

**CLERK OF THE CIRCUIT COURT
OF THE COUNTY OF POWHATAN**

**REPORT ON AUDIT
FOR THE PERIOD
JANUARY 1, 2005 THROUGH DECEMBER 31, 2005**



- TABLE OF CONTENTS -

	<u>Pages</u>
AUDIT LETTER	1-2
INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS	3-4
CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN	5-6



Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

April 6, 2006

The Honorable William E. Maxey, Jr.
Clerk of the Circuit Court
County of Powhatan

Board of Supervisors
County of Powhatan

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Powhatan for the period January 1, 2005 through December 31, 2005.

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. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

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.

Our audit was more limited than would be necessary to provide assurance on internal controls or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal controls, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

We do not believe these conditions are material weaknesses. A material weakness is a significant deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability and go undetected.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system.

However we noted certain matters involving internal control and its operation that we consider to be reportable conditions. A reportable condition involves a matter coming to our attention relating to a deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The reportable conditions are discussed in the section titled "Internal Control Findings and Auditor's Recommendations."

The results of our tests of compliance with applicable laws and regulations disclosed no instances of noncompliance that are required to be reported.

The Clerk has taken adequate corrective action with respect to the internal control findings reported in the prior year that are not repeated in this letter.

We discussed these comments with the Clerk on April 6, 2006 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:sks

cc: The Honorable Thomas V. Warren, Chief Judge
Carolyn Cios, County Administrator
Bruce Haynes, Executive Secretary
Compensation Board
Paul Delosh, Director of Technical Assistance
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

INTERNAL CONTROL FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following findings are reportable internal control matters that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability. The Clerk's response and written corrective action plan to remediate these findings are included as an enclosure to this report.

Improve Accounting Procedures by Training Staff

The Clerk and staff did not review system reports, which show incorrectly entered financial data in the court's systems. There is no concerted effort to consistently monitor daily exceptions reports produced by the automated systems. Exceptions reports identify accounts requiring corrective action. For example, exception reports showed criminal fees totaling \$1,465 never assessed in six cases and two criminal cases never concluded in the system. These errors went uncorrected for up to eight months because staff had failed to request and review the report.

When properly used, the court's financial and case management systems provide effective means to quickly process data critical to daily operations and enhance customer service. However, the Clerk and staff must have a working knowledge of systems procedures. The Clerk should immediately contact the Supreme Court for refresher financial management system training. Upon receiving training, the Clerk should evaluate the capabilities of each staff member and reassign duties commensurate with each one's ability to operate in the automated environment.

Properly Assess Court Appointed Attorney Fees in Criminal Cases

The Clerk and staff do not assess and collect all court appointed attorney fees in criminal cases. In eight cases, staff under-assessed, over-assessed or failed to assess \$2,006 in fees. Incorrectly or failing to assess the fees per the Code of Virginia Section 19.2-163 hinders the collection of court debt and can result in the Commonwealth not being properly reimbursed for the use of the court appointed attorneys. The Clerk needs to ensure his staff is more diligent in properly assessing and collecting court appointed attorney fees in accordance with the Code of Virginia.

Properly Enter Unpaid Costs in the Judgment Lien Docket

The Clerk does not enter all unpaid fines and costs in the Judgment Lien Docket as required by Section 8.01-446 of the Code of Virginia. The Clerk failed to enter judgments totaling \$6,305 for 11 of 20 unpaid cases tested. In three other cases, we noted delays of up to two months in entering the judgments. To maximize collections, the Clerk should promptly record all unpaid fines and costs in the Judgment Lien Docket Book.

We reported this finding in our prior audit. We found that the Clerk's corrective action plan was not sufficient to remediate the problem.

