



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
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May 19, 2004

The Honorable Scarlet B. Ratcliffe
Clerk of the Circuit Court
County of Giles

Board
County of Giles

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Giles for the period March 1, 2003 through March 31, 2004.

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. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system. However, we noted weaknesses in internal controls and noncompliance with state laws, regulations, and policies that the Clerk needs to address as described below.

Monitor and Disburse Liability Accounts

As noted in the previous audit, the Clerk does not properly monitor and disburse court liabilities as required by the Code of Virginia and the Financial Management System User's Guide. Liability accounts record amounts that the Clerk is holding to disburse to individuals, other agencies or others, or to pay fines and costs. Specifically, we found the following:

- The Clerk has not remitted nine unclaimed chancery deposits over a year old totaling \$8,423 and 11 trust fund accounts totaling \$69,152 to the Division of Unclaimed Property as required by §55-210.9:2 of the Code of Virginia.
- The Clerk has not disbursed two bonds totaling \$150 for closed cases.
- The Clerk has not followed up on a disbursement totaling \$100, which has been outstanding for over a year.

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The Clerk should monitor liabilities, perform due diligence, and disburse liabilities on a regular basis. The Clerk should also send unclaimed property to the appropriate division or fund after due diligence procedures to locate the recipient have failed. In addition, the Clerk could incur a possible personal liability for any penalty and interest for failing to send eligible property to the Division of Unclaimed Property.

Given the potential liability for interest and penalty for failing to comply with the above provisions of the Code of Virginia, the Clerk should immediately send these unclaimed liabilities to the Treasurer of Virginia. We have contacted the Virginia Treasurer Office's Division of Unclaimed Property and notified them of the funds held by the Clerk. We understand that this Division will contact the Clerk and assist her in escheating the funds.

Properly Assess Fees

As noted in our previous audit, staff continues to make errors when assessing court costs and fees on criminal cases. In 10 of the 20 criminal cases tested, we found numerous assessment errors. Specifically, we found errors such as assessing the non-consecutive jail fee when not warranted; failing to assess district court appointed attorney costs; failing to assess the DNA testing fee; and failing to assess the courthouse maintenance fee. Many of these errors occurred because the court staff responsible for assessing costs and fees does not fully understand the fee structure.

The Clerk agreed to review the criminal cases we tested and correct the errors. She should also take immediate action to train staff in the proper assessment of court costs and fees. The Clerk should ensure that staff are properly assessing all court costs and fees and collecting them in accordance with the Code of Virginia.

Additionally as noted in the previous audit, the Clerk does not properly assess the required fee for copies as required by Section 17.1-275 of the Code of Virginia. Failure to properly assess the required fee could result in the Clerk being personally liable for loss of revenue to the Commonwealth.

Improve Trust Fund and Reporting Management

As noted in the prior audit, the Clerk does not properly report trust fund monies as required by the Code of Virginia. Specifically, the Clerk again failed to file a complete annual report as required by Section 8.01-600 of the Code of Virginia. We also noted that the trust fund order book did not contain the most recent annual trust fund report as required by Section 8.01-600 of the Code of Virginia.

The Clerk should ensure she and her staff review and understand trust fund reporting requirements as outlined by the Code of Virginia. Failure to include all required information could result in inaccurate reporting of monies held by the Court.

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We discussed these comments with the Clerk on April 16, 2004 and we acknowledge the cooperation extended to us by the Court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

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cc: The Honorable Robert M. D. Turk, Chief Judge
Kevin Belcher, Interim County Administrator
Bruce Haynes, Executive Secretary
Compensation Board
Paul Delosh, Director of Technical Assistance
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