50
9/28/15	\$2710.75
9/29/15	\$1568.25
9/30/15	\$2666.00
TOTAL:	\$18,777.50

Deposits that were made in September of 2015 were made out of sequence. As the auditor explained to the Grand Jury, a deposit was made on September 14, 2015 for funds taken in by the court on September 1, 2015, making the September 1, 2015 deposit thirteen days late. At the time that these funds were deposited on September 14, 2015, deposits for funds received by the court on September 2, 2015, September 3, 2015, September 4, 2015, September 8, 2015, September 9, 2015, September 10, 2015, and September 11, 2015 were not deposited into the bank although the money was collected at the Court on those dates and should have been available for deposit.

The Grand Jury heard testimony from the employees of District Court 23-2-02. District Court 23-2-02 employs four individuals as office support staff in addition to Magisterial District Judge Timothy Dougherty. The District Court's employees are employed by the County of Berks, but report to and work under Timothy Dougherty. The four employees answer the Court's phones, schedule cases on the Court's calendar, and take and process payments received by the Court.

The Grand Jury heard from the Court's four employees regarding the Court's process for handling the payments received at the Court on a daily basis. The employees confirmed that parties to court cases pay their fines, restitution, and or court costs in the form of checks, cash and or money orders inside of the courthouse at a front counter also referred to as the "window." One of the employees will typically take the money at the Court's counter/window and enter the transaction with the AOPC computer system and print two receipts. One of the receipts will be given to the payer and the other receipt will be filed in the payer's court file. The payment will then be kept in a drawer near the counter/window. Employees explained that there are occasions when Dougherty, instead of an employee, takes the aforementioned payments at the counter/window, and places the payments into the drawer. When Dougherty takes the payments, he instructs an employee to document the transaction with the AOPC and print out the receipts. On occasion, when Dougherty was receiving the payments at the counter, the employees overheard Dougherty tell the payers that "we like cash," and "cash is always good."

At the end of each day, one of the employees prints out the AOPC daily deposit listing of the day's transactions and confirms by counting the money received by the Court that the AOPC deposit listing matches what the office received at the counter as payments for that day. After this is confirmed, a bank deposit slip is filled out, indicating the amount of money to be deposited for that day. When the money (cash, checks, and money orders) is counted and the deposit slip is made, a different employee will check the previous employee's work by re-counting the money and comparing the total to the AOPC deposit listing. The AOPC daily deposit listing, the bank deposit slip and the payments are turned over to Dougherty to take the money to the bank for the nightly deposit.

The Grand Jury heard from the Court's employees regarding the Court's process for reporting how much money the Court receives and disburses each month. The Court must produce a monthly report to the County of Berks Controller's Office, detailing the amount of money the Court receives and disburses. Attached to the monthly report sent to the County Controller, are the AOPC deposit listing and the bank statement. The Court staff prepares the monthly report and gives it to Dougherty to review and send to the County. The employees indicated to the Grand Jury that they prepare the monthly report and give it to Dougherty in a timely manner; however, Dougherty is frequently late in getting the monthly report to the County.

The employees reported to the Grand Jury that Dougherty is the only person who makes the nightly deposits for the court. In fact, when Dougherty is out of the office, he instructs his employees to leave the deposits for him to deposit when he gets back to the office. Employees noticed that the nightly deposits were not being made on a daily basis. Employees also noticed that when they attempted to reconcile the amount of money that was taken in by the Court with the amount of money deposited into the Court's bank account for the Court's monthly reports to the Controller's Office, the Court's bank account was missing several days' worth of deposits. The employees' testimony to the Grand Jury corroborated what the Grand Jury heard from the auditor's testimony regarding the Court's late deposits and undeposited funds.

The Grand Jury heard from the Court's employees that when Dougherty is out of the office and/or on vacation, he instructs the staff not to take the deposits to the bank and to leave the daily deposits to be deposited by him when he returns. As an example, the employees recalled when Dougherty was out of the office for the week of September 28, 2015 for Magisterial District Judge training. Dougherty told his staff that the deposits from the week of

September 28, 2015 were to remain in his desk until he got back and that he would deposit them at the bank himself. In fact, during the week of September 28, 2015, the staff left the deposits in Dougherty's office as instructed.

