



PAUL F. FERGUSON  
CLERK OF THE CIRCUIT COURT  
FOR THE  
COUNTY OF ARLINGTON

FOR THE PERIOD  
OCTOBER 1, 2017 THROUGH SEPTEMBER 30, 2018

Auditor of Public Accounts  
Martha S. Mavredes, CPA  
[www.apa.virginia.gov](http://www.apa.virginia.gov)  
(804) 225-3350



## **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.

### **Reconcile Bank Account**

Repeat: Yes (first issued in 2017)

The Clerk has not reconciled his bank account since September 2017. Allowing reconciling items to go unresolved can lead to errors and irregularities going undetected and can increase the risk of loss of funds. Timely and complete reconciliations are an essential internal control. The Clerk should perform monthly bank reconciliations upon receiving the bank statements as required by the court's financial system user's guide.

### **Properly Review General Ledger**

Repeat: Yes (first issued in 2017 as Review Financial Systems Report)

The Clerk did not review the monthly general ledger report in order to identify and resolve unusual account code balances. Review of the general ledger reports assists the user in identifying unusual activity and balances and accounting errors. Our review of the general ledger revealed that, as of September 2018, the Clerk was holding \$52,678 in an account that is not used.

The Clerk should immediately transfer the balance noted above to the account code that corresponds to the Clerk's operating account. In addition, the Clerk should review the general ledger monthly and resolve any unusual account balances.

### **Monitor and Distribute Liabilities**

Repeat: Yes (first issued in 2017)

The Clerk does not properly monitor and distribute liabilities. Specifically, the Clerk did not remit \$1,920 to the state treasury for denied expungements. In addition, one case was misclassified as an escrow account rather than a trust fund, resulting in \$31,126 in funds not being invested within 60 days as required.

The Clerk should remit the funds for the denied expungements to the state treasury immediately and determine the proper disposition of the trust fund noted above. The Clerk should monitor and disburse liabilities on a continual basis.

### **Retain Voided Receipts**

Repeat: No

In five of ten voided receipts tested, the Clerk did not retain all printed copies of the voided receipt. Voided transactions pose an increased risk for fraudulent activity and, as such, must be monitored and controlled closely. The Clerk should not void receipts unless all copies of the printed receipt are maintained.

### **Properly Review Waivers**

Repeat: No

The Clerk did not properly review supporting documentation for attorney payments. Court appointed attorneys may request additional payment in excess of the statutory cap by submitting detailed waiver applications for approval by the Chief and Presiding Judges. In three of nine attorney invoices tested, the approved waiver amount did not match the list of allowance amounts submitted, resulting in overpayments to attorneys of \$182.

The Clerk should carefully review supporting documentation for court appointed attorney payments to ensure that amounts submitted for payment agree to the approved waiver as required by the Court Appointed Counsel Procedures and Guidelines Manual.

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Martha S. Mavredes, CPA  
Auditor of Public Accounts

# Commonwealth of Virginia

*Auditor of Public Accounts*

P.O. Box 1295  
Richmond, Virginia 23218

January 8, 2019

The Honorable Paul F. Ferguson  
Clerk of the Circuit Court  
County of Arlington

Katie Cristol, Board Chairman  
County of Arlington

Audit Period: October 1, 2017 to September 30, 2018  
Court System: County of Arlington

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of this locality 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 Clerk and his staff during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

MSM:vks

cc: The Honorable William T. Newman Jr., Chief Judge  
Mark Schwartz, County Administrator  
Robyn M. de Socio, Executive Secretary  
Compensation Board  
Paul F. DeLosh, Director of Judicial Services  
Supreme Court of Virginia



**ARLINGTON COUNTY, VIRGINIA**  
**CLERK OF THE CIRCUIT COURT**  
**1425 N. COURTHOUSE ROAD, SUITE 6700**  
**ARLINGTON, VIRGINIA 22201**  
**703-228-7010**  
**CircuitCourt@arlingtonva.us**

**Paul Ferguson**  
**Clerk, Circuit Court**

February 22, 2019

Martha S. Mavredes, CPA  
Auditor of Public Accounts  
Commonwealth of Virginia  
101 S 14th Street  
Richmond, VA 23219

Response to January 29, 2019 Comments to Management

Dear Ms. Mavredes:

I have reviewed the January 29, 2019 Audit Report prepared for my office. My response to the comments to management are set forth below. As you can see, I do not agree with all of the comments that have been made. That said, I appreciate that the audit process is an opportunity for everyone in my office to become familiar with different and potentially better ways of doing things, and we have always worked with your office to implement best practices, consistent with the operational needs of our Court and constituents. Please do not hesitate to reach out to me directly if you want to discuss any of the responses below.

**Reconcile Bank Account**

Repeat: Yes (first issued in 2017)

The Clerk has not reconciled his bank account since September 2017. Allowing reconciling items to go unresolved can lead to errors and irregularities going undetected and can increase the risk of loss of funds. Timely and complete reconciliations are an essential internal control. The Clerk should perform monthly bank reconciliations upon receiving the bank statements as required by the court's financial system user's guide.

**Clerk's Response**

In July 2017, the Clerk implemented a procedure that includes daily reconciliation of the bank account. No deficiencies were noted by the auditor between the Clerk's records and the bank accounts for the period under review. However, the Clerk acknowledges that the state BR13 report was not utilized as part of the reconciliation process. To conform with the Auditor's recommendation that the BR13 report be used, the Clerk will perform a monthly

reconciliation, along with a daily one, and will use the BR13 report to ensure that the specific documentation requested by the Auditor is completed.

