

CHARLES V. MASON
GENERAL RECEIVER OF THE CIRCUIT COURT
FOR THE
COUNTY OF KING GEORGE

REPORT ON AUDIT
FOR THE YEAR ENDED
JUNE 30, 2011



- TABLE OF CONTENTS -

| | <u>Pages</u> |
|--|--------------|
| Independent Auditor's Report | 1-2 |
| Exhibit A - Statement of Fiduciary Net Assets | 3 |
| Exhibit B - Statement of Changes in Fiduciary Net Assets | 4 |
| Notes to the Financial Statements | 5-6 |
| Comments to Management | 7 |
| General Receiver's Response | 8-9 |



Commonwealth of Virginia

Auditor of Public Accounts

Walter J. Kucharski
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

March 27, 2011

The Honorable Gordon F. Willis
Chief Judge of the Circuit Court
County of King George

INDEPENDENT AUDITOR'S REPORT

We have examined the accompanying statement of fiduciary net assets arising from cash transactions of

CHARLES V. MASON
GENERAL RECEIVER OF THE CIRCUIT COURT
of the
COUNTY OF KING GEORGE

as of June 30, 2011, and the related statement of changes in fiduciary net assets for the period July 1, 2010 to June 30, 2011. All records supporting these financial statements are the responsibility of the General Receiver. Our responsibility is to express an opinion on these financial statements based on our examination.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, these financial statements have been prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the fiduciary net assets arising from cash transactions of the General Receiver of the Circuit Court of the County of King George as of six June 30, 2011, and the changes in fiduciary net assets for the period July 1, 2010 to June 30, 2011, on the basis of accounting described in Notes 1-3.

We have included issues that the General Receiver needs to address in the section titled COMMENTS TO MANAGEMENT at the beginning of this report.

AUDITOR OF PUBLIC ACCOUNTS

WJK: clj

cc: Charles V. Mason, Clerk
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia

COUNTY OF KING GEORGE
GENERAL RECEIVER OF THE CIRCUIT COURT
STATEMENT OF FIDUCIARY OF NET ASSETS
AS OF JUNE 30, 2011

Exhibit A

A S S E T S

| | |
|--------------|------------------|
| Investments | \$724,059 |
| Total Assets | <u>\$724,059</u> |

L I A B I L I T I E S

| | |
|-------------------|------------------------|
| Total Liabilities | \$ <u> </u> - |
|-------------------|------------------------|

| | |
|---|------------------|
| Net Assets Held in Receiver Funds for Designees | <u>\$724,059</u> |
|---|------------------|

The accompanying notes to Financial Statements are an integral part of this statement.

COUNTY OF KING GEORGE
GENERAL RECEIVER OF CIRCUIT COURT
STATEMENT OF CHANGES IN FIDUCIARY NET ASSETS
FOR THE PERIOD ENDING JUNE 30, 2011

Exhibit B

Additions:

| | |
|-----------------|----------------|
| Receiver Funds | \$389,335 |
| Interest | 2,066 |
| Other | <u>50</u> |
| Total additions | <u>391,451</u> |

Deductions:

| | |
|-----------------------|----------------|
| Bond Costs | 1,959 |
| General receiver fees | 820 |
| Receiver Funds | 438,742 |
| Other | <u>119</u> |
| Total deductions | <u>441,640</u> |

Net Change (50,190)

Net Assets Held in Receiver funds for Designees

July 1, 2010 774,248

June 30, 2011 \$724,059

NOTE: The accompanying notes to financial statements are an integral part of this statement.

GENERAL RECEIVER OF THE CIRCUIT COURT

NOTES TO FINANCIAL STATEMENTS

AS OF JUNE 30, 2011

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Reporting Entity

Sections 8.01-582 through 8.01-590 of the Code of Virginia provide specific guidance to general receivers.

Any circuit court may appoint a general receiver of the court, whose duty shall be to receive, take charge of and hold all monies paid under any judgment, order or decree of the court, and also to pay out or dispose of same as the court so orders. General receivers are to maintain affidavits with the court providing beneficiary information as well as proposed dates of periodic and final disbursements.

Monies held pursuant to these sections shall be deemed public deposits and shall be invested in certificates of deposit or time deposits. Unless otherwise directed, general receivers shall collect dividends and interest on all investments and re-invest these collections.

General receivers shall keep an accurate and particular account of all monies received, invested and paid out. No later than October 1 of each year, the general receiver shall make a report to the circuit court including, but not limited to the whole amount invested, the manner of each investment, and the approximate date on which the monies held for the beneficiaries will become payable. A copy of this annual report is to be recorded in the court's trust fund order book.

