

**BENJAMIN O. SCOTT  
CLERK OF THE CIRCUIT COURT  
OF THE  
CITY OF PETERSBURG**

**REPORT ON AUDIT  
FOR THE PERIOD  
JANUARY 1, 2010 THROUGH DECEMBER 31, 2011**



– TABLE OF CONTENTS –

	<u>Pages</u>
INDEPENDENT AUDITOR’S REPORT	1-3
STATEMENT OF ASSETS AND LIABILITIES	4
NOTES TO THE STATEMENT	5
CLERK’S CORRECTIVE ACTION PLAN	6-7



# Commonwealth of Virginia

## Auditor of Public Accounts

Walter J. Kucharski  
Auditor of Public Accounts

P.O. Box 1295  
Richmond, Virginia 23218

March 27, 2012

Shalva J. Braxton  
Clerk of the Circuit Court  
City of Petersburg

Brian Moore, Mayor  
City of Petersburg

We have audited the cash receipts and disbursements as well as the accompanying Statement of Assets and Liabilities of Benjamin O. Scott, former Clerk of the Circuit Court of the City of Petersburg for the period January 1, 2010 through December 31, 2011. The purpose of auditing the statement was to determine the accountability of the former Clerk at December 31, 2011, and to turn over the assets, accounts, and records of the office to Shalva J. Braxton, the newly appointed Clerk of the Circuit Court.

### 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. Our responsibility is to express an opinion on the statement based on our audit.

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.

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.

As described in Note 1, this statement has been prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. This basis of accounting is prescribed by the State Comptroller and approved by the Auditor of Public Accounts as it is deemed the appropriate method of reporting by Clerks of the Circuit Court.

In our opinion, the statement referred to above presents fairly, in all material respects, the assets and liabilities of the Clerk of the Circuit court of the City of Petersburg as of December 31, 2011, on the basis of accounting described in Note 1.

We acknowledge the cooperation extended to us during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:alh

cc: The Honorable James F. D'Alton, Jr., Chief Judge  
William E. Johnson, III, City Manager  
Paul DeLosh, Director of Judicial Services  
Supreme Court of Virginia

## COMMENTS TO MANAGEMENT

### Request Tax Set Off Refunds

The former Clerk failed to collect potentially \$131 of state and local funds. He did not request the Department of Taxation set off refunds for individuals against the amount owed for delinquent fines and court costs as required by Section 58.1-524 (A) of the Code of Virginia. The Clerk should promptly respond to tax set off refunds held by the Department of Taxation.

### Properly Record Fines and Court Costs

The former Clerk did not properly record fines and court costs resulting in a loss of revenue to both the Commonwealth and Locality. Auditor tested 38 cases and noted the following errors.

- In 11 cases, the former Clerk failed to record court-appointed attorney and public defender fees from the District Court. These errors resulted in a potential loss of revenue to the Commonwealth totaling \$1,080.
- In one case, the former Clerk recorded the fine to the local account code of 201 instead of the state account code of 110. This error resulted in a potential loss of revenue to the Commonwealth totaling \$96.
- In one case, the former Clerk recorded the felony reduced to a misdemeanor fee instead of the fixed misdemeanor drug fee. This error resulted in a loss of revenue to the Commonwealth and the Locality of \$70.
- In one case, the former Clerk failed to properly record the tried in absence fee from the District Court. This error resulted in a potential loss of revenue to the Commonwealth totaling \$10.

We recommend the clerk correct the case paper work for the cases above and research all similar cases and make the appropriate corrections to case paper work. The Clerk and her staff should work with the Office of the Executive Secretary to receive training, if necessary, regarding the recording of fines and court costs.

CITY OF PETERSBURG  
CLERK OF THE CIRCUIT COURT  
STATEMENT OF ASSETS AND LIABILITIES  
AS OF DECEMBER 31, 2011

ASSETS

Cash and Cash Equivalents	<u>\$222,467</u>
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LIABILITIES

Due to the Commonwealth of Virginia	\$ 7,941
Due to the City of Petersburg	75,784
Collections for others	127,023
Depository bonds	1,500
Condemnation Funds	10,219
Total	<u>\$222,467</u>

*The accompanying Notes to the Statement are an integral part of this statement.*

CITY OF PETERSBURG  
CLERK OF THE CIRCUIT COURT  
NOTES TO STATEMENT  
AS OF DECEMBER 31, 2011

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The Clerk of the Circuit Court is an elected constitutional officer who administers the City of Petersburg's court of record. The Circuit Court is where individuals file documents requiring formal recording by law to include deeds, wills, marriage licenses and various other documents. The Circuit Court has exclusive original jurisdiction in all felony criminal cases, in civil chancery, and civil cases where the amount exceeds \$15,000. It also hears appeals from district courts.

Basis of Accounting

The statement is prepared using the cash basis of accounting, which records cash receipts when received and disbursements when made.

2. SURETY BOND

In accordance with Sections 2.2-1840 and 2.2-1841, Code of Virginia, the Clerk was bonded under a Public Officials Position Schedule Bond in the amount of \$500,000 with the Fidelity and Deposit Company of Maryland and through a self-insurance plan administered by the Virginia Department of Treasury's Division of Risk Management as sureties.

*Hon. James F. D'Alton, Jr. Chief Judge  
Petersburg, Virginia*

*Hon. Pamela S. Baskerville, Judge  
Petersburg, Virginia*

*Hon. Paul W. Cella, Judge  
Powhatan, Virginia*



*Office of  
SHALVA J. BRAXTON  
Clerk of Circuit Court  
City of Petersburg, Virginia*

March 22, 2012

Walter J. Kucharski, Auditor  
Auditor of Public Accounts  
P. O. Box 1295  
Richmond, VA 23218

Dear Mr. Kucharski:

Enclosed please find my Corrective Action Plan for the audit period January 1, 2010 through December 31, 2011.

Respectfully submitted,

A handwritten signature in dark ink, reading "Shalva J. Braxton". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Shalva J. Braxton, Clerk  
Circuit Court  
City of Petersburg, VA



*Hon. James F. D'Alton, Jr. Chief Judge  
Petersburg, Virginia*

*Hon. Pamela S. Baskerville, Judge  
Petersburg, Virginia*

*Hon. Paul W. Cella, Judge  
Powhatan, Virginia*



*Office of  
SHALVA J. BRAXTON  
Clerk of Circuit Court  
City of Petersburg, Virginia*

**PETERSBURG CIRCUIT COURT CLERK'S OFFICE  
RESPONSE TO AUDIT POINTS – 2010/2011 AUDIT  
CORRECTIVE ACTION PLAN**

**Request Tax Set-Off Refunds**

During the 2011 calendar year, the former Clerk completed the implementation of the Department of Taxation's Tax Debt Set-off Program; however, we failed to collect \$ 131 of state and local revenue. Although this amount was inadvertently not collected, other amounts were appropriately collected, in accordance with Section 58.1-524 (A) of the Code of Virginia. Inadvertent oversights will be avoided as the Deputy Clerks become more familiar with operating and maintaining this newly implemented system.

**Properly Record Fines and Court Costs**

The former Clerk implemented an errors review process that was designed to reduce the error rates within the case file structure. In addition, fines and costs were periodically reviewed for assessment errors. In order to completely eliminate all assessment errors, an increase in the level of automation should be considered in that the vast majority of the errors noted related to those assessments related to lower court transfer activities. We will continue to work with the Office of the Executive Secretary of the Supreme Court of Virginia regarding the increase in the level of automation and training.

Shalva J. Braxton, Clerk  
Petersburg Circuit Court

March 22, 2012

Date