



CATHY L. DALE
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF GLOUCESTER

FOR THE PERIOD
JANUARY 1, 2021 THROUGH SEPTEMBER 30, 2021

Auditor of Public Accounts
Staci A. Henshaw, CPA

www.apa.virginia.gov
(804) 225-3350



COMMENTS TO MANAGEMENT

We noted the following matter 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.

Request Tax Set-Off Refunds

Repeat: No

The Clerk did not finalize claims to the Virginia Department of Taxation (Taxation) for tax setoff of refunds for delinquent court fines and costs totaling \$828, resulting in a loss of revenue to the Commonwealth and locality. A court must submit claims for set-off of tax refunds through Taxation's automated accounting system. The Clerk should use the tax refund set-off process to maximize collections as required by the Code of Virginia.

-TABLE OF CONTENTS-

Pages

COMMENTS TO MANAGEMENT

AUDIT LETTER

1-2

CLERK'S RESPONSE AND CORRECTIVE ACTION PLAN

3-4

APPENDIX A – APA'S COMMENTS TO THE CLERK'S RESPONSE

5



Commonwealth of Virginia

Auditor of Public Accounts

Staci A. Henshaw, CPA
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

October 14, 2021

The Honorable Cathy L. Dale
Clerk of the Circuit Court
County of Gloucester

Robert Orth, Board Chairperson
County of Gloucester

Audit Period: January 1, 2021, through September 30, 2021
Court System: County of Gloucester

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 a matter involving internal control and its operation necessary to bring to management's attention. The matter is discussed in the section titled Comments to Management. Any response and written corrective action plan to remediate this matter provided by the Clerk are included as an enclosure to this report.

Our report on the prior year audit of this court, dated January 27, 2021, contained the following finding:

Properly Monitor and Disburse Liabilities

Repeat: No

The former Clerk did not properly monitor and disburse court liabilities. At the end of the audit period, the court was holding \$41,807 in bonds, escrow funds, restitution, and chancery funds that should have been disbursed or escheated. The current Clerk should disburse the amounts noted and should monitor and disburse liabilities on a monthly basis as recommended by the financial accounting system user's guide. In the case of funds for which the owners cannot be located, the Clerk should escheat them as unclaimed property in accordance with § 55.1-2518 and § 55.1-2524 of the Code of Virginia.

After the publication of our report, the Clerk provided us with additional information related to the liabilities that were the subject of our finding. This additional information, had we been presented with it during the audit, would have changed the amount we reported as being held improperly from \$41,807 to \$17,925.

During the current audit, we noted the Clerk has taken adequate corrective action with respect to this finding.

We discussed these comments with the Clerk, and we acknowledge the cooperation extended to us by the Clerk and her staff during this engagement.

Staci A. Henshaw
AUDITOR OF PUBLIC ACCOUNTS

SAH: clj

cc: The Honorable Richard H. Rizk, Chief Judge
Carol Steele, Acting 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

Telephone: (804) 693-2502

**COUNTY OF GLOUCESTER
CLERK'S OFFICE – CIRCUIT COURT**

Fax: (804) 693-2186

**Cathy L. Dale, Clerk
7400 Justice Drive, Suite 327
Gloucester Virginia 23061**

January 11, 2022

Staci A. Henshaw, CPA
Auditor of Public Accounts
Post Office Box 1295
Richmond, VA 23218

Re: Audit Period: January 1, 2021 through September 30, 2021
Amendment to January 1, 2020 through December 31, 2020

Dear Ms. Henshaw:

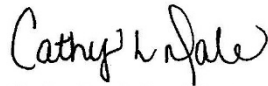
Thank you for the most recent email, dated January 5, 2022, concerning the above audit reports. First, I will respond to audit dated, October 14, 2021 concerning the audit period, January 1, 2021 through September 30, 2021. As to the matter noted involving internal control with respect to requesting tax set-off funds, I offer the following. Immediately upon discovering the default, the claim was resubmitted, and a portion of the original funds were recovered. I am quite sure that this oversight occurred due to being understaffed. This clerk does utilize the TSO program and has done so since 2009.

As to your report on the prior year audit, dated January 27, 2021, I respectfully submit that your updated audit still does not accurately reflect the court liabilities (amended from \$41,807 to \$17,925), as to the liability in Case No. CH94007079-00 in the amount of \$16,285.56. In the most recent email from Laurie Hicks, she states that pursuant to Virginia Code Section 58.1-3967, these funds should have been disbursed two years from the date of the deposit in 1996. Although, this Code Section does state, "If no claim for payment of the indebtedness secured by any lien chargeable thereon is made by an unknown beneficiary of such lien, or if no claim for such surplus is made by such former owner, his heirs or assigns, within two years after the date of confirmation of such sale, then such amount secured by the lien of the unknown beneficiary, surplus, or both, as applicable, shall be paid by the clerk of the court in which such suit was instituted to the county, city, or town that received proceeds from the sale of the real estate." The Judges of this Court have not in the past or present allowed the clerk to release surplus funds without a Court Order. In addition, your office has audited this clerk's office for many years, and this case or any other surplus case has never been noted as being improperly held because it was governed by a Judge's Order.

Staci A. Henshaw, CPA
Auditor of Public Accounts
January 11, 2022
Page 2

Upon notice to the clerk of an error made the clerk or one of her employees, the clerk must immediately acknowledge and remedy the error. Likewise, your agency should be willing to publicly acknowledge and remedy its error. I request that this response be made a part of the audit report and distributed to all concerned parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cathy L. Dale". The signature is written in a cursive, flowing style.

Cathy L. Dale, Clerk

APA COMMENTS TO THE CLERK'S RESPONSE

To clarify our position on the liability the Clerk specifically addresses in her response, we contend the Clerk should not have held the funds for such a long period of time. Pursuant to Section 58.1-3967 of the Code of Virginia, the Clerk was required to remit the funds related to this case to the locality when there was no claim to the funds within the two years following the real estate sale that generated the funds. While we understand that the Judge initially declined to sign the original order, this case has been inactive since 1998 and the Clerk has continued to hold the related funds. In performing due diligence, the Clerk should have periodically followed up with the parties involved in the case to initiate action that would ensure proper and more timely disposition of the funds. The fact that the Clerk obtained a court order dismissing the case after our audit report was issued, in our view, supports our position regarding this liability.