

RONALD M. IRVINE
CLERK OF THE CIRCUIT COURT
of the
CITY OF LYNCHBURG

REPORT ON AUDIT
FOR THE PERIOD
SEPTEMBER 1, 2008 THROUGH DECEMBER 31, 2009



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Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

March 9, 2010

The Honorable Ronald M. Irvine
Appointed Clerk of the Circuit Court
City of Lynchburg

City Council
City of Lynchburg

Audit Period: September 1, 2008 through December 31, 2009
Court System: City of Lynchburg

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 Appointed Clerk are included as an enclosure to this report.

We discussed these comments with the Appointed Clerk and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:alh

cc: The Honorable Mosby Garland Perrow, III, Chief Judge
L. Kimball Payne, 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 have led or could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability.

Background Information

The findings in this report reflect the administration of the Clerk's office for the period September 1, 2008 to December 31, 2009, at which time the Clerk retired and the Judge appointed Ronald Irvine as Clerk of the Circuit Court for the City of Lynchburg. We have included these matters in this report, so that the new Clerk can address these findings.

Request Tax Set Off Refunds

The Clerk did not request tax set off refunds totaling \$8,227 for individuals that owe delinquent court costs and fines as required by Section 58.1-524 (A) of the Code of Virginia. A Court must request the tax refunds through the Virginia Department of Taxation's automated accounting system called the Integrated Revenue Management System. We recommend the Clerk properly request tax set off refunds to maximize collections.

Promptly Forfeit Cash Bond

The Clerk did not forfeit a cash bond totaling \$2,500 as required by Section 19.2-143 of the Code of Virginia. The Judge ordered the forfeiture of the bond in September 2009. Subsequent to the audit, the appointed Clerk forfeited the bond to the Commonwealth. We recommend the Clerk promptly forfeit bonds as required by the Code of Virginia.

Properly Bill Court Costs

The Clerk is not properly billing and collecting the public defender and DNA fees as required by Sections 19.2-163.4:1 and 19.2-310.2 of the Code of Virginia. The auditor tested 38 cases and noted the following errors.

- In six cases, the Clerk overcharged the locality for public defender fees totaling \$373.
- In one case, the Clerk overcharged a defendant for public defender fees totaling \$112.
- In one case, the Clerk erroneously billed a defendant for DNA fees totaling \$25.

We recommend the Clerk make the appropriate corrections to case paperwork. Further, we recommend the Clerk and his staff properly bill and collect court costs in accordance with the Code of Virginia.

Promptly Record Wills

Since March 2009, the Clerk and his staff have not indexed and imaged wills or other fiduciaries as required by Section 17.1-231 of the Code of Virginia. We recommend the Clerk promptly record and image wills and all other fiduciaries to help prevent a loss of records from occurring.



RONALD M. IRVINE, CLERK

CLERK'S OFFICE

LYNCHBURG CIRCUIT COURT

900 Court Street
P. O. Box 4
Lynchburg, Virginia 24505
Telephone 434-455-2620
Facsimile 434-847-1864

JOHN T. COOK, JUDGE
MOSBY G. PERROW, III, JUDGE
J. MICHAEL GAMBLE, JUDGE
JAMES W. UPDIKE, JUDGE
J. LEYBURN MOSBY, JR., JUDGE

March 24, 2010

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

Re: Audit Period: September 1, 2008 thru December 31, 2009

Dear Mr. Kucharski,

I am writing to reply to the audit findings for the period above stated. I will become re-certified for the tax setoff program thru the Department of Taxation IRMS program to insure that no more funds are lost because of loss of personnel and also plan to have another person trained to help when the primary person and backup person is out for whatever reason.

I have explained the process for forfeiting bonds with the Chief Deputy Clerk This should take care of this problem in the future.

We were unaware that the General District Court was billing the locality on appealed cases to Circuit Court. We have discontinued collecting these fees and will bill only for cases originating in Circuit Court.

We erroneously listed the amount claimed by the Public Defender instead of the amount he is allowed by law. We have corrected the incorrect amount billed the client. We will continue to edit these amounts closely to prevent this from happening again.

The amount erroneously billed a defendant for a DNA fee for \$25 has been refunded to the defendant. The cost was listed on the case file before the felony charge was reduced to a misdemeanor. We will try and make sure this error is not repeated.

We have made the necessary corrections to the case paperwork and corrected entries in the FMS system.

We are working diligently on Wills to bring them up to day. We are now thru September, 2009 and should have them current by the end of April, 2010.

Please advise if you need any further clarification.

Sincerely,

A handwritten signature in cursive script that reads "Ron Irvine". The signature is written in dark ink and is positioned above the printed name.

Ronald M. Irvine, Clerk
Lynchburg Circuit Court