

**WILLIAM E. MAXEY, JR.  
CLERK OF THE CIRCUIT COURT  
FOR THE  
COUNTY OF POWHATAN**

**REPORT ON AUDIT  
FOR THE PERIOD  
JANUARY 1, 2011 THROUGH JUNE 30, 2013**

## 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.

### Request Tax Set-Off Refunds

The Clerk did not submit claims to the Virginia Department of Taxation (TAX) for tax set-off of refunds totaling \$495 for delinquent court costs and fines, resulting in a loss of revenue to the Commonwealth and locality. A court must submit claims for set-off of tax refunds through TAX's automated accounting system, the Integrated Revenue Management System. The Clerk should use the tax refund set-off process to maximize collections as required by the Code of Virginia.

### Promptly Establish Receivables

The Clerk did not establish accounts receivable in the automated system immediately after final disposition of the case, as required by the Financial Management System User's Guide. We noted delays of up to 32 weeks. The Clerk should immediately establish the accounts receivable whenever fines and costs are ordered in order to maximize collections.

### Escheat Unclaimed Property

The Clerk did not report unclaimed property totaling \$5,327 to the Division of Unclaimed Property for fiscal years 2011 and 2012. We recommend the Clerk remit these funds to the Division of Unclaimed Property as required by the Code of Virginia.

### Properly Assess Fines and Fees

The Clerk did not properly bill court costs and fines. We tested 27 criminal cases and noted the following errors.

- In two cases, the Clerk did not assess state fines totaling \$1,500.
- In two cases, specific fees were assessed in error. Specifically, in one case, the Clerk erroneously assessed a \$250 fine and, in the other case, the Clerk incorrectly charged the jail admission fee.
- In six cases, the Clerk failed to assess specific fees as required. Those fees included the DNA fee, the drug offender fee, and the local courthouse security fee.
- In two cases, the Clerk did not assess court appointed attorney fees correctly. Specifically, the Clerk did not assess the court appointed attorney fee from the district court in one case and assessed amounts not ordered in another case.

The Clerk should correct these specific cases noted above. Further, the Clerk should work with his staff to ensure they understand the billing and collection requirements and, if necessary, request additional training from the Office of the Executive Secretary of the Supreme Court of Virginia.

### Prepare Annual Reports and Delete Confidential Information

The Clerk did not prepare an Annual Report for fiscal year 2011. Additionally, confidential information was included in the court's Trust Fund Order Book. Sections 8.01-600(G) and 17.1-125 of the Code of Virginia require the Clerk to prepare and maintain a copy of the Annual Report each year in the court's Trust Fund Order Book. Additionally, Section 8.01-600(B) requires all confidential information to be removed from orders related to trust funds and from the Annual Report. We recommend the Clerk prepare the Annual Report for

fiscal year 2011 and remove all confidential information from the Trust Fund Order Book as required by the Code of Virginia.

Properly Bill and Record Court Appointed Attorney Fees

The Clerk improperly billed and recorded court-appointed attorney fees on local cases as required by Section 19.2–163 of the Code of Virginia. These errors resulted in a loss of revenue to the state of \$532 and to the locality of \$494.

We recommend the Clerk research all similar cases, make the appropriate corrections to case paperwork, and where appropriate, bill the localities for the court-appointed attorney fees and reimburse the Commonwealth. Further, we recommend the Clerk work with the Office of the Executive Secretary to receive training in these billing practices.

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Martha S. Mavredes, CPA  
Auditor of Public Accounts

# Commonwealth of Virginia

*Auditor of Public Accounts*

P.O. Box 1295  
Richmond, Virginia 23218

October 9, 2013

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

Barry Hodge, Board Chairman  
County of Powhatan

Audit Period: January 1, 2011 through June 30, 2013  
Court System: County of Powhatan

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

MSM: clj

cc: The Honorable James F. D'Alton, Jr., Chief Judge  
Patricia Weiler, 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

# 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  
PAUL W. CELLA  
PAMELA S. BASKERVILL  
JAMES F. D'ALTON, JR.  
JUDGES

September 30, 2013

Martha S. Mavredes  
Auditor of Public Accounts  
Commonwealth of Virginia  
P. O. Box 1295  
Richmond, Virginia 23218

RE: Clerk's Response and Corrective Action Plan  
Audit Period: January 1, 2011 through June 30, 2013  
Court System: County of Powhatan

The following are areas of deficiency involving internal controls in this office that were noted by your auditors for the aforesaid period. This response includes clarifications relating to the Comments to Management and steps that have already been taken. Because my tenure as clerk ends today, I will leave the corrective action plans to my successor, Kathryn Powers, who is aware of the findings of this audit report.

## **Request Tax Set-Off Refunds**

This office does regularly use the tax refund set-off process as required by the Code. In the case cited, the individual had paid us most of the money owed, but we failed to inform the TAX system about this. The lost revenue amount was ultimately very small. In a meeting with representatives of the Department of Taxation on August 7, 2013, we received more clarification on TAX procedures, which should yield better results in the future.

## **Properly Establish Receivables**

This item has been noted in previous audit reports, and we have attempted to correct the problem. We feel that our overall record has, in fact, improved. The cited delay of 32 weeks seems to be an outlier.

### **Escheat Unclaimed Property**

The unclaimed property mentioned is a check, properly disbursed as per court order in December, 2009, which has never been presented for payment. Previously unaware of the proper procedure for handling this situation, we have now sought and received detailed instructions from the Supreme Court's judicial services department and will escheat the funds to the Division of Unclaimed Property within 30 days.

### **Prepare Annual Reports and Delete Confidential Information**

The cited Annual Report of Monies Under Control of the Clerk of the Circuit Court for fiscal year 2011 was, in fact, prepared and filed with Judge Cella. The cover letter that accompanied it, with his signature acknowledging receipt, was included in the Trust Fund Order Book. The deficiency was our failure to retain a copy. According to the judicial services department of the Supreme Court, the financial management system cannot easily supply a replacement, so that (re)preparing the report will not be possible. Following suggestions provided by that department, we have documented as closely as possible the contents of the missing report from other sources, and this information is now available in the Trust Fund Order Book.

In addition, as far as we know, all "confidential information" has now been removed from the Trust Fund Order Book. We are aware of the requirement and have routinely obliterated Social Security numbers. there seems to be no clear definition of confidential information, however; it is evidently wider than we had previously assumed.

### **Properly Assess Fines and Fees**

### **Properly Bill and Record Court Appointed Attorney Fees**

These areas have been an ongoing challenge in recent years and are focus of attention. As our new personnel get more training and experience, we should see these errors diminish. I am sure that my successor clerks will continue to monitor the situation.


Retiring today after more than 56 years as clerk, I would like to add that I have always had a cordial relationship with your auditors and appreciate their diligence and assistance in maintaining a high standard of financial excellence over all these years.

When I became clerk in 1957, auditors came annually, men (always men!) in suits with briefcases, usually unannounced. I myself kept the books, making all the entries every day until



the FMS was implemented about 1990. Having Tracy Vaughan supervising again this year and meeting her support staff of three young women was another reminder of just how much has changed during my clerkship (not to mention that the Auditor of Public Accounts is also a woman!). But we all still share the same goals. Thank you for your efforts.

Respectfully submitted,

  
William E. Makey, Jr.  
Clerk