A general receiver shall be liable for any loss of income which results from (i) failure to invest any money held within 60 days of receipt or (ii) failure to pay out any money so ordered by the court within 60 days of the court order. General receivers shall be charged with interest from the date of the court order until such investment or payment is made.

General receivers receive compensation and fees for services performed. No compensation shall be allowed until the general receiver has executed the required bond(s), made the required reports, and performed the duties previously described. The general receiver is entitled to an amount not to exceed ten dollars in each of the following circumstances: receipt of the originating court order; when all funds held for a beneficiary are disbursed; for each draft or check for periodic and final disbursements; for remitting funds to the State Treasurer; and per draft remitting those funds to the State Treasurer. The general receiver is also entitled to five percent of the interest income earned on each investment.

If a general receiver fails to keep the account, or to make out and return the statements as required, the general receiver shall be subject to a fine of not less than \$100 nor more than \$1,000 to be imposed by the court at its discretion.

B. Basis of Accounting

The financial statements of the General Receiver of the Circuit Court of the County of King George have been prepared using the modified cash basis of accounting. Under the modified cash basis of

accounting, additions to trust fund accounts are recorded when received and deductions from trust fund accounts are recorded when made.

C. Assets, Liabilities and Net Assets Held in Trust for Designees

1. Deposits and Investments

The general receiver's cash is considered to be cash on hand, demand deposits, and short-term investments with original maturities of three months or less from the date of acquisition.

Investments are principally comprised of monies held by the general receiver in a fiduciary capacity, as previously described. The general receiver should invest funds in an instrument or account insured by the Federal Deposit insurance corporation or Federal Savings and Loan Insurance Corporation. Generally, trust funds are invested in certificates of deposit. All investments are reported at fair value, in accordance with GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*.

2. Receivables

Additions to trust funds subject to accrual include investment interest earnings that are not yet recorded in the individual investment accounts at close of the fiscal year.

3. Liabilities

Deductions to trust funds subject to accrual include surety bond costs or General Receiver fees not yet recorded in the individual trust fund accounts at close of the fiscal year.

General receiver fees are monies owed by each trust fund account to the general receiver as compensation for the investment and record-keeping services performed.

COMMENTS TO MANAGEMENT

Eliminate the General Receiver and Place Trust Funds Under Control of Circuit Court Clerk.

The General Receiver is also the Clerk of the Circuit Court. General Receivers must purchase a bond to cover the risk of loss of the trust funds under their responsibility. The General Receiver allocates the cost of this bond to the individual trust accounts annually, thereby reducing the amount eventually paid to the account beneficiary. Circuit Court Clerks can also manage trust funds pursuant to Section 8.01-600 of the Code of Virginia; however, the Clerk's surety bond protects trust funds and there is no allocation of bond costs against the individual trust accounts.

There is no advantage to having a separate General Receiver when the Circuit Court Clerk can perform the identical duties. In fiscal year 2011, the General Receiver allocated about \$2,000 in bond costs to the trust accounts under his control, rather than avoiding these bond costs by managing the trust funds as Circuit Court Clerk.

If the Chief Judges wishes to have the General Receiver and Circuit Court Clerk be the same individual, we recommend the Chief Judge consider modifying the court order appointing the General Receiver to instead have trust funds held as moneys under control of the Circuit Court Clerk.

Properly Record Fees

Because the General Receiver is also the Circuit Court Clerk he is not entitled to personally retain fees charged for his services pursuant to section 8.01-589 of the Code of Virginia. The General Receiver must record fees as income to the Clerk's office. We recommend the General Receiver begin recording fee income as required by the Code of Virginia rather than retaining the fees personally.

King George County, Virginia

CHARLES V. MASON, CLERK
AND
GENERAL RECEIVER

PHONE: 540-775-3322



Clerk's Office

KING GEORGE COUNTY CIRCUIT COURT
9483 Kings Highway, Suite 3
King George, Virginia 22485

March 26, 2011

Karen Helderman
Office of the Auditor of Public Accounts

Eliminate the General Receiver and Place Trust Funds Under Control of Circuit Court Clerk.

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Response:

It is clear that the Virginia Legislature's intent under 8.01-582 was to create the position of the General Receiver. Legislation is also clear that both the General Receiver and the Circuit Court Clerk may hold and disburse funds by Court Orders and decrees. The issue of the bond of the General Receiver and the bond of the Circuit Court Clerk are addressed independently in the Code of Virginia. The manner in which these funds have been held and disbursed is compliant with the Code of Virginia. It is the intent of the legislature to maintain the two separate positions. It is the duty of the individual locality to determine what works best in that locality.

I agree to readdress the issue with the presiding Circuit Court Judge and take what actions are deemed to be appropriate.

Properly Record Fees

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Response: I do not object to the APA recommendation and will implement that recommendation immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles V. Mason", followed by a horizontal line.

Charles V. Mason