The Grand Jury heard evidence that the Court employees noticed unusual activity regarding the Court's finances. Court employees reported to the Grand Jury that they were aware that the AOPC procedures for district courts mandate that money collected by the courts on a daily basis must be deposited in the bank at the end of each business day. The employees reported to the Grand Jury that the money collected on a daily basis was not being deposited by Dougherty on a daily basis. The employees indicated that they noticed that money that was received by the Court was deposited very late. One employee recalled an instance where money was received by the Court in May, 2015 but not deposited into the Court's bank account until July, 2015. The employees also testified that they would receive calls at the Court from people who paid their fines and or court costs at the Court by check. Those who called into the Court reported that weeks after they wrote the check and gave it to the Court, the checks were not yet cashed.

The employees reported to the Grand Jury that in reconciling the Court's finances on a monthly basis, deposits that were given to Dougherty at the end of each day to take to the bank were not deposited into the Court's bank account. In other words, the money that should have been in the Court's bank account on any given month, was not in the Court's bank account although it was given daily to Dougherty to deposit. The Court employees were aware that in July of 2015, the Court issued a check to the Reading Parking Authority for approximately \$3,000. The Court received notice from the bank thereafter that this check was declined due to the Court's bank account having insufficient funds.

The Grand Jury heard evidence that Dougherty borrowed money from one of his employees. In April of 2015, Dougherty asked one of his employees for a loan to help Dougherty with his personal finances. The employee gave Dougherty a loan of \$3,000 in the form of a check written to Dougherty. The employee told the Grand Jury that the agreement was that Dougherty was going to pay him back \$100 to \$200 a month until it was paid off. At the time of the employee's testimony in November, 2015, Dougherty had not made any payments on the loan.

The Grand Jury heard evidence that Dougherty's personal bank accounts are overdrawn and that Dougherty does not meet all of his personal monthly bills. Pennsylvania Office of Attorney General Forensic Accountant Kevin Schofield examined the personal bank accounts held by Timothy Dougherty. Timothy Dougherty holds personal bank accounts at M&T Bank and Fulton Bank. A review of Dougherty's personal accounts for the year 2015 revealed that Dougherty's personal bank accounts were often overdrawn at the end of each month. In fact, an analysis of Timothy Dougherty's personal bank accounts showed that Timothy Dougherty's personal accounts were often charged with insufficient funds fees because the account balances were too low to cover his expenses. Forensic Accountant Schofield's analysis of Timothy Dougherty's personal bank accounts also revealed that during certain months Timothy Dougherty failed to meet some of his monthly bills, including his mortgage payment.

The Grand Jury heard that on October 7, 2015, Agents from the Office of Attorney General's Criminal Prosecution Section executed a search warrant on District Court 23-2-02 to recover the undeposited funds and any evidence related to the undeposited funds, including cash, checks, money orders, and deposit slips. Prior to searching the Court, on October 7, 2015, Supervisory Special Agent James Elo and Special Agent Luis Gomez went to Dougherty's home,

located at 1887 Brandywine Road, Wyomissing, Pennsylvania. Agents Elo and Gomez spoke with Dougherty on the front steps of his home. Agent Elo testified before the Grand Jury that Dougherty was told that the Agents were looking for any and all undeposited court funds as well as any and all records related to those funds. Agent Elo specifically explained to Dougherty that the funds that the Agents were seeking were funds that came into the court as fines, court costs and restitution. Agent Elo then served Dougherty with a subpoena issued by this Grand Jury for his appearance before the Grand Jury on October 28, 2015. The Grand Jury subpoena requested Dougherty to bring with him any and all records pertaining to payments and receipts of fines, court costs, restitution and any other financial transactions pertaining to this court and pertaining to the court's bank account located at M&T and also to include deposit slips, accounts, books, records, receipts, notes, ledgers, and other items relations to that account and any undeposited funds and records relating to those funds. Agent Elo read the subpoena aloud to Dougherty and handed it to him.

