

**CHARLES W. EVANS-HAYWOOD
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF ROCKINGHAM**

**REPORT ON AUDIT
FOR THE PERIOD
JANUARY 1, 2009 THROUGH MARCH 31, 2010**



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Commonwealth of Virginia

Walter J. Kucharski, Auditor

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

August 12, 2010

The Honorable Charles W. Evans-Haywood
Clerk of the Circuit Court
County of Rockingham

Board of Supervisors
County of Rockingham

Audit Period: January 1, 2009 through March 31, 2010
Court System: County of Rockingham

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 James V. Lane, Chief Judge
Joseph Paxton, County Administrator
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.

Improve Trust Fund Management

The Clerk should improve management of Trust Funds held Under Control of the Court.

- For four of five disbursements from trust fund accounts, the Clerk could not locate either the hard copy or electronic case papers for verification of the disbursement, Clerk's fees deductions, or appropriate pay out of funds per Section 8.01-600(F) of the Code of Virginia.
- The Clerk maintains a separate checking account for trust funds and this account had negative balance of \$13.51 for four of 15 months of the audit period. The Clerk does not appropriately resolve differences between the bank and the court account.
- The Clerk did not reconcile the amount of funds held in the Annual Report to the funds invested in the bank. The Clerk did not remove three closed accounts from the Annual Report, which overstated the Annual Report by \$17,015.85.

The Clerk should properly reconcile the bank account to the checkbook and the automated financial system each month and resolve all differences monthly. If the Clerk cannot resolve differences, he should immediately seek assistance from the Supreme Court. Failing to reconcile the bank account or not resolving all differences promptly significantly increase the risk of errors or other irregularities going undetected.

Monitor and Disburse Liabilities

The Clerk did not properly monitor and disburse criminal and civil bonds of \$9,435. The Clerk should monitor liability accounts and promptly disburse funds when a case concludes.

Properly Enter Data, Charge Court Costs, Court Appointed Attorney Fees, Certified Costs from District Court and Appropriately Bill the Locality

The Clerk and his staff is not properly billing and collecting court appointed attorney and fines involving local and state charges as required by Sections 19.2-163 of the Code of Virginia. The auditor tested 38 cases and noted the following errors.

- In four cases, the Clerk's staff did not properly code and bill for the court appointed attorney fees. Instead, the Clerk erroneously billed the Commonwealth \$840.
- In two cases, the Clerk's staff failed to charge the defendant court appointed attorney fees causing a loss of revenue to the Commonwealth totaling \$445.
- In three cases, the Clerk's staff failed to bill the defendant for tried in absentia fees certified by the district court totaling \$60.
- In one case, the Clerk's staff did not bill the defendant for a jail fee totaling \$25.
- In one case, the Clerk's staff overcharged the defendant \$155 for a court appointed attorney.

- In two cases, the fixed misdemeanor fee of \$61 was either miscoded to an incorrect account or charged incorrectly.
- In eight cases, the Clerk's staff did not appropriately code cases as Commonwealth cases.

We recommend the Clerk research all similar cases and make appropriate corrections to case papers. The Clerk and his staff should bill court cases and fines in accordance with the Code of Virginia.

Properly Reconcile Bank Account

The Clerk did bank account reconciliations up to eight months after receiving the bank statement and did not resolve any of the differences found during the reconciliation. It is critical that the Clerk reconcile the bank account each month within a day of receiving the bank statement and investigate and correct the accounting records for any discrepancies found during the process. When the Clerk cannot reconcile the bank account, he should seek immediate assistance from the Supreme Court of Virginia. Failure to properly reconcile the account increases the risk of errors going undetected and could result in a loss to the Commonwealth.

Monitor Daily Reports

The Clerk does not monitor the court's daily reports to correct data entry errors that affect accounting system balances.

- The Clerk improperly receipted a restitution payment into the Credit Card Convenience Fee account. Upon trying to correct the error, the Credit Card Convenience Fee account showed a negative balance of \$150.
- The Clerk has not corrected all errors posted to the General Receiver Commission Account. As a result of this, the account has carried a negative balance of \$26.26.

The Clerk should take the following actions, research and prepare a journal entry to correct the errors in both the Credit Card Convenience Fee and General Receiver Commission Accounts. The Clerk should review the reports daily, research any unusual items on the report and immediately correct any errors causing accounts to show an inappropriate balance.

