



KENNETH T. SWISHER
CLERK OF THE CIRCUIT COURT
FOR THE
CITY OF LYNCHBURG

FOR THE PERIOD
JANUARY 1, 2021 THROUGH JUNE 30, 2022

Auditor of Public Accounts
Staci A. Henshaw, CPA

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(804) 225-3350



COMMENTS TO MANAGEMENT

We noted the following matter involving internal control and its operation that has led or could lead to noncompliance with laws and regulations, the loss of assets or revenues, or otherwise compromise the Clerk's fiscal accountability.

Properly Bill and Collect Court Costs

Repeat: Yes, (first issued in 2018)

The Clerk did not properly bill and collect court costs. In 11 of 50 cases tested (22%), we noted the following errors.

- For six cases, the Clerk did not charge defendants a total of \$1,805 in court costs.
- The Clerk overcharged defendants in three cases a total of \$188 in court costs.
- For two local cases, the Clerk erroneously billed the Commonwealth instead of the locality for \$240 in attorney fees.

The Clerk should correct the specific cases noted during the audit and institute a more diligent system of review to minimize the likelihood of billing errors going undetected. In all cases, the Clerk should bill and collect court costs in accordance with the Code of Virginia.

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Staci A. Henshaw, CPA
Auditor of Public Accounts

Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

July 22, 2022

The Honorable Dr. Kenneth T. Swisher
Clerk of the Circuit Court
City of Lynchburg

Mary Jane Dolan, Mayor
City of Lynchburg

Audit Period: January 1, 2021, through June 30, 2022
Court System: City of Lynchburg

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 lead to noncompliance with laws and regulations, the loss of assets or revenues, or otherwise compromise the Clerk's 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.

The Clerk has taken adequate corrective action with respect to the internal control finding reported in the prior report not repeated in this report.

We discussed this comment with the Clerk, and we acknowledge the cooperation extended to us by the Clerk and his staff during this engagement.

Staci A. Henshaw
AUDITOR OF PUBLIC ACCOUNTS

LH:vks

cc: The Honorable James W. Updike, Jr., Chief Judge
Wynter Benda, City Manager
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia



TODD SWISHER, CLERK

CLERK'S OFFICE
LYNCHBURG CIRCUIT COURT

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Telephone 434-455-2620
Facsimile 434-847-1864
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F. PATRICK YEATTS, JUDGE
J. FREDERICK WATSON, JUDGE

August 31, 2022

Mrs. Staci A. Henshaw
Auditor of Public Accounts
101 North 14th Street, 8th Floor
Richmond, VA 23219

Dear Mrs. Henshaw:

Greetings, I would first like to thank Mr. Randall Johnson for his efforts in conducting the recent APA audit, which reviewed the time period January 1, 2021 through June 30, 2022. He is always very professional in approach and a pleasure to have on site. I welcome any auditing process as an opportunity for my office to improve and Mr. Johnson's findings reflect both our organizational strengths and developmental opportunities. It is critical to be aware of both as we strive for sustained excellence. The following is my response to the one internal control finding cited in the audit, followed by the measure that we will continue to implement to ensure corrective action.

- **Properly Bill and Collect Costs:**

The audit revealed the improper billing and collection of court costs in 11 of the 50 cases tested as follows:

- Defendants were not charged in six cases for an aggregate total of \$1,805 in court costs
- Defendants were overcharged in three cases resulting in an aggregate total of \$188 in court costs
- The Commonwealth of VA was erroneously billed in two cases, instead of the locality, for a total of \$240 in attorney fees

All of these errors were the result of human error and not indicative of systemic or procedural error. When considering the significant workload of this office and the thousands of transactions that we process each year, human error is inevitable – the key is to minimize them through awareness and education.

- **Corrective Actions:**

We will continue to engage in an internal audit review policy as it relates to billing and collecting court costs. Each month, we randomly select a number of assessed court costs to review, in an effort to check for accuracy and ensure compliance. In fact, during the most recent audit period, we found some minor errors during our internal audit and corrected them, thus illustrating the value of this internal audit. We will continue to practice this internal control measure.

In closing, as Clerk, I am very pleased with the results of this most recent audit and with the efforts of my staff. The collective resolve and selflessness demonstrated by my staff during the pandemic, which has posed significant operational challenges for everyone, has been very impressive. This is particularly true when you consider that our office has not had the ability to work remotely as so many others have done. They have simply come to work and maintained a very high level of productivity while working through difficult conditions. As aforementioned, when you consider the thousands of financial transactions we conduct each year in a myriad of different areas, the fact that we have one finding related to the billing and collection of court costs and fines, reflects impressive sound fiscal practices and control. Certainly, the Clerk's Office will be mindful of the lone finding indicated in this audit report, and we will continue to implement the internal auditing process designed to help identify and mitigate errors. I also know that, while my staff and I endeavor to achieve excellence in this area, I am realistic enough to know that perfection is unattainable due to the sheer volume of transactions conducted within this office.

Again, I am thankful for the constructive feedback provided in this report.

Sincerely,

[Signature on File](#)

K. Todd Swisher

Clerk

Lynchburg Circuit Court Clerk's Office

434-455-2611