The Grand Jury heard that after being read the subpoena by Agent Elo, Dougherty immediately stated that he did not bring deposits home with him because it's against the rules. Dougherty then stated that he does not hold onto the deposits for multiple days. Dougherty explained that on the day the staff gives the deposit slips to him; he takes them to the bank and makes the deposit. Dougherty stated that the only exception to that would be if he was out of the office for a day or has a meeting after court and then the deposits would go in the bank the following day. Agent Elo then specifically questioned Dougherty if he ever holds on to deposits and accumulates multiple days' worth of deposits before he goes to the bank. Dougherty again told Agent Elo that he makes the deposits daily. Dougherty responded that the week prior to the Agents' arrival, he was at training and went into the court on Wednesday of that week to make

the deposits. Dougherty said that if there were any other deposits, they would be at his office in the court. Dougherty was asked by Agent Elo if he suspected anyone at the court of stealing from the Court and he said that he did not suspect anyone as he trusts his staff. Dougherty explained to Agent Elo that he is the only person at the court who makes the deposits at the bank and that he makes them nightly.

The Grand Jury heard that Agent Elo questioned Dougherty as to whether Dougherty could explain the discrepancy between what the AOPC claimed he would have in his account versus what his M&T account showed. Dougherty's only explanation to Agent Elo was that his office previously had issues with M&T Bank. Agent Elo asked Dougherty where the undeposited funds and deposit slips were located. Dougherty said that the undeposited funds and deposit slips would be at his office and his staff would get them to the agents the following day or day after. Agent Elo advised Dougherty that Agents had a search warrant to execute at his office and that they would be executing the search warrant that day. Dougherty once again told the Agents that they were welcome to come to the Court the following day. Agents asked Dougherty if he would accompany the agents back to the office and Dougherty told responded that he would not be accompanying them because he was going golfing.

The Grand Jury heard that agents conducted a thorough search of District Court 23-2-02 on October 7, 2015. At the time of the search, Agents were aware that \$18,777.50 in the form of cash and checks that was received by the court, but was not deposited into the Court's bank account. After a search of the Court, MDJ Dougherty's office, and of the Court's employees, the \$18,777.50 and corresponding deposit slips were not recovered where Dougherty previously told Agent Elo they would be recovered. During the search of the Court, Agents retrieved the Court's most recent bank records, including the balance of the Court's bank account as of October 6,

2015. It was confirmed through an analysis of the Court's bank records and the AOPC deposit listings, that of the \$18,777.50 that was missing prior to the execution of the search warrant, \$15,251.25 had not been deposited in the Court's bank account as of the date of the execution of the search warrant. Although Dougherty indicated to Agent Elo that the undeposited money would be in Dougherty's office at the Court, Agents did not locate any of the undeposited money or corresponding deposit slips in a thorough search of the Court.

Grand Jurors heard testimony that on October 7, 2015, Dougherty was served with a Grand Jury subpoena to appear before the Grand Jury on October 28, 2015 with the undeposited funds and documentation related to the undeposited funds. On October 28, 2015, Dougherty did not appear at the Grand Jury with the undeposited funds or documents related to them. Agents Elo and Gomez went to Judge Dougherty's residence on October 28, 2015 and spoke with Dougherty. Dougherty told Agents that it was not a good time to talk and asked them to come back to the Court later that day. Agents complied with Dougherty's request and met with Dougherty at the Court. Dougherty explained to the Agents that he was a police officer prior to becoming District Judge. Dougherty stated that when he became District Judge, he learned that the Court's office manager was stealing from the Court's nightly deposits. Dougherty stated that he immediately changed that policy and made himself the only person taking the nightly deposits to the bank.

