

**HELEN V. BUTTS
THE CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF CLARKE**

**REPORT ON AUDIT
FOR THE PERIOD
APRIL 1, 2007 THROUGH DECEMBER 31, 2008**



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Commonwealth of Virginia

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

Walter J. Kucharski, Auditor

June 1, 2009

The Honorable Helen V. Butts
Clerk of the Circuit Court
County of Clarke

Board of Supervisors
County of Clarke

Audit Period: April 1, 2007 through December 31, 2008
Court System: County of Clarke

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.

Financial Matters

We noted instances of improper recording and reporting of financial transactions in the Court's financial management system.

Internal Controls

We noted matters involving internal control and its operation necessary to bring to management's attention.

Compliance

The results of our tests of compliance with applicable laws and regulations disclosed instances of noncompliance that are required to be reported.

The issues identified above are discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate these issues 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 John R. Prosser, Chief Judge
David L. Ash, 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

Internal Controls

We noted the following matters involving internal control and its operation that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability.

Compliance

The results of our tests of compliance with applicable laws and regulations disclosed the following instances of noncompliance.

Properly Account for Funds

The Clerk has co-mingled Technology Trust and Secure Remote Access Funds. The Clerk recorded the reimbursement of Technology Trust Fund expenses from the Compensation Board as a receipt of the Secure Remote Access Fund. As a result of this recording error, the Clerk has overstated the Secure Remote Access Account by \$34,000.

Proper accounting for any funds requires that the Clerk record transaction in the appropriate fund and account. We recommend the Clerk reconcile Technology Trust Fund Account and Secure Remote Access Account and prepare a journal entry to properly correct the ending balances in these accounts.

Properly Maintain Contract Information

The Clerk did not obtain a signed agreement between the Court and the designated service provider, and could only provide a copy of the Service Provider's proposal dated January 11, 2005. Sound business practices require that the Clerk obtains a signed contract with any vendor providing service unless obtained under a standing contract with either the County or Commonwealth. Further competitive procurement practices would also require the Clerk to periodically undertake a review of the contract with the service provider to determine if the Court could obtain a lower cost of service.

Improve Trust Fund Recordkeeping and Management

Our audit of the Trust Funds found Clerk had the following issues.

- Recorded eleven law case accounts totaling \$59,279 as trust accounts.
- Recorded one Trust fund account totaling \$13,385 as a law case account.
- Recorded one trust fund account in the amount of \$333 as fiduciary account.

The Clerk does not have to invest law cases accounts, however, Sections 58.1-3177 and 8.01-600 of the Code of Virginia make the Clerk personally responsible for the loss of any income for the untimely investment by funds, which occurred when the Clerk did not record the two accounts above as Trust Funds. Further by not allocating interest in a timely manner, the Clerk incurs the risk of improperly disbursing trust funds.

The Clerk should review all funds that the Court is holding in trust to determine that the accounts are properly recorded and if not make the appropriate entries to properly record the accounts. Also the Clerk should distribute any interest or other earnings to the individual accounts within five business days of receiving the statement.

CLERK'S OFFICE

Clarke County Circuit Court

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HELEN BUTTS, Clerk

DEPUTY CLERKS:

April F. Wilkerson
Carolyn L. DeHaven

April 17, 2009

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

Dear Mr. Kucharski:

This is in response to, and the correction action we have taken, as to our audit for the period April 1, 2007 through December 31, 2008.

Properly Account for Funds:

The monies received for Technology Fund (\$34,000), was inadvertently entered in the incorrect code #415. The monies came in and were disbursed to our Vendor under code #415 instead of #420. The Secure Remote Access account code #415, and the Technology Trust Fund Reimbursement code #420, have been corrected and will continue to be entered correctly in the future.

Properly Maintain Contract Information:

I have secured a signed Agreement with our vendor, Logan Systems, Inc., in accordance with the Secure Remote Access Standards. (See copy attached)

Improve Trust Fund Recordkeeping and Management:

Eleven Law Cases were County of Clarke cases for sale of delinquent taxes totaling \$59,279.41. These were all invested in interest bearing accounts as required by the Code of Virginia but were incorrectly entered into Code #511 (Trust Funds). During the audit these were all corrected and will continue to be correctly entered in the future.

The Law account of \$13,385.41 incorrectly entered had always been invested in an interest bearing account as required by the Code of Virginia. During the audit this account was corrected and entered in Code #511.

The fiduciary account in the amount of \$333.33 had not been invested as required. During the audit this account was invested as required by the Code of Virginia and entered into Code #511. (The reason the \$333.33 was not invested in an interest bearing account when received was due to a misunderstanding with the Bank when we understood a \$500.00 minimum was required to open the interest bearing account). In re-checking with the Bank during the audit we found this to be incorrect....we immediately opened an interest bearing account. I have submitted an "Amended 2008 Annual Trust Fund Report" in compliance with the Code of Virginia, had it signed by our Judge, and

filed in our Trust Fund Order Book. (See copy attached). My staff and I are checking available refresher training classes through the Supreme Court on Trust Fund and FMS Management. I have reviewed and printed the Trust Fund requirements and added them to our Trust Fund Order Book for quick reference in the future.

Thank you for your consideration in the above correction action we have taken.

Sincerely,

A handwritten signature in cursive script that reads "Helen Butts". The signature is written in black ink and is positioned above the printed name.

Helen Butts, Clerk