

**LINDA BATCHELOR SMITH
CLERK OF THE CIRCUIT COURT
OF THE
CITY OF HAMPTON**

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



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Commonwealth of Virginia

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

Walter J. Kucharski, Auditor

June 22, 2010

The Honorable Linda Batchelor Smith
Clerk of the Circuit Court
City of Hampton

City Council
City of Hampton

Audit Period: April 1, 2009 through March 31, 2010
Court System: City of Hampton

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:alh

cc: The Honorable Wilford Taylor, Jr., Chief Judge
Mary Bunting, 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.

Properly Record and Collect Fines and Costs

The Clerk does not properly record and collect fines and costs as required by Sections 19.2-163, 19.2-340 and 17.1-275 of the Code of Virginia. Specifically, in 15 of the 24 cases tested we noted the following errors.

- In seven cases, the Clerk used a state account code to record local fees, resulting in a potential loss to the locality totaling \$1808.
- In four local cases, the Commonwealth paid for public defenders but the Clerk failed to request reimbursement from the locality, resulting in a loss of revenue to the Commonwealth totaling \$1068.
- In three cases, the Clerk billed the defendant for more than the maximum amount allowed for a court-appointed attorney, resulting in potential overpayments to the Commonwealth of \$1643.
- In three cases involving appeals from the district court, the Clerk did not bill defendants for the amount of district court certified costs for court-appointed attorneys. These errors resulted in a potential loss of revenue to the locality totaling \$360.
- In two cases, the Clerk did not bill defendant for the circuit court fixed misdemeanor fee, resulting in a potential loss to the Commonwealth of \$140.
- In two cases, the Clerk did not bill defendant for the correct district court fixed fee, resulting in a loss to the Commonwealth of \$20.
- In two cases, the Clerk did not bill defendant for the courthouse security fee, resulting in a potential loss to the locality of \$10.
- In one case, the Clerk did not bill the defendant for court-appointed attorney fees, resulting in a potential loss to the Commonwealth of \$765.
- In one case, the Clerk used a local account code to record a state fine, resulting in a potential loss to the Commonwealth of \$500.
- In one case, the Clerk did not bill defendant for the district court tried-in-absence fee, resulting in a potential loss to the Commonwealth of \$20.

We recommend the Clerk research all similar cases, make the appropriate corrections to case paperwork, refund any overpayments to defendants, and where appropriate, bill the locality for the applicable public defender costs.

Establish Receivable Accounts

The Clerk is unable to recover costs or fines from two defendants, because she did not establish receivable accounts in the automated Financial Management System for them upon recording their

convictions in the Case Management System. These systems provide daily, weekly, and monthly informational reports to assist the Clerk in court management and financial operations. The FMS Manual provides detailed instructions for the use of these reports. Our audit revealed the Clerk does not have established procedures for effectively monitoring the Accounts Without Receivable Report, which would have identified the two cases noted in our audit. We recommend the Clerk review the available reports and ensure this report and others are properly used.



City of Hampton

OLDEST CONTINUOUS ENGLISH SPEAKING SETTLEMENT IN AMERICA

Linda Batchelor Smith, Clerk
CIRCUIT COURT
(8TH JUDICIAL CIRCUIT)

CHRISTOPHER W. HUTTON, JUDGE
WILFORD TAYLOR, JR., JUDGE
LOUIS R. LERNER, JUDGE
BONNIE L. JONES, JUDGE



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June 16, 2010

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

Dear Mr. Kucharski,

This letter is my official corrective action plan as it relates to the Hampton Circuit Court Clerk's Office Audit for the period April 1, 2009 through March 31, 2010, which is intended to be an attachment to the APA findings dated May 25, 2010.

Properly Record and Collect Fines and Costs

Immediately following the departure of the state auditors, a meeting was held with all Deputy Clerks that work in the criminal division and those primarily responsible for assessing criminal costs. All persons were aware of the proper account codes and/or fees that should have been assessed on **bullets 2, 3, 4, 5, 6, 7, 8, and 9**, therefore, offering no explanation except human error. All cases were reviewed and monies reassessed properly to State and City codes, therefore resulting in a loss of \$20 loss as identified in bullet 6. This was due to the fact; the defendants had already paid their fine and costs in full. This \$20 loss is the same loss identified under **Establish Receivable Accounts**.

The seven cases identified in **bullet 1** were City DUI cases whereby the Commonwealth's Attorney was the prosecutor not the City Attorney. Therefore, the Deputy Clerks were under the belief all fines and court appointed fees should be assessed to the State. All cases have been reviewed and monies reassessed properly to City codes. It is my opinion this matter should not have been included in this audit. This was a legitimate concern, which is not addressed in the FMS manual and has not been brought to my attention in prior audits.

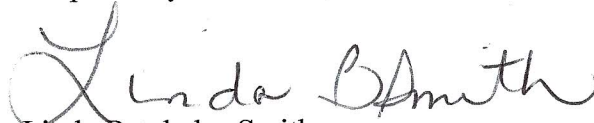
Although the allegations in **bullet 10** have been corrected, it is also my opinion this matter should have been brought to my attention as a warning. The Circuit Court cannot charge the tried-in-absence fee therefore resulting in much confusion and discrepancies as to why we would add the tried-in-absence fee listed on the General District warrant to the fees we assess.

Establish Receivable Accounts

I concur with the audit findings and recommendations for dealing with such problems. The bookkeeper has added the "Accounts without Receivable Report" along with the "New Accounts Listing Report" and the "BR42 Report" (Appointed/Public Defender Report) to her daily and monthly checklist. By utilizing these reports, we can eliminate any potential loses and/or incorrect assessments and can reallocate monies to correct entity.

In closing, I am doing everything possible within the limitation of man-hours we have available to comply with the Code of Virginia and to minimize errors. I take great pride in past audits and realize the importance of compliance with all procedures and will work hard to continue to be worthy of our constituents trust. I would like to thank the auditors for their professionalism.

Respectfully Submitted,


Linda Batchelor Smith
Clerk of Court

cc: The Honorable Wilford Taylor, Jr., Chief Judge
Hampton Circuit Court
Mary Bunting, Hampton City Manager
Hampton City Council Members
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia
Martin Watts, Court Analyst
Supreme Court of Virginia