The Grand Jury heard that Dougherty advised Agents Elo and Gomez that after the search warrant was executed at the Court on October 7, 2015, Dougherty said that he stopped taking the nightly deposits to the bank, and was now having his staff take the nightly deposits to the bank. Dougherty explained that when he received the deposits at the end of the day from his staff, he puts them in one of his desk drawers and closes the drawer. Although he told Agents Elo and

Gomez on October 7, 2015 that he was not behind in making any deposits and that all of the deposits were made, during this interview, Dougherty reported that he knew he was behind on making the deposits. He stated that he was avoiding making the deposits and would move the money from one desk drawer to another. Dougherty indicated that he did not want to make one large deposit for all of the money because it would draw a "red flag." Dougherty stated that on October 27, 2015 between 5:00 p.m. and 5:30 p.m., the day prior to the Grand Jury subpoena requiring him to produce the undeposited funds, Dougherty looked in two of his briefcases and all the deposits were in the briefcase. He said that he then went to the bank and made a large deposit of all of the outstanding deposits. Agent Elo asked how much money Dougherty deposited and Dougherty could not say how much money he deposited on October 27, 2015, but did say it was more than ten days' worth of deposits.

The Grand Jury heard that Agent Elo confronted Dougherty by asking him where the undeposited funds were when Agents initially served Dougherty with the subpoena on October 7, 2015. Dougherty said that the deposits were at his residence when Agents Elo and Gomez served him with the subpoena on October 7, 2015. Agent Elo reminded Dougherty that he previously told Agents that the deposits were not at his home and that Dougherty previously told Agents that it was against the rules to take the deposits home with him. Dougherty claimed that he did not recall the conversation that Agents had with him at his residence on October 7, 2015. Dougherty then told Agents that he did not intentionally try to mislead agents but that he was "blacked out" at the time of their October 7th conversation. Dougherty also claimed that he did not look at the subpoena he was given on October 7th. Although Dougherty claimed not to have read the subpoena, Agent Elo read the subpoena aloud to Dougherty on October 7th and Dougherty did not produce the undeposited funds or any of the documents related to them.

Dougherty was reminded that he told Agents on October 7th that the only explanation he had for the discrepancy between the AOPC deposit listing and the bank records was that he had previously had problems with the bank. Dougherty then stated to Agents that he has had no problems with the bank. Dougherty said that he should have told Agents that the money was at his house on October 7th. Agent Elo questioned Dougherty as to why Dougherty previously made daily deposits out of sequence and at random. Dougherty explained that when he would make a deposit, he would just grab an envelope in his desk drawer and deposit it without regard to the date on the deposit slip. After conducting their interview of Dougherty, Agents immediately went to M&T Bank. Agents confirmed that the bank had received fifteen deposits from the district court on October 27, 2015 in the bank's night deposit box. Agents confirmed with M&T Bank that the amount of money deposited on October 27, 2015 was \$15,251.25, the exact amount of undeposited funds that were missing from the Court's bank account on the day of the search warrant.

The Grand Jury heard from the Court's employees that there were changes at the District Court after the execution of the search warrant. After the search warrant, the employees reported that Dougherty was no longer making the nightly deposits. The employees reported that prior to the execution of the search warrant, Dougherty made the deposits himself because he told them he was concerned for the employees' safety in carrying cash. After the search warrant, Dougherty had the employees start making the nightly deposits. Furthermore, employees reported to the Grand Jury that when Dougherty found out about them being subpoenaed to the Grand Jury, he discussed it with his staff by saying that they have nothing to worry about and that it all falls on him. The Grand Jury's review of the District Court's bank accounts and the AOPC deposit listings revealed that Dougherty took \$15,251.25 of the funds received by the

Court between September of 2015 and October of 2015 while in his position as Magisterial District Judge of District Court 23-2-02 and then replaced all of the money he initially took when he made a \$15,251.25 cash deposit into the Court's bank account on October 27, 2015.

