

**GORDON F. ERBY  
CLERK OF THE CIRCUIT COURT  
FOR THE  
COUNTY OF LUNENBURG**

**REPORT ON AUDIT  
FOR THE PERIOD  
JULY 1, 2009 THROUGH DECEMBER 31, 2010**



-TABLE OF CONTENTS-

	<u>Pages</u>
AUDIT LETTER	1
COMMENTS TO MANAGEMENT	2
CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN	3-4



# Commonwealth of Virginia

**Walter J. Kucharski, Auditor**

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

June 2, 2011

The Honorable Gordon F. Erby  
Clerk of the Circuit Court  
County of Lunenburg

Board of Supervisors  
County of Lunenburg

Audit Period: July 1, 2009 through December 31, 2010  
Court System: County of Lunenburg

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. We discussed these comments with the Clerk and have included his response on pages 3 to 4 of this report.

AUDITOR OF PUBLIC ACCOUNTS

WJK: clj

cc: The Honorable Leslie M. Osborn, Chief Judge  
James A. Randolph, 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

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.

### Improve Accounts Receivable Management and Properly Charge Cases

The Clerk's staff is not properly entering costs and due dates into the automated financial system. Auditor tested 40 cases and found errors in 12 of these cases.

- The Clerk's staff did not establish accounts receivable amounts on the automated system immediately after receiving the final disposition of the cases. In seven cases, the Clerk did not establish the accounts receivable totaling \$6,071, until we brought this matter to their attention.
- In two cases, the Clerk's staff does not adhere to the payment terms in the court order. Specifically, the Judge gave the defendants time to pay upon release from incarceration. The Clerk failed to record the due date in the system to agree with the payment agreement.
- In two cases containing public defender fees, the Clerk's staff improperly recorded public defender fees without having received supporting documentation.
- In two cases, the Clerk's staff failed to charge the defendant for the following:
  - “Tried in Absence Fee” totaling \$35
  - Local Share of the “Commonwealth's Attorney Fee” totaling \$5
- In two cases, the Clerk's staff over charged the defendant for the following:
  - Local Share of the “Commonwealth's Attorney Fee” totaling \$2.50 and the State Share of the “Commonwealth's Attorney Fee” totaling \$2.50
  - “Jail Admission Fee” totaling \$25
- In one case, the Clerk's staff under charged the defendant \$22.50 for the “Jail Admission Fee”.

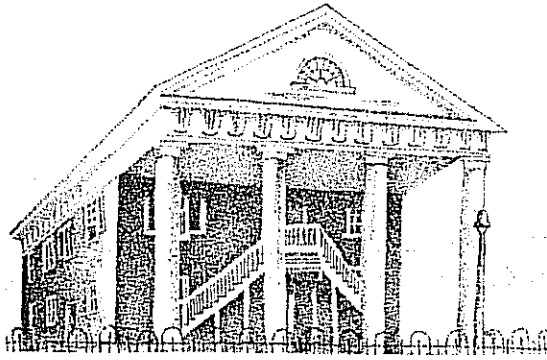
The Clerk should provide adequate oversight and supervisory review over daily staff work. Inadequate supervisory review results in the risk of significant errors and omissions. The Clerk should review the staff's work on a daily.

GORDON F. ERBY  
Clerk

NICHOLAS DANIEL  
Chief Deputy Clerk

MELANIE SLAYTON  
Deputy Clerk

SONYA RAGSDALE  
Deputy Clerk



LESLIE M. OSBORN  
Chief Judge  
Boydton, VA, 23917

JOEL C. CUNNINGHAM  
Judge  
Halifax, VA

**CIRCUIT COURT OF LUNENBURG COUNTY**  
11435 Courthouse Road  
Lunenburg, Virginia 23952  
434-696-2132

June 3, 2011

Mr. Walter J. Kucharski  
Auditor of Public Accounts  
PO Box 1295  
Richmond, VA 23218

Re: Audit Finding

Dear Mr. Kucharski,

Please find as follows an explanation written and endorsed by my Chief Deputy Clerk who was in charge of the criminal division and has been reassigned.

- It was an oversight on my part as Chief Deputy Clerk not to have entered the cost in 7 of the 40 cases you reviewed. This is an unusual occurrence in our office, but due to the high volume of work that I was performing and understaffing this is why the oversight occurred. Mr. Erby would have normally caught this oversight during the annual in-house audit that he performs. This annual audit was delayed this past year due to other obligations in the office.
- On the issue of public defender time sheets. In recent years I have been warned for not assessing cost even though I did not have a time sheet from the public defender. I have now contacted the public defender's office and received supporting documentation for the fee's that were assessed.
- In the instance of not assessing the \$35.00 "Tried in Absence Fee" and the \$5.00 "Commonwealth's Attorney Fee", the way that this appeal was fastened into our file the side of the appeal that has the list of fee's assessed in the lower court was covered up by the upper flap of our file so as to hide this fee from normal sight. We are now making a conscious effort to fasten all cases in the opposite direction so that there will be no obstruction of the fee's assessed in the lower court.

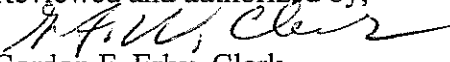
- As to the instance of over charging the Local and State share of the “Commonwealth’s Attorney Fee” by \$2.50 each, this is due to a clerical error that was made to our in-house cost sheet after these fee’s were added in June of 2010. A correction has been made to our cost sheets to prevent this from happening again in the future. Also particular attention will be given to our cost sheet in the future when any changes are made due to General Assembly making changes to the Code of Virginia.
- In the case that the defendant was under charged \$22.50 for the “Jail Admission Fee”, this fee should be assessed as \$25.00. In this particular case there was a typographical error on my part instead of typing \$25.00 I typed \$2.50. This oversight also would have been detected during Mr. Erby’s in-house audit had time allowed for it to be completed.
- It was not the intention of the Clerk’s office to not comply with any Court Orders. The issue that we have with the Time to Pay terms in court orders is that a DC225 would not print immediately if we change the due date on our Financial Management System. The DC225 is a notice of fines and costs that we mail to every convicted defendant, notifying them of the amount they owe the court. To prevent this issue from happening again we have started mailing out a copy of the sheet that we use to assess fines and cost, this will act as our notice of fines and costs, to any defendant that has time to pay his or her court cost.

In closing, to help alleviate the strain on the Clerk and two deputies the compensation board approved a third full-time deputy who started in June of 2010. This has allowed for the duties of the office to be more evenly distributed among the staff. This also will allow more time to perform oversight and supervisory reviews. The Clerk and deputies will continue to attend classes and work sessions provided by the Supreme Court of Virginia to ensure up to date information and processes are used in the performance of our daily duties. We will review the reports such as the CR32, BU04, BR07, BR08 and the BR12 and make corrections as necessary. The Clerk has now implemented a checks and balance system where no less than 2 people will be monitoring these reports to help ensure a timely correction of any oversight.

Sincerely,

  
Nicholas O. Daniel, Chief Deputy Clerk

Reviewed and authorized by,

  
Gordon F. Erby, Clerk