#### **Properly Review General Ledger**

Repeat: Yes, Review Financial Systems Report (first issued in 2017)

The Clerk did not review the monthly general ledger report in order to identify and resolve unusual account code balances. Review of the general ledger reports assists the user in identifying unusual activity and balances and accounting errors. Our review of the general ledger revealed that, as of September 2018, the Clerk was holding \$52,678 in an account that is not used.

The Clerk should immediately transfer the balance noted above to the account code that corresponds to the Clerk's operating account. In addition, the Clerk should review the general ledger monthly and resolve any unusual account balances.

#### **Clerk's Response**

The error reported in the first paragraph occurred prior to the hiring of the current Controller. The funds at issue were erroneously keyed into the General Ledger under an inactive 901 operating account, instead of into the active 902 account. However, further review determined that the funds at issue were timely remitted to the state in accordance with state law, the erroneous journal entry simply was never corrected. This correction has now been made. As there is only one active operating account, the funds were never held by the Clerk in an improper account, and it is unlikely that a mistake of this nature will recur. However, the Controller will review the monthly general ledger report as recommended and resolve any unusual account balances.

#### **Monitor and Distribute Liabilities**

Repeat: Yes (first issued in 2017)

The Clerk does not properly monitor and distribute liabilities. Specifically, the Clerk did not remit \$1,920 to the state treasury for denied expungements. In addition, one case was misclassified as an escrow account rather than a trust fund, resulting in \$31,126 in funds not being invested within 60 days as required.

The Clerk should remit the funds for the denied expungements to the state treasury immediately and determine the proper disposition of the trust fund noted above. The Clerk should monitor and disburse liabilities on a continual basis.

#### **Clerk's Response**

The Clerk is diligent in monitoring and distributing monies, and ensuring that all funds are retained in accordance with law. With respect to expungements, the Controller had a process in place to ensure that fees were refunded to the filer when an expungement petition was granted. The Clerk acknowledges that there was not a sufficient process in place to remit



fees to the state when an expungement petition was denied. The Controller and the Civil Section Supervisor, in conjunction with the Expungement Clerk, have now enacted procedures to ensure that the Controller is notified when an expungement order is entered, regardless of outcome, so that the fees can be disbursed according to law. This should resolve the issue going forward. All monies for expungement petitions denied by the Court to date have been forwarded to the state.

In the case of the \$31,126 classified as an escrow fund rather than a trust fund, the court order indicated only that the funds were to be maintained in an interest bearing account. In Arlington, the Clerk does not invest funds and it is the Court's long-standing practice that such funds must be transferred to the General Receiver for investment. It is likely that the Clerk processing the order simply overlooked or failed to understand the import of the language contained in the final order, and therefore, did not notify a supervisor of the deficiency in the order. The matter was brought to the trial court's attention, promptly remediated with the consent of the parties, and the funds transferred to the General Receiver for investment.

The Civil Section supervisor is reviewing with all staff, including new hires, the need to carefully review judgment orders at the time of processing, so that in the event funds are ordered to be held by the Clerk, proper action is taken. In addition, the Clerk has instituted additional processes on the part of the Civil Supervisor and the Controller which will further ensure that funds deposited with the Court are timely disbursed to the General Receiver.

The Clerk has also spoken with the judicial law clerks to ensure that they understand when funds need to be transferred to the General Receiver for safekeeping, so that appropriate language can be entered into a final order before it is presented to the judge. The Clerk has also requested that this be made part of the judicial clerk's annual training.

#### **Retain Voided Receipts**

Repeat: No

In five of ten voided receipts tested, the Clerk did not retain all printed copies of the voided receipt. Voided transactions pose an increased risk for fraudulent activity and, as such, must be monitored and controlled closely. The Clerk should not void receipts unless all copies of the printed receipt are maintained.

#### **Clerk's Response**

In none of the instances tested was there any indication of fraud or other inappropriate activity on the part of the Clerk or any of his staff. The Clerk acknowledges the added protections that come with the auditor's recommendation that all copies of the printed receipt be collected and maintained prior to a transaction being voided in the state system. The Clerk also acknowledges that this is not always possible due to a variety of circumstances unrelated to fraud, and that adequate controls are in place to detect fraudulent activity, even in cases where a staff member has not maintained all paper copies of void receipts. The criminal and civil section supervisors have instructed all staff handling financial transactions that before a transaction can be voided in the state system, all paper copies should be collected and

retained. In the event this cannot or does not occur, the Controller will take additional steps to ensure that there is nothing fraudulent or improper about the transaction prior to approving it.

**Properly Review Waivers**

Repeat: No

The Clerk did not properly review supporting documentation for attorney payments. Court appointed attorneys may request additional payment in excess of the statutory cap by submitting detailed waiver applications for approval by the Chief and Presiding Judges. In three of nine attorney invoices tested, the approved waiver amount did not match the list of allowance amounts submitted, resulting in overpayments to attorneys of \$182.

The Clerk should carefully review supporting documentation for court appointed attorney payments to ensure that amounts submitted for payment agree to the approved waiver as required by the Court Appointed Counsel Procedures and Guidelines Manual.

**Clerk's Response**

The Criminal Section will reject any voucher that seeks the reimbursement of fees in more than one case, and will take additional care to ensure that the waiver amount requested is consistent with the information provided on the list of allowances, prior to tendering both documents to the respective judge for approval and signature. This should rectify the discrepancies noted. Hopefully, once OES implements a new on-line voucher submission system, which we understand is in the development process, more of this responsibility will be placed on the submitting attorney, where it should be, rather than the Clerk.

Please do not hesitate to contact me if you have any questions about any of the above responses.

Sincerely,

/s/

Paul Ferguson  
Clerk of the Circuit Court  
17<sup>th</sup> Judicial Circuit