The Grand Jury learned through the course of this investigation that Dougherty is currently the Treasurer of the Wyomissing Volunteer Fire Company, also known as Wyomissing Volunteer Fire Company Number One (hereinafter referred to as "Fire Company"). The Grand Jury learned that as Treasurer, Dougherty has access to the Fire Company's bank accounts. The Grand Jury heard testimony that the Fire Company has several bank accounts. The Grand Jury learned that the Fire Company has a checking account and a savings account at M&T Bank, both in the name of "Wyomissing Fire Company No. 1." Dougherty is a signer on the M&T Bank checking and savings accounts. The Fire Company also has a checking account at Santander Bank in the name of Wyomissing Fire Company Fire Prevention Committee. The Grand Jurors heard testimony that the bank statements for the Fire Company's M&T checking account are delivered to the Fire Company; however, the bank statements for the Fire Company's M&T savings account are delivered to Timothy Dougherty at his personal residence located at 1887 Brandywine Road, Wyomissing, Pennsylvania.

Grand Jurors reviewed one hundred and twenty seven withdrawal slips for the savings account in varying dollar amounts. All of the withdrawal slips reviewed by the Grand Jurors were signed by Timothy Dougherty and were made out for cash withdrawals. The Grand Jurors heard evidence that between November of 2008 and September of 2015, Timothy Dougherty withdrew over \$97,780.00 in cash from the Fire Company's M&T savings account.

The Grand Jury heard testimony from the Officers of the Wyomissing Volunteer Fire Company. Specifically, the Grand Jury heard testimony from the Secretary, the President, the

Vice President, and from Trustees. The Officers testified that they have all known Timothy Dougherty for a number of years and that he has been the Treasurer of the Fire Company for many years. The officers testified that they entrusted Timothy Dougherty with the Fire Company's money because he is a District Judge and was a former police officer. The Officers testified that they were not aware that their Treasurer, Timothy Dougherty, had the Fire Company's savings account monthly bank statements sent to his home address. The Officers testified that they saw no legitimate reason for Timothy Dougherty to withdrawal cash from the Fire Company's savings account. The Officers acknowledged that the Fire Company's expenses are minimal. The Officers also testified that if the Fire Company received donations from the community, the money was to be used for Fire Company mailers to be sent out for fire prevention month or other related expenses.

The Officers testified before the Grand Jury that they were aware that the Fire Company had a checking account. The Officers said that the checking account was the account they referred to as their "Active Firefighter's Account" and they believed that the Fire Company's expenses were paid from that account. The Officers testified that they knew about a bank account held by the Fire Company for their Fire Prevention Committee. The Officers believed that this account held donations from the community and that the money from this account was to be spent on Fire Prevention month mailers. The Officers reported to the Grand Jury that Timothy Dougherty did not get the approval of the Fire Company to make cash withdrawals from the Fire Company's bank accounts. The Officers stated that Timothy Dougherty would have had to get the approval of the Fire Company for the cash withdrawals at the bi-monthly Fire Company meetings. The Officers indicated that they were unaware of the cash withdrawals made by Timothy Dougherty, and, moreover, Dougherty never received the Fire Company's

approval to make the cash withdrawals from any of the Fire Company's bank accounts. The Officers testified that Timothy Dougherty did not have the permission of the Fire Company to make any cash withdrawals.

The Officers testified that over the years they were provided with Treasurer's Reports signed and submitted by Treasurer Dougherty; however, the Officers acknowledged that Timothy Dougherty has never shown them the actual bank statements from the Fire Company's bank accounts. The Officers testified that on March 24, 2016, a Fire Company Audit Meeting was initiated and the Officers, including Treasurer Dougherty, were asked to attend the meeting. Not all of the Officers attended the meeting; however, Timothy Dougherty attended the Audit Meeting. The purpose of the audit meeting was to assess the Fire Company's current financial standing. When asked to provide bank statements from the Fire Company's bank accounts, Treasurer Dougherty stated to those members present at the meeting that he does not keep bank statements. Rather, Treasurer Dougherty reported to those members present at the March 24th audit meeting that when he receives the bank statements and they match his records, he discards the bank statements. At the audit meeting, Treasurer Dougherty prepared and provided an "Annual Report" for the years 2014 and 2015. Treasurer Dougherty also provided "Treasurer's Reports" for several months in 2014 and 2015.