Improve Trust Fund Management

The Clerk did not invest trust funds of \$7,327 within 60 days as required by Section 8.01-600 (F) of the Code of Virginia. The Clerk may have a personally liability for any lost interest income for not investing the funds. We found other issues with trust fund management including the misclassification of other funds as trust funds, and not recording timely the approximate distribution dates. As a result, the Annual Report contains inaccurate financial information, including an incorrect trust fund balance and approximate distribution dates. Without proper management, the Clerk cannot ensure proper reporting and payout of trust fund accounts.

Establish a Change Fund

A significant number of the Court's transactions involve cash. However, the Clerk does not use a change fund for cash transactions. Instead, the Clerk allows staff to co-mingle personal funds with court funds to provide change to customers, or they refuse to accept cash payments if they do not have change available. The Clerk should immediately stop the co-mingling of personal funds with court funds and establish an official change fund using the recommended procedures listed in the Financial Management System User's Guide. Co-mingling public funds with personal funds greatly increases the risk of errors, omissions, or other loss of funds.

The following is an instance of noncompliance that is required to be reported:

Properly Disburse Condemnation Funds

As noted in the last several audits, the Clerk again failed to disburse the funds associated with ended condemnation cases. There were court orders from 1999 and 2002 directing disbursement of a total of \$4,151 in condemnation funds, and the Clerk initially issued the checks as required. However, when the checks remained outstanding, the Clerk voided them and put the funds back into the condemnation accounts instead of remitting them as unclaimed property to the Commonwealth. Whenever a case concludes, the Clerk should distribute condemnation funds timely in accordance with Section 25.1-240 of the Code of Virginia. If the Clerk cannot locate the recipients, he should send the funds to the state as unclaimed property in accordance with Section 55-210.12 of the Code of Virginia.

Circuit Court of Powhatan County

**CLERK'S OFFICE
P.O. Box 37
Powhatan, VA 23139
(804) 598-5660**

**WILLIAM E. MAXEY, JR.
CLERK**

**ELEVENTH JUDICIAL CIRCUIT
THOMAS V. WARREN
PAMELA S. BASKERVILL
JAMES F. D'ALTON, JR.
JUDGES**

April 24, 2006

TO: James M. Shepard, CPA
Audit Director
Auditor of Public Accounts

**SUBJECT: CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN
REFERENCE CLERK'S AUDIT YEAR 2005**

1. IMPROVE ACCOUNTING PROCEDURES BY TRAINING STAFF
2. PROPERLY ASSESS COURT-APPOINTED ATTORNEY FEES IN CRIMINAL CASES
3. PROPERLY ENTER UNPAID COSTS IN THE JUDGMENT LIEN DOCKET

CLERK'S CORRECTIVE ACTION PLAN FOR ABOVE ITEMS

Clerk feels that without a doubt additional training for staff is the most important means to correct most of the items noted above.

We have started a training program as follows: Deputy Newman (our newest deputy) has attended training sessions at Supreme Court OES on 03/23/2006, 04/13/2006 and 04/18/2006. Chief Deputy Powers is scheduled for training session on 05/18/2006. We plan to continue these training programs in the future.

We are certain that the training sessions are going to be a big help. We also realize that we must closely monitor to see that proper and timely actions are taken.

4. IMPROVE TRUST FUND MANAGEMENT

Clerk accepts the personal liability for the loss of interest caused by our delay in transferring funds to an interest bearing account and has deposited personal funds to cover the loss in the amount cited.

RE: 2005 AUDIT

Page Two

April 24, 2006

Following the recommendations of the APA, we have established a bank account identified as "Chancery Funds", and have separated the "miscellaneous" funds from the "Trust Funds" and will continue to improve the accuracy of the information and distribution dates.

5. ESTABLISH A CHANGE FUND

On March 31, 2006, we established a "Change Fund" in the amount of \$75.00.

6. PROPERLY DISBURSE CONDEMNATION FUNDS

Clerk is aware of the several discussions we have had reference these funds and we will make a sincere effort to improve the situation but will also seek some guidance from the Court.

Respectfully submitted,



William E. Maxey, Jr., Clerk