Improve Secure Remote Access Management

The Clerk does not charge a fee for secure remote access to land records as outlined in Section 17.1-276 of the Code of Virginia. This code section allows for no more than a \$50 monthly charge. The Clerk's current policy is to allow for a monthly subscriber or a per use subscriber fee. For those individuals who elect to use the per use fee, they could potentially pay more than the \$50 month fee. These individuals pay a \$1 fee for one search and a \$0.50 per image download. We recommend the Clerk revise his current contact to comply with the fees allowed by the Code of Virginia.

Circuit Court of Harrisonburg-Rockingham County

Court House, Court Square • Harrisonburg, Virginia 22801

(540) 564-3110 • Fax (540) 564-3127

August 17, 2010

Mr. Walter J. Kucharski
Auditor of Public Accounts
Post Office Box 1295
Richmond, Virginia 23218

Dear Mr. Kucharski:

Thank you for providing me with the opportunity to respond to the audit report that stated errors related to trust fund management, disbursement of liabilities, court appointed attorney fees, bank reconciliation, daily report monitoring and Secure Remote Access.

Chaz Evans-Haywood
Clerk

Marlene Key
Chief Deputy Clerk

Melanie Hollen
Assistant
Chief Deputy Clerk

Jessica Preston
Deputy Clerk

Brenda Huffman
Deputy Clerk

Lynn Lambert
Deputy Clerk

Stacy Baugher
Deputy Clerk

Cindy Cline
Deputy Clerk

April Wolverton
Deputy Clerk

Heather Reardon
Deputy Clerk

Ann Pittman
Deputy Clerk

Kathie Brooks
Deputy Clerk

Dustin Heishman
Deputy Clerk

I have reviewed the APA report and spent many hours with my internal staff to address each of these points. I have provided responses below that include comments and action plans that I believe can assure both our offices that public funds are being handled responsibly and securely as required by law.

Improve Trust Fund Management

MP 1 & 4 attached are applicable to this section

I have created a new policy regarding the disbursement of funds and the record that will be imaged for future review. I agree wholeheartedly that we must be able to promptly find documentation related to court funds.

I considered the \$13.51 to be a control balance in an account with Suntrust Bank that was eventually corrected as a bank error. It was my intention to have the \$13.51 in place for three months, but overlooked requesting the correction until the fourth month. The account in question has subsequently been close per the recommendation of the APA. I appreciate the advice to streamline the fund management process.

I personally review the reconciliation reports of both the Chief Deputy and the Deputy Clerk responsible for individual bank accounts each month. I did not sign off on the Clerk approval since the account was not balancing properly for several months when a problem occurred. The problem amount was \$50.00 which represents .000182% of approximate \$274,000.00 in the account when the error was first found. I have learned the importance in signing off with an explanation each month and will continue in that fashion whenever there is a similar issue.

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Monitor and Disburse Liabilities

I appreciate the guidance provided by the APA in regard to the bonds. Four of the seven bonds in question have been dispersed. We will continue to research the others until we can find a complete address for the others. The addresses on file were created long before the change to the new 911 mailing system.

Data, Costs, Court Appointed Attorney Fees, District Court Fees and Locality billing MP 6 attached is applicable to this section

I recognize the importance in properly billing the Commonwealth and locality. The APA was kind enough to bring to my attention some important issues which have been internally addressed regarding the billing of court appointed attorneys. The Clerk staff is conducting an ongoing review of similar cases to determine if any other filing need to have corrections made based upon the APA recommendations.

Properly Reconcile Bank Account

MP 1 attached is applicable to this section

I personally review the reconciliation reports of both the Chief Deputy and the Deputy Clerk responsible for individual bank accounts each month. I will continue to notify the Supreme Court of Virginia when an error cannot be corrected. The eight months of account reconciliation was a controlled number and was being addressed after the third month when internal resources could not correct the situation.

Monitor Daily Reports

MP 2 attached is applicable to this section

I have internally addressed the mistake in the receipting of the \$150.00 to the credit card maintenance fee with the assistance of Mr. Martin Watts at the Supreme Court. The inner office attempts in May to correct the error when it occurred were not successful.

I will continue to review the daily reports and continue to seek assistance when matters arise that cannot be internally corrected.

Improve Secure Remote Access

MP 7 attached is applicable to this section

This Clerk took immediate action to assure compliance with 17.1-276.

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Again, thank you for the opportunity to fully respond to the report of the staff that represents you as the Auditor of Public Accounts. During these difficult fiscal times when many state offices are trying to prove their worth, I will continue to welcome any ideas and reviews that can better assure the fiscal security of this office.

Please feel free to contact me directly if I may provide any assistance to you.

All my best,

A handwritten signature in black ink, appearing to read 'Chaz W. Evans-Haywood', enclosed within a large, loopy oval shape.

Chaz W. Evans-Haywood

Clerk of the Circuit Court