The Grand Jury compared the "Treasurer's Reports" for the years 2011 through 2015 and the Fire Company's checking account statements from the years 2011 through 2015. The comparison revealed that the amount of money Treasurer Dougherty reported as being in the Fire Company's bank account in his "Treasurer's Reports" never matched the amount of money that the Fire Company actually had in their checking account for any given month. As an example, in the August/September 2014 Treasurer's Report, Dougherty reported a beginning balance of

\$250.23 in the checking account. A review of the checking account for August/September 2014 revealed a beginning balance of \$1,298.63. Dougherty reported that there were no deposits into the checking account in the August/September 2014 Treasurer's Report. The actual bank records show that there were two checks deposited into the Company's checking account, one in the amount of \$600 and one in the amount of \$700. Both of these checks were written and drawn from Dougherty's personal bank account. Dougherty reported in the August/September 2014 Treasurer's Report that the ending balance for the checking account was \$404.25. A review of the bank statements showed that the actual ending balance for the checking account was \$82.65. It appeared that the two personal checks written by Dougherty and deposited into the checking account were deposited in order to cover the Fire Company's expenses because the account balances were too low to cover the expenses.

The Grand Jury heard that on April 29, 2016, Timothy Dougherty was interviewed by Agent Elo and Agent Joseph Daniels of the Pennsylvania Office of Attorney General's Criminal Prosecutions Section. Dougherty confirmed that he is the Treasurer of the Wyomissing Fire Company Number One. He said that he has held that position for more than ten years. Dougherty told Agents that the Fire Company has a checking account, a savings account and a fire prevention account. Dougherty confirmed that the checking and saving accounts are held at M&T Bank and the fire prevention account is held at Santander Bank. Dougherty stated that the Fire Company has no investment accounts. The Grand Jury previously heard that the Fire Company had a CD (certificate of deposit) wherein money was deposited from the sale of the Fire Company's old building. The Grand Jury is aware that Dougherty previously reported the balance of the CD on treasurer's reports. When directly questioned by Agents about whether the Fire Company has a CD, Dougherty said that the Fire Company once had a CD after the sale of

their old building; however, the money that was in the CD was spent on operating expenses over the years. Dougherty indicated that the Fire Company has no source of income and has not had a source of income for many years. Dougherty confirmed that the Fire Company is fully funded by Wyomissing Borough and the Borough pays all of the Company's bills. Dougherty told Agents that the Fire Company has not had any donations for the past five years. The Grand Jury previously heard testimony that the Fire Company received donation checks as late as 2015 and those checks were deposited into the Fire Company's bank accounts. The Grand Jury heard evidence that there were times when the donation checks were deposited into the bank accounts and soon thereafter, Dougherty withdrew cash from those accounts. Dougherty explained that he and other members of the Fire Company conduct an annual audit of the Fire Company's accounts. Dougherty reported that he has conducted this audit every year. The Officers of the Fire Company reported that there has not been an audit of the Fire Company's finances for many years. Dougherty stated that during the yearly audit, he provides members of the audit committee with copies of the deposit slips, bank statements, and copies of checks. The Officers testified before the Grand Jury that during the audit meeting on March 24, 2016, Dougherty did not provide any bank statements. The Officers reported to the Grand Jury that the only items that Dougherty provided on March 24, 2016 were invoices, the check book for the checking account and checks from the checking account. The Officers also told the Grand Jury that Dougherty did not provide anything from the savings account during the March 24, 2016 audit meeting.

Agents confronted Dougherty about the Fire Company receiving donations as late as 2015. Dougherty was asked what happened with those donations. Dougherty stated that he deposits the money into the Fire Company's bank accounts. Agents told Dougherty that they observed that the donations were deposited into the savings account and then withdrawn from

that account. Dougherty claimed that he deposits the donations into the savings account and then withdraws the donations and deposits them into the checking account to pay for expenses. Dougherty explained that the donations come into the Fire Company as "fire prevention" donations and are to be deposited into the fire prevention bank account. Dougherty said that if donations come into the Fire Company, then they need to be deposited into the Fire Company's accounts. Dougherty stated that there are times when mailers are to be mailed out and the Fire Company does not have enough money to cover them. When this occurs, Dougherty stated that he withdraws money from the savings account and deposits that into the Santander account to cover the expenses for the mailers.

