

**EUGENE C. WINGFIELD
CLERK OF THE CIRCUIT COURT
FOR THE
CITY OF LYNCHBURG**

**REPORT ON AUDIT
FOR THE PERIOD
JANUARY 1, 2010 THROUGH DECEMBER 31, 2010**



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Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

February 16, 2011

The Honorable Eugene C. Wingfield
Clerk of the Circuit Court
City of Lynchburg

City Council
City of Lynchburg

Audit Period: January 1, 2010 through December 31, 2010
Court System: City of Lynchburg

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court for this Court System and for the period noted above. Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies.

Management's Responsibility

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. Deficiencies in internal controls could possibly lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.

We noted matters involving internal control and its operation necessary to bring to management's attention. These matters are discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate these matters provided by the Clerk are included as an enclosure to this report.

We discussed these comments with the Clerk and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK: clj

cc: The Honorable Mosby Garland Perrow, III, Chief Judge
L. Kimball Payne, City Manager
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

COMMENTS TO MANAGEMENT

We noted the following matters involving internal control and its operation that has led or could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability.

Background Information:

The findings in this report reflect the administration of the former Clerk. We were unable to discuss our findings with the former Clerk. We have included these matters in this report, so that the new Clerk elected in November 2010 can address these findings.

Properly Manage Wills and Administrations

We noted three items that the Clerk needs to address in the area of Wills and Administrations in his office.

- Stop Collecting Local Probate Taxes

The former Clerk collected \$13,819 in local probate taxes on estates even though the City did not adopt a local ordinance under Section 58.1-1718 of the Code of Virginia.

- Properly Bill Taxes on Wills and Administrations

In one estate tested, the former Clerk did not bill and collect state taxes totaling \$83 as required by the Code of Virginia.

- Promptly Record Wills

As noted in prior year audit, the former Clerk and his staff have not indexed and imaged wills or other fiduciaries since September 2010 as required by the Code of Virginia.

The Clerk and his staff should bill and collect state and local probate taxes in accordance with the Code of Virginia. Further, the Clerk should promptly record and image wills and other fiduciaries to help prevent a loss of records from occurring.

Monitor and Disburse Liability Accounts

The former Clerk did not disburse a liability account totaling \$2,467 on a case ending in April 2009. Liability accounts record amounts that the Clerk is holding to disburse to individuals, agencies, or to pay fines and costs. The Clerk should monitor liabilities, perform due diligence, and disburse liabilities on a regular basis in accordance with the Code of Virginia.



EUGENE C. WINGFIELD, CLERK

CLERK'S OFFICE
LYNCHBURG CIRCUIT COURT

900 Court Street
P. O. Box 4
Lynchburg, Virginia 24505
Telephone 434-455-2620
Facsimile 434-847-1864

MOSBY G. PERROW, III, JUDGE

March 3, 2011

Mr. Walter J. Kucharski
Auditor of Public Accounts
PO Box 1295
Richmond, VA 23218

Dear Mr. Kucharski,

Reference Audit Period: January 1, 2010 through December 31, 2010

I am in receipt of the auditor's letter dated February 26, 2011. I was pleased during the exit interview by your auditors that this office fared very well with the exception of the noted issues contained within your report. I will address each area and what this office is doing in order to correct each issue.

1. Stop Collecting Local Probate Taxes

Report noted: The former Clerk collected \$13,819 in local probate taxes on estates even though the City did not adopt a local ordinance under Section 58.1-1718 of the Code of Virginia.

Response:

This office has for many years collected both state and local probate taxes based on Virginia State Code section 58.1-1718. Since coming to my attention during this audit process that the City of Lynchburg did not have a local ordinance in place to collect the probate taxes, a local ordinance has been drafted and will be adopted on Tuesday, March 8, 2011.

2. Properly Bill Taxes on Wills and Administrations

Report noted: In one estate tested, the former Clerk did not bill and collect State taxes totaling \$83 as required by the Code of Virginia.

Response:

This is an isolated case that happened as a result of a final inventory of an estate that came into this office late and a new bill for the \$83 to cover the increase in the estates value failed to be sent out. This case has been corrected and payment has been received. This area will be better monitored in the future with a new organizational structure within this office that will include the Wills and Estates section.

3. Properly Record Wills

Report noted: As noted in prior year audit, the former Clerk and his staff have not indexed and imaged wills or other fiduciaries since September 2010 as required by the Code of Virginia.

March 3, 2011

Audit period: January 1, 2010 through December 31, 2011

Response:

This identified deficiency is clearly unacceptable and will be addressed in the new office organizational structure that will be in place in the near future. Since this audit took place in February 2011, I have had an office assessment completed by the Department of Judicial Services, Supreme Court of Virginia. During this assessment, the area of Wills and Estates was reviewed and based on their recommendations, an action plan is in place to address this issue. The issue of this date range of wills not being properly indexed and imaged is actively being addressed and will be completed and updated within two weeks of the date of this letter. Every effort is going to be made to ensure that this issue does not repeat itself again.

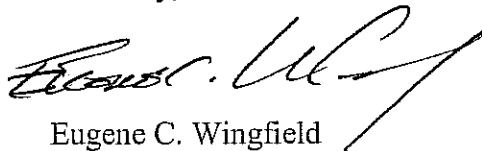
1. **Monitor and Disburse Liability Accounts**

Report noted: The former Clerk did not disburse a liability account totaling \$2,467 on a case ending in April 2009. Liability accounts record amounts that the Clerk is holding to disburse to individuals, agencies, or to pay fines and costs. The Clerk should monitor liabilities, perform due diligence, and disburse liabilities on a regular basis in accordance with the Code of Virginia.

Response:

This was a civil appeal case that originated in 2005 from Lynchburg General District Court and the appeal bond was posted. Due to the inability to locate both Plaintiff and Defendant, this case stayed on the docket until 2009. I have no explanation as to why the funds were not forwarded to the Treasurer of Virginia in a timely manner under the previous Clerk. This office has now sent a certified letter on February 14, 2011 to the last known address of the Defendant allowing them 30 days to address this bond. Should the Defendant not respond, the appeal bond would be forwarded to The Treasurer of Virginia as unclaimed property.

Sincerely,



Eugene C. Wingfield
Clerk
Lynchburg Circuit Court Clerk's Office
900 Court Street
Lynchburg, VA 24504
434-455-2620

cc: Judge Mosby G. Perrow, III
Mr. Kimball Payne, Lynchburg City Manager