Agents showed Dougherty various statements from the M&T savings account and asked why the savings account lists these withdrawals as "customer withdrawal" as opposed to a bank transfer. Dougherty explained that he fills out a withdraw slip and a deposit slip for each transaction. Dougherty said that when he withdraws money from the savings account, he hands the teller the deposit slip for the checking account and then deposits the money he took from the savings account into the checking account. Agents confronted Dougherty with the bank records from the checking and savings accounts and reminded him that there were no correlating deposits from the savings account into the checking account. Dougherty asked Agents if they checked the Santander fire prevention account. Agents told Dougherty that there were no deposits into the Santander account either. The Grand Jury's review of the bank records for the Fire Company's M&T checking and savings accounts, as well as the Santander account did not show any evidence that Dougherty withdrew money from the savings account and deposited it into any other Fire Company bank accounts. An analysis of all of the Fire Company's accounts showed that there were no bank transfers of money between any of the Fire Company's accounts.

Agents told Dougherty that they believed that the funds from the savings account were taken by Dougherty. It was then that Dougherty admitted to taking the money from the Fire Company's savings account. Dougherty said that he wished he could tell the Agents that something "exciting" happened with the money like "drugs or prostitutes;" however, he stated that it was just "life." Dougherty was asked by Agents if he had any idea how much money he stole and Dougherty said "no." Dougherty explained that he had every intention on paying the money back. The Grand Jury's review of the withdrawal slips and bank statements from the Fire Company's savings account revealed that between November of 2008 and September of 2015, Dougherty stole \$97,780.00 from the Wyomissing Volunteer Fire Company while in his position as Treasurer.

RECOMMENDATION OF CHARGES

Timothy M. Dougherty:

Theft by Failure to Make Required Disposition, 18 Pa.C.S. § 3927(a) (F3), 1 count
Conflict of Interest, 65 Pa.C.S. § 1103 (F), 1 count
Theft by Unlawful Taking, 18 Pa.C.S. § 3921(a) (F3), 1 count
Theft by Deception, 18 Pa.C.S. § 3922(a)(1) (F3), 1 count
Theft by Deception, 18 Pa.C.S. § 3922(a)(3) (F3), 1 count
Theft by Receiving Stolen Property, 18 Pa.C.S. § 3925 (F3), 1 count
Theft by Unlawful Taking, 18 Pa.C.S. § 3921(a) (F3), 1 count
Theft by Deception, 18 Pa.C.S. § 3922(a)(1) (F3), 1 count
Theft by Deception, 18 Pa.C.S. § 3922(a)(2) (F3), 1 count
Theft by Deception, 18 Pa.C.S. § 3922(a)(3) (F3), 1 count
Theft by Receiving Stolen Property, 18 Pa.C.S. § 3925 (F3), 1 count

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

Timothy M. Dougherty	:	
Magisterial District Judge	:	1 JD 16
District Court 23-2-02	:	
Twenty-third Judicial District	:	
Berks County	:	

PROOF OF SERVICE

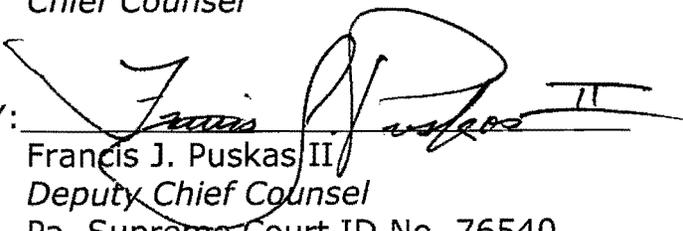
In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on or about May 12, 2016, a copy of the Board's Petition For Interim Suspension With or Without Pay was sent by first class mail to Magisterial District Judge Dougherty at his court office business address at District Court 23-2-02, 401 Walnut Street, West Reading, PA 19611.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: May 12, 2016

BY:


Francis J. Puskas II
Deputy Chief Counsel
Pa. Supreme Court ID No. 76540

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